

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	AL	15/02/2024
Team Leader authorisation / sign off:	JJJ	16/02/2024
Assistant Planner final checks and despatch:	ER	16/02/2024

**Application:** 23/01510/FUL **Town / Parish:** Clacton Non Parished

**Applicant:** Ms Ros Whitley

**Address:** 139 Marine Parade East Clacton On Sea Essex

**Development:** Full Planning Application: Redevelopment of the site to provide a 2-storey detached building comprising 2 x 2 bedroom flats (following demolition of existing bungalow and front boundary wall) including a new vehicular access and parking from Marine Parade East (Part M (2) compliant for disabled access).

### **1. Town / Parish Council**

Clacton – not applicable.

### **2. Consultation Responses**

Public Realm – Open Spaces Team  
29.11.2023

**NO CONTRIBUTION REQUESTED**

Play Space - current deficit:

- Deficit of 2.22 hectares of equipped play in Clacton

Formal Play - current deficit:

- Adequate formal open space in the area to cope with some future development

Settlement provision:

- Eastcliff Recreation Ground 0.4 miles from the development

Officer Conclusions and Recommendations

- No contribution is being requested on this occasion.

ECC Highways Dept  
04.12.2023

**NO OBJECTION**

The information that was submitted in association with the application has been fully considered by the Highway Authority. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material and google earth image.

Given the location, the visibility along Marine Parade, existence of dropped kerbs at neighbouring properties and the public parking bays opposite the site (that may require a vehicle to reverse into the highway), it is not considered by the Highway Authority that the proposal would be detrimental to highway safety, capacity or efficiency.

From a Highway and Transportation perspective the proposal is acceptable to the Highway Authority, subject to the following requirements;

1. The vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 6 metres, shall be retained at that width for 6 metres within the site and

shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

2. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

3. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

Informative:

i. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

ii. On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

iii. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

iv. Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action

Advice guides for residents, businesses and schools are also available.

Environmental Protection  
27.11.2023

With reference to the above application, please see below for comments from the EP Team:

## **NO OBJECTION**

**Demolition & Construction Method Statement:** In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Protection ask that the following is submitted: Prior to the commencement of any construction or demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Environmental Protection Team. This should at minimum include the following where applicable.

### **- Noise Control**

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

### **- Emission Control**

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
  - 2) No materials produced as a result of the site development or clearance shall be burned on site.
  - 3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
  - 4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.
- Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

REASON: to protect the amenity of nearby residential dwellings

### 3. Planning History

23/30124/PREAPP Proposed replacement single private dwelling with new residential building containing 2 no. flats (3 concept options submitted). Reject 09.08.2023

### 4. Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

### 5. Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

At the time of writing, there are no draft or adopted neighbourhood plans relevant to this site.

### 6. Relevant Policies / Government Guidance

#### **National:**

National Planning Policy Framework July 2023 (NPPF)  
National Planning Practice Guidance (NPPG)

#### **Local:**

#### Tendring District Local Plan 2013-2033 and Beyond Section 1

SP1 Presumption in Favour of Sustainable Development  
SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)  
SP3 Spatial Strategy for North Essex  
SP4 Meeting Housing Needs  
SP6 Infrastructure and Connectivity  
SP7 Place Shaping Principles

#### Tendring District Local Plan 2013-2033 and Beyond Section 2

SPL1 Managing Growth  
SPL2 Settlement Development Boundaries  
SPL3 Sustainable Design  
LP1 Housing Supply  
LP2 Housing Choice  
LP3 Housing Density and Standards  
LP4 Housing Layout  
PPL4 Biodiversity and Geodiversity  
PPL5 Water Conservation, Drainage and Sewerage  
CP1 Sustainable Transport and Accessibility  
DI1 Infrastructure Delivery and Impact Mitigation

### Supplementary Planning Documents

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

Essex Design Guide

DCLG Technical housing standards – nationally described space standard 2015

### Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

## **7. Officer Appraisal**

### Site Description and Context

The site is located within the Clacton-on-Sea Settlement Development Boundary as defined within the adopted Local Plan 2013-2033 and Beyond. The existing bungalow is south-east facing, fronting onto the Marine Parade East with the seafront promenade beyond. The front boundary of the property is enclosed by a low-level wall and the existing planting and front garden area (predominantly lawn) are visible from the streetscene. Existing parking is to the rear of the property accessed via a shared drive with number 2 Third Avenue. The predominant character of Marine Parade is that of one or two storey family dwellings somewhat set back in their plots with front gardens, low boundary walls and moderate to extensive soft landscaping in these front garden areas. There are some three or four storey (flatted) buildings in the vicinity however these are predominantly on larger plots and or on corner plots.

### Description of Development

The application seeks full planning permission for the redevelopment of the site to provide a 2-storey detached building comprising 2 x 2 bedroom flats (following demolition of existing bungalow and front boundary wall), together with a new vehicular access and parking from Marine Parade East (Part M (2) compliant for disabled access).

The application is accompanied by the following plans and documents:

- 25 Oct 2023 02 Proposed Floor Plans
- 25 Oct 2023 03 Proposed Roof Plan
- 25 Oct 2023 04 Proposed Front and Side Elevations
- 25 Oct 2023 05 Proposed Rear and Side Elevations
- 25 Oct 2023 06 Proposed 3d Views
- 25 Oct 2023 07 Existing Massing - South (Indicative)
- 25 Oct 2023 08 Proposed Massing (Indicative)
- 16 Nov 2023 09 Existing Floor Plan
- 16 Nov 2023 10 Existing Elevations
- 18 Jan 2024 01 2 Amended Existing Site and Proposed Location Plan
- 25 Oct 2023 Pre-Application Enquiry Decision Letter
- 25 Oct 2023 Planning, Design and Access Statement
- 25 Oct 2023 Appendix A- Renewable Energy Generation Plan
- 25 Oct 2023 Appendix B - Appeal Decision - Woodfield Lane, Ashted KT21 2BS
- 25 Oct 2023 Appendix C - Sustainability Assessment
- 25 Oct 2023 Appendix D - Appeal Decision - 34 Cronton Lane, Widnes WA8 5AJ
- 25 Oct 2023 Building Survey

The application seeks consent for a flat roof, contemporary-style building finished in smooth white render and aluminium framed windows with a curved bay at ground floor and curved first floor balcony feature (with solid curved privacy screens).

### Assessment

The material considerations relevant to an application of this nature can be summarised and addressed as follows:

- 6.1 Principle of Development
- 6.2 Layout, Scale and Appearance
- 6.3 Residential Amenity
- 6.4 Highway Safety and Parking
- 6.5 Sustainable Construction & Design
- 6.6 Drainage and Foul Sewage Disposal
- 6.7 Planning Obligation - Open Space and Play Space
- 6.8 Planning Obligation - Recreational Disturbance
- 6.9 Environmental Protection
- 6.10 Habitats and Protected Species
- 6.11 Overall Planning Balance and Conclusions

## 6.1 Principle of Development

As addressed above (Status of the Local Plan), in line with Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning law requires that planning application decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.

The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force. The site is not located within an area subject of any adopted Neighbourhood Plans.

The site is located within the Settlement Development Boundary (SDB) of Clacton-on-Sea as defined within the adopted Local Plan, where the principle of residential development is established by various strategic local policies.

Therefore, the principle of development involving the creation of additional dwellings on the site is acceptable, subject to the relevant detailed considerations discussed below. Furthermore, the existing dwelling is of no architectural or historical significance, not in a conservation area and there would be no objection to its demolition.

## 6.2 Layout, Scale and Appearance

Paragraph 135 of the NPPF requires that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history, maintain a strong sense of place and create places that are safe, inclusive and accessible.

Adopted Section 1 Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Section 2 Policies SPL3 and LP4 of the Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place.

The residential character in the locality is mixed, with examples of dwellings of differing heights, scales, and detailed designs, the majority of single dwellings in the area have low boundary walls and moderate to extensive soft landscaping in these front garden areas. The prevailing character in the immediate context is that of single, 1.5 and 2 storey dwellings. Number 137 Marine Parade East, to the western side of the application site, is a chalet style bungalow with accommodation within the roof space. Number 141, to the eastern side of the site, is a 2-storey dwelling with a gradual sloping roof from ridge to single storey at the rear.

Having regard to the mixed character, specifically the variation in heights and roof arrangements, there can be no objection in principle to the redevelopment of the property or the site. The creation of an access and parking to the frontage is also considered acceptable in principle having regard to the prevailing character of the area. However, although mixed, the prevailing character of the locality is of traditional form, design, and materials. All have pitched/tiled roofs and are, mostly, brick

built. The proposal for a 2-storey, flat roof, blocky, white rendered building with an extensive hard standing area to the front (for parking) is therefore considered at odds with the materiality and traditional form of properties in the locality, thus failing to respond positively to local character and context, contrary to Local Plan Policy SP7.

The boxlike design with featureless side elevations (and to a lesser extent the rear elevation), combined with the excessive depth would appear out of keeping with the predominantly traditional character of the area and be harmful to visual amenity. The bland, excessively bulky building would also be prominent and visually harmful from Third Avenue street scene views. The white render finish would only exacerbate the identified harm.

Overall, the depth, bulk, and massing of the proposal would be out of keeping, and appear overly large for the plot. The development would result in an excessively prominent and visually intrusive development being harmful to the character and appearance of the area.

Whilst officers recognise that some of the advice provided at pre-application stage has been taken into account and the design presented within this application is much reduced, the proposal remains unacceptable and contrary to policy for the reasons set out above.

### 6.3 Residential Amenity

Paragraph 135 of the NPPF includes that planning decisions should ensure developments create places with a high standard of amenity for existing and future users.

Section 1 Policy SP7 of the adopted Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

Furthermore, Policy LP4 seeks to ensure that new dwellings are served by a private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area.

#### Impact on Number 141 Marine Parade East

The accompanying block plan shows that the proposed development will essentially extend to the same depth as the rear elevation of number 141. However, number 141 has a defined and continuous catslide roof design to the rear which gradually slopes from two storey height at its highest point towards the front, to only a single storey height at its rear. The proposed development with its continuous two storey white rendered side elevation facing No. 141 will be clearly visible and appear dominant and oppressive to the occupiers of this property when using their rear garden – this harm will be permanent and substantial because the development will be highly visible from the modestly sized rear garden of No. 141 and will also be very close to its side boundary, resulting in clear conflict with the above mentioned policies.

Due to the orientation of the site and position of upper floor rear windows, the development is unlikely to result in any overshadowing or loss of privacy. There are several windows on the west side facing flank of number 141 but the level of glazing to the front of the property, together with the south facing orientation of the site is unlikely to result in any significant loss of light.

#### Impact on 2 Third Avenue

The development will result in upper floor windows in the rear facing elevation with views toward number 2 Third Avenue. Due to the distance and intervening outbuildings and driveways, the proposal is unlikely to result in any significant impact.

#### Impact on Number 137 Marine Parade East

The proposal extending farther rearward than the nearest rear elevation (to the common boundary) of Number 137. There are no side facing upper floor windows proposed and the rear facing windows will only allow obliquely angled views into the rear garden of number 137. For these reasons, it is unlikely that any materially harmful overlooking or loss of privacy would occur as a result of the development. However, the height, depth and bulk of the development so close to the common

boundary shared with Number 137 will be very considerable and will appear dominant and oppressive from the private garden of number 137. This harm will be exacerbated due to sheer expanse of the white rendered side wall that will be clearly visible beyond the modest roof profile of Number 137. Moreover, the presence of the existing rear projection at number 137, in combination with the bulk of the development along this boundary will result in a sense of being hemmed in. Furthermore, the development will also result in a material loss of natural light to rear facing windows (close to the common boundary) and the immediate rear garden area of No 137 due to the southerly orientation of this part of the site at No 137.

For these reasons, the proposal as submitted, is considered contrary to the above-mentioned national and local plan policies.

#### 6.4 Highway Safety and Parking

Paragraph 114 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users, the design of parking areas and other transport elements reflects current national guidance and the content of associated standards and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 115 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy SPL3 Part B of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.

The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally.

The scheme proposes the retention of the 2 parking spaces to the rear of the site accessed via Third Avenue, and 2 additional parking spaces within the re-configured frontage access from Marine Parade East via the proposed new access.

On balance given the sustainable location of the site this provision is considered acceptable. Moreover ECC highways raise no objection to the scheme and in the event that planning permission is granted suitably worded conditions can be imposed to secure the elements requested by ECC Highways (where compliant with NPPF tests for planning conditions).

#### 6.5 Sustainable Construction & Design

Paragraph 116 (e) of the NPPF states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. Policies PPL10 and SPL3 require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.

The development includes solar panels to the roof and 2no. EV charging points to the new parking spaces at the front. Should planning permission be granted a condition can be imposed to ensure the development is carried out in accordance with these arrangements.

#### 6.6 Drainage and Foul Sewage Disposal

Paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that



planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Connection to the mains is the preferred option having regard to the drainage hierarchy and building regulations requirements.

The application confirms that the new development will be served by a mains connection in compliance with the above national and local plan policies, thus being in compliance with the building regulations and Environment Agency drainage hierarchy.

#### 6.7 Planning Obligation - Open Space and Play Space

Paragraph 55 of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

TDLP Section 2 Policy HP 5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. TDLP Section 2 Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure. Where a development proposal requires additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority and the appropriate infrastructure provider. Such measures may include financial contributions towards new or expanded facilities and the maintenance thereof. For the purposes of this policy, the widest reasonable definition of infrastructure and infrastructure providers will be applied. Section 106 will remain the appropriate mechanism for securing financial contributions.

Consultation on the planning application has been undertaken with the Council's Public Realm Team. In this instance, no contribution is sought.

#### 6.8 Planning Obligation - Recreational Disturbance

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. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) mitigation measures will need to be in place prior to occupation.

This residential development lies within the Zone of Influence. In order to ensure that the development would not adversely affect the integrity of Habitats sites in line with TDLP Section 2 Policy PPL4 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017 a proportionate financial contribution in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) will be required, secured via a completed Unilateral Undertaking (UU) accompanying the planning application.

A completed UU to secure the above requirements accompanies the application and therefore accords with the above policies and legislation.

#### 6.9 Environmental Protection

Consultation with the Council's Environmental Protection Team (EPT) has been undertaken. EPT raise no objection subject to the submission and approval of a Construction Management Plan to mitigate potential nuisance to the occupiers of the adjacent dwellings caused by construction works.

Within the accompanying Planning Statement, the applicant confirms their willingness to comply with a suitably worded pre-commencement condition.

#### 6.10 Habitats and Protected Species

Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity. Section 40 A1 states "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England".

The duty to conserve and enhance biodiversity is placed on public authorities with functions exercisable in relation to England, this includes local authorities, which encompass local planning authorities. Section 40 provides authorities must consider what actions they can take to further the general biodiversity objective and, after consideration, determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. While the Section doesn't explicitly state that planning decisions must contribute to biodiversity conservation, it's essential to consider the broader context of planning functions within the authority. Typically, local planning authorities play a crucial role in land use decisions, and decisions related to development and land management can have significant implications for biodiversity. In conclusion for decision making, it is considered that the LPA must be satisfied that the development would conserve and enhance.

This development is subject to the general duty outlined in the Natural Environment and Rural Communities Act 2006, as amended by the Environment Act 2021 and is designed to actively contribute to the enhancement and conservation of local ecosystems.

Paragraph 186 of the NPPF states that, when making planning decisions local planning authorities need to assess whether significant harm to biodiversity could result from the development. The NPPF goes on to state the hierarchy that should be applied to mitigate any harm to ecology that is identified. Paragraph 180 of the NPPF requires that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst Paragraph 179 requires local planning authorities to safeguard components of local wildlife-rich habitats.

TDLPS2 Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.

In the event of an approval for the proposed development or similar, appropriately worded conditions securing mitigation and enhancements, to include insect friendly planting, permeable surfaces, nesting boxes, bee bricks and rainwater capture, would be imposed to ensure there will be no net loss of biodiversity on site.

#### 6.11 Overall Planning Balance and Conclusions

The site is location within the SDB therefore the principle or additional dwellings is acceptable in this location.

The scheme will result in benefits to the local and wider economy during the construction phase and additional spend of one additional household to the local economy. There will also a benefit due to the increase of one additional dwelling to the councils five year housing land supply position. Collectively only very limited weight is afforded to these basket of benefits because on the former it is a comparatively small scale development and the economic benefits will be very moderate, and on the latter the council has a very healthy five year housing land supply position.

Against these benefits there will be considered harm in respect of the excessive bulk, depth, and massing of the replacement buildings and the harmful impacts on the residential amenity of

occupiers of both adjacent properties. These harmful elements are clear, substantial and will be permanent and the benefits will not come close to outweighing the harm and the various areas of clear policy conflict.

The Part M compliance is noted however is neutral in the planning balance because it is an element that will be substantially covered in the building regulations stage and a requirement for compliance in any event on a scheme of this nature. The two appeal decisions referenced by the applicant is noted however carries no weight in the planning balance because these are clearly different sites with difference contextual circumstances.

According the scheme is recommended for approval for the following reason:

## **8. Recommendation**

Refusal - Full

## **9. Reasons for Refusal**

### Reason 1

The proposed development, by reason of its design, specifically the featureless and highly visible side elevations, combined with the developments excessive depth and bulk would appear out of keeping with the prevailing character of the area and be harmful to visual amenity. The bland side elevations together with the excessively bulky building would also appear prominent and harmful from the Third Avenue street scene views. Planning conditions seeking details of facing materials will not overcome these areas of harm because of the identified excessive depth and bulk, as well as the developments resultant harmful prominence.

The development would therefore result in an excessively prominent and visually intrusive development being harmful to the character and appearance of the area, contrary to adopted Local Plan policies SP7, SPL3 and LP4.

### Reason 2

The proposed development, by reason of a combination of its scale, bulk, height and proximity to both the side boundaries will result in a dominant and oppressive form of development for the occupiers of Number 141 Marine Parade East and Number 137 Marine Parade East. Moreover, the presence of an existing rear projection at number 137, in combination with the bulk of the proposed development along this boundary will result in a harmful sense of enclosure and a material loss of natural light to rear facing windows (of Number 137 - close to the common boundary), and the immediate rear garden area of Number 137 due to the southerly orientation of this part of the site at No 137.

The proposal is therefore contrary to adopted Local Plan policies SP7 and SPL3.

## **10. Informatives**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

- 25 Oct 2023 02 Proposed Floor Plans
- 25 Oct 2023 03 Proposed Roof Plan
- 25 Oct 2023 04 Proposed Front and Side Elevations
- 25 Oct 2023 05 Proposed Rear and Side Elevations
- 25 Oct 2023 06 Proposed 3d Views
- 25 Oct 2023 07 Existing Massing - South (Indicative)
- 25 Oct 2023 08 Proposed Massing (Indicative)
- 18 Jan 2024 01 2 Amended Existing Site and Proposed Location Plan
- 25 Oct 2023 Pre-Application Enquiry Decision Letter
- 25 Oct 2023 Planning, Design and Access Statement

## 11. Equality Impact Assessment

In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic\* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic\* and those who do not, including tackling prejudice and promoting understanding.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic\* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact (As known with application)
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

## 12. Notification of Decision

<b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b>	<b>YES</b>	<b>NO</b>
<b>Are there any third parties to be informed of the decision? If so, please specify:</b>	<b>YES</b>	<b>NO</b>