

<b>Reference:</b>	24/00352/FUL	
<b>Application Type:</b>	Full Application	
<b>Ward:</b>	West Leigh	
<b>Proposal:</b>	Demolish existing building and erect three storey building comprising four self-contained flats with balconies to front, layout parking, refuse and cycle store to rear (amended proposal)	
<b>Address:</b>	135 Marine Parade, Leigh-on-Sea, Essex SS9 2RF	
<b>Applicant:</b>	P Miller + P Hills of P + PR Property Developments Ltd	
<b>Agent:</b>	Miss Liz Schofield of BDA Architecture	
<b>Consultation Expiry:</b>	04.04.2024	
<b>Expiry Date:</b>	28.06.2024	
<b>Case Officer:</b>	Abbie Greenwood	
<b>Plan Nos:</b>	<b>23.172/01, 23.172/02 Rev C, 23.172/03 Rev B, 23.172/04 Rev B, 23.172/05 Rev B</b>	
<b>Additional information:</b>	<b>CGI reference 23.172/06 Rev B Design and Access Statement Rev A dated 22.24.24 Construction Method Statement by BDA dated May 2024</b>	
<b>Recommendation:</b>	<b>GRANT PLANNING PERMISSION subject to conditions</b>	



## 1 Site and Surroundings

- 1.1 The site is located on the junction of Marine Parade and Thames Drive on the cliff top overlooking the estuary. The existing building is a large traditionally designed house with feature gables, bays and balconies. The property had an attached flat roof garage to the western side with vehicular crossover from Thames Drive. That garage sat forward of the building line of the properties in Thames Drive but was a subservient feature in the streetscene in this location. The site is a double width plot compared to others in the vicinity but articulation of the existing building and its generous frontages ensure it integrates comfortably in the wider streetscene.
- 1.2 The Marine Estate is characterised by large detached and semi-detached family houses. A few have been converted to flats but overall, these conversions have retained the character of houses which means that the flats are not readily apparent in the streetscene. All immediately neighbouring properties are two storeys with generously proportioned roofs, and this is a consistent feature of the streetscene. Some have dormers in the roof and front balconies. Houses in both streets are set on a relatively consistent building line with generous planted frontages which wrap around the junctions giving the streets a suburban character.
- 1.3 Opposite the site is Marine Parade Gardens which is protected open space and green belt and Belton Hills Nature Reserve. The site is located within the Development Management Document Policy DM6 Seafront Character Zone 1.

## 2 The Proposal

- 2.1 The proposal seeks to demolish the existing dwelling and erect a 2-storey development with accommodation in the roofspace to provide 4 x 2 bed flats, layout 8 parking spaces to the rear, associated landscaping, cycle and refuse storage and form a new vehicular crossover onto Thames Drive.
- 2.2 The main body of the new building, which has been revised during the course of this planning application, would have a maximum width of 19.4m and a maximum depth of 16.2m at ground floor level, reducing to 11.1m at 1st floor level. The proposal would have a hipped roof with an eaves height of 5.5m, a maximum height of 10.4m, dormers to the front and rear and front facing balconies at first and second floor.
- 2.3 The proposals would be constructed with facing brickwork and render, a tiled roof and glazed balconies.
- 2.4 This proposal follows refusal of application reference 23/00006/FUL which sought to '*Demolish existing building and erect three storey building comprising 7no. self-contained flats with balconies to front, layout parking, refuse and cycle store to rear and form new vehicle crossover onto Thames Drive.*' This was refused for the following reasons:

*01 The proposed development, by reason of its excessive scale, form, mass, footprint, siting and poor design would have a significant detrimental impact on the grain, character and appearance of the site and the wider area and would be an over scaled, prominent and incongruous addition to the streetscene. The proposal is therefore unacceptable and contrary to the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3 and DM6 of the Development Management Document (2015) and advice in the National Design Guide (rev 2021) and the Southend-on-Sea Design and Townscape Guide (2009).*

*02 The development offers no reasonable mitigation of the in-combination effect of the net increase of six dwellings on habitats and species in accordance with the Habitats Regulations*

as identified in the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) SPD (2020). This is unacceptable and contrary to the RAMS, and Policies KP1, KP2 and CP4 of the Core Strategy and Policy DM6 of the Development Management Document which seek to protect the natural environment with specific reference to the coastal habitats.

- 2.5 An appeal against the Council's refusal of the above application was subsequently dismissed (reference APP/D1590/W/23/3327261). The full appeal decision is attached at Appendix 1 to this report, but the Inspector's main findings were:

*"7. The site comprises a large, two-storey detached house with roofspace accommodation in a large double corner plot. It lies in a prominent position fronting both Marine Parade and Thames Drive, sited roughly in line with, although slightly forward of, the other buildings in those streets. The surrounding area is characterised by attractive detached and semi-detached structures, some of which have been converted to flats. There is a mix of designs, but the predominantly two storey heights and similar set back from the road provide a consistency to the pattern and appearance of development. There are no designated heritage assets nearby.*

*8. The Council's Design and Townscape Guide 2009 (Townscape Guide) recognises that the area has more imposing buildings and grander streets than other parts of the Borough, and that individual designs may vary but their scale and grain are unifying characteristics.*

*9. The existing house would be replaced with a large two and three storey block of flats, facing Marine Parade. The development would not exceed the height of the existing dwelling and parts of the roof would be lower than the 2021 scheme. However, whilst the gables would provide visual breaks in the roof, similar to the 2021 proposal the roof profile would be significantly greater than the existing one. Further, the eaves on most of the building would be much higher than those on nearby dwellings. As such, the size and extent of the proposed roof would be excessive.*

*10. The existing house has a steep, hipped roof which slopes down towards a two-storey projecting gable on the corner of Thames Drive and Marine Parade. In contrast, similar to the 2021 scheme, the three-storey element of the proposed development would extend towards Thames Drive. I note that the contemporary design seeks to break up the width of the elevation and provide depth to the design, but the overall scale and form of the building would appear overly large, dominating this highly prominent corner plot.*

*11. The proposed building would be significantly closer to Thames Drive than the existing structure and other dwellings on this side of the street. Although it would be slightly further from this street than the 2021 scheme, it would fail to reflect the relatively consistent building line on the east side of Thames Drive. Further, its siting close to Thames Drive would emphasise the harmful scale and form of the proposed building.*

*12. The top section of the proposed front gables would provide sun canopies, with the main building set back from it by around 2.5m. Although clear glazing would be used, due to the canopy depths, the extent of the windows behind only parts of them and the use of cladding, the canopies would create dark voids on this frontage. This would harmfully contrast with the largely open, uncovered balconies nearby, appearing as an alien feature in the streetscene.*

*13. The existing house on this corner site has a gable, windows and architectural detailing which respects both road frontages. The proposed development would include more windows facing Thames Drive than the 2021 scheme, as well as soldier brick courses and false window features, and a curved corner wall would soften the transition from front to side. However, the design approach prioritises the primary elevation on Marine Parade and from Thames Drive*

*it would appear as the side of a large building facing Marine Parade. Thus, the scheme would fail to provide suitable articulation along the busy and prominent Thames Drive frontage.*

*14. The development would include three gables and different types of windows to the rear. I acknowledge that local façades are not uniform, but due to the varied height, widths and projections of the proposed gables and multiple styles and sizes of the windows, the rear elevation would lack cohesion. As such, it would be discordant in the streetscene, particularly in views travelling southbound along Thames Drive.*

*15. Therefore, I conclude that the proposed development would harm the character and appearance of the area. It would conflict with Policies KP2 and CP4 of the Southend-on-Sea Core Strategy 2007 (CS) and Policies DM1, DM3 and DM6 of the Council's Development Management Document 2015 (DMD). Together, these require development to respect the character, context and appearance of the site, Seafront and the wider area, including in relation to its architectural approach, scale, form, massing and townscape setting, amongst other things.*

*16. The proposal would also be contrary to the Framework which sets out that development should be sympathetic to local character and development that is not well designed should be refused. It would fail to respond positively to the site features and surrounding context as set out in the National Design Guide.*

*17. Further, the scheme would conflict with the Townscape Guide where it states that development of a larger, different or unbalancing scale in areas of large detached and semi-detached housing would be detrimental to local character."*

2.6 In relation to reason for refusal 02 the appellant paid the RAMS tariff during the course of the appeal so that reason for refusal fell away.

2.7 The main differences between the refused 2023 application and the current application are:

- The number of flats has been reduced from 7 to 4.
- The number of storeys has reduced from 3 to 2.5.
- The width of the building has decreased from 22.6m to 18.7m (-3.9m) at ground and first floor levels.
- The depth has increased from a maximum of 15m to 16.2m (+1.2m) at ground level and decreased from 15m to 11.1m (-3.9m) at first floor level.
- The maximum height has been reduced from 10.5m to 10.4m (-100mm), the roof proportions have increased and the form simplified.
- The front building line on the Marine Parade frontage has moved back approximately 1.1m for the main part of the building (not including balconies or gables).
- The west side building line to the Thames Drive frontage has been pushed back from 2.2m to 6.5m (-4.3m).
- The distance to the east boundary has decreased by 300mm from 1.3m to 1m.
- The distance to the north boundary at the rear has decreased from 16.2m to 14m at ground floor (-2.2m) and increased from 16.2m to 17.9m at first floor (+1.7m).
- Amendments to the elevational design and internal layout.
- The number of parking spaces has reduced from 9 to 8.

2.8 Previous to this there were five flats related applications, three of which were subject of subsequent appeals. A 2021 proposal (21/01685/FUL) also for 7 flats (6 x two bed and 1 x three bed) but of an alternative design was dismissed on appeal (reference APP/D1590/W/21/3287594) as was a 2023 proposal. A 2019 proposal (19/01417/FUL) (the 2019 scheme) for the conversion of the existing building into 6 flats (2 x one bed and 4 x two

bed) was refused but then allowed on appeal (reference APP/D1590/W/19/3243705). A copy of this 2019 appeal decision is included at Appendix 2.

2.9 The current proposal has based its form and design on the allowed 2019 scheme, although it is now seeking demolition and rebuilding rather than extension, remodelling and conversion. A comparison of the current application scheme and the 2019 approval on appeal is shown on the submitted drawings. There are clear similarities in style except that the footprint, not including balconies, is set some 300mm forward to the front and the gable is 2.4m closer to the junction corner. The current proposal has a more consistent side building line at 6.4m from the west boundary rather than a stepped building line and there is an enlarged single storey element at the rear next to No 134 Marine Parade.

2.10 The submitted Design Statement provides the following comment on the reasoning behind the proposal for a new build rather than a conversion:

*‘Upon a detailed study of the structural condition of the building, it is concluded that demolition and re-build is a more environmentally sustainable solution for the site. This is because the new build development is designed with the latest environmental standards in mind, exceeding the recently updated UK Building Regulations, and creating a residential development which has greater long-term energy efficiency.’*

2.11 The 2019 development allowed at appeal has technically commenced, through formation of the access to Thames Drive, so for the purposes of this report’s assessment it is considered to be extant.

### 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**

Reference	Description	Outcome
23/00882/AD	Application for approval of details pursuant to condition 03 (Construction Method Statement) of planning permission 19/01417/FUL allowed on appeal dated 28/07/2020	Details Approved
23/00006/FUL	Demolish existing building and erect three storey building comprising 7no. self-contained flats with balconies to front, layout parking, refuse and cycle store to rear and form new vehicle crossover onto Thames Drive	Refused and Dismissed on Appeal
21/01685/FUL	Demolish existing dwelling and erect building comprising 7no. apartments, layout parking, landscaping, cycle and refuse storage and form vehicular crossover onto Thames Drive (Amended Proposal)	Refused and Dismissed on Appeal.
21/00146/FUL	Demolish existing dwelling and erect building comprising no.7 apartments, layout parking, landscaping, cycle and refuse storage and form new vehicular crossover onto Thames Drive	Refused
19/01417/FUL	Extend existing pitched roof, install dormers to front and rear, erect front, side and rear extensions and alter elevations to existing	Refused but Allowed on Appeal

	building to form six self-contained flats with balconies/terraces, associated parking, amenity space, refuse/cycle store and install vehicle access onto Thames Drive (Amended proposal)	
19/00284/FUL	Extend existing pitched roof with dormers to front and rear, erect front, side and rear extensions and alter elevations to existing building to form 7No. self-contained flats with balconies/terraces, associated parking, amenity space, refuse/cycle store and install vehicle access onto Thames Drive	Refused
19/00041/GPDE	Erect single storey rear extension, projecting 8m beyond the existing rear wall of the dwelling, 3m high to eaves and with a maximum height of 3.25m	Granted

## 4 Representation Summary

### Public Consultation

- 4.1 A site notice was displayed, and 148 neighbours were twice notified of the application by letter including on the amended plans. 28 letters of representation were received from 20 addresses, including 10 letters which are generally supportive of the application. The contents are summarised as follows:

#### *Comments against the proposal*

- The proposal is an overdevelopment of the site. The scale of the development is detrimental to the streetscene. Too tall. Out of character. Incongruous. The footprint is too large compared to the existing and other properties. The density is too high. The traditional character of Marine Parade is important to the area. The design is not good enough for this landmark location.
- Loss of family home.
- Too many flats and too many vehicles.
- There is no need for more flats in this area. This is the wrong location for flats. The area is characterised by houses.
- The proposal will result in an unacceptable increase in traffic at this key junction and bus route. Congestion is already getting worse. Impact on pedestrian safety. Impact from right turning traffic. Lack of parking. Traffic issues, noise and disruption during construction.
- Impact on local services including schools and healthcare.
- The existing building is an iconic landmark building and should be retained. Links with EK Cole and Vera Lynn. The building is habitable and should be converted although it has been left to deteriorate so redevelopment may be the best option now. Demolishing the building rather than conversion will be detrimental due to loss of embodied carbon. There is no evidence to demonstrate that the building cannot be repurposed. There is no clear plan for energy efficiency in the design.
- Impact on neighbour amenity including noise and disturbance.
- Concern this would set a precedent for similar proposals in the area.
- The previous reasons for refusal still stand.
- The public benefits do not outweigh the harm.
- Impact on cliff stability and landslides.
- 2 detached houses would be preferable.
- The location of the refuse store at the front of the site is too prominent.

## *Comments in favour of the proposal*

- No objection in principle.
- The proposal is the best option/most acceptable so far. The design is more palatable than previous proposals. It is not overbearing.
- 4 flats are more acceptable than 6 or 7.
- Improved relationship with neighbours.
- The proposed footprint is not excessive.
- Development is inevitable on this site.
- Many previous objections have been taken into account in terms of design and appearance.
- The design is modern but not jarring in this context.
- The proposal is preferable to retaining the existing building.
- Air source heat pumps and PVs should be conditioned, and it should be built to passive house standards.
- It is pleasing to see that the boundary wall will be retained this should be conditioned.

*[Officer Comment: Issues relating to design, character and appearance, amenity and highway issues have been addressed within the report. There is no objection to the proposal from Essex Fire. The site is already in use as residential accommodation. The building is not identified as a designated or non-designated heritage asset. Covenants are not material planning considerations. The concerns are noted and those that represent material planning considerations have been taken into account in the assessment of the application. However, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case.]*

### **Highways**

- 4.2 There are no highway objections to this proposal. 8 off street parking spaces have been provided and are accessed via an existing vehicle crossover. It is not considered that the proposal will have a detrimental impact on the local highway network. The Construction Method Statement is acceptable.

Highways have also confirmed that there are no land stability issues in this section of Marine Parade.

### **Environmental Health**

- 4.3 There is potential for noise disturbance in relation to stacking. A noise condition is recommended as well as a contamination watching brief and conditions relating to refuse. The Construction Method Statement is acceptable.

### **Essex Fire Service**

- 4.4 No objections.

### **London Southend Airport**

- 4.5 The proposed development should be no taller than the existing properties or existing surrounding structures etc. If taller, then an Instrument Flight Procedure (IFP) assessment will be required at the cost of the developer. *[Officer Comment: The agent has confirmed that the proposal is no taller than the existing development.]*

## **5 Procedural Matters**

- 5.1 This application is presented to the Development Control Committee because it has been called in by Councillor Cartey.

## **6 Planning Policy Summary**

- 6.1 The National Planning Policy Framework (NPPF) (2023).
- 6.2 Planning Practice Guidance (PPG) (2024).
- 6.3 National Design Guide (NDG) (2021).
- 6.4 Technical Housing Standards – Nationally Described Space Standards (2015).
- 6.5 Core Strategy (2007): Policy KP1 (Spatial Strategy), Policy KP2 (Development Principles), Policy CP3 (Transport and Accessibility), Policy CP4 (The Environment and Urban Renaissance), Policy CP8 (Dwelling Provision).
- 6.6 Development Management Document (2015): Policy DM1 (Design Quality), Policy DM2 (Low Carbon and Development and Efficient Use of Resources), Policy DM3 (Efficient and Effective Use of Land), Policy DM6 (The Seafront), Policy DM8 (Residential Standards), Policy DM15 (Sustainable Transport Management).
- 6.7 Southend-on-Sea Design and Townscape Guide (2009).
- 6.8 Technical Housing Standards Policy Transition Statement (2015).
- 6.9 Waste Storage, Collection and Management Guide for New Developments (2019.)
- 6.10 Electric Vehicle Charging Infrastructure for new development Supplementary Planning Document (2021).
- 6.11 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020).
- 6.12 Community Infrastructure Levy (CIL) Charging Schedule (2015).
- 6.13 Vehicle Crossing Policy & Application Guidance (2021).
- 6.14 Town and Country Planning Act 1990: Section 90A, Schedule 7A (Biodiversity Net Gain)

## **7 Planning Considerations**

- 7.1 The main considerations in relation to this application are the principle of the development, design and impact on the streetscene, the quality of accommodation for future occupiers, traffic and transportation, impact on residential amenity, sustainable construction, sustainability, land stability, ecology including RAMS and CIL and whether the proposal has overcome the previous reasons for refusal. The extant nature of the 2019 planning permission carries significant weight in the assessment of the current proposal. The basis of the three appeal decisions at the site, regardless of their overall outcome, are also material considerations of significant weight in the determination of this application.

## **8 Appraisal**



## Principle of Development

- 8.1 The provision of new high quality housing is a key Government objective.
- 8.2 Amongst other policies to support sustainable development, the NPPF seeks to boost the supply of housing by delivering a wide choice of high quality homes. In relation to the efficient use its paragraphs states:

*124. Planning policies and decisions should support development that makes efficient use of land, taking into account:*

- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
- b) local market conditions and viability;*
- c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
- d) the desirability of maintaining an area’s prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
- e) the importance of securing well-designed and beautiful, attractive and healthy places.*

- 8.3 Policy KP2 of the Core Strategy states development must be achieved in ways which “*make the best use of previously developed land, ensuring that sites and buildings are put to best use*”.
- 8.4 Policy CP8 of the Core Strategy identifies that the intensification of the use of land should play a significant role in meeting the housing needs of Southend. The results of the Housing Delivery Test (HDT) published by the Government show that there is underperformance of housing delivery in the city. Similarly, the Council’s Five-Year Housing Land Supply (5YHLS) figure shows that there is a deficit in housing land supply in the city. The HDT and 5YHLS weigh in favour of the principle of the development. Paragraph 8.55 later in this report discusses the Planning Balance and Housing Supply.
- 8.5 Policy DM3 of the Development Management Document states that “*the Council will seek to support development that is well designed and that seeks to optimise the use of land in a sustainable manner that responds positively to local context and does not lead to over-intensification, which would result in undue stress on local services, and infrastructure, including transport capacity*”
- 8.6 The proposal is assessed in the context of the above policies. These support residential development in this location, including at a greater density than the existing single dwelling on this plot, provided the proposal respects the character of the locality and the amenities of neighbours. The principle of the proposal is therefore acceptable subject to the detailed considerations set out below. It is noted that an intensification of residential units on this site for up to 7 units was not objected to in principle by either the Local Planning Authority or the Planning Inspectorate respectively in relation to the previous planning applications and the three related appeals. Also, no objections have been raised by any of the Inspectors for the various appeals to the loss of a single-family dwelling in this instance.

## Design and Impact on the Character of the Area

- 8.7 Paragraph 131 of the NPPF states that: “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.”

- 8.8 Policy KP2 of the Core Strategy states that new development should: *“respect the character and scale of the existing neighbourhood where appropriate.”* Policy CP4 of the Core Strategy requires that development proposals should: *“maintain and enhance the amenities, appeal and character of residential areas, securing good relationships with existing development and respecting the scale and nature of that development.”*
- 8.9 Policy DM1 of the Development Management Document states that all development should: *“add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features.”*
- 8.10 The proposal seeks to demolish the existing building and erect a new development of 2 storeys plus roof accommodation to provide 4 flats. This site has a long history. Three previous proposals to erect a new building of 7 flats over 3 full storeys were all refused by this Local Planning Authority due to their scale, siting and detailed design. Two of these were then dismissed at appeal. On the other hand, conversion and remodelling of the existing building reference 19/01417/FUL to form 6 flats was allowed at appeal. That development, which is considered to be extant as its vehicular access to Thames Drive has been formed, included introduction of large, framed dormers within a larger hipped roof form, a feature glazed gable to the corner as well as various extensions to the built form infilling space at corners. The current application is based on that extant development but is a new build rather than a conversion. The proposal is 2.5 storeys, the proposed number of flats is 4 whereas the approved conversion and remodelling creates 6 flats. Comparatively greater separation is provided to the Thames Drive frontage. In terms of design detail, the proposal is also a similar style of development as the extant development including the feature framing to the corner gable, front and rear dormers and glass balconies to the front.
- 8.11 The key differences between the extant conversion scheme and the current proposal are that the proposal is some 3m wider but still maintaining a decent 6.4m setback to the Thames Drive frontage and that it has a deeper ground floor plan, which is the result of the building stepping forward some 65cm from the existing front building line combined with a deeper single storey element to the rear.
- 8.12 The 2019 appeal decision and the now extant nature of that 2019 permission is a significant material consideration in the determination of this application. In considering the design and scale of the 2019 proposal the Inspector commented:

*“6. The enlargement of the roof by filling in the southeastern corner of the building, extending the ridge line and introducing another dormer window would create a larger roof form but one that would be simpler in shape to the current roof. It would be no higher than the existing main ridge, project no further forward than the existing front elevation, and would retain the fully hipped roof form of the existing building. The dormer windows would be of a scale similar to that of the existing dormer and would sit comfortably within the roof plane.*

*7. The Council criticises the design as failing to achieve a suitable transition to the buildings to the east in terms of height and forward position. It would indeed be higher and slightly forward of the immediate neighbouring property, but as that property is atypical of the area, I do not think that a fair comparison. Compared to the wider street scene, the proposal would equate more closely to the heights of other buildings so as not to appear incongruous. Similarly, its forward projection would not be unduly prominent, given the variety of projections, such as front gables and bay windows, found on other properties in the Parade.*

8. Having regard to these parameters, I do not consider that this element of the extension would be excessive in size or appear unduly prominent in views along Marine Parade, any more than the existing building does at present.

9. The single storey extensions would replace an existing flat roofed garage and store. Although wider than the garage, the corner extension would be recessed back further and, in my view, would appear subservient to the main building and would not be any more prominent in public views than the existing garage. I also find no harm arising from the entrance arrangements as proposed in the appeal scheme.

10. The contemporary design would contrast with the prevailing Arts and Crafts and mock Tudor designs of many of the other buildings in the Parade. However, there are variations in building design along Marine Parade, both in terms of detail and overall form. I consider that the Parade is not so uniform in character or appearance that it cannot accommodate additional change and variation of the style proposed in the appeal scheme. Contemporary design has been accepted by the Council at 131 Marine Parade, which exhibits many of the features proposed in the appeal scheme. Indeed, variation in design can provide visual interest that adds rather than detracts from the appearance of the street scene, and I consider that would be the case here.

11. I conclude that the extension and remodelling of the existing building in the manner proposed, while departing from the prevailing design of buildings in the area, would not appear over scaled or incongruous in the street scene, and would not harm the character or appearance of the area.”

- 8.13 In absolute terms the proposal is larger than the approved 2019 development in some respects but the comparative increases involved are marginal. See paragraph 2.9 above and drawing references 23.172/04B (Streetscenes) and 23.172/02C (Proposed Plans (Ground)). Overall, the design of the current proposal is well resolved. The Inspector said that variation in design can provide visual interest that adds rather than detracts from the appearance of the street scene. Also, neither the existing building nor its surrounding context forms a designated or non-designated heritage asset, for example a conservation area. In any event the remodelling of the building to give it a more contemporary appearance in the 2019 appeal scheme was significant such that the development would appear as a new building in the streetscene. In the circumstances and attaching due weight to the 2019 appeal decision staff consider it would be difficult to sustain an argument that a new building of comparative form, size and appearance to the extant development would harm local character.
- 8.14 The proposal has also satisfactorily addressed all the concerns raised by the Inspector when dismissing the separate 2021 appeal which is summarised in paragraph 2.5 above. This includes: amending the scale and form of the development from 3 storeys to 2.5 storeys with a better proportioned roof form including aligning the eaves with the neighbours; significantly reducing the width of the proposal and providing a generous set back to Thames Drive to better respect the openness of the junction and building line in this street; improvements to the articulation of the Thames Drive frontage; and creating overall a more cohesive and well resolved design. The general scale and proportions of the development are more comfortable and more comparable to the surrounding development and the relatively minor variations in building lines on both frontages are now within acceptable tolerances given the non-uniform streetscenes of Marine Parade and Thames Drive and the building's prominent corner location.
- 8.15 Overall, it is considered that the current proposal has satisfactorily taken on board the comments from the Inspectors for the 2019 and 2021 appeals and the resultant development is now acceptable in its scale, form, siting and detailed design and will comfortably integrate into the streetscenes of Marine Parade and Thames Drive. The proposal has therefore

satisfactorily overcome the previous reason for refusal and Inspector's concerns in regard to design and is acceptable and policy compliant in this regard.

### **Amenity Impacts**

- 8.16 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.

#### *Impact on No 104 Thames Drive to the north*

- 8.17 In relation to the northern boundary of the site with No 104 Thames Drive, the proposed development would be some 14m from the boundary at ground floor, 17.9m at first floor and 19m at second floor. This neighbouring dwelling has a bay window on its southern flank at first floor which appears to be a secondary window to a bedroom which has its primary outlook to the front facing the street. There is also a small obscure glazed window at first floor towards the rear of the flank elevation of this neighbour.
- 8.18 The proposal has habitable room windows facing north at ground and first floor and non habitable windows in the second floor dormers. It is considered that there is sufficient separation distance to ensure that the proposal would not result in a significant overbearing relationship, sense of enclosure, loss of light or privacy for this neighbour. It is also noted that the separation is greater than for the 2023 proposal (reference 23/00006/FUL) which was found to be acceptable in this regard by the Council and the Planning Inspector.
- 8.19 The parking area for the new flats is located to the rear of the building with 8 spaces adjacent to the shared boundary fence with No 104 Thames Drive, separated by a narrow planting buffer against this boundary. This is a similar arrangement to the extant 2019 development scheme which had 6 parking spaces in this location. The two further spaces which have been added are adjacent to the road (with buffer planting to the north side) so they are away from the rear amenity space of this neighbour. In addition, this relationship has not been raised as a concern in the subsequent dismissed appeals which included up to 9 parking spaces to the rear of the site. In the determination of the 2019 appeal the Planning Inspector found that the noise and disturbance associated with use of 6 parking spaces would not have an unacceptable impact on the amenities of No 104. The current proposal has 8 rear spaces but the number of units has decreased by two so there is likely to be less new residents at the site overall. Attaching significant weight to the findings of the appeal, this element of the proposal is therefore considered to have a satisfactory impact on the amenities of this neighbour in all regards.

#### *Impact on No 134 Marine Parade to the east*

- 8.20 The proposal is set 1m from the eastern boundary and 4.2m from the flank wall of No 134 Marine Parade. No 134 Marine Parade has 4 windows in its western elevation facing the site. These serve the entrance hall, landing and bathrooms and none serve as primary windows to habitable rooms. The garage to No 134 is located on the shared boundary with the application site, towards the rear.
- 8.21 The proposal would extend approximately 1.6m past the front building line of this neighbour at its closest point (3.4m including the balcony), at a separation distance of between 4.2 and 4.7m. The submitted plan shows that this projection would not breach a notional 45-degree guideline taken from the front corner of No 134. The proposal does not extend past this

neighbour to the rear. The proposal has 1 window in the east elevation at the very front of the site which looks across the front garden of the neighbour and street. This is similar to the existing arrangement where there is a balcony and window to the southeast corner of the site looking across the neighbouring frontage and a relationship which is considered to be acceptable when judged on its merits.

- 8.22 The proposed balconies, which have an open design with clear glazing, extend 1.8m further forward than the existing building balcony, but less than that proposed under the previous application 23/00006/FUL, which was found by the Inspector to have an acceptable impact on this neighbour in all regards.
- 8.23 It is therefore considered that the separation distances sufficiently mitigate the impact that the proposal would have on this neighbouring dwelling in terms of dominance, sense of enclosure and loss of light and outlook and there are no concerns relating to privacy. The impact on the amenities of this neighbour is therefore considered to be acceptable.
- 8.24 The site is located on a corner and no other neighbours' amenity would be materially harmed in any relevant regards.
- 8.25 The proposal's amenity impacts are therefore acceptable and policy compliant in all relevant regards.

### Standard of Accommodation

- 8.26 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.*

- 8.27 All new homes are required to meet the Nationally Described Housing Standards in terms of overall floorspace and bedroom sizes. The required sizes are shown in the table below.

**Table 1 - Minimum gross internal floor areas and storage (m<sup>2</sup>)**

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		

- 8.28 Bedrooms are required to be a minimum of 11.5sqm and 2.75m wide for doubles and a minimum of 7.5 sqm and 2.15m wide for singles.
- 8.29 The proposed flat and bedroom sizes are as follows:

	Flat Size	Bedroom 1	Bedroom 2	Storage	Amenity
Flat A 2 bed 4 person	126sqm	24.3 sqm Width 2.9m	11.5 sqm Width 2.9 sqm	10.5 sqm	13 sqm
Flat B 2 bed 4 person	153 sqm	23 sqm Width 3.5m	17.8 sqm Width 4m	9sqm	19.3 sqm

Flat C 2 bed 4 person	149 sqm	23 sqm Width 3.5m	17.8 sqm Width 4m	9sqm	24 sqm
Flat D 2 bed 4 person	123 sqm	24.3 sqm Width 2.9m	11.9 sqm Width 3.3m	10.5 sqm	17 sqm

8.30 The flats are generous in size and would be well in excess of these standards. All the habitable rooms would have adequate light and outlook. The proposal is therefore acceptable and policy compliant in this regard.

#### *M4(2) – Accessibility*

8.31 Policy DM8 also requires all new dwellings to be accessible and adaptable to Building Regulations M4(2) standards. Cabin style platform lifts are proposed in the entrance to the upper floor flats and the agent has confirmed that all units are M4(2) compliant. This can be secured by condition. The proposal is acceptable and policy compliant in this regard.

#### *Amenity Provision*

8.32 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.'*

8.33 No rear garden or shared private amenity space is proposed and the proposed flats are of a size that could accommodate families with children. All flats would have access to their own private terrace or balcony of at least 13sqm. Considered in the round this provision is considered acceptable. Furthermore, it is noted that in the none of the previous appeal decisions, which similarly included flats capable of accommodating families with children, did the inspector raise any concerns in about the absence of a garden. Attaching due weight to that appeal finding, the proposal is acceptable and policy compliant in this regard.

8.34 The 2019 development included a noise report which recommended that acoustic glazing be used to mitigate against traffic noise. No noise report has been submitted with this application; however, the submission makes a commitment to use the same acoustic glazing recommendations as set out in the original noise report the technical provisions of which are considered still to be relevant to the site's circumstances. This is considered acceptable and can be controlled by condition.

8.35 Overall, therefore, it is considered that the proposal would provide a satisfactory standard of accommodation for future occupiers and is acceptable and policy compliant in this regard.

#### **Traffic and Transportation Issues**

8.36 Paragraph 115 of the NPPF states 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."*

8.37 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. The policy requirement for new flats in this location is 1 space per flat plus 1 secure

cycle space per flat.

- 8.38 The site is at the junction of Marine Parade and Thames Drive which is controlled by traffic lights. It is on a bus route and within walking distance of Leigh Station. To access the parking area, the proposal would require the formation of a new double width access onto Thames Drive and the reinstatement of the existing single width crossover on this frontage which serves the existing garage. The agent has advised that the new crossover onto Thames Drive has commenced as part of the previous approval under 19/01417/FUL.
- 8.39 The proposed parking area would include 8 parking spaces (2 for each flat) and space for the turning of vehicles. Each flat will have access to electric vehicle charging. Space is also allocated for cycle and refuse storage to the rear of the building. This has been amended from the road frontage to the northeast corner of the site to reduce the impact of the shelters on the streetscene. The amended location is acceptable subject to the agreement of details. The Council's Highways Officer has not raised any objections about the level of parking for the scheme. The proposal would be policy compliant in this regard.
- 8.40 Third party concerns have been raised about vehicular movements in close proximity to the junction and the bus stop., The Council's Highways Officer has previously confirmed that the proposed new access would have satisfactory levels of visibility and has again not raised any concerns in relation to traffic or safety. This layout is consistent with the previous appeal related schemes which all had similar parking and access arrangements. No concerns were raised by the inspector(s) in this regard.
- 8.41 A Construction Method Statement has been submitted and has been checked by Highways and Environmental Health and found to be acceptable. The implementation of this can be secured by condition. The proposal is acceptable and policy compliant in this regard subject to this condition.
- 8.42 The proposal is therefore considered to be acceptable and policy compliant subject to conditions relating to the installation of the proposed parking, cycle and refuse storage, electric vehicle charging and CMP and the reinstatement of the redundant crossover.

### **Sustainability**

- 8.43 Sustainable development is a key objective of the NPPF. 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.
- 8.44 The Design and Access Statement states that the new building will exceed building regulations in its thermal performance and this offsets the embodied carbon lost in the demolition and construction of a new development rather than a conversion. In terms of renewables, the Design and Access Statement comments that PVs (photovoltaics) are proposed but no details are given. However, it is considered that full details of the required renewables can be agreed by condition. It will be important to ensure these are sited so as not to harm local character. A condition can also be imposed in relation to water usage. The proposal is therefore acceptable and policy compliant in this regard subject to these conditions.

### *Sustainable Drainage*

- 8.45 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.
- 8.46 The site is located in flood risk zone 1 (low risk). A parking area is proposed over the existing rear garden. No information has been provided regarding drainage of this area or the site generally, so a planning condition is recommended to ensure the proposed development mitigates against surface water runoff. Subject to this the proposal is acceptable and policy compliant in this regard.

### **Ecology, Biodiversity, HRA and RAMS**

- 8.47 The site is near to Belton Hills Nature Reserve; as the development creates 3 additional residential units no adverse impacts and/ or requirement for mitigation measures has been identified.
- 8.48 This application is exempt from Biodiversity Net Gain requirements as it was submitted prior the relevant requirements coming into effect for this type of development.

#### *Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS)*

- 8.49 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 £ £163.86 (index linked) is paid per dwelling unit. This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement.
- 8.50 The proposal was previously refused because it failed make this payment or complete a S106 agreement securing the payment in the event of an approval. The tariff has been paid alongside this application and is therefore acceptable and policy compliant in this regard.

### **Land Stability**

- 8.51 No land stability issues have been identified in the assessment of this proposal or any of the previous schemes considered. The proposal is acceptable and policy compliant in this regard.

### **Land Contamination**

- 8.52 Environmental Health have advised that as the proposal involves demolition of the building a precautionary watching brief condition is warranted. This requires the applicant to report any unexpected contamination if it occurs. The proposal is acceptable and policy compliant subject to this condition.

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

- 8.53 This application is CIL liable and there will be a CIL charge payable. In accordance with Section 70 of the Town and Country Planning Act 1990 (as amended by Section 143 of the Localism Act 2011) and Section 155 of the Housing and Planning Act 2016, CIL is being



reported as a material 'local finance consideration' for the purpose of planning decisions. The proposed development includes a gross internal area of some 566 sqm, which may equate to a CIL charge of approximately £49764.46 (subject to confirmation). Any existing floor area that is being retained/demolished that satisfies the 'in-use building' test, as set out in the CIL Regulations 2010 (as amended), may be deducted from the chargeable area thus resulting in a reduction in the chargeable amount.

## **Equality and Diversity Issues**

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

## **Planning Balance and Housing Supply**

8.55 The results of the Housing Delivery Test (HDT) published by the Government show that there is underperformance of housing delivery in the city. Similarly, the Council's Five-Year Housing Land Supply (5YHLS) figure shows that there is a deficit in housing land supply in the city. The South Essex Strategic Housing Market Assessment (SESHMA) identifies that Southend has a higher proportion of flats/maisonettes and a housing stock comprised of a greater proportion of one-bed units and smaller properties a consequence of which is that there is a lower percentage of accommodation of a suitable size for families. For the proposed provision of housing the HDT and 5YHLS weigh in favour of the principle of residential use, net gain of 3 residential units should be given increased weight in a balancing exercise. It is noted that no objections have been raised by any of the Inspectors for the various appeals to the loss of a single family dwelling in this instance.

## **Conclusion**

8.56 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 replacement of the existing dwelling with 4 flats is acceptable in principle with the sizes, layouts and external amenity space providing satisfactory standards of accommodation. The proposal would have an acceptable impact on the amenities of neighbouring occupiers and the character and appearance of the application site and street scene. There would be no significant adverse traffic, parking or highways impacts.

8.57 The application has satisfactorily overcome both reasons for which the previous 2023 application was refused and assessed by the Inspector in the subsequent appeal in relation to design and impact on the character of the area and the lack of a RAMS payment. This application is therefore recommended for approval subject to conditions.

## **9 Recommendation**

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

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

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

- 02 The development shall only be undertaken in accordance with the following approved plans: 23.172/01, 23.172/02 Rev C, 23.172/03 Rev B, 23.172/04 Rev B, 23.172/05 Rev B.**

**Reason: To ensure the development is carried out in accordance with the consent sought, has an acceptable design and complies with Policy DM1 of the Development Management Document (2015).**

- 03 Prior to commencement of the development above ground floor slab level, full product details of the materials to be used in the construction of all the external elevations of the development hereby approved shall be submitted to and agreed in writing by the Local Planning Authority under the terms of this condition. The development shall be carried out solely in accordance with the approved details before it is first occupied.**

**Reason: In the interests of visual amenities, in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).**

- 04 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition above ground floor slab level shall take place unless and until full detailed design drawings and cross sections of the approved development's gable and dormer framing and balconies including any privacy screens at a scale of 1:20 or 1:10 as appropriate have first been submitted to and agreed in writing by the Local Planning Authority under the terms of this condition. The development shall be carried out in full accordance with such approved details before it is first occupied.**

**Reason: To safeguard the visual amenities of the area including the character and appearance of the area in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM5 and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009) and the National Design Guide (2021)**

- 05 The roof of the single storey rear projection within the development hereby approved shall not be used as a balcony, roof garden or similar amenity area or for any other purpose unless express planning permission has previously been obtained. The roof can however be used for the purposes of maintenance or to escape in an emergency.**

**Reason: To protect the privacy and environment of people in neighbouring residential properties, in accordance with Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and advice contained within the Southend-on-Sea Design and Townscape Guide (2009).**

- 06 No development above ground floor slab level shall take place unless and until full details of hard and soft landscape works and boundary treatments to be carried out at the site have been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The approved hard landscape works and boundary treatments shall be completed prior to first occupation of the development hereby approved, and the soft landscaping works within the first planting season following first occupation of the development. The details submitted shall include, but not be limited to:**

- i. Existing and proposed site levels.
- ii. Means of enclosure, of the site including any gates or boundary fencing;
- iii. Details of external hard surfacing, to include permeable paving;
- iv. Details of the number, size and location of trees, shrubs and plants to be planted together with a planting specification;
- v. Details of measures to enhance biodiversity within the site;
- vi. All and any means of subdividing and enclosing the site.

Any trees or shrubs dying, removed, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as agreed with 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 is implemented pursuant to Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 07 The 8 car parking spaces and the associated vehicular access for the spaces to be accessed from the public highway, shown on approved plan 23.172/02 Rev C shall be provided and made available for use at the site prior to the first occupation of the development hereby approved. The car parking spaces and the associated vehicular access to and from the public highway shall thereafter be permanently retained solely for the parking of vehicles and the accessing of the car parking spaces in connection with the occupiers of the dwellings hereby approved and their visitors. At least one parking space for each flat must have access to active electric vehicle charging. The redundant vehicular crossover must be reinstated to pavement prior to the first occupation of the development.

Reason: In the interests of the living conditions of future occupiers and highway safety, further to the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2, CP3 and CP4, Development Management Document (2015) Policy DM15 and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009) and the Southend-on-Sea Vehicle Crossing Policy & Application Guidance (2021).

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

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

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

**Reason: To minimise the environmental impact of the development through efficient use of water in accordance with the National Planning Policy Framework (2023), Policy KP2 of the Southend-on-Sea Core Strategy (2007), Policy DM2 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).**

- 10 The four dwellings hereby approved shall be completed in a manner to ensure compliance with Building Regulations part M4(2) 'Accessible Dwellings' before they are first occupied.**

**Reason: To ensure the provision of flexible internal layouts to meet the changing needs of residents in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policy KP2, Development Management Document (2015) Policy DM2 and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).**

- 11 Notwithstanding the plans submitted and otherwise approved, the development hereby approved shall not be occupied until and unless secure, covered cycle storage and refuse/recycling storage for users of the development have been provided at the site in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority. The approved cycle and refuse/recycling storage shall be made available for use by the users of the development hereby approved prior to its occupation and shall be retained as such for the lifetime of the development thereafter.**

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

- 12 No drainage infrastructure associated with this development shall be undertaken unless and until details of the design implementation, maintenance and management of a scheme for surface water drainage works (incorporating Sustainable Urban Drainage (SuDs) Principles) have been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The approved scheme shall be implemented, in accordance with the approved details before the development is first occupied and shall be maintained as such thereafter in perpetuity.**

**Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site for the lifetime of the development and to prevent environmental and amenity problems arising from flooding in accordance with the National Planning Policy Framework (2023), Policy KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Document (2015).**

- 13 All glazing to habitable rooms windows shall be acoustic glazing RW 37 for bedrooms and RW 31 for Living Rooms to meet the requirements of British Standard 8233:2014 as set out on Table 10 in plan reference 23.172/03B unless alternative details are otherwise submitted to and agreed in writing with the Local Planning Authority under the scope of this planning condition.**

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

- 14 Unexpected Contamination - In the event that contamination is found at any time when**

carrying out the approved development that was not previously identified 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 submitted for the approval in writing of 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 of 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: To ensure that any contamination on the site is identified and treated so that it does not harm anyone who uses the site in the future, and to ensure that the development does not cause pollution to Controlled Waters in accordance with Core Strategy (2007) Policies KP2 and CP4 and Policies DM1 and DM14 of the Development Management Document (2015).

- 15 The development hereby approved shall be constructed in full accordance with the Construction Method Statement by BDA dated May 2024 or any other construction method statement which has previously been submitted to and agreed in writing by the Local Planning Authority under the terms of this condition and prior to any development commencing.

Reason: To minimise the environmental impact and disturbance to existing residents, during construction of the development in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4 and Development Management Document (2015) Policies DM1 and DM3.

- 16 Construction hours for the development hereby approved shall be restricted to 8am to 6pm Monday to Friday, 8am to 1pm on Saturdays and not at all on Sundays or Bank or Public Holidays.

Reason: To protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 17 Privacy screens of not less than 1.7m high above terrace/balcony level shall be fitted on the centre line of the southern terrace/balcony at ground and first floor levels in accordance with details that have previously been submitted and approved by the Local Planning Authority prior to first occupation of the development. The screens shall be retained for the lifetime of the development in accordance with the approved details.

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

- 18 The first floor windows in the eastern elevation of the proposed development shall only

be glazed in obscure glass (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing with the Local Planning Authority ) and fixed shut up to a height of not less than 1.7m above the relevant rooms internal finished floor level before the occupation of the development hereby approved and the windows shall be retained as such in perpetuity. In the case of multiple or double-glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4.

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

#### **POSITIVE AND PROACTIVE STATEMENT:**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

#### **INFORMATIVES:**

- 1 Please note that the development the subject of this application is liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended), and it is the responsibility of the landowner(s) to ensure they have fully complied with the requirements of these regulations. A failure to comply with the CIL regulations in full can result in a range of penalties. For full planning permissions, a CIL Liability Notice will be issued by the Council as soon as practicable following this decision notice. For general consents, you are required to submit a Notice of Chargeable Development (Form 5) before commencement; and upon receipt of this, the Council will issue a CIL Liability Notice including details of the chargeable amount and when this is payable. If you have not received a CIL Liability Notice by the time you intend to commence development it is imperative that you contact [S106andCILAdministration@southend.gov.uk](mailto:S106andCILAdministration@southend.gov.uk) to avoid financial penalties for potential failure to comply with the CIL Regulations 2010 (as amended). If the chargeable development has already commenced, no exemption or relief can be sought in relation to the charge and a CIL Demand Notice will be issued requiring immediate payment. Further details on CIL matters can be found on the Planning Portal ([www.planningportal.co.uk/info/200136/policy\\_and\\_legislation/70/community\\_infrastructure\\_levy](http://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy)) or the Council's website ([www.southend.gov.uk/cil](http://www.southend.gov.uk/cil))
- 2 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council will seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the city.
- 3 Construction outside of normal hours - If construction works are to be considered outside of normal hours especially overnight or are expected to cause a nuisance to

existing receptors it is recommended that the applicant applies for a prior consent application under section 61 of the Control of Pollution Act 1974. A consent enables the applicant to conduct the works without the worry of enforcement provided they comply with it. The applicant will have to submit details of any noisy works including type of plant and machinery to be used, proposed daily start and finish times, consultation with nearby residents and businesses and duration and time scales of the works. The applicant will need an acoustically qualified person who will be able to calculate the predicted noise levels from the operation and the impact on nearby residents and then be able to evaluate mitigation measures that can be used. If we 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. The application form and guidance are available on the Southend-On-Sea City Council website. The applicant can also contact the Regulatory Services Team at Southend-on-Sea City Council for details.

- 4 **Asbestos -** Prior to demolition of the existing buildings an appropriate Asbestos survey of the buildings should be undertaken and a scheme implemented to remove and safely dispose of any asbestos-containing materials in accordance with the Control of Asbestos Regulations 2012 and the applicant's/developer's Waste duty of care. It is recommended that the Council's building control department is notified of the demolition in order that requirements can be made under section 81 of the Building Act 1984.
- 5 **Stacking –** Where the floor layouts result in sleeping and living rooms stacked over each other between separate apartments the applicant is advised that additional sound insulation may be required in the ceiling in order to protect against noise from the normal use of the dwellings in the block due to conflicting activities e.g. sleep and living. The applicant should be aware of this as should complaints arise when it is occupied because of this Southend-on-Sea City Council cannot require action under other primary legislation it has i.e. for statutory nuisance.
- 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'.**

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## Appeal Decision

Site visit made on 4 March 2024

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 March 2024

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**Appeal Ref: APP/D1590/W/23/3327261**

**135 Marine Parade, Leigh-on-Sea, Southend-on-Sea SS9 2RF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr P Miller and Mr P Hills of P + PR Property Developments Ltd against the decision of Southend-on-Sea City Council.
  - The application Ref 23/00006/FUL, dated 5 January 2023, was refused by notice dated 2 March 2023.
  - The development proposed is described as "demolish the existing extremely dilapidated large detached dwelling and construct development of 7 contemporary apartments".
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The second reason for refusal relates to the development offering no reasonable mitigation of the in-combination effect of the net increase of six dwellings on habitats and species. This is required by the Habitats Regulations as identified in the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document 2020 (RAMS). The appellant previously made a payment towards the RAMS as part of an earlier scheme for the site, and I return to this issue later.
3. The appellant submitted an amended plan (drawing number 22.182/03 Rev A) with the appeal documentation. The amended plan shows changes to the soldier course brick detail, cladding and clear instead of tinted glazing. The Procedural Guide for Planning Appeals makes clear that the appeal process should not be used to evolve a scheme and it is important that what is considered is essentially what was considered by the Council, and on which interested people's views were sought. Nonetheless, as the amended plan does not materially change the proposal, I have had regard to them in my determination of the appeal as I am satisfied that the interests of the parties would not be prejudiced.
4. There were previous applications for development on this site, including ones from 2019<sup>1</sup> and 2021<sup>2</sup> for which appeal decisions were issued. The 2019 scheme for the remodelling and extension of the existing building to create six apartments was allowed. The 2021 proposal, involving the demolition of the dwelling and construction of 7 apartments, was dismissed. Although I consider

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<sup>1</sup> Application Ref 19/01417/FUL, Appeal Ref APP/D1590/W/19/3243705 "the 2019 scheme/proposal"

<sup>2</sup> Application Ref 21/01685/FUL, Appeal Ref APP/D1590/W/21/3287594 "the 2021 scheme/proposal"



the relevance of the previous schemes as part of my overall decision, my consideration of the merits of the proposal is based on the plans before me.

5. The National Planning Policy Framework (the Framework) was revised and the 2022 Housing Delivery Test (HDT) results were published in December 2023, and the Council and the appellant were invited to make further comments. My decision reflects the revised Framework and HDT results.

### **Main Issue**

6. The main issue is the effect of the proposed development on the character and appearance of the area.

### **Reasons**

7. The site comprises a large, two-storey detached house with roofspace accommodation in a large double corner plot. It lies in a prominent position fronting both Marine Parade and Thames Drive, sited roughly in line with, although slightly forward of, the other buildings in those streets. The surrounding area is characterised by attractive detached and semi-detached structures, some of which have been converted to flats. There is a mix of designs, but the predominantly two storey heights and similar set back from the road provide a consistency to the pattern and appearance of development. There are no designated heritage assets nearby.
8. The Council's Design and Townscape Guide 2009 (Townscape Guide) recognises that the area has more imposing buildings and grander streets than other parts of the Borough, and that individual designs may vary but their scale and grain are unifying characteristics.
9. The existing house would be replaced with a large two and three storey block of flats, facing Marine Parade. The development would not exceed the height of the existing dwelling and parts of the roof would be lower than the 2021 scheme. However, whilst the gables would provide visual breaks in the roof, similar to the 2021 proposal the roof profile would be significantly greater than the existing one. Further, the eaves on most of the building would be much higher than those on nearby dwellings. As such, the size and extent of the proposed roof would be excessive.
10. The existing house has a steep, hipped roof which slopes down towards a two-storey projecting gable on the corner of Thames Drive and Marine Parade. In contrast, similar to the 2021 scheme, the three-storey element of the proposed development would extend towards Thames Drive. I note that the contemporary design seeks to break up the width of the elevation and provide depth to the design, but the overall scale and form of the building would appear overly large, dominating this highly prominent corner plot.
11. The proposed building would be significantly closer to Thames Drive than the existing structure and other dwellings on this side of the street. Although it would be slightly further from this street than the 2021 scheme, it would fail to reflect the relatively consistent building line on the east side of Thames Drive. Further, its siting close to Thames Drive would emphasise the harmful scale and form of the proposed building.
12. The top section of the proposed front gables would provide sun canopies, with the main building set back from it by around 2.5m. Although clear glazing

would be used, due to the canopy depths, the extent of the windows behind only parts of them and the use of cladding, the canopies would create dark voids on this frontage. This would harmfully contrast with the largely open, uncovered balconies nearby, appearing as an alien feature in the streetscene.

13. The existing house on this corner site has a gable, windows and architectural detailing which respects both road frontages. The proposed development would include more windows facing Thames Drive than the 2021 scheme, as well as soldier brick courses and false window features, and a curved corner wall would soften the transition from front to side. However, the design approach prioritises the primary elevation on Marine Parade and from Thames Drive it would appear as the side of a large building facing Marine Parade. Thus, the scheme would fail to provide suitable articulation along the busy and prominent Thames Drive frontage.
14. The development would include three gables and different types of windows to the rear. I acknowledge that local façades are not uniform, but due to the varied height, widths and projections of the proposed gables and multiple styles and sizes of the windows, the rear elevation would lack cohesion. As such, it would be discordant in the streetscene, particularly in views travelling southbound along Thames Drive.
15. Therefore, I conclude that the proposed development would harm the character and appearance of the area. It would conflict with Policies KP2 and CP4 of the Southend-on-Sea Core Strategy 2007 (CS) and Policies DM1, DM3 and DM6 of the Council's Development Management Document 2015 (DMD). Together, these require development to respect the character, context and appearance of the site, Seafront and the wider area, including in relation to its architectural approach, scale, form, massing and townscape setting, amongst other things.
16. The proposal would also be contrary to the Framework which sets out that development should be sympathetic to local character and development that is not well designed should be refused. It would fail to respond positively to the site features and surrounding context as set out in the National Design Guide.
17. Further, the scheme would conflict with the Townscape Guide where it states that development of a larger, different or unbalancing scale in areas of large detached and semi-detached housing would be detrimental to local character.

### **Other Matters**

18. The Council does not find harm or find development plan conflict in relation to several other matters, including the principle of residential development, living conditions, parking, highways, accessibility and refuse storage. There is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. However, the absence of harm does not carry weight in favour of the proposal.
19. The appellant has expressed general dissatisfaction with the Council's handling of the application. However, this is a matter between those parties, and it cannot have any bearing on my determination of this appeal.
20. I have been provided with a copy of the previously approved elevations for the 2019 proposal. Having regard to the relevant case law<sup>3</sup>, it seems that there is a

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<sup>3</sup> Mansell v Tonbridge and Malling Borough Council (2017) EWCA Civ 1314

real prospect that this would be implemented in the event of this appeal failing and this represents a fallback position. The 2019 scheme would significantly alter the appearance of the appeal property, but it would have a much smaller scale and form than the current proposal, with a design which is appropriate to its corner location and dual frontage. Therefore, the two schemes are not comparable. The appellant states that the current proposal would provide larger units with better access to private outdoor space than the earlier scheme. However, the proposed scheme would harm the character and appearance of the area. Therefore, I give the fallback position limited weight.

### **Planning Balance and Conclusion**

21. The Council accepts that it has an under-supply of housing against the required five years. Its current published position, agreed in July 2023, is a 4.18 year housing land supply, equating to 5,904 dwellings when measured against the Government's standard methodology with a 20% buffer. This is an improvement compared to 2021 when appeals for another site in the Council's area were determined<sup>4</sup>. Nevertheless, the HDT 2022 confirms delivery at 31% over the past three years, equating to a shortfall of 2,100 dwellings. This is one of the lowest delivery rates in the country and significantly below the 75% referred to in the Framework. Therefore, there remains a significant shortfall and paragraph 11(d) of the Framework is engaged.
22. Paragraph 11(d)(ii) of the Framework confirms that in such circumstances, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. The Framework seeks to boost the housing supply and highlights the important contribution small and medium sized sites can make, whilst supporting development which makes efficient use of land. The proposal would make a modest contribution of six additional dwellings to the supply of housing, making better use of previously developed land in an urban area. It would contribute towards Southend-on-Sea's housing supply, making some difference to addressing the shortfall, and therefore I attribute modest weight to this benefit.
24. In contrast, the proposal would harm the character and appearance of the area. The Framework requires development to be sympathetic to local character and development that is not well designed to be refused. I have concluded that the proposal would conflict with Policies KP2 and CP4 of the CS and Policies DM1, DM3 and DM6 of the DMD, and the Townscape Guide. These matters combined carry significant weight against the scheme.
25. Consequently, the harm I have identified significantly and demonstrably outweighs the benefits, when assessed against the policies in the Framework taken as a whole. It therefore follows that the proposed development does not benefit from the presumption in favour of sustainable development.
26. The proposal would be likely to have a significant effect, either alone or in combination, on one or more European habitats sites due to its location within the Zone of Influence set out in the RAMS. However, notwithstanding that the appellant previously made a payment towards the RAMS as part of an earlier scheme for the site, there is no need to consider the implications of the

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<sup>4</sup> Appeal refs: APP/D1590/C/18/3218906, APP/D1590/C/18/3218913, APP/D1590/W/19/3242322 and APP/D1590/W/19/3242326

proposed development on the protected sites because the scheme is unacceptable for other reasons.

27. For the reasons given above, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

*A Wright*

INSPECTOR



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## Appeal Decision

Site visit made on 21 July 2020

by **Guy Davies BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 July 2020

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### **Appeal Ref: APP/D1590/W/19/3243705** **135 Marine Parade, Leigh-on-Sea SS9 2RF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Paul Miller of P & PR Property Developments Ltd against the decision of Southend-on-Sea Borough Council.
  - The application Ref 19/01417/FUL, dated 22 July 2019, was refused by notice dated 2 October 2019.
  - The development proposed is to remodel and extend the existing building to create 6 apartments.
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### **Decision**

1. The appeal is allowed and planning permission is granted to remodel and extend the existing building to create 6 apartments at 135 Marine Parade, Leigh-on-Sea SS9 2RF in accordance with the terms of the application, Ref 19/01471/FUL, dated 22 July 2019, as amended by revised plan 17.195/08B dated August 2019, subject to the conditions in the attached schedule.

### **Main Issues**

2. The main issues are the effect of the proposal on:
  - The character and appearance of the area
  - The living conditions of future occupants with regards to outdoor space, and living space in Flat E
  - The living conditions of neighbouring occupants of 104 Thames Drive, with respect to noise and disturbance.

### **Procedural Matter**

3. The appellant submitted a revised first floor plan 17.195/08B after the Council's decision showing amended internal layouts to Flats D and E. The Council has responded to the revised plan in its appeal correspondence. Because the amendments are internal only, and the Council has had the opportunity to respond, I do not consider that any interested parties would be prejudiced by the proposed changes. I have therefore taken the revised plan into account in reaching my decision.

## Reasons

### *Character and appearance*

4. Marine Parade is characterised by large detached and semi-detached villas, generally two storeys in height although a number have dormers lighting accommodation in their roof space. A degree of regularity is formed by similar plot widths leading to similar sized buildings although a few, including the appeal site, occupy wider plots. Many buildings reflect the Arts and Crafts and mock Tudor styles popular when the Marine estate was first built, although there are other styles present. Buildings have been designed individually or in small groups, leading to a variety of different architectural detailing to roof forms, fenestration and external surfaces.
5. 135 Marine Parade is one of the more prominent buildings in the Parade, occupying a double width corner plot. It has a double height splayed bay window with feature gable that emphasises its corner location. The wider plot provides more space around the building than is the case on other plots. There is a flat roofed garage at the side, with access taken from Thames Drive.
6. The enlargement of the roof by filling in the south eastern corner of the building, extending the ridge line and introducing another dormer window would create a larger roof form but one that would be simpler in shape to the current roof. It would be no higher than the existing main ridge, project no further forward than the existing front elevation, and would retain the fully hipped roof form of the existing building. The dormer windows would be of a scale similar to that of the existing dormer and would sit comfortably within the roof plane.
7. The Council criticises the design as failing to achieve a suitable transition to the buildings to the east in terms of height and forward position. It would indeed be higher and slightly forward of the immediate neighbouring property, but as that property is atypical of the area, I do not think that a fair comparison. Compared to the wider street scene, the proposal would equate more closely to the heights of other buildings so as not to appear incongruous. Similarly, its forward projection would not be unduly prominent, given the variety of projections, such as front gables and bay windows, found on other properties in the Parade.
8. Having regard to these parameters, I do not consider that this element of the extension would be excessive in size or appear unduly prominent in views along Marine Parade, any more than the existing building does at present.
9. The single storey extensions would replace an existing flat roofed garage and store. Although wider than the garage, the corner extension would be recessed back further and, in my view, would appear subservient to the main building and would not be any more prominent in public views than the existing garage. I also find no harm arising from the entrance arrangements as proposed in the appeal scheme.
10. The contemporary design would contrast with the prevailing Arts and Crafts and mock Tudor designs of many of the other buildings in the Parade. However, there are variations in building design along Marine Parade, both in terms of detail and overall form. I consider that the Parade is not so uniform in character or appearance that it cannot accommodate additional change and

variation of the style proposed in the appeal scheme. Contemporary design has been accepted by the Council at 131 Marine Parade, which exhibits many of the features proposed in the appeal scheme. Indeed, variation in design can provide visual interest that adds rather than detracts from the appearance of the street scene, and I consider that would be the case here.

11. I conclude that the extension and remodelling of the existing building in the manner proposed, while departing from the prevailing design of buildings in the area, would not appear over scaled or incongruous in the street scene, and would not harm the character or appearance of the area. Consequently I find that the proposal would comply with Policies KP2 and CP4 of the Southend-on-Sea Core Strategy and Policies DM1, DM3 and DM6 of the Development Management Document, which seek to promote high quality design, the efficient and effective use of land, and reflect the particular importance of the seafront to the history and evolution of Southend-on-Sea. For the same reasons it would also comply with the Southend-on-Sea Design and Townscape Guide.

#### *Living conditions of future occupants*

12. As originally submitted, Flat E fell short of the minimum space standards<sup>1</sup> for a 2 bed 4 person flat. A revised plan 17.195/08B has been submitted with the appeal that reduces the size of one of the bedrooms in Flat E, so that as a 2 bed 3 person flat it now meets the minimum space standards.
13. The revised plan also makes a small change to Flat D to increase the size of its second bedroom. It now also accords with the minimum space standards, although the size of this flat did not form part of the reason for refusal.
14. The Council disputes the appellant's floorspace calculations on the revised plan in two respects. The first, that the width of the master bedroom in Flat D at 2.7m is 5cm short of standard, is in my estimation within measurement tolerance for the submitted plans and so small as not to be significant. The second, that Flat E at 59.6sqm is 1.4sqm below the minimum standard, conflicts with the appellant's measurements that put the flat at 62sqm. I am unable to determine which measurement is correct but given the very small variance I do not consider that my assessment of this issue should turn on this factor alone.
15. Policy DM8 of the Development Management Document requires that new dwellings should *'make provision for useable 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'*. The Design and Townscape Guide provides further guidance including that *'there is no fixed quantitative requirement for the amount of amenity space as each site is assessed on a site by site basis according to local character and constraints. However, all residential schemes will normally be required to provide usable amenity space for the enjoyment of occupiers in some form'*.
16. In my view the development would meet the policy and Design Guide requirements. Private outdoor space would be provided by balconies or terraces assigned to each of the flats (other than for Flat F) and there would be an area of semi-private space immediately to the rear of the building. While

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<sup>1</sup> National Described Space Standards, which have superseded the residential space standards set out in Policy Table 4 of the Development Management Document.

under surveillance from Flat C this space would still be accessible to all occupants. The balconies may experience some traffic noise, but that applies equally to the balconies on other properties along Marine Parade, all of which appear to be in regular use, and therefore perform their intended function irrespective of the road noise. There is adequate space for incidental facilities such as refuse and cycle storage, and open space would be retained to the front and side to provide a green setting to the building, to the benefit of the character and appearance of the wider area.

17. I conclude that the living conditions of future occupants in respect of the revised internal space standards for Flat E, and outdoor space for all the development, would be acceptable. The development would therefore meet the requirements of Policies KP2 and CP4 of the Southend-on-Sea Core Strategy and Policies DM1, DM3 and DM8 of the Development Management Document, which amongst other criteria seek to ensure minimum residential standards in new development. For the same reasons, I consider the development would accord with the advice on residential standards in the Southend-on-Sea Design and Townscape Guide.

*Living conditions of neighbouring occupants*

18. The proposed development would introduce a parking area adjacent to the side boundary with the neighbouring residential property at 104 Thames Drive. This would result in vehicle movements taking place in close proximity to the flank elevation and rear garden area of the neighbouring property.
19. The movement of cars, including opening and closing of doors and running of engines would undoubtedly generate some noise that would be heard both in the rear garden of the neighbouring property, and to a lesser extent within the building when windows are left open. However, the parking area is limited to seven vehicles (six adjacent to the joint boundary) which limits the amount of activity that could take place at any one time. There is also a solid brick wall along the boundary which provides sound attenuation and a visual screen between the two properties. Marine Parade and Thames Drive are well used, and there is already a relatively high ambient noise level caused by road traffic.
20. The Council's Environmental Health Officer has expressed concern about possible noise disturbance, in particular during the night-time. However, as the development would be residential in nature, it is reasonable to assume that vehicle movements associated with the flats would also be relatively low during the night-time period, with commensurately lesser noise generation.
21. Having regard to these factors, and the findings of the Noise Impact Assessment<sup>2</sup> submitted with the appeal, I consider that the additional noise caused by vehicle movements associated with the residential flats would not be intrusive or disruptive over and above the existing ambient noise climate as to significantly harm the enjoyment of the neighbouring property.
22. I conclude that the living conditions of the neighbouring occupants at 104 Thames Drive would not be harmed through an unacceptable increase in noise, and the development would therefore accord with Policies KP2 and CP4 of the Southend-on-Sea Core Strategy and Policies DM1, DM3 and DM6 of the

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<sup>2</sup> Noise Impact Assessment, MLM Group, August 2019; updated September 2019



Development Management Document, which seek to protect the amenity of neighbouring residents of new development.

### **Other Matters**

23. Several other issues have been raised in representations including concern about highway safety and congestion, change to outlook, lack of parking, additional pressure on local services, overlooking, loss of trees and greenery, and a potential loss of view. The Council has not objected to the development on any of these grounds, and I see no reason to do so either. The effect of the development on property values is not a material planning issue, and I have not taken it into account in reaching my decision.
24. The Council has drawn my attention to three appeal decisions. I have taken account of these decisions where relevant but given the differing circumstances between them and the current appeal site they only carry limited weight. I have reached my conclusions on the main issues based on the evidence before me and my own judgement. As I have concluded that the development is acceptable on the main issues and does not conflict with the development plan, I have not needed to consider issues relating to housing land supply.

### **Conditions**

25. I have considered the conditions suggested by the Council and imposed them where I consider they meet the guidance contained in paragraph 55 of the National Planning Policy Framework. I have reworded conditions where necessary for consistency and to improve clarity. The conditions have been reordered in accordance with the advice in Planning Practice Guidance.
26. In addition to the standard time limit I have included a condition listing the approved plans to provide certainty on the development permitted.
27. I have imposed conditions requiring a construction method statement and limitations on hours of work to minimise disturbance to neighbouring residents during the construction phase. The appellant has raised no objection to the first of these conditions which needs to be submitted and approved prior to commencement.
28. I have imposed conditions requiring approval of external materials and details of the development, and hard and soft landscaping details, in the interests of the character and appearance of the area. I have combined the first of these conditions with another suggested by the Council requiring details of the bay and dormer windows to be approved.
29. I have imposed conditions requiring water efficiency savings and renewable energy generation in the interests of sustainable development requirements.
30. Notwithstanding comments made by the appellant, I consider a condition requiring implementation of the parking space as shown on the approved plans to be necessary in the interests of highway safety and the free flow of traffic in the vicinity of the site.
31. I have imposed conditions requiring cycle and storage facilities, and noise attenuation as part of the design of the façade and glazing in the interest of the living conditions of future occupants.

32. I consider a condition requiring submission and approval of surface water drainage details to be unnecessary in this instance. I have no evidence that surface water drainage is a problem on the site, nor that it cannot be adequately addressed through the normal Building Regulation process.

### **Conclusion**

33. I conclude that the appeal is allowed.

*Guy Davies*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development shall be carried out in accordance with the approved plans: 17.195/01, 17.195/02, 17.195/03, 17.195/04, 17.195/05, 17.195/06, 17.195/07A, 17.195/08B, 17.195/09A, 17.195/10A, 17.195/11A, 17.195/12A, 17.195/13, 17.195/14, 17.195/15, 17.195/17A, 17.195/18A, 17.195/19, 17.195/20A.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall include:
  - 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. measures to control the emission of dust and dirt during construction
  - v. a scheme for recycling/disposing of waste resulting from demolition and construction works that does not allow for the burning of waste on site
  - vi. noise mitigation measures to be used during construction.
- 4) Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition and construction up to ground floor slab level shall take place until details of the design and materials to be used on all the external elevations, including walls, roof, bay and dormer windows, fascia, windows and doors, balustrades and privacy screens have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition and construction up to ground floor slab level shall take place until 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 any part of the development and the soft landscaping works within the first planting season following first occupation of any part of the development, unless otherwise agreed in writing by the local planning authority. The details submitted shall include, but not be limited to:

- i. details of the means of enclosure for all boundaries of the site
- ii. details of the proposed parking and turning area
- iii. details of the number, size and location of the trees, shrubs and plants to be retained and planted together with a planting specification
- iv. details of measures to enhance biodiversity within the site.

Any trees or shrubs dying, removed, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as originally specified or as otherwise agreed with the local planning authority.

- 6) No construction works other than demolition and construction up to ground floor slab level shall take place until a scheme detailing how at least 10% of the total energy needs of the development will be supplied using on site renewable sources has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the first occupation of any of the flats hereby permitted and thereafter retained.
- 7) Prior to first occupation of any of the flats hereby permitted not less than 7 car parking spaces shall be provided at the site in accordance with drawing reference 17,195/17A. The parking spaces shall be permanently retained thereafter only for the parking of occupiers of and visitors to the site.
- 8) Prior to the first occupation of any of the flats hereby permitted details of the cycle and refuse storage shall be submitted to and approved in writing by the local planning authority. The cycle and refuse storage at the site shall be implemented in accordance with the approved details before any of the flat are first occupied and be retained thereafter.
- 9) Prior to first occupation of any of the flat hereby permitted, appropriate water efficiency measures as set out in Policy DM2 (iv) of the Development Management Document to limit internal water consumption to not more than 105 litres per person per day (110 litres per person per day when including external water consumption), to include measures of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting shall be implemented for the development and thereafter retained.
- 10) The façade requirements and glazing for the development hereby permitted shall be carried out in accordance with Section 6.2 of the submitted Noise Impact Assessment by MLM Group reference 103024-MLM-ZZ-XX-RP-YA-0001 prior to first occupation of any part of the development.
- 11) Demolition or construction works associated with the development hereby permitted shall not take place outside 08:00 hours to 18:00 hours Mondays

to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time  
Sundays or Bank Holidays.

**\*\*\* End of conditions\*\*\***