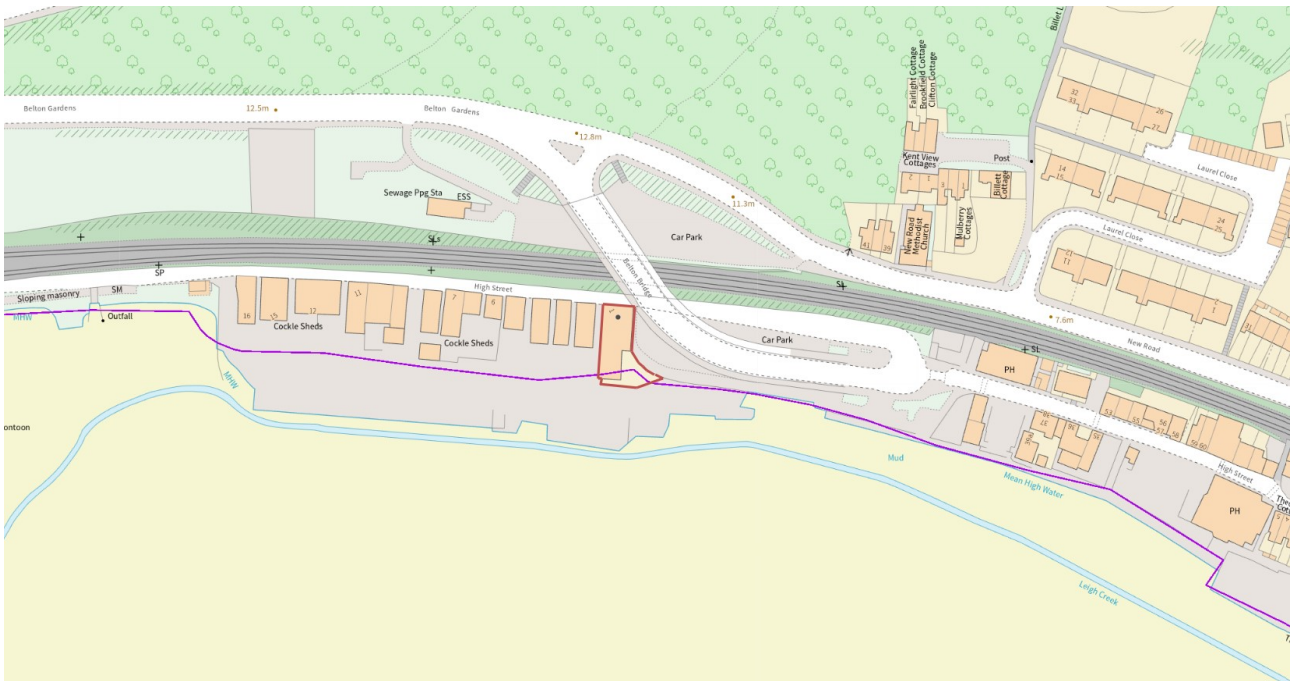


| | | |
|--------------------------------|---|--|
| Reference: | 23/00328/BC4 | |
| Application Type: | Full Application | |
| Ward: | Leigh | |
| Proposal: | Remove screened container and convert space to low level store with extended terrace over including balustrade, remove built in storage container at southern end of the building and reinstate walls to form single storey infill extension under existing roof to west side and covered seating area to east side, alter elevations and roof design externally, remove platform lift in lieu of utilising north east corner door as sole main entrance. | |
| Address: | Cockle Shed 1 High Street Leigh-on-Sea Essex SS9 2ER | |
| Applicant: | Mr Ritchie Bridge of Cockleshed Company Ltd | |
| Agent: | Mr Colin Stone of Stone Me Ltd | |
| Consultation Expiry: | 10.05.2023 | |
| Expiry Date: | 02.06.2023 | |
| Case Officer: | Abbie Greenwood | |
| Plan Nos: | 2094-01, 2094-02, 2094-03, 2094-06F, 2094-07F | |
| Additional information: | Design and Access and Heritage Statement Flood Risk Assessment Planning Statement | |
| Recommendation: | GRANT PLANNING PERMISSION subject to conditions | |



1 Site and Surroundings

- 1.1 The application relates to No 1 Cockle Shed, the easternmost in Cockle Row, within the Leigh Old Town Conservation Area. The building is a former cockle shed which has been converted to a restaurant with an outside terrace seating area to the south-eastern corner of the site facing the estuary. The building has been altered and extended to the southern side including the installation of two storage containers, one of which is integral to the building and one of which is screened by fencing but which can be clearly seen from the Belton road bridge above. Although the building has retained the character of a cockle shed, some past alterations have harmed its character including the overly complex roof form, the roofing materials and the use of stainless steel balustrading which is out of character with the conservation area.
- 1.2 To the west the remaining cockle sheds are still in use for the production of cockles and this is an important part of the industrial and historical character of the conservation area as a working port. The site is directly adjacent to Leigh Port including the wharf area to the south which is formed of compressed cockle shells and is used for the unloading of cockle boats.
- 1.3 To the east is the High Street which includes a variety of small scale, historic and more modern residential buildings and terraces with public parking provision beneath the road bridge and continuing eastward of this. To the south of the site is the Thames Estuary which has several national and international nature designations including RAMSAR, Special Protection Area (SPA), Nature Reserve, Site of Special Scientific Interest (SSSI) and Site of International Nature Conservation (SINC). The site is on the National Coastal Path for England.
- 1.4 In addition to being within Leigh Old Town Conservation Area, the site falls within the Leigh Old Town Article 4 Direction area, is partially in flood zone 3 and is in Policy DM6 Character Zone 2.

2 The Proposal

- 2.1 The proposal, the detail of which has been revised during the course of the application, seeks planning permission to remove the screened storage container and to convert the space to a low level store with an extended terrace over including balustrade, to remove the existing built in storage container at the southern end of the building and reinstate

the walls to form a 3sqm single storey infill extension under the existing roof to the west side and a covered seating area to the east side, to alter the elevations and roof design externally to omit the small section of hipped roof, remove the redundant air conditioning units and stainless steel cable tray/gutter and remove the platform lift in lieu of utilising the north east corner door as the sole main entrance.

- 2.2 The number of external covers at the site will increase from 36 to 70. The proposal would extend the terrace area by 47sqm to a total of some 139sqm. The terrace will be finished in patio tiles to match the existing. The materials are proposed to match the existing building. The new and existing balustrade will be painted black to better match the existing sea wall railing.
- 2.3 The opening hours of the business are specified as 09:00 to 22:00 Monday to Sunday.

3 Relevant Planning History

- 3.1 The most relevant planning history for the determination of this application is shown on Table 1 below:

Table 1: Relevant Planning History of the Application Site

| | |
|--------------|--|
| 06/01199/FUL | Erect single storey extension to southwest elevation, install disabled access ramp and handrail, form new takeaway sales counter, alter internal layout to provide seating and lay out external seating area to rear for use as a restaurant in conjunction with existing cockle preparation and processing use – granted. |
| 06/01200/CAC | Demolish existing takeaway sales counter to northeast elevation, remove gates to east elevation, remove container to south elevation – granted. |
| 09/00706/FUL | Retain single storey extension to southwest elevation, install wheelchair lift, form new takeaway sales counter, alter internal layout to provide seating and lay out external seating area to rear for use as restaurant in conjunction with existing cockle preparation and processing use (Amended Proposal to 08/00598/FUL) (Retrospective) – granted. |
| 13/01228/BC4 | Install Two Storage Containers (Retrospective) – refused. |
| 14/00334/BC4 | Erect single storey building to incorporate two existing storage containers (part retrospective) – granted. |
| 18/00831/FUL | Erect timber framed screening to existing storage unit and shipping container – granted. |
| 19/02244/CLE | Use as restaurant (Class A3) and take-away (Class A5) (Lawful Development Certificate - Existing) – refused. |
| 20/00443/CLE | Use as restaurant (Class A3) with A1 retail sales of cold food only (Lawful Development Certificate - Existing) – granted. |
| 22/02412/BC4 | Erect powder coated metal fixed frame with retractable awning and sliding glass screens over existing patio to east elevation and over existing low level store area to south elevation - refused. |

4 Representation Summary

Call-in

- 4.1 The application has been called in to the Development Control Committee by Councillor

Wexham, who has raised concerns about the impact that the proposal may have on port operations.

Public Consultation

- 4.2 2 neighbouring properties were consulted, a site notice was displayed and a press notice published. No letters of representation have been received.

Highways

- 4.3 No objections.

Lead Local Flood Authority (LLFA)

- 4.4 No objections to the information submitted in regards to flooding and drainage.

The proposed terrace extension is within the existing site and raised approximately 2m above the surface of the port so it is not likely to come into contact with machinery using the port. There are therefore no objections in regards to port operations.

Building Control

- 4.5 In order to comply with Part M accessibility standards the building must not be made less compliant than the previous arrangement.

Leigh Town Council

- 4.6 Objection. The proposal is an over development of the site in a Conservation Area, contrary to Policy DM3 of the Development Management Document (2015).

Environment Agency

- 4.7 No objections. An environmental permit may be needed for works within 16m of the river.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2021)
- 5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2021)
- 5.3 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility) and CP4 (The Environment and Urban Renaissance).
- 5.4 Development Management Document (2015): Policies (Design Quality), DM3 (Efficient and Effective use of land), DM5 (Southend-on-Sea's Historic Environment), DM6 (The Seafront), DM15 (Sustainable Transport Management)
- 5.5 Southend-on-Sea Design and Townscape Guide (2009)
- 5.6 Leigh Old Town Conservation Area Appraisal (2021)
- 5.7 Community Infrastructure Levy (CIL) Charging Schedule (2015)
- 5.8 Waste Management Guidelines for Developers (2019)

6 Planning Considerations

- 6.1 The main issues for consideration are the principle of the development, design and impact on the character of the site and the wider conservation area, traffic and transportation, impact on residential amenity, flood risk and environmental issues, ecology and CIL.

7 Appraisal

Principle of Development

- 7.1 Sections 69 and 72 of the Planning and Listed Buildings and Conservation Areas Act 1990 state that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Extensions and alterations to buildings within conservation areas therefore must respect the existing historic character of the buildings and the wider area. Development which achieves this will generally be supported subject to the detailed considerations below.

Flood Risk

- 7.2 The site is located partially within flood zone 3. In relation to flood risk, Policy DM6 of the Development Management Document states:

'2. All development proposals within the Seafront Area must take account of flood risk and coastal change. This will include, where appropriate, developing, agreeing and then incorporating:

- (i) Appropriate flood defence and engineering solutions; and/or*
- (ii) Flood resistant and resilient design that provides safe refuge to occupants in the event of a flood and is easily restored after the event.*
- (i) Design solutions which do not prevent or restrict future maintenance and improvement of flood defences and the Borough Council's ability to manage coastal change.*

- 7.3 The proposal relates to the extension of the outside seating terrace and amendments to the existing building only. The use as a restaurant remains unchanged. These works are not classed as vulnerable by the Environment Agency (EA) and they are therefore acceptable development within flood zone 3. The Lead Local Flood Authority and the Environment Agency have raised no objections.

Design and Impact on the Character of the Area

- 7.4 In addition to the duty to protect conservation areas under Sections 69 and 72 of the Planning and Listed Buildings and Conservation Areas Act 1990 noted in paragraph 7.1 above, Paragraph 126 of the NPPF states *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. 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. Being clear about design expectations and how these will be tested, is essential for achieving this.'*
- 7.5 Policy KP2 of the Core Strategy advocates the need for all new development to *"respect the character and scale of the existing neighbourhood where appropriate and secure improvements to the urban environment through quality design."*
- 7.6 Policy CP4 of the Core Strategy states, *"development proposals will be expected to*

contribute to the creation of a high quality, sustainable urban environment which enhances and complements the natural and built assets of Southend by maintaining and enhancing the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development.”

7.7 Policy DM1 of the Development Management Document advocates the need for good quality design that contributes positively to the creation of successful places. All developments should respect the character of the site, its local context and surroundings in terms of its architectural approach, height, scale, form and proportions.

7.8 The site is within Leigh Old Town Conservation Area and the Council's duty to seek that any new development or alterations within conservation areas preserves or enhances their special historic and architectural character is reinforced by Development Management Document Policy DM5 which states:

'All development proposals that affect a heritage asset will be required to include an assessment of its significance, and to conserve and enhance its historic and architectural character, setting and townscape value.

Development proposals that result in the total loss of or substantial harm to the significance of a designated heritage asset, including listed buildings and buildings within conservation areas, will be resisted, unless there is clear and convincing justification that outweighs the harm or loss. Development proposals that are demonstrated to result in less than substantial harm to a designated heritage asset will be weighed against the impact on the significance of the asset and the public benefits of the proposal, and will be resisted where there is no clear and convincing justification for this.'

7.9 In relation to development within the Seafront Character Area Policy DM6 states:

'Existing buildings along the Seafront that form a cohesive frontage, have a historic context or are recognised as key landmarks and/or contribute to a distinctive Southend sense of place will be retained and protected from development that would adversely affect their character, appearance, setting and the importance of the Seafront.'

7.10 Policy Table 1 'Seafront Character Zones' states that within this character zone the development principles include:

'(ii) To enhance the leisure and tourism offer, but in a manner that does not compromise the marine industrial activities and character of Leigh Old Town.

(iii) To preserve and enhance the special character of Leigh Old Town Conservation Area.'

7.11 Relevant quotes from the Leigh Old Town Conservation Area Appraisal are as follows:

6.3.23 The primary pressure on the Conservation Area is the need for the businesses to operate in a modern and profitable manner. ...Business needs also drive cheap and poor-quality additions to buildings, for example around the cockle sheds, inappropriate boundary treatments and large commercial bins amongst other problems.

7.12 The Conservation Area Appraisal also raises concerns about the unsuitability of the felt roofing to No 1 Cockle Shed and the unsightliness of shipping containers in the port generally.

7.13 The policies above support the development and viability of local businesses and

tourism in the Leigh Old Town Conservation Area provided that these developments do not cause harm to the character and significance of the Conservation Area. The Leigh Old Town Conservation Area Appraisal notes in particular the pressures that development can cause on the townscape in this location including cluttering of open spaces and the impact on the estuary views which are such an integral part of the character of the Conservation Area.

- 7.14 Subject to the use of matching materials, there is no objection to the proposed infill extension within the existing overhang on the southwest corner of the building as this is small scale and will have a very limited and acceptable impact on the overall design and form of the building.
- 7.15 Two storage containers, which were previously authorised as part of past permissions, are proposed to be removed. One of these is external to the building and, although screened by painted timber fencing at ground level, is cluttered with plant at roof level which can be seen from a number of viewpoints around the building. Additionally, the roof of the container is publicly visible from an elevated position on the road bridge above and appears unsightly in views of the conservation area from this location. The second container to be removed is entirely enclosed within the walls of the building at its southern end and is currently used as an office.
- 7.16 Removal of the external container and the associated plant is therefore welcomed. This will also include the removal of the conspicuously out of place stainless steel cable tray/gutter which runs along the front of the building which is used to connect the now redundant air conditioning units to the main dining space. Replacement of this container with terraced seating is therefore positive for the character and appearance of the conservation area.
- 7.17 Removal of the 'internal' storage container including the external timber walls currently screening it will create a void at the southern end of the building which is proposed to be used for covered external seating. The existing roof in this location will be retained but amended in form to omit the small, hipped projection. This hip is out of character with the simple gabled and flat roofed forms of the cockle sheds and currently causes harm to the conservation area. Overall, subject to the use of appropriate materials and detailing, this alteration is also considered to be acceptable as the void is of limited size and the simplified roof form will rationalise the design of the building in this location.
- 7.18 The enlarged section of terrace will be enclosed with a black metal framed glazed balustrade and the remaining balustrade will be painted black to match. This will be a better fit for the more industrial character of this section of the conservation area than the existing stainless steel arrangement.
- 7.19 Overall, subject to achieving the enhancements to the roof and balustrade and, taking into consideration the loss of the unsightly external container, it is considered that the proposal would have a positive impact on the character and appearance of the existing building and the wider conservation area. The proposal is therefore acceptable and policy compliant in this regard.

Amenity Impacts

- 7.20 Local and national planning policies and guidance seek to secure high quality development which protects amenity. Policy DM1 of the Development Management Document specifically identifies that development should protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight. Further advice on how to achieve this is set out in the Council's Design and Townscape

Guide.

- 7.21 The only neighbouring developments to this site are the other cockle sheds which are used for the processing of cockles. The proposal will have no harmful impacts on residential amenity in any relevant respects and is acceptable and policy compliant in the above regards.

Traffic and Transportation Issues

- 7.22 The NPPF states (paragraph 111) that *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or, the residual cumulative impacts on the road network would be severe.”*
- 7.23 Policy CP3 of the Core Strategy and Policy DM15 of the Development Management Document aim to improve road safety, quality of life and equality of access for all. Policy DM15 of the Development Management Document states that 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.
- 7.24 The building has been used as a restaurant for a number of years. The proposal extends the terrace area to increase the number of external covers from 36 to 70. The site does not include any off street parking but it is directly adjacent to a public car park and is close to public transport and within reasonable walking distance of Leigh-on-Sea railway station. It is not considered that the proposal would harm parking, highway safety of traffic conditions in the area. The Council’s Highways Officer has raised no parking or highway safety concerns. The proposal is considered to be acceptable and policy compliant in the above regards.

Impact on Port Operations

- 7.25 The proposed alterations at the southern end of the site are directly adjacent to Leigh Port area which is used daily by the fishing community. Third party concerns have been raised about to the impact that the proposal may have on port operations including future planned enhancements in this area such as the new quay wall and resurfacing.
- 7.26 The proposal is contained within the boundary of the site but includes a storage area at the lower level under the terrace area which is accessed via the port. This is the same arrangement as existing.
- 7.27 The Council’s Principal Engineer (LLFA) has reviewed the proposal in relation to this issue and has raised no objections to the proposal in this regard.
- 7.28 Overall, it is considered that the proposal would have an acceptable impact on traffic and transportation in all relevant regards including on the existing and proposed operations of Leigh Port. The proposal is acceptable and policy compliant in the above regards.

Ecology

- 7.29 The site is close to the foreshore which has several nature designations, however, the sea wall and port act as a barrier between the site and its uses and the estuary. It is considered that the proposal is of a scale that will not result in a significant change of impact on the foreshore nature designations in any relevant regard given that there is already an external terrace in this location. It is recommended that external lighting and hours of use of the terrace be controlled by condition to prevent disturbance of the

wildlife on the mudflats.

Community Infrastructure Levy (CIL)

- 7.30 The proposal for the existing property equates to no new floor space, the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

Equality and Diversity Issues

- 7.31 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.
- 7.32 The agent has advised that the main entrance to the restaurant will be relocated from the centre of the building to the northeast corner. The platform lift has been removed from the central access because it is no longer required. It was previously installed because there was no internal route from the northeast door to the restaurant area as the building was previously divided into two separate unconnected areas and the northeast entrance was used for takeaway only. This takeaway element has now ceased and the internal dividing wall removed enabling level access to all parts of the restaurant from the northern entrance and access to the upper external terrace level. The submitted plan shows adequate space for wheelchair turning in the vicinity of this entrance.
- 7.33 It is therefore considered that the amended entrance arrangement maintains the same level of accessibility for visitors and it is considered that having had regard to the requirements of the Equalities Act 2010 (as amended) within the assessment this proposal will not conflict with the Council's statutory duties under this legislation. The proposal is acceptable and policy compliant in this regard.

Conclusion

- 7.34 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The principle of the development is found to be acceptable, the impact on residential amenity is acceptable and all aspects of the proposal would have a positive albeit modest impact on the character and appearance of the application site, the street scene and the conservation area more widely. The highways, flooding, environmental and ecological impacts of the proposal are also acceptable subject to conditions. The application is therefore recommended for approval subject to conditions.

8 Recommendation

GRANT PLANNING PERMISSION subject to the following conditions:

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

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

02 The development hereby permitted shall be carried out in accordance with the following approved plans 2904-01, 2904-02, 2904-03, 2094-06F, 2094-07F.

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

03 The materials to be used on the external surfaces of the development hereby approved shall be black painted timber shiplap cladding for the walls including the terrace walls, black or stained timber fascia and soffits to match the existing building, dark grey bitumen roofing shingles to match the existing or black curved corrugated roofing sheets, black metal railings with clear glazed inserts, black timber supporting columns and terrace flooring to match the existing terrace or any other materials, details of which have previously been submitted to and agreed in writing by the Local Planning Authority under the terms of this condition. These materials shall be retained for the lifetime of the development.

Reason: To safeguard the character and appearance of the site and the surrounding Leigh Old Town Conservation Area in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3, DM5 and DM6 of the Development Management Document (2015) and advice within the National Design Guide (2021), the Southend-on-Sea Design and Townscape Guide (2009) and the Leigh Old Town Conservation Area Appraisal (2021).

04 Prior to first use of the enlarged external terrace hereby approved, the approved enhancements to the existing building, including the removal of the hipped section of roof, the removal of the redundant air handling units and associated steel tray along the fascia and the painting of the existing and proposed railings black shall be undertaken and completed in full accordance with the details set out in plan references 2094-06F and 2094-07F. These enhancements shall be retained for the lifetime of the development in accordance with the approved plans.

Reason: To safeguard the character and appearance of the historic building and the Leigh Old Town Conservation Area in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3, DM5 and DM6 of the Development Management Document (2015) and advice within the National Design Guide (2021), the Southend-on-Sea Design and Townscape Guide (2009) and the Leigh Old Town Conservation Area Appraisal (2021).

05 Aside from the plant shown on plan references 2094-06F and 2094-07F, no electricity, gas or water meter boxes, soil ventilation pipes, air extraction pipes, additional air conditioning units, boiler flues, ventilation grills or ducting shall be fixed to the exterior of the development hereby approved without the prior receipt of express planning permission from the Local Planning Authority.

Reason: In the interests of visual amenity and to ensure that the building makes a positive contribution to the character of the Leigh Old Town Conservation Area. This is as set out in the National Planning Policy Framework (2021), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM5 and advice within the Southend-on-Sea Design and Townscape Guide (2009) and the Leigh Old Town Conservation Area Appraisal (2021).

06 No external lighting shall be installed on the south or east elevations 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.

Reason: A condition is justified to ensure any protected species and habitats utilising the site and surrounding area are adequately protected in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) Policy KP2 and Development Management Document (2015) Policy DM2.

07 The external terrace hereby approved shall not be open to customers outside the following times: 08:00 until 22:00 hours on Monday to Sundays including Bank and Public Holidays.

Reason: A condition is justified to ensure any protected species and habitats utilising the site and surrounding area are adequately protected in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) Policy KP2 and Development Management Document (2015) Policy DM2.

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:

01 You are advised that as the proposed extension(s) equates to less than 100sqm of new floorspace the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See www.southend.gov.uk/cil for further details about CIL.

02 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.

03 The applicant is advised that any enclosure of the external seating area, including the covered external seating area without express planning permission from the Local Planning Authority is likely to be regarded as a breach of planning control.

04 The applicant is advised that they may need an Environmental Permit for flood risk activities if they want to do work in, under, over or within 16m of the river and of any flood defence structure or culvert of the Pitsea Tidal Reaches designated a 'main river' . Lower risk activities will be excluded or exempt and only higher risk activities will require a permit. New forms and further information can be

found at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. Anyone carrying out these activities without a permit where one is required, is breaking the law. Please contact our National Customer Contact Centre to assess which category your proposed works fall under. They will then be able to tell you the classification of your application, the fee associated with your application, and how to proceed forward. They can be contacted by email at: floodriskactivity@environment-agency.gov.uk