



Appeal Decision

Site visit made on 27 January 2026

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2026

Appeal Ref: APP/D1590/W/25/3376325

**529 Belgrave Filling Station, Rayleigh Road, Eastwood, Southend-on-Sea
SS9 5HJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Shilan Raja on behalf of Highway Stops Retail against the decision of Southend-on-Sea City Council.
 - The application Ref is 24/01662/FULM.
 - The development proposed is demolition of petrol filling station and redevelopment of site to provide a part 2, part 3, and part 4-storey building comprising 2 commercial units (Use Class E) fronting Rayleigh Road and 26 flats with 26 parking spaces, including 3 disabled spaces, accessed off Pargat Drive, with a loading bay on Rayleigh Road in the approximate location of the existing vehicle crossover.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of petrol filling station and redevelopment of site to provide a part 2, part 3, and part 4-storey building comprising 2 commercial units (Use Class E) fronting Rayleigh Road and 26 flats with 26 parking spaces, including 3 disabled spaces, accessed off Pargat Drive, with a loading bay on Rayleigh Road in the approximate location of the existing vehicle crossover at 529 Belgrave Filling Station, Rayleigh Road, Eastwood, Southend-on-Sea SS9 5HJ in accordance with the terms of the application, Ref 24/01662/FULM, subject to the conditions in the attached schedule.

Preliminary Matters

2. In the header and decision above, I have amended the number of flats and car parking spaces to reflect the submitted plans and accommodation schedule¹.
3. The second and third reasons for refusal as set out at the Decision Notice concern the absence of mitigation of in-combination effects on European sites, a mechanism for a late-stage viability review of affordable housing provision, and financial contributions toward local infrastructure. During the appeal a completed deed pursuant to section 106 of the Town and Country Planning Act 1990 as amended (hereafter 'the s106 agreement') was submitted containing planning obligations relating to such matters which would come into effect on grant of planning permission. In my reasoning, I have considered the planning obligations against the statutory tests at Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CIL regs).

¹ Document ref: HSRL02-MAA-XX-XX-SA-A-9001

Main Issues

4. The main issues in this appeal are:
- the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the integrity of European sites; and
 - whether the proposed development would make suitable provision for the delivery of affordable housing, health services, local infrastructure, and achieve a net gain in biodiversity.

Reasons

Character and appearance

5. The appeal site is occupied by a petrol filling station with a single-storey kiosk, canopy and forecourt area and has a functional, utilitarian appearance. The site fronts onto Rayleigh Road which, in this location, comprises a local centre with a mix of small businesses with shop fronts, but lacks a prominent building or focal point to define its centre.
6. Rayleigh Road is a wide boulevard lined with a fine grain of commercial uses and dwellings. The filling station kiosk is set back from the building line of surrounding development creating an uncharacteristic gap in the street scene and therefore is a weak contributor to the urban grain. The current built form on the site therefore detracts from the quality and character of the street scene.
7. A three-storey block of flats, Brook Lodge, is situated to the rear of the site. However, the change in ground levels reduces its perceived height from Rayleigh Road. Whilst there is a terrace of 2.5 storey townhouses nearby, buildings along Rayleigh Road are generally of two-storey height with either flat or pitched roofs. Pargat Drive and Belgrave Road slope downward on either side of the site and predominantly comprise detached single-storey and two-storey dwellings. The area is therefore generally characterised by buildings of modest height and scale.
8. Through the arrangement of streets, the site forms an 'island' which provides a degree of physical and visual separation from surrounding development. Brook Lodge and the watercourse beyond provide distinct separation between the busy, urban character of Rayleigh Road and the quieter, suburban streets of Pargat Drive and Belgrave Road. Due to its wide frontage, the site is perceived principally within the street scene of Rayleigh Road, and long views of the site from the southeast and northwest further contribute to the site's visual prominence within the Rayleigh Road street scene.
9. The proposal seeks a residential-led, mixed-use development comprising flats and two commercial units at ground floor. At its tallest volume, the proposed development would comprise four storeys and therefore would be taller than surrounding buildings. However, the building's massing would provide two storeys along the Belgrave Road frontage adjacent to Brook Lodge, and three storeys at the corner to Pargat Drive. This would create a layered effect providing a transition in heights between the proposed building and dwellings of more traditional form along Belgrave Road, Pargat Drive, and to the southeast at Rayleigh Road.

10. The four-storey volume would be situated at the front of the site near the junction of Rayleigh Road and Belgrave Road. The upper storey would include a loggia element which would be open to the front and sides. This would permit views through the upper storey, reducing the bulk of the top of the building and adding visual interest to create a focal point at the building's tallest part.
11. The Council assert the flat roof form would exacerbate the proposal's scale and massing. However, the sections of flat roof would reflect nearby shop units along Rayleigh Road and would create a stepped form, arranged into distinct volumes which would break up the scale and mass of the building. The open character of the balconies and the ground floor open undercroft would further reduce the building's bulk.
12. In addition, the building would have a stepped building line, with the front of the building divided into five bays referencing the plot width and finer grain of Rayleigh Road. This would provide a gentle transition between the building line of dwellings with front gardens to the southeast and the shops which abut the pavement to the northwest.
13. Submission of full details of materials, including windows, doors, balconies, cladding and the shopfronts, decorative brick bonding, the balustrades, window reveals, and signage would be secured through conditions. However, the use of complementary materials, including brick and cladding, would add robustness and texture to the design. In addition, the full height fenestration, recessed balconies, and brick decoration would add visual interest and variation to the development's frontages, and provide division between the building's volumes, reducing the overall sense of scale of the building and the glazed frontages to the ground floor commercial units would provide an active frontage at street level.
14. The scheme was amended prior to the Council's determination of the planning application to address design concerns, and I note the Council's Design Officer raises no objection to the current proposal. I have also had regard to the assessment set out in the Council's Planning Officer Report which concludes the scheme is of a high-quality design in terms of its appearance; has been designed to visually reduce its scale, bulk and mass thereby justifying the four-storey scale; and demonstrates the development would successfully integrate into the street scene and make a positive contribution to its surroundings.
15. The Design and Townscape Guide supplementary planning document 2009 advises the successful integration of any new development is dependent upon the appropriate scale, height and massing in relation to the existing built fabric. Relative to surrounding development, the building would be of greater height and scale and would be sited in a visually prominent location. However, the site's island position has the capacity to accommodate a building of the proposed scale and for the above reasons, the design would respond appropriately to surrounding development. Therefore, the proposed development would not appear incongruous or overly dominant but rather would comprise a prominent building which would form a distinctive landmark within the street scene.
16. Furthermore, the proposed landscaping scheme would include tree planting, soft landscaping and planted beds and would provide a landscape buffer to surrounding development and soften the development's appearance within the street scene.

Through the provision of additional greenery in this urban setting, the proposal would enhance the appearance of the street scene.

17. For these reasons, the proposal would not harm the character and appearance of the area.
18. The proposal would therefore comply with Policies KP2 and CP4 of the Southend-on-Sea Core Strategy 2007 (CS) which require development respect the character and scale of the existing neighbourhood, provide for quality in the public realm through the use of imaginative and innovative design, sustainable and quality materials and landscaping, and maintain and enhance the character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development.
19. In addition, the proposal would satisfy Policies DM1 and DM3 of the Development Management Document 2015 (DMD) which indicate the Council will support good quality, innovative design that contributes positively to the creation of successful places, seeks to optimise the use of land, and adds to the overall quality of the area and respects the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features.

Integrity of European sites

20. The site falls within the recreational Zone of Influence for one or more of the European designated sites at the Essex Coast which are afforded protection by the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
21. As indicated by the Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS), the relevant European sites within the Council's area are Crouch and Roach Estuaries Ramsar and Special Protection Area (SPA), Foulness Estuary SPA, Benfleet and Southend Marshes SPA, and the Outer Thames Estuary SPA. The conservation objectives for these habitats are to ensure the integrity of the sites is maintained or restored and that the sites contribute to achieving the aims of the Wild Birds Directive.
22. The qualifying features of the Crouch and Roach Estuaries SPA are its populations of dark-bellied brent goose and its waterbird assemblage. The qualifying features of the Foulness Estuary SPA are its populations of dark-bellied brent goose, hen harrier, Eurasian oystercatcher, pied avocet, ringed plover, grey plover, red knot, bar-tailed godwit, common redshank, sandwich tern, common tern, little tern, and its waterbird assemblage. The qualifying features of the Benfleet and Southend Marshes SPA are its populations of dark-bellied brent goose, ringed plover, grey plover, red knot, dunlin, and its waterbird assemblage. The qualifying features of the Outer Thames Estuary SPA are its populations of red-throated diver, little terns and common terns.
23. The RAMS identifies that, unless adequately managed, housing and associated population growth in Essex is likely to increase the number of visitors to sensitive coastal areas creating the potential for impacts from increased recreational disturbance of birds and their habitats. Through the provision of additional residential accommodation, the proposed development would increase the local

population with a resultant increase in recreational pressure on Essex Coast habitats. The proposal would therefore have likely significant effects on the qualifying features of European sites at the Essex Coast, alone and in combination with similar development.

24. The RAMS sets out a strategic approach to mitigation to support sustainable residential growth in Essex while protecting European sites and their wildlife from the increased disturbance from recreation associated with population increase. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since the mitigation includes a range of habitat-based measures such as education, communication, and monitoring, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on relevant designated habitats.
25. Where this mitigation is secured, it can be concluded that development will not have an adverse effect on the integrity of European sites from recreational disturbance, when considered in combination with other development and it is not necessary to consult Natural England.
26. The s106 agreement contains a planning obligation to secure a financial contribution in accordance with the rate set out by the RAMS. The s106 agreement confirms the Council shall transfer the RAMS contribution to Chelmsford City Council as the accountable body and therefore provides certainty the contribution shall be administered for its intended purpose.
27. The Habitats Regulations require that permission only be granted after having ascertained that it will not affect the integrity of European sites. Subject to the secured mitigation, the proposal would not have significant effects on the integrity of European sites at the Essex Coast. The proposal would therefore satisfy the requirements of the Habitats Regulations.
28. The proposal would therefore comply with CS Policies KP1, KP2 and CP4 and DMD Policies DM1 and DM6 which together seek to protect the amenity of the area and natural environment with specific reference to the coastal habitats, including through safeguarding, protecting and enhancing European sites for nature conservation, ensuring they are not adversely affected by development, including through adequate mitigation of effects on the natural environment.

Provision of affordable housing, local infrastructure provision, and biodiversity net gain

29. In addition to the mitigation of European sites, the s106 agreement contains planning obligations to secure: a late-stage viability review relating to the provision of affordable housing; financial contributions toward education provision, health services, traffic regulation, travel information, and tree planting; and biodiversity net gain. I have considered whether the planning obligations would be necessary to make the development acceptable in planning terms and compliant with the tests of the CIL regs in all other respects.

Affordable housing

30. CS Policy CP8 requires major residential proposals of 10-49 dwellings provide affordable housing at a rate of 20%. Applying this policy to the proposal would generate provision of six units of affordable housing. However, in accordance with the Council's interim affordable housing policy 2016, a viability appraisal has been

submitted which demonstrates that due to the site's existing use value combined with the likely development costs and sales values, the scheme is unable to deliver affordable housing either on-site or via an in-lieu payment. An independent review of the viability appraisal confirms the scheme cannot support an affordable housing contribution and this matter is not in dispute.

31. The s106 agreement contains a mechanism for a late-stage viability review to capture a portion of any surplus profit as a capped financial contribution in lieu of on-site affordable housing provision. Subject to a late-stage viability review identifying surplus profit, the s106 agreement would secure a financial contribution toward the provision of affordable housing within the Council's area. The obligation would be necessary to provide opportunity to achieve the affordable housing rate required by Policy CS8, which cannot be viably achieved at present.

Local infrastructure

32. The NHS Mid and South Essex Integrated Care System (ICS) identify that GP practices within 2km of the site do not have capacity for the additional growth resulting from this development and cumulative development in the area. The ICS conclude that population growth associated with the proposed development is likely to have an adverse impact on the services of surgeries which operate within the vicinity of the site. The s106 agreement includes a financial contribution which would be used for the purpose of increasing capacity for the benefit of patients of the Primary Care Network operating in the area through extension, reconfiguration or relocation of premises.
33. The Council identifies a significant shortfall in secondary school places in the local area and indicates a financial contribution would be required to support access to secondary education. The s106 agreement contains a planning obligation for expansion project(s) at secondary schools within the area of the development to address the increased demand for school places.
34. A loading bay is proposed to serve the commercial element of the development. The s106 agreement would secure the implementation of the associated Traffic Regulation Order. In addition, the s106 agreement requires the provision of travel packs for the proposed dwellings and is required to support the implementation of the travel plan and would promote sustainable modes of travel.
35. The proposal includes a tree enhancement strategy which would support biodiversity and the visual appearance of the development and compensate for the loss of existing trees. The provision of soft landscaping and planting would be secured through condition. However, the tree planting contribution set out in the s106 agreement is necessary to secure maintenance and after care costs of the street trees.

Biodiversity net gain (BNG)

36. BNG is a national mandatory requirement, stipulated by Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). The proposal includes a biodiversity metric calculation which shows that planting of replacement trees, shrubs, and ornamental planting would result in a post-development biodiversity value increase of 54.09%. The s106 agreement contains a planning obligation to secure a financial contribution toward costs of

monitoring compliance with the Biodiversity Gain Plan and is necessary to ensure biodiversity enhancement is achieved and maintained.

Conclusions

37. The submission of the s106 agreement represents a material change in circumstances since the Council's determination of the planning application. For the reasons set out above, I am satisfied the secured planning obligations would overcome the third reasons for refusal set out at the Decision Notice and the obligations would be necessary to make the development acceptable in planning terms and compliant with the CIL regs in all other respects. Consequently, I am satisfied the proposed development would make suitable provision for the delivery of affordable housing, health services, local infrastructure, and would secure a net gain in biodiversity. Furthermore, the monitoring contribution would be necessary to ensure the development complies with the planning obligations.
38. The proposal would therefore comply with CS Policies KP2 and KP3 and DMD Policy DM1 which together require development add to the overall quality of the area, not place a damaging burden on existing infrastructure, and enter into planning obligations to ensure the provision of infrastructure, affordable housing, and environmental enhancement. The proposal would accord with CS Policy CP 8 and DMD Policy DM7 which require major residential development contribute to meeting local housing needs and provide a dwelling mix that incorporates a range of dwelling types. In addition, the proposal would satisfy CS Policy CP3 and DMD Policy DM15 which seek to widen travel choice and prioritise and promote viable alternatives to private vehicle use.

Other Matters

39. An assessment of local provision of petrol filling stations found alternative retailers within a five-minute drive and five further facilities within a ten-minute drive. The assessment demonstrates that the loss of the existing petrol filling would not have a material impact on access to fuel in the local area. The loss of employment associated with the petrol filling station would be compensated by the proposed commercial units.
40. Whilst I note there are currently some empty shop units in the area, the provision of ground floor commercial uses would respond to the site's position in a secondary shopping frontage area and would be necessary to maintain the commercial and retail function of the area.
41. A 10-metre minimum separation distance would be retained from the projecting balconies to the rear boundary, facing towards the boundary of the communal garden with Brook Lodge. Significant tree planting is proposed at this boundary. Given the separation distance, the shared use of the adjoining communal garden, and proposed landscaping, the proposal would not introduce a significantly harmful degree of overlooking to neighbouring dwellings.
42. The Transport Statement highlights the sustainable location of the site, with bus stops on either side of Rayleigh Road providing access to a variety of services and destinations including Southend's city centre, Rayleigh town centre and rail station, and other settlements including Basildon and Chelmsford. The site's immediate vicinity offers a range of shops and services, and the planning obligation would

require travel information packs be distributed to all future occupants to promote travel by alternative modes to the private car.

43. Parking surveys show that even on the busiest recorded weekdays and weekends, ample unrestricted parking spaces are available in the area and demonstrate there is capacity within surrounding streets to accommodate any demand arising from the proposed commercial units and any overspill parking. On-site car parking would be provided through a car stacker system to meet the needs of occupants of the proposed dwellings. The car stacker would be situated in the rear parking area and has been designed to appear as a typical ancillary rear garden structure, finished externally in timber with a green sedum roof and landscaping along its three sides such that it would not appear visually dominant in the context of the rear parking court. The assertion that the car stacker would be inconvenient to use is not substantiated by evidence, and details of drainage would be secured through condition and therefore I have no evidence to suggest the car stacker would be vulnerable to flood risk. Overall, I am satisfied the proposal would make suitable provision for car parking.
44. Furthermore, the local highways authority has reviewed the Transport Statement and raises no objection. Therefore, I have no compelling reason to consider the proposed development would adversely impact upon highway safety.

Conditions

45. The Council has provided a list of conditions which I have considered against the requirements of the National Planning Policy Framework. In the interests of certainty, I have imposed conditions specifying the time limit for commencement and the approved plans.
46. To maintain the character and appearance of the area, I have attached conditions requiring submission of details of external materials, signage, hard and soft landscaping works, tree planting, safeguarding of existing trees, and limiting the installation of external lighting. To ensure the commercial units maintain an active frontage, I have included a condition to restrict permitted development rights for alterations to glazing. To maintain the profile and appearance of the building, and also avoiding harm to air traffic, it is necessary to restrict permitted development rights relating to the installation of structures and apparatus at the buildings roof.
47. To ensure the development provides a suitable standard of living accommodation and to maintain the local environment, I have included conditions requiring provision of waste storage, cycle storage facilities, and a scheme of privacy screening to the external balconies and communal roof terrace. In addition, I have specified the time periods when construction and demolition may take place and have included a condition requiring submission of a Demolition and Construction Management Plan and Strategy, including Noise and Dust Mitigation Strategies. For the same reasons, I have included conditions requiring submission of a post-completion noise survey report, details of any extraction, filtration, air conditioning, ventilation, or refrigeration equipment, and placed restrictions on the permitted development rights of the commercial units. To ensure activities relating to the commercial units do not adversely affect living conditions, I have included conditions to limit noise levels within the units, requiring submission of a delivery and servicing plan, and to specify customer opening times.

48. In the interests of highway safety, I have included conditions require the provision and retention of the car parking spaces and loading bay and requiring reinstatement of the vehicle crossovers. To avoid harm to air traffic, I have included a condition requiring submission of an Instrument Flight Procedure assessment.
49. To make efficient use of resources in accordance with the requirements of CS Policy KP2 and DMD Policy DM2, I have included conditions requiring the dwellings secure at least 10% of the development's energy needs from on-site renewable sources and minimise water consumption, and the commercial units achieve the BREEAM sustainability standard.
50. To protect human health and the environment, I have included conditions requiring investigation and procedures for remediation of any contaminated land. To ensure that the development would not increase flood risk, I have attached a condition requiring details of surface water attenuation.
51. To ensure the dwellings provide high quality and flexible internal layouts to meet the changing needs of residents, in accordance with DMD Policy DM8 and the national technical housing standards, I have attached a condition requiring the development the development comply with the accessibility standards at part M4 of the building regulations.

Conclusion

52. For the reasons given above, having regard to the development plan taken as a whole and all other relevant material considerations, I conclude the appeal should be allowed.

E Dade

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the approved plans: HSRL02-MAA-00-XX-DG-A-0001-P03 [Site Location Plan]; HSRL02-MAA-00-XX-DG-A-0003-P01 [Existing Site Plan]; HSRL02-MAA-00-XX-DG-A-0004-P01 [Existing Elevations]; HSRL02-MAA-01-XX-DG-A-0001-P01 [Demolitions Site Plan]; HSRL02-MAA-03-XX-DG-A-0001-P17 [Proposed Ground Floor Plan]; HSRL02-MAA-03-XX-DG-A-0002-P15 [Proposed 1st Floor Plan]; HSRL02-MAA-03-XX-DG-A-0003-P16 [Proposed 2nd Floor Plan]; HSRL02-MAA-03-XX-DG-A-0004-P14 [Proposed 3rd Floor Plan]; HSRL02-MAA-03-XX-DG-A-0006-P14 [Proposed Roof Plan]; HSRL02-MAA-04-XX-DG-A-0001-P09 [Proposed Streetscene Plans]; HSRL02-MAA-04-XX-DG-A-0002-P11 [Proposed Elevation Plans]; HSRL02-MAA-04-XX-DG-A-0003-P12 [Proposed Elevation Plans]; HSRL02-MAA-05-XX-DG-A-0001-P07 [Proposed Sections AA]; HSRL02-MAA-05-XX-DG-A-0002-P08 [Proposed Sections BB-CC]; 06-1227-301_P04 [Proposed Landscaping; Ground Floor Level]; 06-1227-302_P04 [Proposed Landscaping; Roof Level]; Car Lift Enclosure_HSRL02 [Car Stacker Enclosure].
- 3) Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition and construction up to ground floor slab level shall take place unless and until full details, including full product details of the materials to be used on all the external elevations of the development hereby approved, including but not limited to the exterior walls and associated brick and cladding details including details of the brick banding; roof, including coping; windows and doors; commercial shutters; waste and recycling store doors; shopfronts including fascias; privacy screening measures and balcony specifications and rainwater goods, have been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The development shall be carried out in accordance with the approved details before it is first occupied or brought into first use.
- 4) Notwithstanding the plans hereby approved, the development shall not be brought into first use unless and until a signage strategy has been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. This shall include details of the location, materials and design approach to signage at the site. The signage at the site shall then be installed in full accordance with the agreed strategy. Any illuminated signage or signage above first floor window level will also require advertisement consent.
- 5) Notwithstanding the provisions of the Town and Country Planning Act 1990 (as amended), the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended), or any Acts, Orders or Regulations revoking, amending or re-enacting that legislation, the glazed sections of the commercial units fronting onto Rayleigh Road hereby approved shall not be altered or obscured other than in accordance with details that have previously been submitted to and

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

- 6) Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition and construction up to ground floor slab level shall take place unless and until full details of hard landscaping works inclusive of all surfacing materials, measures for enclosure of the site, external furniture and all similar external structures and fittings to be carried out at the site have been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The approved hard landscaping details shall be completed in full accordance with the approved details prior to first occupation of the development.
- 7) The soft landscaping details and planting, inclusive of the planting of seven (7no.) street trees to be planted in the public highway and as shown within approved plan '06-1227-301_P04', shall be delivered in full accordance with the details hereby approved within the first planting season following first use or first occupation of the development hereby approved or in accordance with any other details that have previously been submitted to and approved in writing by the Local Planning Authority under the terms of this condition.

Prior to first use or first occupation of the development hereby approved, a Landscape Management Plan containing details for the long-term management of the areas of planting within the site shall be submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The soft landscaping shall be managed in accordance with the approved management plan and be maintained thereafter for the lifetime of the development.

Any trees or shrubs dying, removed, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority under the terms of this condition.

- 8) Other than site investigation works, no development shall commence unless and until the tree protection measures contained in the Arboricultural Report 'Impact Assessment' [Ref. 11710] by Crown Tree Consultancy and as hereby approved, or any other tree protection details that have previously been submitted to and approved in writing by the Local Planning Authority under the terms of this condition have been implemented in full at the site and for the adjacent street tree (Pear) shown on approved drawing 06-1227-301_P04. The approved tree protection measures shall be retained for the entire construction period of the development hereby approved.
- 9) Prior to the first occupation or first use of the development hereby approved, the separate residential and commercial waste storage areas and the cycle storage facilities shown on the approved plan HSRL02-MAA-03-XX-DG-A-0001-P17 shall be provided and made available for use by the respective occupiers and users of the development. With regards the cycle parking, a minimum of 1 space shall be allocated to each flat and for the commercial units, installation of 3no. Sheffield stands shall be provided in the public highway in accordance with the approved details included in the approved plan HSRL02-MAA-03-XX-DG-A-0001-P17. These approved facilities shall thereafter be retained for the lifetime of the development.

- 10) Construction and demolition works for the approved development on site shall only be undertaken between 8 am to 6 pm on weekdays, between 8 am and 1 pm on Saturdays and not at any time on Sundays and Bank and Public Holidays.
- 11) No development shall take place, including any works of demolition, unless and until a Demolition and Construction Management Plan and Strategy (to include Noise and Dust Mitigation Strategies) has been submitted to and approved in writing by the Local Planning Authority pursuant to this condition. The approved Demolition and Construction Management Plan and Strategy shall be adhered to in full throughout the construction period. The Strategy shall provide, amongst other things, for:
 - i) the parking of vehicles of site operatives and visitors,
 - ii) loading and unloading of plant and materials,
 - iii) storage of plant and materials used in constructing the development,
 - iv) the erection and maintenance of security hoarding,
 - v) measures to control the emission of dust, dirt, mud being carried onto the road and noise during construction,
 - vi) a scheme for recycling/disposing of waste resulting from construction works that does not allow for the burning of waste on site.
 - vii) a dust management plan to include mitigation and boundary particulate monitoring during demolition and construction. and
 - viii) details of the duration and location of any noisy activities.
- 12) The twenty-six (26No) car parking spaces shown on approved plan 'HSRL02-MAA-03-XX-DG-A-0001-P17' inclusive of the details of the car stacker as shown on approved plan 'Car Lift Enclosure_HSRL02' shall be provided and made available for use at the site prior to the first occupation of the dwellings hereby approved. The parking spaces shall each be fitted with an active electric vehicle charging point. The car parking spaces shall thereafter be permanently retained solely for the parking of vehicles of the occupiers and visitors to the approved dwellings.
- 13) Prior to first occupation of the development hereby approved, details of how the development will provide at least 10% of its energy needs through on-site renewable means shall be submitted to and agreed in writing by the Local Planning Authority under the terms of this condition and implemented on site in accordance with the agreed details. The agreed measures shall be maintained on site as approved thereafter for the lifetime of the development.
- 14) The dwellings hereby approved shall be built in accordance with the water efficient design measures (limiting internal water consumption to 105 litres per person per day (lppd) & 110 (lppd) when including external water consumption) contained within the Sustainability and Energy Statement [dated 16th August 2024] by Maven Sustainability Ltd. or, in accordance with details of any other renewable energy and water sustainability measures that have previously been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The approved measures must be delivered prior to first occupation of the development.

- 15) The commercial units hereby approved shall not be first used unless and until a final Certificate has been issued certifying that a BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme) rating at least “Very Good” has been achieved for the development and a copy of this certification has been submitted to the Local Planning Authority under the provisions of this condition.

16) A. Site Characterisation

Notwithstanding the details submitted with this application, no development shall commence other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of any underground tanks and old structures until details of an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The risk assessment shall assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced.

The report of the findings must include:

- i. a survey of extent, scale and nature of contamination
- ii. an assessment of the potential risks to:
 - Human health,
 - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - Adjoining land,
 - Groundwaters and surface waters,
 - Ecological systems
 - Archaeological sites and ancient monuments;
- iii. an appraisal of remedial options, and proposal of the preferred option(s).

B. Site Remediation Scheme

The development hereby permitted shall not commence until a detailed remediation scheme to bring the site to a condition suitable for the intended uses by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Remediation Implementation and Verification

The development hereby permitted shall not commence other than that required to carry out the agreed remediation unless and until the measures

set out in the approved Remediation scheme have been implemented. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced. The development shall not proceed until the verification report has been submitted to and approved in writing by the Local Planning Authority pursuant to this condition.

D. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified the development must stop and it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared and submitted for the approval in writing of the Local Planning Authority under the terms of this condition.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

The above works shall be conducted by competent persons and in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and other current guidance deemed authoritative for the purposes. The development hereby permitted shall not commence until the measures set out in the approved report have been implemented.

- 17) Prior to first occupation of the dwellings hereby approved, a post completion noise survey report shall have first been submitted to and approved in writing by the Local Planning Authority assessing the performance of the noise mitigation measures contained within the 'Environmental Noise Survey and Assessment Report' by STM - dated (Report Ref: NOI-2023-000007).

The post completion noise survey report must also include the relative noise emissions of the enclosed car stacker.

If the noise levels set out in the above report are exceeded, additional noise mitigation measures to ensure the appropriate noise levels can be met shall be submitted to and approved in writing by the Local Planning Authority under the terms of this condition and implemented in full prior to the first occupation of any dwelling hereby approved.

The final approved sound insulation scheme shall be implemented and maintained in accordance with the approved plans thereafter.

- 18) The commercial units hereby approved shall only be used for purposes falling within Use Class E as defined under the Town and Country Planning (Use Classes) Order 1987 (as amended) on the date this application was submitted. That excludes any use as a gymnasium which, notwithstanding the provisions of the Use Classes Order, shall not take place without express planning permission first having been obtained. The development shall not be

used for any other purpose, including any purpose otherwise permitted under the Town and Country Planning (Use Classes) Order 1987 (as amended) nor any change of use permitted under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or in any provision equivalent to those Orders in any statutory instrument revoking and re-enacting these Orders, with or without modification.

- 19) The two commercial units hereby approved shall not operate or be brought into first use unless and until the loading bay along Rayleigh Road in the location shown on plan HSRL02-MAA-03-XX-DG-A-001 Rev P17 or as per any other details that have previously been submitted to and approved in writing by the Local Planning Authority under the terms of this condition has been fully installed and made available for use.
- 20) No dust or fume extraction or filtration equipment or air conditioning, ventilation, or refrigeration equipment shall be installed in association with the development hereby approved unless and until full details of its design, siting, discharge points, predicted acoustic performance and details of any necessary noise and odour mitigation measures to be used have been submitted to and approved in writing by the Local Planning Authority under the provisions of this condition. The equipment shall be installed only in accordance with the approved details and shall be maintained in good working order thereafter for the lifetime of the development.
- 21) Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) the following operations shall not be undertaken without the receipt of prior specific express planning permission in writing from the Local Planning Authority on the building hereby approved. The operations are the installation of any structures or apparatus for purposes relating to telecommunications or renewable energy sources or for any other purpose on any part the roofs of the buildings hereby approved, including any structures or development otherwise permitted under Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any equivalent Order amending, revoking or re-enacting that Order.
- 22) Notwithstanding the details shown on the documents submitted and otherwise hereby approved, with reference to British Standard BS7445:2003, the noise rating level arising from any equipment, plant or activities associated with the ground floor commercial units hereby approved shall be at least 10dB(A) below the background noise level as measured at 1m from the facades of the nearest noise sensitive premises.
- 23) Prior to first use or occupation of the commercial units hereby approved, a delivery and servicing plan shall first have been submitted to and agreed in writing by the Local Planning Authority under the terms of this condition. Thereafter, and for the lifetime of the development the delivery and servicing needs of the commercial units shall only take place in accordance with the approved details.
- 24) No external lighting shall be installed on the development or within the parking, access or landscaped areas of the development hereby approved other than in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority under the provisions

of this condition. All illumination shall be designed in accordance with the Institute of Lighting Professionals "Guidance Note 01/20: Guidance notes for the reduction of obtrusive light" and "PLG05 The brightness of illuminated advertisements." All illumination within the site shall be retained in accordance with the approved details.

- 25) Before it is occupied or brought into use, the development hereby approved shall be carried out in a manner to ensure that 3No of the flats hereby approved comply with the building regulation M4 (3) 'wheelchair user dwellings' standard and the remaining 23No flats comply with building regulation part M4(2) 'accessible and adaptable dwellings' standard.
- 26) The two commercial units hereby approved shall not be open for customers outside the following hours: 7am to 11pm Monday to Sunday including and Bank and Public Holidays.
- 27) No development above ground floor slab level shall take place unless and until a third-party (Instrument Flight Procedure) assessment to satisfy London Southend Airport has been submitted to and approved in writing by the Local Planning Authority under the provisions of this condition.
- 28) Prior to first occupation of the development hereby approved, a full scheme of privacy screening to the external balconies to the southern (rear) elevation and the smaller communal roof terrace to the third floor, including the location of the screening (which shall be installed to the sides of the external balconies and to the west and south elevations only of the smaller communal terrace) and full product specification of the screening to be installed (which shall be of an equivalent Level 4 on the Pilkington Level of obscurity) shall be submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The approved privacy screening shall be installed prior to first occupation of the development hereby approved and shall be retained as such for the lifetime of the development.
- 29) Notwithstanding the submitted drainage details contained within the Flood Risk Assessment & Preliminary SuDS [Ref. FRASW-2023-000014] dated 22/08/2024 by STM Environmental Consultants Ltd. which are otherwise hereby agreed, no drainage infrastructure associated with the development hereby approved shall be installed unless and until full details of surface water attenuation for the site, based on Sustainable Drainage Systems (SuDS) principles, have been submitted to and approved in writing by the Local Planning Authority under the provisions of this condition. Specifically, such details must have regard to the following:
 - a) Confirmation of the proposed Option of Sustainable Drainage Systems (SuDS) contained in the Flood Risk Assessment (FRA) selected for construction;
 - b) Submission of a Surface Water Management Strategy;
 - c) Submission of a drainage plan showing all pipe routings, sizes, manholes and connections into the existing drainage systems, along with size and location of any SuDS and/or attenuation features;
 - d) Submission of an agreement in principle from Anglian Water to make a new drainage connection, including confirmation of the maximum flow rate this connection will discharge at;

e) In respect of the calculations, these must be re-run and re-submitted using the recommended parameters and for all storm simulations, to ensure the proposed storage is adequate for all critical storms:

- Climate change allowance of 45%, rather than the 40% used;
- Cv values (volumetric runoff coefficient) set to 1.0 for all storm simulations;
- Maximum rainfall amount set to the maximum allowed by the software or 500 mm/hr, whichever is lowest;
- The Additional Storage factor should be set to 0.

f) Submission of full details of the responsibility for the maintenance of the drainage system, specific to the Sustainable Drainage Systems (SuDS) option selected throughout the lifetime of the development, including a management statement and schedule to outline the required maintenance for the SuDS;

g) Submission of full details of any necessary pollution control measures in relation to the site's current use and any potential impact on water quality.

The development must only be implemented in accordance with the details approved under this condition and the conclusions and recommendations contained in the Flood Risk Assessment & Preliminary SuDS [Ref. FRASW-2023-000014] dated 22/08/2024 by STM Environmental Consultants Ltd.

The approved drainage works must be provided on site prior to first occupation or the first use of the development hereby approved and shall be maintained thereafter in good working condition for the lifetime of the development.

- 30) Occupation of the development hereby approved shall not occur unless and until the reinstatement of the vehicle crossovers no longer required to serve the site has been completed in accordance with the details annotated on approved plan HSRL02-MAA-03-XX-DG-A-0001-P17.

END OF SCHEDULE