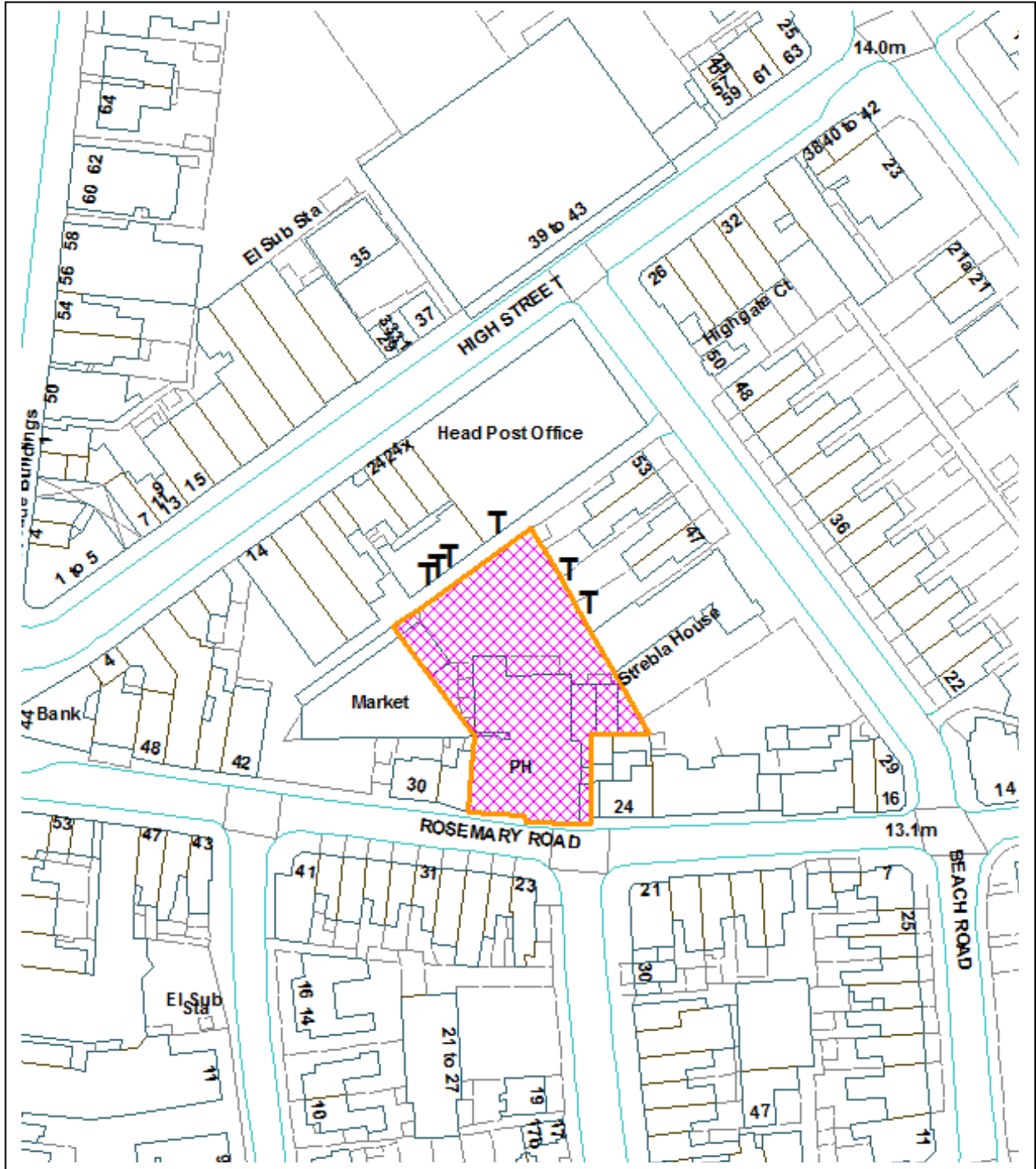


PLANNING COMMITTEE

5<sup>th</sup> January 2016

REPORT OF THE HEAD OF PLANNING

**A.3 PLANNING APPLICATION - 15/00578/FUL - 26 ROSEMARY ROAD CLACTON ON SEA, CO15 1NZ**



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<b>Application:</b>	15/00578/FUL	<b>Town / Parish:</b> Clacton Non Parished
<b>Applicant:</b>	East West Design & Build Ltd	
<b>Address:</b>	26 Rosemary Road Clacton On Sea CO15 1NZ	
<b>Development:</b>	Demolition of all existing buildings (use classes C1 Hotels, A3 Restaurants, A4 Drinking Establishments and Sui Generis Nightclub). Construction of building fronting Rosemary Road containing two A1 retail units at ground floor with 11 flats above; Construction of 12 flats in a three storey building to the rear; and cycle and car parking accessed from Rosemary Road.	

## 1. Executive Summary

- 1.1 This application was originally considered at Planning Committee on 22<sup>nd</sup> September 2015 comprising a proposal for 26 flats and two retail units which included retention of the façade fronting Rosemary Road. Members deferred the application to discuss amendments to overcome concerns relating to retention of the façade of the Villas, parking and the relationship of the rear block to dwellings to the East. Since that deferral the applicant has met with the specific Members as requested by the Committee in deferring the application.
- 1.2 The application now involves complete demolition as the façade is beyond retention, as confirmed by the Council's structural engineers. The rear block has also been reduced in height to three storeys and moved 3.6 metres further from the boundary to address the relationship to existing dwellings to the East. The parking layout has also been changed and now includes two disabled spaces. The amended proposal (for 23 flats and two retail units) has been subject to full reconsultation which will expire before the Planning Committee meeting.
- 1.3 The application site lies within and adjacent to the Clacton Seafront Conservation Area, where the Council is required by law to have special regard to the desirability of preserving or enhancing the character or appearance of the area, or its setting. National planning policy requires great weight to be given to the conservation of heritage assets.
- 1.4 The proposal would involve the complete demolition of all of the buildings on the site which are beyond economic repair, as confirmed by the Council's structural engineers. The existing Rosemary Road frontage buildings comprise the former Osborne Hotel and the two adjacent houses, which together were among the first parts of Clacton-on-Sea to be developed. The buildings are not listed for their special architectural or historic interest nationally but are heritage assets of significance locally both in terms of the early historic development of the planned resort and their traditional appearance.
- 1.5 Tree Preservation Order 15/00006/TPO was originally for six Lime trees, with four along the north west boundary of the site to the service road. This has been amended to include only the two Lime trees on the north east boundary of the site which are retained within the proposal.
- 1.6 The proposal would represent a mixed use scheme that accords with the sentiments of the local plan policy for developments within identified urban regeneration areas; result in the demolition of a problem structure that does not currently preserve or enhance the special qualities of the Clacton on Sea Conservation Area; eradicate the anti social behaviour associated with the vacant property; represent a substantial financial investment into

Clacton town centre and create 23 flats (22 two-bedroom and 1 one-bedroom) that would contribute towards the Districts required housing numbers in a sustainable town centre location, along with two new retail units and their associated employment opportunities which would, in themselves, add to the vitality and vibrancy of the town centre. The confirmation that the façade is now beyond retention has resulted in a complete redevelopment of the site which is considered acceptable in terms of design, heritage impact, highway safety and residential amenity. The recommendation is therefore to grant planning permission subject to completion of a S106 to provide financial contributions towards affordable housing and public open space.

**Recommendation:** That the Head of Planning be authorised to grant planning permission for the development subject to:-

(a) Within six months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 (on such detailed terms as the Head of Planning in their discretion considers appropriate) dealing with the following matters:

- Financial contributions towards affordable housing and public open space.

(b) Planning conditions in accordance with those set out below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning in their discretion considers appropriate)

**Conditions:**

1. Standard 3 year time limit for commencement.
2. Development in accordance with submitted plans.
3. Samples of facing and roofing materials.
4. Fenestration details (timber to residential, aluminium to shop fronts).
5. Protection of two protected lime trees during development and details of surfacing to parking spaces within root protection areas.
6. Landscaping details for communal gardens and hard surfacing.
7. Implementation and retention of landscaping scheme.
8. Kitchen/dining windows at first and second floor level in East elevation of Block B to be obscure glazed and retained thereafter.
9. Balcony screens to be erected prior to occupation and retained thereafter.
10. Surface water drainage strategy
11. The storage of refuse and/or waste shall be provided within the bin stores shown on the submitted plans and shall be provided before the first occupation of the buildings and shall thereafter be retained as such at all times.
12. Car and cycle parking as shown to be provided before the first occupation of the buildings and shall thereafter be retained.

(c) The Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of six months, as the requirements necessary to make the development acceptable in planning terms had not been secured through S106 planning obligation, contrary to saved policies COM6, HG4 and QL12 of the Tendring District Local Plan (2007) and draft policies SD7, PEO10 and PEO22 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focused Changes (2014)

National Policy:

National Planning Policy Framework (2012)

National Planning Policy Guidance

Local Plan Policy:

Saved Adopted Tendring District Local Plan (2007)

QL1 – Spatial Strategy  
QL2 – Promoting Transport Choice  
QL6 – Urban Regeneration Areas  
QL8 – Mixed Uses  
QL9 – Design of New Development  
QL10 – Designing New Development to Meet Functional Needs  
QL11 – Environmental Impacts and Compatibility of Uses  
QL12 – Planning Obligations  
ER3 – Protection of Employment Land  
ER31 – Town Centre Hierarchy and Uses  
ER32a – Primary Shopping Area  
HG1 – Housing Provision  
HG3 – Residential Development within Defined Settlement Limits  
HG4 – Affordable Housing in New Developments  
HG6 – Dwelling Size and Type  
HG7 – Residential Densities  
HG9 – Private Amenity Space  
HG13 – Backland Residential Development  
COM1 – Access for All  
COM2 – Community Safety  
COM6 – Provision of Recreational Open Space for New Residential Development  
COM26 – Contributions to Education Provision  
COM31a – Sewerage and Sewage Disposal  
EN12 – Design and Access Statements  
EN13 – Sustainable Drainage Systems  
EN17 – Conservation Areas  
EN20 – Demolition within Conservation Areas  
TR1a – Development Affecting Highways  
TR5 – Provision for Cycling  
TR7 – Vehicle Parking at New Development  
CL7 – New Town Centre Retail and Mixed-Use Development  
CL8 – Specialist Shop/Café Area

Tendring District Local Plan: Proposed Submission Draft (2012) as amended by the  
Tendring District Local Plan: Pre-Submission Focused Changes (2014)

SD1 – Presumption in Favour of Sustainable Development  
SD2 – Urban Settlements  
SD5 – Managing Growth  
SD7 – Securing Facilities and Infrastructure  
SD8 – Transport and Accessibility  
SD9 – Design of New Development  
SD10 – Sustainable Construction  
PRO2 – Improving the Telecommunications Network  
PRO3 – Improving Education and Skills  
PRO4 – Priority Areas for Regeneration

PRO5 – Town, District, Village and Neighbourhood Centres  
PRO8 - Retail, Leisure and Office Development  
PEO1 – Housing Supply  
PEO2 – Housing Trajectory  
PEO3 – Housing Density  
PEO4 – Standards for New Housing  
PEO6 – Backland Residential Development  
PEO7 – Housing Choice  
PEO10 – Council Housing  
PEO12 – Flats, Apartments and Maisonettes  
PEO22 – Green Infrastructure in New Residential Development  
PEO23 – Children’s Play Areas  
PLA1 – Development and Flood Risk  
PLA3 – Water Conservation, Drainage and Sewerage  
PLA4 – Nature Conservation and Geo-diversity  
PLA6 – The Historic Environment  
PLA7 – Conservation Areas  
COS1 – Regeneration at Clacton Town Centre and Seafront  
COS2 – Clacton Town Centre

Other guidance:

Clacton Seafront Conservation Area Character Appraisal

Essex Design Guide

Essex Parking Standards

**3. Relevant Planning History**

13/00573/FUL - Alterations to building, including new roof coverings, alteration to roof pitch over villas, new windows including rebuild of bay windows, new shopfront entrances and windows. Approved 16.07.2013

13/30147/PREAPP – Renovation and repairs of existing building.

**4. Consultations**

Comments below relate to the amended proposal only. Any comments received after writing the report will be updated at the Planning Committee meeting.

ECC Education – No comments received

ECC Planning and Environment: Flood and Water Management Service - No comments received

ECC Highways – No comments received

Public Experience – No comments received

Housing – No comments received

Regeneration - No comments received

**5. Representations**

5.1 One letter of objection received in relation to original proposal summarised below:

- The two villas to the left of the former Osborne Hotel are the first two houses built in Clacton on Sea – the original Peter Bruff development. These buildings are therefore of tremendous historical importance to the town. It is difficult to see how any credibility could be attached to a so called conservation area where these two buildings in particular have been demolished. Whereas I understand the need to update and modernise, why can the original frontage not be retained and redevelopment take place behind the scenes. Failing that, these buildings must be retained as they are for future generations to appreciate the historic significance.

5.2 One letter of comment received in relation to original proposal summarised below:

- Retaining existing façade should be a condition of any approval.

5.3 9 letters of objection received in relation to the amended proposal summarised below:

- Heritage assets to Clacton's history that should not be demolished
- Façades should be retained and restored

## 6. **Assessment**

The main planning considerations are:

- Effect upon the Clacton Seafront Conservation Area
- Design
- Highways, access and parking
- Residential amenity
- Drainage and flooding
- Trees
- Section 106 Obligations

### Clacton Seafront Conservation Area

6.1 The frontage of the site to Rosemary Road lies within the designated Clacton Seafront Conservation Area, with the northern boundary of the area being drawn tightly to the rear elevations of the main frontage buildings.

6.2 A Conservation Area Character Appraisal for this area was formally adopted by the Council in March 2006, as part of its planning policies for the area under the provisions of Section 71 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It is therefore an important material consideration in relation to the assessment and determination of all planning and related applications within, or affecting the setting of, the conservation area. The Appraisal considers, amongst other things, that: "The special character of Clacton Seafront Conservation Area is derived from its seaside architecture and formal planned street pattern. The Area is the heart of the coastal resort and includes Victorian and Edwardian seaside buildings that were part of the early planned development of the resort ..." (p.1) No. 26 Rosemary Road, originally The Osborne Hotel, which (now as Sandles Inn) described in the Appraisal as having an "attractive and valuable façade" (p.6).

6.3 The Appraisal also says that Orwell Road (running at a right-angle to the south of Rosemary Road) "is of great interest. This character is enhanced by views northwards to Sandles Inn, of strong period character with an attractive mid-Victorian campanile" (p.5). It

adds, “Less happy is the unfortunate building to the right, the lowest-common-denominator-design of which is a negative feature in the street [scene]” (p. 10.).

- 6.4 Section 72 of the Act places a duty upon the local planning authority to have special regard to the desirability of preserving or enhancing the character or appearance of the designated conservation area. This statutory duty relates both to the land which is within the area (the main buildings in this case) and that outside, but which affects the setting of the area (the largely open land to the rear of the main frontage buildings).
- 6.5 In order to discharge this duty it is necessary to consider in detail the nature, extent and effect of change which would occur if the development was to take place. This is a higher ‘test’ to apply than a more general assessment of planning proposals which would not affect any heritage assets.
- 6.6 The loss of the existing façade is extremely unfortunate. The building has deteriorated significantly over time and is being monitored fortnightly. The written report from the Council’s Structural Engineers on 29<sup>th</sup> September 2015 confirmed that the building had recently slumped, particularly to the right hand side, and this is imposing a horizontal load on the scaffolding. The scaffolding is erected to prevent debris falling from the building but is not providing structural support. They conclude “there is no practical alternative other than wholesale demolition of the premises and their subsequent rebuilding.”
- 6.7 Paragraph 134 of the NPPF states “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use”.
- 6.7 The existing building and scaffolding has been an unsightly feature which has not preserved or enhanced the special qualities of the Clacton on Sea Conservation Area for a significant period of time. The vacant property is also a persistent source of anti social behaviour with fires which further weaken the deteriorated structure. It is therefore considered that the harm to the conservation area which would result from the demolition of the existing building would be outweighed by the economic and social benefits of the scheme in terms of regeneration of the area and provision of 23 residential units in relation to the District’s housing need. It is therefore considered that the demolition of the building is acceptable in principle, subject to a satisfactory replacement development which would preserve the character and appearance of the conservation area.

### Design

- 6.8 The replacement building fronting Rosemary Road comprises four storeys to the right hand side reducing to three storeys to step down to the neighbouring two storey buildings, and generally reflects the scale of the existing building. The bulk of the building has been vertically broken up through the use of different materials (brick and render) and timber bay windows and stonework detailing to add visual interest. The natural slate roof is a mansard design, set back from the main façade and more sympathetically detailed than the poor example to the immediate east at 24 Rosemary Road. At street level the vehicular access opening and shop fronts to the two retail units share the same proportions and arched openings, as seen elsewhere in the immediate area, to create a rhythm to the building at street level.
- 6.9 The surrounding area is characterised by a wide variety of architectural styles and construction materials. It was considered a more traditional approach in terms of detailing and materials would sit most comfortably in the street scene along Rosemary Road, and subject to securing high quality materials the proposed design is considered to preserve the character and appearance of the Clacton Seafront Conservation Area.

- 6.10 The internal car parking area contains a communal landscaped area and retention of the two protected Lime trees to create a semi private amenity space. Full details of landscaping will be secured by condition.
- 6.11 The rear block comprises three storeys and is constructed of brick and render to the two lower floors, timber windows, with vertical stained timber strip cladding to the top floor, under a zinc roof. Timber louvres are added for visual interest and balcony privacy screens. This building is designed to share the same materials as the front building to give the whole development more coherence. This building lies outside but adjacent to the Clacton Seafront Conservation Area and is considered to introduce a new building of visual interest in contrast to some very bland buildings which surround the rear of the site.
- 6.12 As the Council cannot demonstrate an adequate supply of land for housing, the provisions of paragraphs 14 and 49 of the Framework apply. Housing applications should be considered in terms of the presumption in favour of sustainable development. For decision-taking this means where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. It is considered that the economic and social benefits of the proposed development would outweigh the harm which would result from the loss of the existing buildings.

#### Highways, access and parking

- 6.13 The existing vehicular access is to the rear of the site from the service road behind the covered market. The proposal would form a new means of vehicular access from Rosemary Road via an entrance in the building. This would serve the residential element of the scheme. No provision is made for the loading and unloading of vehicles serving the retail elements. Although this represents a deficiency in terms of current standards, it reflects the existing pattern of retail use in Rosemary Road and the historic form of development in the locality.
- 6.14 The proposal would provide 12 car parking spaces (including two disabled spaces) for residents and no visitor parking spaces. Two covered bicycle stores are provided, one within the front building containing 12 spaces and one next to the rear building containing 12 spaces.
- 6.15 The scale of residential development proposed would normally require the provision of at least 51 car parking spaces (45 spaces for residents plus 6 visitor spaces). However, given the sustainable town centre location, the normal parking standards may be relaxed. Limited on-street parking exists in adjacent roads and the site is a short walk from the High Street public car park, mainline railway station, bus stops and a wide range of services in the Town Centre. In this case a relaxation of the normal car parking standards is considered appropriate in regard to the total number of spaces. The 24 covered cycle storage spaces would also support the sustainability of the scheme.

#### Residential amenity

- 6.16 Assessment of this issue concerns both existing and future occupiers of land and buildings. Existing residential occupiers are adjacent to the site in Rosemary Road (flats), Beach Road (houses and flats) and in High Street (flats) over shops.
- 6.17 The rear of the building fronting Rosemary Road has been designed to preserve the 45 degree overshadowing and outlook lines from the flats above ground floor level in the immediately neighbouring properties. The building is also significantly shallower than the



existing building on the site. There are two small balconies which are confined to the central section only at first and second floor level where views will be predominantly across the communal parking and amenity area. There is also a Juliette balcony on the rear (and two on the front) which provide no amenity space.

- 6.18 The rear building has been reduced in height by removing the fourth floor. It has also been moved further from the boundary, previously minimum 1.8 metres increased to minimum 5.4 metres from the rear boundary of the two pairs of semi-detached houses in Beach Road. This prevents any significant loss of light or outlook to those neighbouring dwellings. The four windows in the facing flank at first and second floor level serve the kitchen/dining areas so have been obscure glazed to preserve privacy. The small balconies to the living rooms are also provided with timber privacy screens to prevent views towards the neighbouring properties on Beach Road and views will therefore be predominantly across the communal parking and amenity area.
- 6.19 Future occupiers of the proposed flats would enjoy the semi-private communal amenity space adjacent to the parking area. There is also an area of around 6 metres wide running the length of the side of the rear building. This totals around 305 square metres of communal space which would meet the minimum requirements (25 square metres) for 12 units without balconies.
- 6.20 All 12 flats in the rear building contain a private balcony, with two flats having two balconies each. Saved Policy HG9 requires balconies to be minimum 5 square metres, the proposed balconies are 2-3 square metres. Two flats within the frontage building contain private balconies of 3.5 square metres. Having regard to the town centre location and the proximity of the site to the seafront, it is considered that this provision of amenity space is acceptable.

#### Drainage and flooding

- 6.21 The application form confirms that foul sewage would be disposed of via the existing mains sewer and surface water via the mains sewer and a Sustainable drainage system. However, the scheme does not include a surface water drainage strategy to demonstrate that there would be no risk of flooding on and/or off site. Although the site lies within Flood Zone 1 (low probability of flooding) and is not in an area identified as being at surface water flood risk, the scale of development proposed may present risks of flooding both on and off-site unless surface water run-off is managed effectively.
- 6.22 The applicant states they are not in a position to provide a detailed surface water run-off strategy because they need to do accurate surveys of the site and buildings once cleared. They do not envisage a problem achieving an acceptable design and request that this forms a planning condition.

#### Trees

- 6.23 The site contains six existing mature Lime trees. The four lime trees along the rear (north west) boundary have been removed from Tree Preservation Order 15/00006/TPO and are shown to be removed in the proposals. The two protected lime trees along the north east boundary are shown to be retained. The four lime trees proposed for removal are visible from the public realm but are adjacent to the service road and close to tall buildings reducing their prominence. In order to demolish the existing building without long term disruption and loss of trade to businesses along Rosemary Road, this needs to be undertaken from the rear. This necessitates removal of some of the four trees along the rear boundary. It is therefore considered that the loss of the four lime trees along the rear boundary can be adequately mitigated against by the planting of new trees, to be secured via a landscaping condition. The remaining two lime trees are clearly visible from Beach

Road and make a significant contribution to local amenity and are retained within the proposals.

#### Section 106 Obligations

- 6.24 The three areas for consideration are:
- 6.25 Affordable Housing – Under saved Policy HG4, affordable housing is required to be provided on site at 40% of the total. The need for affordable housing may be able to be met in other ways, including an off-site financial contribution and affordable housing is secured by negotiation, including any necessary consideration of viability. The Council's own viability study evidence, which has informed preparation of the new local plan, has concluded that affordable housing provision at 40% is now unlikely to be viable in the district. Between 10% - 25% provision is more likely to be deliverable. On that basis, the requirement for affordable housing will be in the range of 3 – 6 units. As an alternative to on-site provision, it is possible to consider a financial contribution, equivalent to the 25% requirement, towards off-site provision. That is the Council's preferred option in this case due to the applicant's control over the freehold to the proposed flats.
- 6.26 Children's Play Areas – The Children's Play Area sum required will be £38,025. This sum will contribute (subject to any limitation upon the pooling of monies) towards play space in Marine Parade West, where there is a significant lack of play facilities.
- 6.27 Education – Pending comments from Essex County Council. Their request for the original proposal of 26 two-bedroom flats was for £47,471 in order to replace existing temporary classrooms with permanent classroom accommodation. Whilst it is acknowledged that this would be desirable, it is not considered that a contribution could reasonably be required for this purpose. A contribution would only become necessary if additional school places were required to serve the likely demand generated by future occupants.
- 6.28 The applicant has confirmed willingness to enter into a S106 Agreement, with the requirements to be agreed following consultee comments on the reduced proposal. Drafting of the S106 has not yet begun but if Members resolve to grant planning permission it is recommended that a period of six months is allowed to enable negotiation and completion of the legal agreement.

#### Background Papers

None