

## ITEM 2

<b>Application Number:</b>	<b>20/0647/FUL</b>
<b>Address:</b>	<b>663 High Road Benfleet Essex SS7 5SF (Appleton Ward)</b>
<b>Description of Development:</b>	<b>Demolition of existing buildings and construction of No.3 mixed use buildings including No.35 dwellings, commercial space, office space and associated access arrangements</b>
<b>Applicant:</b>	<b>Furniture Kingdom</b>
<b>Case Officer</b>	<b>Ms Kim Fisher</b>
<b>Expiry Date:</b>	<b>29.01.2021</b>

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### Summary

The proposal seeks consent for the provision of a mixed commercial and residential use on land on the western side of High Road and south of London Road at Tarpots.

The application site represents a sustainable location, the development of which with a mixed commercial/residential scheme would, in principle, be consistent with the provisions of the NPPF and the emerging Local Plan.

The submitted scheme exhibits a number of elements, such as the need to obscure glaze some windows to primary living accommodation, which arise from the specific conditions found on this edge of centre site and result in a particular form of development which may not be acceptable in any other context, but is considered acceptable in this case because of the specific location of the site and the capacity of the scheme to accommodate the specific characteristics of the site whilst still achieving appropriate living conditions for both future and existing residents.

Whilst some concern exists in respect of the proposed arrangements for the collection of waste from the site, the absence of an arrangement with the Local Authority is not considered to constitute a robust reason for refusal. The applicant is advised however that should he be unable to secure an appropriate waste collection contractor, the role could not be filled by the Local Authority with the current layout.

The proposal attracts a requirement for a contribution towards the provision of affordable housing and the mitigation of recreational disturbance on designated sites. These provisions can be secured through a S106 Agreement.

My recommendation is therefore conditional APPROVAL, subject to a S106 Agreement to secure the provision of an appropriate contribution towards the provision of affordable housing and the mitigation of recreational disturbance in designated sites (RAMS).

### Site Visit

It is not considered necessary for members to visit the site prior to the determination of this application.

### Introduction

The site is located on the western side of High Road, with a return frontage to the London Road, and lies behind the primarily commercial development principally comprising Riley's, the Raj Poot

restaurant, Specialist House and Shafers Arcade and the Tesco Express at the junction of High Road and London Road.

The site currently hosts a part two storey, flat roofed commercial building, formerly used for the retail of furniture and an associated detached single storey store building together with access and parking.

The site has an irregular shape with a maximum depth of some 131m and a width of some 91m at the southern end of the site, reducing some 19.6m at the London Road frontage.

It is currently served by two access points from the High Road, both of which are currently used to serve the application site and the adjoining commercial properties to the east.

The southern access point is immediately adjacent to the Holy Family Church. Historically it has been stated that both the applicant's access and the church access have been used jointly to facilitate ingress and egress from both sites.

The site further benefits from a dropped kerb crossing from the London Road, although use of this facility is limited by the current configuration of buildings on the site.

Immediately to the west of the site is a two-storey residential sheltered scheme at Swan Court and detached dwellings fronting Homefields Avenue, whilst to the south are the buildings and grounds associated with the Church of the Holy Family.

To the north, on the other side of the London Road is a mix of commercial and residential development, including three storey flats with accommodation in the roof.

## **The Proposal**

It is proposed to construct a three storey building providing 7 two bedroomed flats and 1 one bed roomed flat above a new commercial unit provided on the London Road frontage, to the rear of which would be a three storey building providing a further 21 two bed roomed flats and 6 one bed roomed flats .

Parking for these flats would be provided in a mix of under croft and surface parking provision.

In addition it is proposed to replace an existing single storey storage building with a three-storey building providing a 'garage' at ground floor level and two floors of office space above.

As submitted the scheme shows the provision of 41 car parking spaces within the surface and under croft areas.

A further 5 spaces are identified within the proposed office building.

Facilities for the storage of 41 bicycles is provided.

No specific provision appears to be made for servicing either the commercial or residential elements of the scheme.

Primary vehicular access to the proposed development will be obtained from the southern access point onto the High Road.

It would appear that this access will also serve existing commercial uses on the east side of High Road.

Use of this access will also be maintained by the adjoining Church.

### **Supplementary Documentation**

- Construction Environment Management Plan
- Environmental Noise Assessment
- Flood Risk assessment
- Phase 1 Contaminated Land Assessment
- Planning Statement
- Site Waste Management Plan
- Transport Statement
- SUDS Proforma
- Air Quality assessment
- Financial Viability Assessment

### **Relevant Planning History**

Pre application advice in respect of the development of the site for residential purposes was provided in 2018 and in 2020. Earlier planning history is related to the use of the building for retail purposes and is not relevant to consideration of the current proposal.

### **Local Plan Allocation**

The site is allocated for shopping purposes on the adopted Local Plan.

### **Relevant Policies and Government Guidance**

The following guidance and policy are of relevance in the consideration of the development of this site:

#### National Planning Policy Framework (NPPF)

##### *Introduction:*

Paragraphs 2, 3, 6

##### *Achieving sustainable development:*

Paragraphs 7, 8, 9, 10, 11, 12

##### *Decision Making:*

Paragraphs 38, 39, 47, 48, 54, 55, 56

##### *Delivering a sufficient supply of new homes:*

Paragraph 62,

##### *Building a strong, competitive economy:*

80, 82.

##### *Ensuring the vitality of Town Centres*

85,

##### *Promoting sustainable transport:*

Paragraphs 104, 105, 106, 108, 109, 110, 111

*Making effective use of land:*  
Paragraphs 117, 118, 121, 122, 123

*Achieving well-designed places:*  
Paragraphs 124, 127, 130

*Meeting the challenges of climate change, flooding and coastal change:*  
Paragraphs 150, 153, 155, 158, 159, 160, 161, 163, 165

*Conserving and Enhancing the Natural Environment*  
Paragraphs 170, 175, 177, 178, 179, 180, 181, 182

Castle Point Borough Council Local Plan (Adopted November 1998)

EC2 Design  
EC3 Residential Amenity  
EC4 Pollution  
EC5 Crime Prevention  
H7 Affordable Housing  
H9 New Housing Densities  
H10 Mix of Development  
H11 Accessible and Wheelchair Housing  
H13 Location of Development  
H17 Housing Development – Design and Layout  
T8 Car Parking Standards  
CF14 Surface Water Disposal

Paragraph 5.13

Residential Design Guidance (Adopted January 2013)

RDG2 Space around Dwellings  
RDG3 Building Lines  
RDG5 Privacy and Living Conditions  
RDG6 Amenity Space  
RDG8 Detailing  
RDG9 Energy and Water Efficiency  
RDG10 Enclosure and Boundary Treatment  
RDG12 Parking and Access  
RDG13 Refuse and Recycling Storage  
RDG16 Liveable Homes

Other Guidance/Policy

Essex Planning Officers Association Vehicle Parking Standards September 2009 (Adopted June 2010)

Developer Contributions Guidance Supplementary Planning Document (Adopted October 2008)

Strategic Housing Market Assessment (May 2016 Addendum 2017)

Strategic Housing Land Availability Assessment Update (March 2017)

Technical Housing Standards – national described space standard (DCLG March 2015)

### The New Local Plan

In October 2020, the Council submitted to the Planning Inspectorate its new Local Plan (2018-2033) for examination. The Plan sets out the Council's aims and objectives for the Borough over the 15 year period, and includes policies to support these ambitions. As the Plan has now been submitted the Council is beginning to give some weight to the policies contained within the Plan when determining planning applications. Different degrees of weight are being given to policies within the Plan depending on the level of objection received during the Regulation 19 consultation.

Policies which will be given consideration, as appropriate, in this report are:

- SD1 Making Effective Use of Land
- SD2 Development Contributions
- HO1 Housing Strategy
- HO3 Housing Mix
- HO4 Securing More Affordable Housing
- EC1 Economic Strategy
- TC1 Town Centre Strategy
- HS1 Strategy for Healthy Communities
- TP1 Transport Strategy
- TP6 Safe and Sustainable Access
- TP7 Parking Provision
- TP8 Access for Servicing
- DS1 General Design Principles
- DS2 Landscaping
- DS4 The Appearance of Town Centre Business Premises
- CC1 Responding to Climate Change
- CC3 Non-Tidal Risk Management
- CC4 Sustainable Buildings
- NE5 Ecologically Sensitive and Designated Sites
- NE6 Protecting and Enhancing the Landscape and Landscape Features
- NE7 Pollution Control
- NE8 Development on Contaminated Land
- NE10 Ensuring Capacity at Water Recycling Centres

### **Consultation**

#### Environment Agency

No response

#### Police Liaison Officer

Objects to the proposal on the basis that insufficient information has been submitted to confirm the creation of a safe environment. Would like to see this developer seek to achieve a Secured by Design award in respect of this development. Invites developer to contact appropriate officer to discuss further.

#### Essex Highways

No response

### Lead Local Flood Authority

No objection subject to conditions.

### CPBC Environmental Health

Raises concerns in respect of :

- Contaminated land
- Impact of noise of operation of adjoining plant on future residents
- Provision of appropriate light and ventilation to rooms
- Appropriate enclosure of the proposed decked amenity area.

### CPBC Legal services

No objection

### CPBC Street Scene

Objects to proposal

## **Public Consultation**

One letter of objection has been received which raises concern over the use of the proposed amenity deck. Noise, overlooking and the potential for littering are identified, but the objector concedes that the provision of an appropriate screen would mitigate the impact.

## **Comments on Consultation Responses**

A condition requiring appropriate screening can be attached to the grant of any consent.

All other issues will be considered in the evaluation of the proposal.

## **Evaluation of Proposal**

The issues to be considered are the principle of a mixed commercial/residential flatted development on this site, the density and mix of proposed housing, design and layout, parking, drainage and flood risk, ecology and trees, amenity, contamination and pollution, social infrastructure and the provision of affordable housing.

## **The Principle of a mixed Commercial/Residential Development**

The site is allocated primarily for shopping purposes in the adopted Local Plan. The proposal seeks to provide an element of commercial and retail activity but also to introduce a significant element of residential development on the site which would, prima facie, appear inconsistent with the Local Plan allocation.

However, the NPPF at paragraph 121 requires local planning authorities to support proposals to use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the viability and vitality of Town Centres, and would be compatible with other policies in the Framework.

The emerging Local Plan actively encourages development that will support the vitality and viability of existing Town centres.

It may be noted that Policy HO1 of the submitted Local Plan similarly supports the effective use of land for residential purposes within Town Centre locations.

It is a matter of general knowledge that Castle Point has a high demand for housing but a limited supply of housing land. Under these circumstances it is appropriate for the Authority to support proposals for the redevelopment of non-residential sites for residential purposes where the benefits of such provision clearly outweighs harm.

In this case, in order to secure such support, it must be demonstrated that residential redevelopment would not have an adverse impact on the viability or vitality of the Town Centre.

The former use of the site was as a retail warehouse for the sale of furniture. The purchase of furniture (comparison shopping) is a relatively low frequency activity and is more often met in larger centres such as Basildon or Lakeside (South Essex Retail Study 2017) where comparison between goods can be made quickly and with greater convenience.

Whilst the floorspace dedicated to comparison shopping within the existing unit is large, anecdotal evidence and discussions with the applicant's representatives suggests that the unit made only a limited contribution to the viability and vitality of the Town Centre.

As a retail unit however, consideration must be given to the opportunity for the building to be re-used for an alternative commercial use.

Following the coming into force of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, it is considered that the building may be used for any purpose now falling within Class E of the Order. Consequently the building could be used for any of the following purposes:

- (a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,
- (b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,
- (c) for the provision of the following kinds of services principally to visiting members of the public—
  - (i) financial services,
  - (ii) professional services (other than health or medical services), or
  - (iii) any other services which it is appropriate to provide in a commercial, business or service locality,
- (d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,
- (e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,
- (f) as a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,
- (g) for—
  - (i) an office to carry out any operational or administrative functions,
  - (ii) the research and development of products or processes, or
  - (iii) any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

The applicant has given consideration to the re-use of the building under the new permitted development rights but considers that redevelopment of the site will achieve a better form of development with greater opportunity to optimise the use of the land, consistent with Government policy.

These are valid considerations which weigh in favour of the redevelopment of the site.

In addition to consideration of the best use of the land, consideration must also be given to the likely impact of the proposed development on the vitality and viability of the Town Centre.

The current proposal seeks to provide a smaller commercial unit on the London Road frontage and an office Block off the High Road. It is considered that the commercial unit at the front of the site would assist in mitigating the impact of the loss of the former retail unit by providing new opportunities for both comparative and convenience shopping together with opportunity for the operation of any activity permitted under Class E of the Order as set out above.

The provision of an office block to the rear of the site would assist in the diversification of employment opportunities and would provide an opportunity for the generation of footfall within those retail and other units present within the adjoining town centre.

Furthermore, it is considered that the introduction of residential development would have a significant positive impact on the vitality and viability of the existing Town Centre.

The ONS 'Family spending in the UK: April 2018 to March 2019' report (19 March 2020) provides a detailed breakdown of average household spending. It reports that the average household spends £61 a week on food and non-alcoholic drinks, £40 a week on catering services and £45 week on recreation and culture. Extrapolating these figures across 35 dwellings results in annual food and non-alcoholic drink purchases of some £111,000, annual catering purchases of £72,000 and annual recreation and culture purchases of £81,000. This equates to an annual opportunity for local expenditure equating to some £260,000.

Whilst it is reasonable to assume that not all of this expenditure would take place within the Tarpots Town Centre, given the very local opportunities available for grocery and recreation and catering purchasing, it is likely that a substantial proportion of this spend would occur locally.

It is considered unlikely that any alternative use of the existing building could generate this level of associated expenditure.

On balance therefore, it is not considered that the vitality and viability of the Town Centre would be adversely affected by the redevelopment of the site with a mixed development and no objection is therefore raised to the proposal on this basis.

### **The Principle of a mixed commercial and flatted development on the site**

The site is currently allocated for shopping purposes and supports a retail use. Under the circumstances no objection is raised to the principle of retail and commercial activity on the site.

Policy H13 of the Adopted Local Plan considers the principle and location of flatted development and provides criteria on design, scale and siting. This policy is considered generally consistent with the NPPF.

The policy specifically states that within areas allocated for residential purposes, proposals for flats should be located on main roads.

The first issue of course is that the site is not allocated for residential purposes and prima facie therefore this policy would not appear appropriate. However, in the light of the widely recognised need of this authority for housing and the Government's conditional support for the principle of the redevelopment of underused land for residential purposes, particularly in areas designated for employment or retail purposes, as set out in the NPPF, it is considered appropriate to consider any proposal for the provision of flats on this site within the context of Policy H13.

Policy H13 continues to identify the specific criteria which will be applied to proposals for the provision of flats and requires that flatted developments shall be located on or near a main road.

The site is located on the High Road and London Road which are main roads and both frontages demonstrate the provision of flats in close proximity to the site. In policy and circumstantial terms, the site is considered appropriate for the location of flats.

Consequently there is no objection to principle of the provision of flats on this site, in respect of this element of Policy H13.

It may be noted that the provision of flats on this site would be consistent with the provisions of the submitted Local Plan.

Whether the scale and form of the development proposed is equally acceptable will be determined in an assessment of the proposal against all other relevant policies of the NPPF, adopted Local Plan and associated guidance.

### **Density and Mix of Housing**

The NPPF now requires Local Planning Authorities to make efficient use of land, in appropriate circumstances and consistent with the character of the area, in order to contribute towards satisfying the need for housing.

Policy H9 of the current Local Plan, which requires the optimum density of development to be achieved on any site, is considered to be broadly consistent with this requirement. The optimum number is generally defined as the quantum of development that can be achieved whilst providing an attractive layout and without causing harm to the surroundings.

Whilst broadly consistent with the NPPF, Policy H9 is however, somewhat vague and a better test of whether the density of the development is appropriate is assessment of the proposal against the Council's Residential Design Guidance, which will be undertaken later in this report.

Policy H10 of the adopted Local Plan states that in all residential developments the Council will seek an appropriate range of dwelling types. This also a vague policy which is inconsistent with the requirements of paragraph 122 of the NPPF which requires local planning authorities to identify the need for different types of housing to meet current and future demographic trends, market trends and the needs of different groups in the community.

The most up to date local evidence of need in respect of the mix of development on sites is the 2017 Addendum to the 2016 Strategic Housing Market Assessment (SHMA May 2016). This identified that for the Castle Point area, in the period 2014 – 2037, 32% of new dwellings should be 1 and 2 bedroomed properties and 68% of new dwellings should be 3 and 4+ bedroomed properties.

The residential element of the scheme will consist of a mixture of one and two bedroomed units, the provision of which will meet an identified need.

The mix of development is therefore considered appropriate under Policy H10.

The submitted Local Plan requires sites of between 0.5ha and 4ha to comprise at least 35% 1 or 2 bedroomed properties. Whilst the scheme involves only 0.46ha of land and is therefore not strictly caught by this requirement, it should be noted that the current scheme provides 100% one

and two bedroomed properties and is therefore consistent with the spirit of Policy HO3 of the New Local Plan.

### **Design and Layout of the residential elements of the scheme**

Policy EC2 of the current Local Plan requires a high standard of design in all new buildings. This is consistent with paragraphs 124 and 127–128 and 130 of the NPPF.

EC2 specifically states that the scale, density, siting, design, layout and external materials of any development, shall be appropriate to its setting and should not harm the character of its surroundings; that the appearance and treatment of spaces around buildings should be enhanced by appropriate hard and soft landscaping and all modes of movement are safe and convenient.

Policy EC5 identifies that the Council expects all development schemes to have regard to the desirability of minimising the risk of crime and maximising security by virtue of design, layout and landscaping.

(It should be noted that the local Police Architectural Liaison Officer is keen to ensure all new residential development achieves 'Secure by Design Certification. Further advice on the achievement of SBD can be obtained by downloading the appropriate 'Secured by Design' Design Guides available at:

<http://www.securedbydesign.com/industry-advice-and-guides/>).

Submitted Local Plan Policy DS1 seeks to ensure that the quality and attractiveness of the urban area is improved by development and requires a comprehensive approach to the improvement of the public realm. Development will need to demonstrate how it will contribute to the quality of the public realm.

It is proposed to provide three storey buildings on the site.

It should be noted that the site is on the edge of the Town Centre and in close proximity to residential development. That immediately to the east of the site is two storey in height and it may be considered that when viewed from the east the proposed development, by reason of its height and form would represent a obtrusive and overdominant feature in the street scene.

However, the proposed development will be of comparable height and no deeper than the building it seeks to replace. Further it must be noted that flatted development immediately to the north of the site is visually three storeys in height as are further flatted schemes to the west. Within the context of the edge of the Town Centre it is not considered that a three storey building would appear unduly obtrusive or prominent.

Furthermore, the view is taken that this is a highly sustainable location and conscious of the need to make the most effective use of land in accordance with the provisions of the NPPF and the Borough's identified need for housing, subject to the achievement of all appropriate spatial requirements, no objection is raised to the provision of three storey development on this site.

Policy H17 of the adopted Local Plan states that in assessing the design aspects of proposals for housing, the Local Planning Authority will have regard to its adopted Residential Design Guidance. This guidance is considered to be in compliance with the NPPF.

In terms of the layout, the proposal comprising the residential element of the scheme provides two linked blocks which extend along the depth of the site. This is a consequence of the configuration of the site which is relatively narrow and deep and results in a layout which is suggestive in part, of a backland scheme. Development in depth is not unusual in the context of the surrounding

development, indeed Swan Court immediately to the west is a form of backland development, and subject to appropriate safeguards, given the need to make efficient use of land, it is not considered that development in depth as proposed, is unacceptable in principle.

In terms of how the layout responds to the adopted residential design guidance, the following comments are made:

RDG2 requires space around new development to be informed by the prevailing character of space around dwellings. Dwellings should be provided with at least 1m between the properties and adjoining boundaries and flatted development should be provided with space equivalent to 25% of the width of the building.

The proposed flats on the London Road frontage have a width of some 16.9m. Isolation space equivalent to 4.225m is therefore required.

The London Road block achieves a minimum isolation of approximately 1.5m between the building and the eastern boundary and approximately 1.2m between the building and the western boundary. The requisite isolation is not therefore achieved.

However, given that the facts that:

- (i) this is an edge of town centre site within which site coverage tends to be greater,
- (ii) that the building is to be located immediately adjacent to an access road which will diminish the impact of site coverage and
- (iii) that the proposed building is located largely within the footprint of the existing building on the site and does not therefore result in a significant diminution of space around the building at its most sensitive location, adjacent to residential development,

it is not considered that the deficiency in isolation identified would represent a robust objection to this element of the proposal.

The remainder of the residential development, whilst not associated with a road frontage is considered to achieve adequate isolation from plot boundaries to achieve an acceptable setting for the building.

The proposed office building does not contain any residential development and is not therefore subject to the provisions of the Residential Design Guidance. Comment on the setting of this building will be made separately, later in this report.

Guidance at RDG3 requires proposals to respect established building lines. The submitted layout indicates that the proposed building on the London Road frontage would be located approximately 4m – 4.3m from the highway boundary. Articulation to the front elevation increases the isolation to some 7m – 8m close to the eastern and western boundaries.

This reflects the setting of the single storey building located to the east and the dwellings to the west and is considered appropriate in the context.

The proposed residential building to the rear of the site has no direct relationship with adjoining development in terms of street scape. No requirement in terms of building lines is therefore imposed on this element of the scheme.

RDG3 also requires proposals not to cause excessive overshadowing or dominance to adjacent properties.

In terms of dominance, the proposed flats, as shown at the front of the site, would extend some 4m beyond the front elevation of the dwelling to the east fronting London Road and the blocks would extend the full depth of Swan Court. The proposal therefore has the potential to overshadow and dominate the adjoining development.

However, the impact of this building must be considered in the context provided by the existing building on the site which currently represents a dominant and unattractive feature which also extends the full length of Swan Court.

The existing building is some two and a half storeys high and the proposed flats would therefore be taller than the existing building and the adjoining dwellings. However, the current scheme breaks the mass of the built form by including the first floor amenity terrace and consequently it is considered that a greater feeling of openness would be achieved, supplemented by the opportunity for an improved boundary treatment which could benefit the adjoining residents.

In comparison with the existing situation it is not considered that the proposal would have an adverse impact on the amenity of adjoining residents on the basis of dominance and no objection is raised to the scheme on that basis.

In terms of overshadowing, it should be noted that the proposed development would be located to the east of the adjoining residential development. It would therefore result in some overshadowing during the early part of the day. This however would be comparable to the overshadowing currently experienced by adjoining residents, but overall, the porosity of the development is considered likely to result in improved levels of daylight generally.

To the east of the site are commercial properties and the associated car park. These units are considered unlikely to be adversely affected by the development in terms of overshadowing or dominance.

RDG5 provides guidance on privacy and living conditions; and states that for all development above ground floor level a distance of 9m shall be provided between any first floor opening and the boundary it directly faces. For development at second floor level a distance of 15m shall be provided in order to secure the privacy and amenity of adjoining residents. It also considers that all new dwellings should be provided with windows to ensure adequate natural light and ventilation to the rooms they serve.

The proposed flats on the London Road frontage have windows in the northern elevation that are less than the requisite distance from the site boundary; however, these windows will overlook the highway and as such it is not considered likely that they would result in any loss of privacy or residential amenity.

Windows in the southern elevation of the London Road Block would be located some 19.7m from windows in the northern wall of the rear residential Block. Whilst the distance between opposing windows adequately meets the spatial standard for opposing first floor windows (18m total) second floor windows would need to be 30m apart to satisfy the requirement. This is clearly not achieved and prima facie, represents an objection to the proposal.

However it is considered that the presence of the amenity deck has the effect of converting the first floor windows into an equivalent ground floor window (particularly as they will be screened to the east and west) and that the second floor windows may therefore be viewed in the same context as a first floor window on a more traditionally developed site. When this circumstance is

considered, the opposing windows may be viewed to satisfy the requirements of RDG5 in terms of direct overlooking.

Furthermore, the policy determined lack of isolation does not harm the amenity of any adjoining resident and it is considered that any future occupier of these flats would be able to determine whether adequate levels of privacy would be available.

Under the circumstances no objection is raised in respect of the relationship of windows described above.

Windows in the western elevations of the residential Blocks are located between 1.2m and 14m from the western boundary.

RDG5 requires first floor windows to be located 9m from the boundary and second floor windows to be located 15m from the boundary. It is clear that many of the proposed windows do not satisfy these requirements and as such, prima facie, the provisions of RDG5 represent a substantial objection to the proposal.

However, detailed consideration of the windows indicates that in respect of those units where the requisite distances are not met, at plots 14, 16, 18, 20, 22, 24, 28, 30, 32 and 34, the windows are secondary windows to living areas served by primary windows in other elevations, whilst in the case of the units at plots 13, 26 and 27 the windows serve hallways or provide secondary light to living areas. Given these factors it is considered that these windows maybe obscure glazed and fixed to 1.7m in order to protect the privacy of adjoining residents whilst providing opportunities for the ingress of natural light and ventilation. Obscure glazing these windows in this fashion would negate the policy objection to the proposal.

It is noted that the applicant has identified a preference for the provision of windows capable of restricted opening below 1.7m from finished floor levels. This mechanism would be less effective in protecting the privacy of adjoining residents and is not therefore considered acceptable.

A condition securing the planning authority's preferred method of glazing will be attached to the grant of any consent.

It should be noted that the Council's Environmental Health Officer has expressed some concern in respect of the use of obscure glazing to living areas.

Para 123 of the NPPF states that when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).

As for the most part, the windows under consideration are secondary windows with natural light and the opportunity for natural ventilation also being available through the provision of windows and doors on the northern and southern elevations it is not considered that this concern represents a robust objection to the proposal.

Under the circumstances, no objection is raised to the conditional use of obscure glazed and fixed windows in the western elevation.

Within plots 10, 14, 24, 28, 30 and 32 bedroom windows are placed at less than the requisite distance from the boundaries. Again this appears to represent an objection to the proposal, however in each case, the windows overlook a private balcony which is to be screened to 1.8m high along the western edge in order to protect the privacy of adjoining residents.

Whilst this arrangement would fail to achieve an attractive outlook for the occupiers of these rooms, the use of appropriate materials in the screens will allow light to pass into these rooms and views of the sky will be achieved. Whilst not ideal, given the Government's encouragement of the provision of housing in sustainable locations and the flexibility which is to be applied to the achievement of good natural light levels, it is not considered that a robust objection to the proposal could be raised on the basis of the potential impact of the arrangement on future occupiers residential amenity.

Under the specific circumstances of this proposal therefore, the proposed arrangement is considered acceptable.

Windows in the eastern elevation of the building are located between 1m and 12m from the boundary of the site and again some fail to fully meet the requirements of RDG5. These windows however overlook commercial units and consequently the potential for loss of residential amenity and privacy is diminished. A more limited requirement for obscure glazing and fixing of windows, in the form specified above, may be exercised on this elevation, where appropriate.

Windows located in the southern elevation of the rear block would be located between 15m and 19.5m of the southern boundary of the site which aligns closely with the flank elevation of the adjoining house associated with the Holy Family Church and an associated garage. The house has what appears to be the main entrance and two windows in this elevation and the potential for overlooking and loss of privacy therefore exists. However, the policy requirement is met within the boundaries of the site. The current applicant cannot be made responsible for any deficiencies identified on adjoining sites. Under the circumstances, no objection is therefore raised to the proposal on this basis.

It should be noted that each flat is provided with a private balcony or terrace. In order to protect the privacy and amenity of adjoining residents screening to a height of 1.8m on the western edges of those balconies/terraces on the western side of the building must be provided and can be secured by condition.

RDG6 is concerned with the provision of amenity space and requires the provision of 8m<sup>2</sup> of amenity space per habitable room for flats. Where flats contain 3 or less habitable rooms a minimum of 25m<sup>2</sup> of amenity space should be provided for each flat. Such provision can be either private or communal and can include balconies provided they have a minimum depth of 1.5m and a useable floor area of 5m<sup>2</sup>.

The proposed development would attract a requirement for 850m<sup>2</sup> of amenity space.

The submitted layout indicates the provision of no useable amenity space at ground floor level, but does seek to provide an amenity area at first floor level in the form of a decked area over the carpark.

Whilst this is an unusual approach to the provision of amenity space, it is not without precedent in the Borough and if appropriately designed and managed can provide an appropriate area for informal recreation associated with the occupation of the flats.

The proposed communal amenity area is located towards the northern end of the site, immediately behind the flats fronting London Road. It would have an area of some 152m<sup>2</sup>. As such the proposal exhibits a significant deficiency in amenity space provision.

It is recognised that the scheme provides each flat with a private balcony or terrace of at least 4.3m<sup>2</sup> thus some further 190m<sup>2</sup> of amenity space is available. However, even with this provision, the scheme remains substantially deficient.

The applicant has identified that the Tarpots Recreation Ground is located within ten minutes walking distance of the site to the north and that the Arthur Stevens open space lies a similar walking distance to the south.

Whilst neither is ideal to meet the everyday needs of residents, it must be acknowledged that the site is located on the edge of a town centre where a higher density of development is prevalent and where other flatted development is also provided within limited on-site amenity space and therefore relies on off-site provision.

Given that the scheme does achieve an element of personal private space for occupiers as well as a larger communal space and is within reasonable proximity of larger areas of open space in the locality, it is not considered that an objection to the proposal on the basis of inadequate on-site amenity space provision, would be supported on appeal.

No objection is therefore raised to the proposal on this basis.

RDG8 requires that all development is designed to provide well-proportioned and balanced properties which complement the surrounding area.

The proposed development is primarily flat roofed in form, with mono-pitch roofs provided at key points within the structure.

The result is a modern and minimalist façade which displays aligned fenestration and an effective use of land.

No objection is raised to the proposal on the basis of RDG8.

RDG9 is concerned with energy and water efficiency and renewable energy.

The submitted Design and Access Statement identifies the installation of appropriate measures to secure appropriate levels of water consumption and indicates that further energy efficiency measures will be submitted prior to the commencement of development.

Key components of any such scheme of measures will include:

- Maximising the controlled use of passive solar energy
- Maximising the use of passive ventilation
- Using energy-efficient window glazing and frames
- Increasing air tightness in the building envelope
- Appropriate use of thermal mass and insulation
- Installing energy-efficient lighting and appliances.

All of these measures are considered valuable in the achievement of high levels of energy sustainability. Details of the specific measures to be installed can be required by condition.

RDG10 is concerned with the appropriate treatment of enclosure and boundary treatments. No details have been submitted however, the applicant is advised that any screening to be provided to the raised decking area must be designed and installed in accordance with the recommendations made in the submitted Environmental Noise Assessment by Lovens Acoustics (September 2020), which requires the amenity area to be defined by solid barriers along the eastern and western edges to a height of at least 1.8m. Such barriers should consist of a solid

unbroken material, but could be relatively lightweight in construction. Obscured glass or Perspex sheeting at least 6mm thick may be suitable, or interlocking timber panels at least 20mm thick. There should be no gaps under or between the panels to ensure the optimum attenuation.

A condition requiring such enclosure can be attached to the grant of any consent.

RDG11 is concerned with landscaping. All schemes for flats are required to be provided with an appropriate landscaping scheme containing both hard and soft landscape features. No landscaping scheme has been submitted with the current proposal; however a condition requiring the submission of an appropriate planting scheme can be attached the grant of any consent.

The applicant is advised that the Authority will expect any submitted planting scheme to enhance the biodiversity of the site.

RDG13 is concerned with the provision of appropriate refuse and recycling facilities.

The proposal shows the provision of three bins stores, one located adjacent to the entrance to the undercroft car park, one located to the rear of the commercial unit (which has its own separate bin store within the envelope of the building) and one within the southern undercroft parking area.

It should be noted that no information has been provided in respect of the capacity of the access of the site to accommodate the weight and turning movements of a refuse vehicle and the Council's Refuse and Recycling Officer had previously expressed concern at the level of storage provision made on site. However, the submitted transport assessment states that refuse collection will be undertaken by a private contractor. As such the proposal will not be serviced by the Council and adherence to Council requirements will not be required.

The applicant should note however, that due to the current layout of the site, it is considered unlikely, in the event that a private contractor cannot be identified, that the Council would be able to satisfy the refuse collection needs of the site in the future.

Paragraphs 59 – 61 of the NPPF seek the delivery of a wide choice of high quality homes to meet the needs of different groups in the community including families with children older people, people with disabilities, and service families.

This requirement is reflected in RDG16 which requires all new dwellings to provide appropriate internal space and circulation space and meet the existing and future needs of occupiers over their lifetime without the need for extensive alteration or adaptation.

It further states that internal space and circulation space should reflect current best practice.

Current Best Practice is provided by the Nationally Described Space Standards which establish appropriate internal space provision. Details of compliance with this Standard can be found in Appendix 1 attached to this report

### **Design and Layout of the Commercial elements of the scheme**

The proposal includes the provision of two commercial units. One proposed commercial unit is located at northern end of the site and forms the ground floor element of the Block fronting the London Road whilst the other forms a stand-alone building located at the southern end of the site.

The northern unit forms an integral part of the northern Block and extends the full width of the building providing a glazed frontage to the London Road.

This element of the scheme is considered well designed and will add an element of interest and provide a new focal point for commercial activity in this area.

No objection is raised to the general design of this commercial unit.

The NPPF is clear that safe and suitable access to a development site should be achieved for all people.

Policy S5 of the adopted Local Plan requires servicing provision for commercial development to be provided on site.

Policy TP8 of the emerging Local Plan requires all developments to be designed to ensure that they are capable of being accessed in a safe and convenient manner by delivery vehicles.

Given the relationship between the surface car park serving units on the site and the commercial unit at the front of the site it is considered unlikely that customers would routinely make use of such facility. However, as it is considered likely that customers to this unit are likely to visit as part of a wider shopping experience and are therefore likely to attend on foot, the remoteness of customer parking is not considered critical, although concern is raised that some customers may attempt to park in front of the site.

The site currently benefits from a dropped kerb crossing on its eastern side, served from the London Road. The proposed configuration of the building would allow for vehicles to pull up onto the frontage, however, such manoeuvres would be undertaken in very close proximity to a major junction, and immediately adjacent to a zebra crossing and the access to Swan Court and a bus stop.

Concern is raised that servicing and parking at this location could result in the disruption of traffic flows and danger and inconvenience to other road users and pedestrians. However, it must be recognised that historically the site has been serviced, at least in part from the London Road and that the Highway Authority has raised no objection to the proposal. On this basis it is not considered that an objection to the proposal on the basis of the potential for vehicles to park or wait at the front of the site would be supported on appeal.

With regard to the office building to be located at the southern end of the site, the design of this element of the proposal again reflects the design principles executed in the remainder of the scheme and in broad design terms is considered acceptable.

At some 12m in height, the building would present a robust feature in the street scene, however, it will be viewed in the context of existing three storey development to the north and as such is considered unlikely to be harmful to the character and appearance of the area.

The proposed office building is located a minimum of some 6m from the southern boundary of the site. The primary elevation of the building would face south and would be substantially glazed.

Whilst there is no current design guidance to ensure the achievement of appropriate levels of isolation between commercial development and adjoining properties, it is clear that given the extent of glazing and the proximity of the building to the site boundary, that there is significant potential for overlooking and loss of privacy.

However, the building located immediately to the south of the proposed development is a single storey church hall. Whilst this building is glazed along its northern elevation, such glazing is shielded from views from above by a deep canopy. As such it is not considered that the proposed development would give rise to any loss of privacy within the building.

Whilst it is recognised that an area of open space lies to the north of the church hall, this area is unenclosed and can be readily viewed from the public highway. As such it is not considered that this area represents a private amenity space and it is not considered that the proposed office block would result in significantly greater opportunity for overlooking and loss of privacy in this area.

As such no objection is raised to the proposal on this basis.

Windows are also proposed on the northern elevation of the building. These would be located some 5m from the northern elevation of the site and would overlook the rear of the adjoining commercial premises and in particular the smoking terrace to the adjoining bar.

Given the nature of the use of the adjoining terrace it is not considered that the proposed development would result in a harmful loss of privacy or amenity. No objection is therefore raised to the proposal on this basis.

No windows are proposed in the eastern and western elevations. In order to protect the privacy and amenity of the occupiers of the premises to the east and the future occupiers of the proposed development to the west it is considered that a condition should be imposed on the grant of any consent requiring these elevations to remain imperforate.

The proposed building will provide five car parking spaces within a garage at ground floor level. These spaces would be accessed directly from the main access into the site. Vehicles manoeuvring into and out of these spaces are likely to come into occasional conflict with traffic accessing the rest of the site. However, sufficient space is available to allow vehicles to manoeuvre in order to access and exit the site in forward gear and in the absence of any identified harm or objection from the Highway Authority, it is considered unlikely that an objection to the proposal based on the potential for limited conflict would provide a robust reason for refusal.

## **Parking**

RDG12 is concerned with the provision of appropriate parking arrangements.

Policy T8 of the adopted Local Plan requires the provision of car parking in accordance with adopted standards. This is consistent with the provisions of the NPPF which requires local planning authorities to set such standards reflecting local circumstances.

It should be noted that Policy TP7 of the submitted Local Plan is consistent with the provisions of the NPPF.

The currently adopted standards are the 2009 County Parking Standards.

In terms of the residential parking requirement, the Standards require the provision of one space for one bedroomed properties and two spaces for properties with two or more bedrooms, plus visitor parking at a rate of 0.25 spaces per dwelling, rounded up to the nearest whole space.

The scheme comprises 7 x one and 28 x two bedroomed flats. As such the scheme would attract a requirement for 63 spaces for residents and an additional 16 spaces for visitors. A maximum of 79 residential spaces would therefore be required on the site.

In addition the commercial element of the proposal would attract a requirement for up to a further 7 spaces whilst the proposed office building would attract a requirement for a further 10 spaces, thus a total of some 96 spaces would be required to serve the site.

The submitted scheme indicates the provision of 46 spaces.

It is the practice of this Authority to apply residential parking standards flexibly in locations which offer good access to public transport and services. The proposal site is considered appropriate for consideration in this context and would therefore attract a requirement of one parking space for every residential unit. No visitor parking would be required given the proximity of the site to public transport networks.

Under these conditions the parking requirement is reduced to 35 spaces for the residential element of the scheme.

This can be achieved on the site.

This leaves 11 spaces to satisfy the needs of the commercial elements of the proposal.

The local planning authority's adopted parking standards for the proposed type of development are maximum standards which the Framework indicates should not be set. An assessment of parking provision therefore needs to be made on merit.

The commercial element requires 17 spaces. Five of these are to be provided within the office building, at ground floor level. Six further spaces are available within the surface parking area. The commercial element of the scheme is therefore deficient by some 6 spaces.

The NPPF is keen to encourage alternative modes of transport and indicates that maximum parking standards should only be set, and therefore used, where there is a clear and compelling justification (para 106).

The site is readily accessible by public transport and is within a town centre where parking associated with commercial activities tends to be restricted and the opportunity for non-car based travel is enhanced. In this instance there is no clear and compelling justification for insistence on the maximum parking provision and given the historical use of the site for commercial purposes it is not considered that an objection to the proposal based on a deficiency of six car parking spaces would be supported on appeal.

No objection is therefore raised to the proposal on this basis.

In order to encourage modal shift the applicant will be required to provide a Residential Travel Information Pack (including bus passes) to each unit of occupation. This can be secured by condition.

It was revealed during discussion with the applicant that some businesses operating to the west of the site rely on the access to the proposed development for staff and visitor parking. Thus, traffic unrelated to the proposed development is considered likely to access the site and the potential for such traffic to use parking spaces allocated for the proposed development therefore exists.

In order to avoid this potentiality it is considered that measures to protect the identified parking spaces should be introduced to prevent vehicles not associated with the current proposal from using spaces identified for use by residents and users of the current proposal.

The details of such measures can be secured via the imposition of a condition on the grant of any consent.

The currently adopted parking standards require minimum bay sizes of 2.9m by 5.5m. Parallel parking spaces are required to be 6m by 2.9m and aisles between opposing parking bays or parking bays and walls are required to be a minimum of 6m wide. This spatial requirement is met on site.

The residential cycle parking requirement is one space per dwelling plus one space per eight dwellings for visitors. The proposed scheme would attract a requirement for 40 cycle spaces.

With regard to the bicycle parking requirements for the commercial elements of the scheme, it should be noted that two spaces are required for the London Road commercial element and 5 spaces are required for the Office element.

A total of 47 bicycle storage spaces are required.

41 cycle storage spaces are available within the scheme. This represents a deficiency in provision; however it is considered that opportunities exist within the site to achieve the requisite level of provision which can be secured by condition. Subject to such a condition no objection is raised to the proposal on the basis of cycle storage provision.

### **Drainage and Flood Risk**

Under the provisions of the NPPF, all proposals for new dwellings in areas at risk of flooding are required to be accompanied by a site-specific Flood Risk Assessment (FRA) in order to demonstrate that the occupiers of the proposed development would not be placed at unacceptable risk in the event of a flood.

The site has not been identified as being at risk of flooding from river or tidal sources.

The Environment Agency (Flood Maps for Planning) indicate that surface water flood risk varies across the site with the highest risk present on the northern part of the site. This is a cause for concern; however the redevelopment of the site offers the opportunity to mitigate this risk.

The site is currently entirely hard surfaced and the proposed development does not result in an increase in the extent of impermeable area within the site.

Essex County Council as Lead Local Flood Authority has raised no objection to the proposal subject to conditions securing an appropriately managed appropriate drainage scheme.

Such conditions may be imposed on the grant of consent.

Subject to such conditions no objection is raised to the proposal on the basis of surface water drainage.

### **Ecology and Trees**

Policy EC13 states that the Council will refuse development which is prejudicial to the interests of all wildlife and the retention and management of important habitats.

Policy EC14 encourages proposals to promote the creation of new wildlife habitats. It further states that the Council will take into account the potential for the creation of wildlife habitats, particularly where these would enhance and complement existing elements of nature conservation on adjoining land.

Policy EC14 is considered consistent with the NPPF, particularly in respect of paragraph 174. In respect of Policy EC13 it is considered more expedient to consider the proposal in the context of paragraph 175 of the NPPF.

The site has no significant trees within its boundaries although trees are present on the adjoining sites to the west. These trees may encroach on the application site and the applicant will be expected to identify and implement such mitigative measures as are required to secure the appropriate protection of these trees during the construction and operational phases of any proposed development within any submitted landscape scheme.

The site has no ecological designation and assessment of the site has confirmed that it provides little vegetation and therefore currently has limited potential for habitat provision. The applicant has commissioned a bat roost assessment of the site which has revealed that no bats are present within the buildings.

Furthermore, given the proximity of the site to the Town Centre, the current level of artificial illumination on the site and the absence of vegetation, the site fails to provide appropriate foraging area for bats.

No objection is therefore raised to the proposal on the basis of direct adverse impact on matters of ecological importance.

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes 35 new dwellings on a site that lies within the Zone of Influence (Zoi) associated with the Essex Estuaries.

Since the development is for 35 dwellings only, the number of additional recreational visitors would be limited and the likely effects on Essex Estuaries from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors and, in combination with other developments, it is likely that the proposal would have significant effects on the designated sites.

As such it is necessary to carry out an Appropriate Assessment of the development:

The proposal seeks to provide fewer than 100 homes and is not directly adjacent to one of the identified European Designated sites, consequently it is considered that the impact of the proposal may be adequately mitigated by the provision of a proportionate financial contribution in accordance with the provisions of the Essex Coast RAMS.

Provided this mitigation is secured, it can be concluded that this proposal will not have an adverse effect on the integrity of the above European sites from recreational disturbance, when considered 'in combination' with other development, in accordance with policies EC13 and EC14 of the adopted Local Plan, Policy NE5 of the submitted Local Plan and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

The requisite financial contribution (currently estimated at £4395.30), must therefore be secured prior to occupation. A S106 agreement will incorporate this obligation.

It is considered that redevelopment of the site could offer the potential for habitat creation and it is therefore considered that any future landscaping scheme should be focused on native wildlife friendly species.

Habitat may also be incorporated into the fabric of the development with the provision of bird and bat boxes and insect hotels.

Full details of on-site habitat measures and landscaping can be secured by condition.

### **Amenity, Contamination and Pollution**

The effect of development on residential amenity is an important planning consideration. Policy EC3 of the adopted Local Plan states that development proposals which would have a significant adverse effect upon the residential amenity of the surrounding area by reason of traffic, noise, fumes or other forms of disturbance will be refused.

Policy EC4 of the adopted Local Plan states that development which would have a significant adverse effect on health, the natural environment, or general amenity by reason of releases of pollutants to water, land or air or by reason of dust, vibration, light or heat will be refused.

Paragraph 170 of the NPPF also states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to, or being put at, unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

Paragraph 178 states that in order to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

The applicants have submitted a Phase 1 Ground investigation which identifies that due to potential on-site and off-site sources of contamination, site investigation (to include chemical testing of soil samples and a programme of ground gas monitoring) should be undertaken prior to development commencing. A condition to secure such investigation can be appended to the grant of any consent.

It is inevitable that the development of the application site will generate noise and disturbance during the constructional phase. Such noise is transitory and rarely provides a robust reason for refusal of an application for development of the type proposed. However, development of large sites can extend over significant periods and it is therefore incumbent upon the Planning Authority and the applicant to ensure that the levels of noise and disturbance generated during the constructional periods are kept as low as practically possible, in the interests of the amenity of local residents and the wider environment. In order to demonstrate achievement of these objectives, the applicant has submitted a Construction Environment Management Plan. This identifies an appropriate methodology for the construction of the proposed development. A condition ensuring compliance with the CEMP during the construction period can be attached to the grant of any consent.

Redevelopment of the site for residential purposes will inevitably result in a change in the way the site is used, with activity potentially occurring over a much longer period, both on a daily and weekly basis, creating the potential for noise and disturbance to be generated on the site beyond the working day/week, and on different parts of the site.

However, the proposal is considered to exhibit a sensitive layout which largely shields adjoining uses from higher levels of activity, particularly that associated with the movement of vehicles on the site. The imposition of conditions on the grant of any consent to secure appropriate screening will further assist in this regard.

It is also necessary to consider the impact of the existing environment on future occupiers of the proposed development. Whilst development to the west is residential in character, that to the east is commercial in character and dominated by uses most active during the evening. The proximity of the building to the eastern boundary has implications for the amenity of future occupiers of the proposed flats who are likely to be subjected to noise and disturbance generated by the operation of the adjacent businesses.

A survey of the existing noise environment affecting the site has been undertaken. This has assessed the impact of passing traffic and the potential for noise from the adjoining bar.

The findings of the assessment are that the passing traffic on London Road generates sufficient noise to warrant up-rated acoustic glazing and ventilation to the front elevations of the closest units to the road, but generally within the site, noise is sufficiently muted by distance and shielding to enable any residual impact to be adequately mitigated by appropriate thermal glazing and trickle ventilation.

The data collected in respect of the sports bar identified no significant elevation in either average or impulsive noise levels during the lunchtime and late evening periods when most use of the space would be expected. Calculations within the report show that if appropriate glazing and ventilation is installed the noise levels in the habitable rooms of the new dwellings will be acceptable.

The noise level affecting the outside amenity space, without mitigation, is predicted to be relatively high. However, the installation of appropriate screening will reduce noise levels on the amenity deck noise barriers to an acceptable level.

The Environmental Health Officer initially expressed some concern in respect of the proximity of plant on the roof of the adjacent Tesco store to adversely impact on the amenity of future occupiers. Following further work by the applicant however, this concern has been alleviated.

In visual terms, the relationship between the existing uses to the east and the proposed development is not considered to provide an attractive setting for the proposed flats, representing the rear elevations of adjoining commercial units and associated parking areas. However, the developer is not responsible for the condition of adjoining land and buildings and future residents would be aware of this situation prior to determining occupation.

Given the need for housing of the type proposed, it is not considered that the condition of the adjoining land and the potential impact on the amenity of adjoining residents arising from setting and context, represents a robust reason for refusal capable of being sustained on appeal.

## **Social Infrastructure**

It was considered that Essex County Council as Education Authority might seek a contribution from redevelopment of the site to meet educational needs arising from the proposed development.

No request for such contribution has however been received.

It was also considered that NHEngland might seek contributions towards the improvement of local GP facilities.

No response from NHEngland has been received and it must therefore be assumed that no contribution is required.

## **Affordable Housing**

Paragraph 64 of the NPPF states that where major development involving provision of housing is proposed (10 or more units), planning policies and decisions should expect at least 10% of the homes to be available for affordable housing ownership.

Policy H7 of the adopted Local Plan sets out the Council's current policy in relation to affordable housing provision. It states that the number of affordable dwellings to be provided will be dependent upon the size of the site, its location and any substantial costs associated with the provision of necessary infrastructure. The Council's Developer Contributions Supplementary Planning Document requires the provision of 35% affordable housing on sites of 15 units or more. Under this provision 13 affordable housing units should be made available on the site.

The viability report prepared to support the 2016 New Local Plan, suggested that within the mainland areas of the Borough the provision of 25% affordable housing was more appropriate.

Under this provision 9 affordable housing units should be made available on the site.

However, following a review of the Local Plan Viability Assessment, Policy HO4 of the submitted Local Plan requires the provision of 40% affordable housing for schemes of more than 10 units within the mainland area of the Borough.

Under this provision 14 affordable housing units should be made available on the site.

Such provision will normally be met on site and the Council will seek no less than 50% of all new affordable housing as affordable or social rented housing and 50% as intermediate housing. The Council will seek nomination rights in a S106 Agreement.

Given the limited availability of land within the Borough to meeting housing needs it is the strong preference of the Planning Authority that affordable housing provision be secured on site; however, Policy HO4 of the submitted Local Plan also states that under exceptional circumstances the Council will consider proposals for off-site provision where the provision of affordable housing is equivalent to the policy requirement, in this case, 40%.

Where there is evidence that the development is not viable with the level of contribution sought, it is the responsibility of the developer to demonstrate the case to the satisfaction of the planning authority.

It is the stance of the applicant that the proposed development would not be viable with a policy compliant affordable housing contribution. A viability assessment was submitted to support this claim.

Consultants appointed by the Council to review the submitted viability assessment have confirmed that the proposed scheme cannot achieve a policy compliant affordable housing contribution and following extensive analysis of submitted and independently acquired data and market conditions, have confirmed that the scheme can only support the provision of 2 units on site. The applicant is prepared to move forward on this basis.

However, mindful that a registered affordable housing provider may not wish to engage in a proposal at this scale, the applicant has suggested that in the event of a registered provider not being identified, a financial contribution in lieu of on-site provision will be made.

The sum of £236,599 on the occupation of the 10<sup>th</sup> dwelling has been offered under such circumstances.

## **Conclusion**

The application site represents a sustainable location, the development of which with a mixed commercial/residential scheme would, in principle, be consistent with the provisions of the NPPF and the emerging Local Plan.

The submitted scheme exhibits a number of elements, such as the need to obscure glaze some windows to primary living accommodation, which arise from the specific conditions found on this edge of centre site and result in a particular form of development which may not be acceptable in any other context, but is considered acceptable in this case because of the specific location of the site and the capacity of the scheme to accommodate the specific characteristics of the site whilst still achieving appropriate living conditions for both future and existing residents.

Whilst some concern exists in respect of the proposed arrangements for the collection of waste from the site, the absence of an arrangement with the Local Authority is not considered to constitute a robust reason for refusal. The applicant is advised however that should he be unable to secure an appropriate waste collection contractor, the role could not be filled by the Local Authority with the current layout.

The proposal attracts a requirement for a contribution towards the provision of affordable housing and the mitigation of recreational disturbance on designated sites. These provisions can be secured through a S106 Agreement.

I have taken all other matters raised by interested parties into consideration, but none are sufficient to outweigh the considerations that led to the recommendation of APPROVAL, subject to a S106 Agreement to secure the above requirements and appropriate conditions:

## **My Recommendation is Approval subject to S106 with the following conditions**

- 1 This permission shall be read in conjunction with the Agreement entered into under Section 106 of the Town and Country Planning Act, 1990, dated contemporaneously with the permission.

REASON: To ensure the provision of:

(i) an appropriate financial contribution towards the provision of affordable housing off-site,

(ii) an appropriate financial contribution towards the Recreational Disturbance Avoidance Mitigation Strategy (RAMS).

2. The development hereby permitted shall be begun on or before the expiration of three years beginning with the date of this permission.

REASON: This condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

- 3 The proposed development will be undertaken in accordance with the provisions of the Construction Environmental Management Plan prepared by Argent Developers Ltd dated 08.09.2020.

REASON: In order to limit the impact of development on users of the highway network and in the interests of the protection of the amenity of existing residents.  
the site.

- 4 Prior to the commencement of development on the site, other than demolition, details of all energy and water efficiency and renewable energy measures to be incorporated into the construction of the building shall be submitted to and approved by the Local Planning Authority

REASON: In the interests of water and energy efficiency, in accordance with the provisions of Policy H17, RDG9 of the adopted Local Plan and Government guidance as contained in the National Planning Policy Framework.

- 5 No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- o Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- o Limiting discharge rates to 25l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- o Rainwater reuse should be considered in line with the drainage hierarchy. If this is not proposed a written statement needs to be provided outlining why this is not proposed.
- o Final modelling and calculations for all areas of the drainage system.
- o Detailed engineering drawings of each component of the drainage scheme.
- o A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- o A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

REASON:

- o To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- o To ensure the effective operation of SuDS features over the lifetime of the development.
- o To provide mitigation of any environmental harm which may be caused to the local water environment
- o Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

- 6 Other than demolition, the development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of

the site shall have been submitted to and approved, in writing, by the local planning authority. Part 1 has already been submitted.

- 1) A preliminary risk assessment which has identified:
  - o all previous uses
  - o potential contaminants associated with those uses
  - o a conceptual model of the site indicating sources, pathways and receptors potentially unacceptable risks arising from contamination at the site
- 2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;  
Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

REASON: In the interests of the amenity of future occupiers of the site.

- 7 Prior to first occupation of the development hereby approved, full details of all means of enclosure of the site, shall be submitted to and approved by the Local Planning Authority.

Such enclosure as is approved shall be installed prior to the first occupation of the development and thereafter permanently maintained as such.

REASON: In order to protect the privacy and amenity of adjoining residents in accordance with Policy EC2 of the adopted Local Plan.

- 8 Prior to first occupation, all first floor windows, located less than 9m from an opposing site boundary shall be -

- (i) obscure-glazed to at least level 3 on the Pilkington Scale (or such equivalent as may be agreed in writing with the local planning authority); and
- (ii) non-opening, unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed and retained as such thereafter.

REASON: In order to protect the privacy of the occupiers of the adjoining properties.

- 9 Prior to first occupation all second floor windows, located less than 15m from an opposing site boundary shall be -

- (i) obscure-glazed to at least level 3 on the Pilkington Scale (or such equivalent as may be agreed in writing with the local planning authority); and

(ii) non-opening, unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed and retained as such thereafter.

REASON: In order to protect the privacy of the occupiers of the adjoining properties.

- 10 Any balcony/terrace provided in the western elevation of the development hereby approved shall be fitted with an obscure glazed screen to at least Level 3 on the Pilkington Scale and a minimum of 1.8m in height measured from the finished floor surface along its western edge.

Such screening of the balcony/terrace shall be provided prior to first use of the balcony/terrace and permanently retained as such thereafter.

REASON: In order to protect the privacy of the occupiers of the adjoining properties.

- 11 Prior to first occupation a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

- 12 Prior to first occupation of the proposed residential units, a 1.8m high barrier which should consist of a solid unbroken material (i.e. obscured glass or obscured Perspex sheeting at least 6mm thick or interlocking timber panels at least 20mm thick) shall be erected along the whole of the eastern and western edges of the proposed first floor amenity area and thereafter shall be permanently maintained as such.

REASON; In order to protect the privacy and amenity of future and adjoining residents.

- 13 Prior to the first occupation of the development hereby permitted, the approved surface water drainage scheme shall be implemented on site.

REASON: To ensure the hard surface limits the potential for increased surface water runoff from the site

- 14 Prior to the first occupation of the development hereby approved a landscaping/tree planting scheme shall be submitted to and formally approved by the Local Planning Authority. Such a scheme shall include habitat provision and full details of all proposed planting, including species, size, density, methodology and the proposed times of planting and planting plans, written specifications, including cultivation and other operations associated with plant and grass establishment, schedules of plants, noting species, plant sizes and proposed numbers / densities.

REASON: To ensure a satisfactory development incorporating a degree of natural relief, in the interests of the amenities of the site and the surrounding area.

- 15 Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

One Residential Travel Information Pack shall be provided for each dwelling.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development. and transport in accordance with the provisions of the NPPF.

- 16 Prior to first occupation of the development, details of five additional cycle parking spaces to serve the needs of the occupiers of the office building shall be submitted to and approved by the Local planning Authority. Such approved spaces shall be secure, convenient, covered and provided prior to occupation and retained at all times.

REASON: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 17 The proposed car parking and cycle parking provision shall be available for use by residents or commercial occupiers of the proposed development prior to first occupation. Such provision shall thereafter be retained solely for the parking of vehicles and bicycles associated with residents and commercial users of the development and shall not be used for any other purpose without the express consent of the Local Planning Authority.

REASON: To ensure the provision of appropriate levels of on-site parking provision and to ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety, in accordance with Policies EC2 and T8 of the adopted Local Plan.

- 18 Prior to first occupation, details of the measures to be introduced to ensure that parking provision on the site is retained for the sole benefit of residents and occupiers of the proposed development shall be submitted to and approved by the Local Planning Authority.

Such measures as are approved shall thereafter be installed prior to first occupation and permanently retained as such thereafter.

REASON: In order to ensure the provision and retention of adequate parking provision to meet the needs of residents and users of the site.

- 19 Prior to the first occupation of the development hereby approved safe refuse storage facilities shall be provided on the site. Any facility provided shall be of sufficient size to accommodate:

6x 1100 litre bins - Refuse

6x 1100 litre bins - Pink Sacks (co-mingled paper, card, plastic and cans)

4x 240 litre bins - Glass

4x 240 litre bins - Food waste

and allow for the removal of bins independently.

Any bin storage area shall be served by a level access and where appropriate a dropped kerb crossing, to facilitate refuse collection.

REASON: In order to ensure the provision of adequate, safe and convenient refuse facilities in accordance with Policy EC2 of the adopted Local Plan.

- 20 Details of any external lighting of the proposed development shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development hereby approved.

REASON: To ensure the provision of an appropriate scheme of lighting, in the interests of the needs of users of the site, in accordance with Policy EC2 of the adopted Local Plan and the provisions of the National Planning Policy Framework

- 21 The approved development shall be built wholly in accordance with the materials identified within the submitted Design and Access Statement.

REASON: To ensure a satisfactory form of development in sympathy with the existing development and the character of the surrounding area.

- 22 The applicant or any successor in title must maintain yearly logs of SuDS maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

REASON: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

- 23 Any tree contained within the approved landscaping scheme dying or being damaged, removed or becoming seriously diseased within 5 years of the date of this permission shall be replaced by a tree of a similar size and species by the applicant or the applicants successor in title, as formally approved by the Local Planning Authority.

REASON: To ensure a satisfactory development incorporating a degree of natural relief, in the interests of the amenities of the site and the surrounding area.

- 24 Any gates erected at the entrance of the site shall be set a minimum of 6m from the carriageway edge and shall open into the site.

REASON: To avoid the need for vehicles to wait on the highway whilst the gates are opened, in the interests of highway safety and traffic flow.

- 25 No unbound material shall be used in the surface treatment of any of the accesses within 6 metres the highway boundary.

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with Policy EC2 of the adopted Local Plan.

- 26 There shall be no discharge of surface water onto the Highway.

REASON: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety, in accordance with the provisions of Policy EC2 of the adopted Local Plan.

- 27 The eastern and western elevations of the proposed office building shall be retained as imperforate structures.

REASON: In order to protect the privacy and amenity of adjoining residents and occupiers.

## **Informatives**

### **1 Construction: Noise and Dust Control**

All relevant precautions to minimise the potential for disturbance to neighbouring residents in terms of noise and dust during the development must be taken. Water suppression shall be employed for any stone or brick cutting and it is advisable to notify neighbours of any noisy works in advance.

Please be aware that the accepted times in the Borough for noisy works in terms of construction are:

Monday - Friday: 8am - 6pm

Saturday: 8am - 1pm

Sundays and bank holidays: no works

The site may be in operation outside of these hours. The above times relate to noisy works which will cause a disturbance to residents and businesses in the surrounding area.

The granting of planning permission does not indemnify against statutory nuisance action being taken should substantiated noise or dust complaints be received.

### **2. Contaminated land**

Should the works unearth any contaminated land, such as what would be considered in an Environmental Investigation (Contamination) or asbestos containing materials careful consideration must be given to its handling and correct disposal. Waste transfer receipts must be obtained and kept.

### **3. Burning of trade waste**

Under the Clean Air Act 1993 it is an offence to emit dark or black smoke or burn material that is likely to give rise to dark or black smoke on industrial and trade premises or burnt in connection with any industrial or trade process. If a bonfire is producing or likely to produce dark or black smoke by the burning of trade or commercial waste, then the persons responsible may be liable to fines of up to £20,000.