

# REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE

## 9 December 2020

**REFERENCE:** HW/FUL/19/00290                      **OFFICER:** Patricia Coyle

**APPLICANT:** IPE Harlow Ltd and Terminus House (Commercial) LLP

**LOCATION:** Part Of Terminus Street Car Park And Land South Of The Car Park  
Velizy Avenue  
Harlow  
Essex

**PROPOSAL:** Partial demolition of the existing car park and redevelopment of the site for a mixed-use development comprising a part 9, part 10 and part 11 storey building, providing 150 residential dwellings, 1,808.7 sqm of commercial floorspace in flexible A1/A3/A4/B1/D1 use, a gym, a re-configured car parking layout, cycle parking and storage and refuse stores. Plus public realm improvements and the creation of a new landscaped pedestrian and cyclist entrance to the Town Centre

### LOCATION PLAN



This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Harlow District Council Licence No.100019627 (2015)

**REASON BROUGHT TO COMMITTEE:**  
Two or more objections received.

## **DEFERRAL FROM 14 OCTOBER 2020 COMMITTEE:**

Members deferred the application from their committee meeting in October 2020 to enable the applicants to respond to a number of issues raised with a view to securing alterations to the proposal and to enable them to receive advice from an independent advisor relating to development viability. The issues were as follows:

- Explanation of viability and the proposed claw back mechanism
- Consideration of conditions to control working hours and the means to safeguard pedestrians during construction works
- Explanation of the use and management of the podium open space area
- Explanation of the impacts on the access road for to the college and the implications of the scheme for the students coming past the site
- Dispersal of affordable housing through the building (pepper potting)

### **Technical Briefing**

A technical briefing was held on Monday 23 November 2020. The purpose of a Technical Briefing is to allow the Committee to gain an improved understanding of the planning application. It is not a forum for debate and is not a part of the formal decision making process.

In this instance the briefing held was split in 2 parts, Part 1 was a presentation by the Applicants, and Part 2 was a presentation by a Viability Assessor working on behalf of the Council. The session provided Members to ask questions and seek clarification, but there was no discussion of the relevant merits of the application;

The applicants offered the following amendments to the scheme:

- In addition to the already offered 11 affordable units, a contribution of £150,000 towards the infrastructure costs of the development identified by Essex County Council
- Formal confirmation that a sculpture is to be provided within the development's public realm
- In relation to the conditions, the applicants accepted the need to attach suitable conditions relating to restriction of construction hours and safeguarding pedestrians within the development and for the submission of a Management Plan for the podium open space area

The applicants confirmed that only occupiers of the new building would have access to the podium area such that it would not be open to others to use the open space. A gate from the podium into the Terminus Street Car Park would have key fob/code entry to prevent unauthorised access. They indicated that Terminus House occupiers, particularly those with south-facing windows, would not directly benefit with access to the new open space but would derive some benefit in respect of a landscaped/green outlook, rather than the existing concrete/hard landscape of the existing part of the car park to the south of the building

In relation to the access road, the applicants indicated that in transportation terms the under Velizy Avenue access to the Terminus Street Car Park and re-routing of traffic to use this entrance had been fully tested and that there was highway capacity for this. Harlow College Students crossing the application site would benefit from being re-routed to the northern side of the public area while servicing vehicles would cross/stop in the middle and cyclists would be routed to the southern boundary resulting in less likely conflict and therefore a safer pedestrian environment than currently.

In relation to “pepper-potting” of the affordable housing that applicants indicated that the affordable housing provided would be tenure-blind and to the same standard of the market housing provided. The affordable housing is currently allocated on the first and second floors of the building on the basis that Residents Associations prefer their properties to be located together; the applicants did indicate that they would speak with the RAs and provide a response. At the time of drafting this section of the report, it has not been possible to undertake this action and instead, the applicants have indicated that they are willing to accept a pre-occupation condition in relation to the location of the affordable housing units as their commitment to exploring the scope for pepper-potting of these units.

The applicants confirm that whatever the outcome of the location of the affordable housing, the quantum of affordable units proposed and the quality and size of the units provided would remain unchanged. To clarify the scheme will provide the following 11 affordable housing units:

- **7 x no. affordable rent units comprising:**
  - 2 x no. one-bedroom units;
  - 4 x no. two-bedroom units; and
  - 1 x no. three-bedroom wheelchair accessible unit.
- **4 x no. intermediate units comprising:**
  - 2 x no. one-bedroom units;
  - 1 x no. two-bedroom units;
  - 1 x no. three-bedroom wheelchair accessible unit.

The applicants confirm that the Schedule of Accommodation which shows the affordable homes over first and second floor level should now be considered as illustrative.

In Part 2 of the briefing, the Council’s Viability Assessor presented his findings based on his second review following the amendments to the scheme. He confirmed that the applicant’s Viability Assessment was acceptable, meeting the requirements of the NPPF and National Guidance on Viability Assessments and that there was no viability in the current scheme. Notwithstanding, he noted the applicants offer of 11 affordable units and their tabled offer of £150,000 in S106 contributions. He confirmed that a late viability review mechanism should be incorporated within a S106 legal agreement to capture any uplift in the market between grant of permission and construction/completion.

## **Local Plan**

The Inspector has issued his final report and it is anticipated the Plan will be formally adopted by the Council in December 2020. The previous report and assessment already gave significant weight to the relevant emerging Local Plan policies and therefore this progression of the emerging Local Plan does not materially alter the previous assessment of the proposal

## **Infrastructure (S106) contributions**

Essex Early Years have asked for a contribution of £582,934.32 for school places and nursery places but no contribution in relation to school transport. Also, Essex Libraries have asked for a contribution of £45,408 to enable the improvement, enhancement and extensions of facilities and services to account of the increased usage of Harlow library. Essex Highways has asked that contributions are made towards the Sustainable Transport Corridors.

While not entirely relevant, some monies have recently been secured to enable the merging of the Adult Community Learning Centre at Abbotsweld into the Library.

The NHS (West Essex CCG) has also requested £74,070 to mitigate the impacts of the proposal in relation to the provision of primary healthcare services.

Essex Highways has not included a specific amount for the Sustainable Transport Corridor contributions, nonetheless based on the HGGT Infrastructure Delivery Plan (IDP), each dwelling is expected to provide £7,984, or £1,197,600 in total for the 150 dwellings proposed.

Notwithstanding the requested contributions, the viability assessment submitted indicates that the scheme is not viable but that some limited affordable housing would be provided. It is considered that current viability precludes the ability of the scheme to provide additional funding for other projects at this time, nonetheless the applicants have agreed to provide £150,000 towards infrastructure costs which is welcomed.

### **The Planning Balance**

The NPPF (and policy IMP1) indicates that if a scheme does not provide the level of contributions needed to offset the impact the scheme would have on local infrastructure (such as roads, education etc.) then it should not be approved. However, the NPPF also indicates that if a Viability Assessment is submitted which indicates that the scheme is unviable then this is a material consideration. While the emerging Local Plan has been viability assessed and when adopted will have set out the contributions expected, this application is being considered under the adopted plan which has not been viability assessed.

Given the benefits which would accrue from the scheme, including the provision of housing (including 7.4% affordable housing) within the town centre to help its regeneration with improvements in vitality and viability and the provision of a significant improvement to the pedestrian/cycling environment at an important (and high footfall) link between the Town Centre and Harlow College (which is to be included in the Town Centre boundary for the first time on adoption of the emerging Local Plan) it is considered that this, together with a £150,000 contribution and a late review mechanism, would be acceptable such as to tilt the planning balance in favour of the proposed development.

### **CONCLUSION**

With the exception of amended sections relating to an update on the emerging Local Plan, S106 contributions, the planning balance and the conditions, this report otherwise remains unchanged from that on the Development Management Committee Agenda on 14 October 2020 (Appendix 2), as updated by the Supplemental information previously published (Appendix 1).

### **RECOMMENDATION**

That Committee resolve to AGREE to delegate the decision to the Head of Planning and Regeneration to **GRANT PLANNING PERMISSION** subject to:

- (i) The applicant entering into an appropriately worded Section 106 Legal Agreement based on the requirements identified within the report

- (ii) Delegated Authority being given to the Planning and Building Control Manger to negotiate a suitable viability review mechanism/claw-back mechanism to be secured within the S106 agreement. This delegated authority shall extend to the prioritisation and allocation of any funds secured in subsequent reviews to the infrastructure contributions requested during the consideration of this application.
- (iii) And the following conditions:
- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
**REASON: In order to comply with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.**
  - 2 The external facing materials (including for windows and doors) to be used in the construction of the development hereby permitted shall be those materials specified on the plans submitted in relation to the development hereby permitted, unless alternative materials are proposed. Where alternative materials are to be used, no development shall commence before details of those alternative external facing (including windows and doors) and roofing materials to be used in the development have been submitted to and approved in writing by the Local Planning Authority. Where materials other than those materials specified on the application form are agreed in writing by the Local Planning Authority, the materials agreed shall be those used in the development hereby permitted.  
**REASON: In the interest of visual amenity and to accord with policy BE1 of the Adopted Replacement Harlow Local Plan, July 2006.**
  - 3 A detailed landscape scheme shall be submitted to the local authority for approval and shall be implemented during the next planting season following completion of the development. The scheme shall include all hard and soft landscaping and details of boundary treatments. A specification on tree pits and of all materials shall be supplied within a detailed method statement which shall include site preparation, planting techniques, aftercare, and a programme of maintenance for a period of 3 years following completion of the scheme.  
**REASON: To comply with the duties indicated in Section 197 of The Town and Country Planning Act 1990 and with those policies of the Development Plan set out in the attached Informative so as to ensure satisfactory landscape treatment of the site in the interests of visual amenity and to screen and enhance the development in the interests of visual amenity.**
  - 4 All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards. The works shall be carried out prior to the occupation of any part of the development unless otherwise agreed in writing with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives written consent to any variation.  
**REASON: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.**
  - 5 No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been

submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to 1.29l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1:100 plus 40% climate change critical storm event. As per LLFA design guide the half drain time of all storage features would be within 24 hours.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

**REASON**

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

- 6 Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

**REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.**

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

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

- 8 The development hereby permitted shall not be commenced until the pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage and are restored to a fully working condition.

**REASON:**

**To ensure that drainage system implemented at the site will adequately function and dispose of surface water from the site. Failure to carry out the required maintenance before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.**

9. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for the following all clear of the highway:
- Safe access into the site
  - The parking of vehicles of site operatives and visitors
  - Loading and unloading of plant and materials
  - Storage of plant and materials used in constructing the development
  - Wheel and underbody washing facilities

**REASON:**

**To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.**

10. Prior to first occupation of the development the developer shall implement the access, cycle and pedestrian arrangements, as shown in principle on drawing no.PL[20]100 Rev P2, and shall have secured and implemented the following highway works through an appropriate S78 (or other appropriate) agreement with the Highway Authority under the Highway Acts:
- The removal of the north bound car park exit onto Velizy Ave;
  - The removal of the north bound service road exit onto Velizy Ave;
  - The creation of a service road with pedestrian and cycle way along its length;
  - The creation of an access into Terminus Street taxi rank and the possible provision of a realigned cycleway thorough this area;
  - The creation and/or rescinding of any Traffic Regulation Orders as necessary for the development.

**Reason: In the interests of highway safety and to enhance accessibility to/from the site and in the locality.**

11. Prior to the first occupation of the development the developer shall undertake a signage audit, in the vicinity of the site to establish which road signs are required to be changed/replaced as a consequence of the access changes to the car park and the change in car park capacity. All identified signs, that require updating /replacing, as part of the audit shall be fully implemented at the developers cost.

**Reason: In the interests of highway safety and efficiency with regards to providing drivers with the correct and relevant information.**

12. Prior to the first occupation of the development the vehicle/cycle parking and loading areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The parking and loading areas shall be retained in perpetuity for their intended purpose.

**Reason: To ensure that appropriate parking and loading is provided.**

13. Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation per dwelling of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include season tickets for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

**Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.**

14. Prior to first occupation of the development hereby approved, the developer shall submit details of the proposed location of the 11 affordable housing units within the development and secure approval for the details from the Local Planning Authority. The location of the affordable housing units shall be implemented in accordance with the approved location details.

**Reason: To ensure the location of the affordable housing units is acceptable.**

15. There shall be no construction undertaken outside the hours of 08:00 and 18:00 hours on Mondays to Fridays or outside the hours of 08:00 and 13:00 hours on Saturday; there shall not be any construction take place at any time on Sundays or Bank Holidays.

**Reason: In the interests of the amenity of adjoining and nearby residents and guests at the adjoining Hotel, in accordance with policy BE1 of the Local Plan 2006.**

16. Prior to first use of the Podium Level Amenity Space, details shall be submitted of a Management Plan (which shall include details of opening/closing times, details of activities which shall be undertaken, the entity responsible for ensuring that the amenity space is maintained and remains secure for the occupiers of the approved residential units) and approved in writing by the Local Planning Authority; once approved, the Management Plan shall be operated in accordance with the approved details in perpetuity.

**Reason: To ensure that the shared space remains accessible and usable by all occupiers and visitors of the proposed residential units hereby permitted, in accordance with Policy BE1 of the ADRHLP (2006) and the Harlow Design Guide SPD**

17. Prior to first use of the Podium Level Amenity Space, details shall be submitted of the proposed play equipment to be provided for the two children's play areas within the Podium Level Amenity Space and approved in writing by the Local Planning Authority; once approved, the play equipment shall be installed in accordance with the approved details and be maintained

**Reason: To ensure that all ages are provided with suitable space within the communal shared private amenity space in accordance with Policy BE1 of the ADRHLP (2006) and the Harlow Design Guide SPD**

18. The development hereby permitted shall be carried out in accordance with the approved plans as shown listed in the table below.

**REASON: For the avoidance of doubt and in the interests of proper planning.**

Plan Reference	Version No.	Plan Type	Date Received
LP 20 01	--	Location Plan	18.07.2019
LP 20 02	--	Site Plan	18.07.2019
LP 20 03	Level 1	Existing Carpark Level	18.07.2019
LP 20 04	Level 2-3	Existing Carpark Level	18.07.2019
LP 20 05	Level 4-5	Existing Carpark Level	18.07.2019
LP 20 06	Level 6-7	Existing Carpark Level	18.07.2019
LP 20 10 Rev P1	Carpark	Demolition Plan	14.07.2020
	Level 1		
LP 20 11 Rev P1	Carpark	Demolition Plan	14.07.2020
	Level 2-3		
LP 20 12 Rev P1	Carpark	Demolition Plan	14.07.2020
	Level 4-5		

LP 20 13 Rev P1	Carpark Level 6-7	Demolition Plan	14.07.2020
LP 20 100	Rev P2	Proposed Site Plan	14.07.2020
LP 20 101 Rev P4	Level1	Proposed Ground Floor Plan	14.07.2020
LP 20 102 Rev P4	Level 2-3	Proposed Mezzanine Floor	14.07.2020
LP 20 103 Rev P4	Level 4-5	Proposed First Floor Plan	14.07.2020
LP 20 104 Rev P4	Level 6-7	Proposed Second Floor Layout	14.07.2020
LP 20 105 Rev P3	3rd & 4th	Proposed Fourth Floor Plan	14.07.2020
LP 20 106 Rev P3	5th & 6th Floor	Proposed Fifth Floor Plan	14.07.2020
LP 20 107 Rev P3	--	Proposed Seventh Floor Plan	14.07.2020
LP 20 108 Rev P3	--	Proposed Eighth Floor Plan	14.07.2020
LP 20 109 Rev P3	--	Proposed Ninth Floor Plan	14.07.2020
LP 20 110 Rev P4	--	Proposed Tenth Floor Plan	14.07.2020
LP 20 111 Rev P2	--	Roof Plan	14.07.2020
PL(20)200	--	Existing North Elevation	18.07.2019
PL(20)201	--	Existing East Elevation	18.07.2019
PL(20)202	--	Existing South Elevations	18.07.2019
PL(20)203	--	Existing West Elevation	18.07.2019
PL(20)204	North & East	Existing Street Elevations	18.07.2019
PL(20)205	South & West	Existing Street Elevations	18.07.2019
PL(20)210 Rev P3	North & East	Proposed Street Elevations	14.07.2020
PL(20)211 Rev P2	South & West	Proposed Street Elevations	14.07.2020
PL(20)212	Rev P2	Proposed North Elevation	14.07.2020
PL(20)213	Rev P3	Proposed East Elevation	14.07.2020
PL(20)214	Rev P3	Proposed South Elevations	14.07.2020
PL(20)215	Rev P2	Proposed West Elevation	14.07.2020
PL(20)220 Rev P2	North & East	Proposed Street Section	14.07.2020
PL(20)222 Rev P1	North A-A	Proposed Section	14.07.2020
PL(20)223 Rev P2	East B-B	Proposed Section	14.07.2020
PL(20)224 Rev P1	South C-C	Proposed Section	14.07.2020
PL(20)225 Rev P1	West D-D	Proposed Section	14.07.2020
PL(20)226 Rev P1	North E-E	Proposed Section	14.07.2020
PL(20)227 Rev P1	South F-F	Proposed Section	14.07.2020
PL(20)228 Rev	North G-G	Proposed Section	14.07.2020

P1				
PL(20)112	Rev P3	Proposed Location Plan		14.07.2020
3464 PL 240 Rev	Staircore D	Partial East Elevation		14.07.2020
P1				
3464 PL 241 Rev	Entrance	Partial South Elevation		14.07.2020
P1	Core A			
3464 PL 20 42	Commercial	Partial East Elevation		18.07.2019
	Gym			
SLD-UD103-LM1	Rev B	Landscape Masterplan		14.07.2020

## INFORMATIVE CLAUSES

1. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address these concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
  
- 2 Highway Informatives:
  - i. The above measures should be imposed by way of negative planning conditions or a planning obligation.
  - ii. Any trees, structures and non-standard materials proposed within the existing extent of the public highway or areas to be offered to the Highway Authority for adoption as public highway, will require a contribution (commuted sum) to cover the cost of future maintenance for a period of 15 years following construction; with all costs and details being agreed with the Highway Authority.
  - iii. If any highway requires Stopping Up then the proposed use shall not be commenced and subject land shall not be enclosed from the Highway until such time as an order has been confirmed extinguishing all highway rights therefrom to protect the public's right and ease of passage over the Highway. The applicant should establish title to the land.
  - iv. All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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) or by post to: SMO3 – Essex Highways, Unit 36, Childerditch Industrial Park, Childerditch Hall Drive, Brentwood, Essex, CM13 3HD.
  - v. 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.

## **Appendix 1: Supplementary Update - 14 October 2020**

### **Item 7**

#### **HW/FUL/19/00290 – Part of Terminus Street Car Park and Land South of the Car Park, Velizy Avenue, Harlow**

##### **Further correspondence:**

*We have received comments from the applicants in relation to the Officer Report to Committee as follows:*

*Please see below our comments on the Crown Gate Place Committee Report:*

- *The Report makes inconsistent references to the affordable housing provision; referenced as 7.4% in the Proposed Development section; 7% and 7.4% in the Affordable Housing section; and 7.7% in the Planning Balance section. Please can you ensure the affordable housing provision is presented on the basis of habitable rooms as 7.79% throughout the Report. Or clarify that the affordable housing provision equates to 7.79% in your update note?*
- *The Report fails to reference the updated comments issued by Essex CC Place Services. The Report relates only to the informal comments issued via email and not the comments contained within the letter dated 15/09/20. The last paragraph in the Place Services (Comments following revision) concludes Place Services would not support the scheme on the basis of the missing information and clear narrative to design and architecture within the current context. However, the comments dated 15/09/20 explicitly state "...we are confident that the Applicant and the team are able to easily provide and justify their approach in regard to design and its response to Harlow". The third paragraph in the Design and Its Impact on the Character and Appearance of the Local Area also fails to pick up Essex CC's updated comments dated 15/09/20. The update note should explicitly set out:*
  - *That Essex CC prepared updated comments dated 15/09/20 which concluded that they were confident the Applicant and the team are able to easily provide and justify their approach in regard to design and its response to Harlow; and*
  - *The Applicant provided a comprehensive response to Essex CC's comments to justify the architectural approach.*

##### **Officer Response:**

*In relation to the affordable housing figure – confusion has arisen due to the applicant's use of both a unit percentage and a habitable room percentage in respect of the affordable housing provision. The revised development would provide 150 dwellings; the affordable offer is 11 dwellings. As a percentage of the revised scheme total no. of units this would be 7.4% (rounded up); nonetheless, this does not significantly alter the relative shortfall in the achievement of the expected baseline of 30% affordable dwellings, nor the conclusions reached in the report in relation to provision of affordable housing.*

*The applicants have indicated on a habitable rooms basis, e.g., based on no.s of living rooms and bedrooms within the allocated affordable housing units that the percentage is 7.79%, however Policy H5 of the adopted Plan (and Policy H8 of the emerging Local Plan) do not refer to habitable rooms in either the policy or reasoned justification as being an appropriate/acceptable measure for consideration of the provision of affordable housing.*

## **Design:**

*The Officer Report does not specifically reference all comments received from Place Services or the applicant's response to those comments. Place Services final comments added in that they considered justification would be possible. Comments from the applicants are included at Appendix A.*

*The Officer Report concludes that the scheme is acceptable in terms of its design and layout, the initial comments by Place Services re lack of justification have not resulted in the scheme being considered to be unacceptable on this ground, however it is recognised that this additional sentence is more positive than the initial comments received from Place Services.*

*Comments received from the applicants in response to Place Services comments do not alter the proposal and do not therefore require any additional consideration bearing in mind that the Officer Report concluded that the scheme is acceptable in terms of its impact.*

*However, the emerging Local Plan now has significant weight and it is suggested, in line with emerging Policy H5 (as proposed to be amended In the Major Modifications document) that wheelchair housing should be provided in line with the latest SHMA. The latest SHMA is dated 2015 and at paragraph 6.34 this indicates that "The evidence therefore supports the need for 10% of market housing and 15% of affordable housing to meet Category 3 [Part M M4(3) of the Building Regulations] requirements". The applicants have offered to provide all housing across the site as adaptable (within Part M4(2) of the Building Regulations) with 10% wheelchair (including 2 of the 11 affordable housing units – 18%). Officers consider that the proposal would provide sufficient adaptable and wheelchair housing provision to be acceptable and therefore propose the following additional condition:*

*"Prior to first occupation of the dwellings hereby approved, the wheelchair adaptable (Part M4(2) and wheelchair-accessible housing (Part M4(3) shall be implemented in accordance with the approved plans  
Reason: To accord with the NPPF and the emerging Local Plan Policy H5 of the Local Plan (as amended by the Major Modifications Document)"*

*Also, additional proposed conditions relating to climate, as follows:*

*"The proposal shall be built in accordance with the climate measures proposed within the submitted Energy Statement and shown on the approved plans; such implemented measures shall be retained and maintained.*

*"Reason: To ensure that the proposal is provided in accordance with climate reducing measures in accordance with the NPPF and emerging policy PL3 of the Local Plan"*

*"Prior to occupation, the proposed electric vehicle parking provision shall be implemented in accordance with the approved plans and thereafter they shall be retained and maintained solely for use by electrical vehicles.*

*Reason: In the interests of reducing reliance on petrol/diesel fuels in accordance with the NPPF and Policy IN1 of the emerging Local Plan."*

## **Alteration to recommendation:**

*It is proposed to the wording of the recommendation (set out on page 24 of the published agenda pack).*

*It should now read as follows:*

That Committee resolve to **GRANT PLANNING PERMISSION** subject to:

- i. *The applicant entering into an appropriately worded Section 106 Legal Agreement to secure the proposed 7.4% affordable housing and a viability review mechanism; AND*
- ii. *Delegated Authority being given to the Planning and Building Control Manager to negotiate a suitable viability review mechanism/claw-back mechanism to be secured within the S106 agreement. This delegated authority shall extend to the prioritisation and allocation of any funds secured in subsequent reviews to the infrastructure contributions requested during the consideration of this application. AND*
- iii. *The conditions (Numbers 1 to 14) as set out in the published committee report, and the additional conditions sent out above.*

## **Appendix 2: Original Committee Report** (As published in Agenda Pack for 14 October 2020)

### **PROPOSED DEVELOPMENT**

*The proposal would involve the partial demolition of the existing car park and its redevelopment for a mixed-use development.*

*The proposal would involve the erection of a part 9, part 10 and part 11 storey building, configured as a square-shape at ground, 1st and second floor levels with two conjoined blocks above forming an “L-shape” with their front facades facing the eastern and southern boundaries of the site. Part of the car-park also extends the site along the eastern boundary.*

*The proposal would provide 150 residential dwellings of 1, 2 and 3 bedrooms (60 x 1- bed; 82 x 2-bed and 8 x 3-bed)*

*At ground floor level, it is proposed to provide 1,808.7 sq.m of commercial floorspace in flexible A1/A3/A4/B1/D1 use with 1,268.1 sq.m for commercial use and 540.6 sq.m for the gym. Plans show this configured as a gym to the eastern side fronting onto Velizy Avenue with its access to the south onto the link and commercial units to the southern and western elevations.*

*The proposal would result in the removal of the southern vehicle entrance into the private Terminus House car park and some existing parking spaces would be lost.*

*The proposal would also seek to reconfigure the existing access road to provide an improved pedestrian and cycling environment on the link between the shops and Harlow College and also incorporate appropriate servicing access for both the commercial and residential units.*

*The proposal would provide a fully landscaped outdoor amenity space (1265 sq.m) at podium level. This area would be multi-functional with areas provided for young, and older, children (182 sq.m), as well as space to relax and exercise for adults. Flats would be provided with private balconies. The link area would be provided with new hard and soft landscaping including some trees and sitting out areas and pedestrians and cycle paths would be separated to the north and south of the servicing access; the servicing access would be provided in the same high quality materials such that the link will function as a shared space, albeit that there would be kerb between the pedestrian level and the car/cycle space.*

*Of the 150 dwellings, 7 units would be affordable rent and 4 units for intermediate (shared ownership); therefore 7.4 % would be provided as affordable housing. The affordable rented units would be provided together with two of the intermediate units at first floor level in the south-facing block, with the remain two intermediate affordable units being provided to the second floor, also in the south-facing block (at the south-eastern corner).*

*Roofs to blocks A and B would be provided with sedum. Photovoltaic panels are shown on plans on the roof to Block C.*

*10% of the flats (15 units) would be provided as suitable for adaptation to provide wheelchair accommodation with a further 11 being wheelchair units. 10 of the parking spaces would be for people with disabilities.*

*It is proposed to provide sculptuary at both street and podium levels.*

Car (114 spaces), motor cycle (12 spaces) and cycle parking (210 spaces) would be provided within a re-configured part of the Terminus House Car Park/rear of block A for residential occupiers and visitors. A further 12 cycle racks would be provided on the pavement area. Cycle parking spaces for employees are to be provided within the commercial units.

## **RELEVANT PLANNING HISTORY**

There is no relevant planning history.

## **CONSULTATIONS**

### **HDC - Housing Services**

No Comment Received.

### **ECC Planning (Revised comments)**

The revision to reduce the number of proposed homes and increase the quantum of commercial floorspace in welcome in principle, since this is considered to offer a more positive likely contribution to town centre vitality and viability.

The stated position on viability however, still raises major issues. Whilst it is for the applicant / developer to take a stance on implementing (or not) any permission secured, the question of deliverability of this proposal needs consideration, if the stated position of negative RLV applies. It is recommended that Harlow District Council ensure the submitted viability assessment is sufficiently scrutinised and verified independently and it might be helpful to use the DCF method in addition to the currently used RLV approach.

The fact that it is stated that the proposal cannot support essential infrastructure / services contributions such as possibly including contributions to support sustainable transport (inc. STCs / TC transport interchange) or meet affordable homes requirements indicates that it is an unsustainable proposal for the town centre. Not providing contributions towards essential infrastructure would also be contrary to draft planning policies SIR1 (Infrastructure Requirements) and IN6 (Planning Obligations) which both highlight that planning permission will only be granted for development if the provision is secured for related infrastructure, affordable housing, services, facilities and environmental protection which are necessary to make the development acceptable in planning terms. Harlow Council must be fully satisfied that the overriding benefits of the proposal are of a sufficient scale and nature to outbalance the large unmitigated development impacts that this proposal would bring.

It is put forward that a late viability review mechanism for contributions should at least be included. It is emphasised however, that the contention that important contributions are to be subject to a late viability review mechanism raises large and substantial concerns since important community infrastructure requirements are needed to mitigate the impact of the proposed development in this location.

### **Regeneration**

No Comment Received.

### **Place Services (Comments following revision)**

- We still have concerns around the approach to architecture. Based on our previous responses and meeting held towards the beginning of this year we were expecting to see a much more clearer narrative to both its direct architectural context and how the proposed application responds to Harlow. Again there seems to be little or no

justification in this manner. This is true from materiality, form, fenestration etc. At our last meeting we outlined that the built form and design needs to marry with Harlow Town Centre rather than the application dictating the style and approach. No evidence has been produced.

- We also have concerns around how the Townscape Appraisal classes the townscape as low, where there is no justification or rationale in how this statement of low was derived. With the appraisal stating a low townscape it's clear this then provides the approach to design as open, where the applicant is able to push their own agenda. Should the townscape be classed as low, we would still expect to see in-depth analysis work by the applicant team to highlight buildings and environments which are of good to excellent precedents rather than writing off the whole town centre. These precedent examples would then aid in the narrative of the proposed application helping link the proposed built form within its setting. I'm not disputing this work hasn't been done but it is considered this is very important to demonstrate this contextual link with Harlow and its context.
- In regards to the above, the only reference to the selection of materials was in section 4.24 of the Townscape Appraisal, which is open ended and provided no firm links.
- The revision to scale is seen as a positive change. This provides good justification in the heights and scale when viewed against Terminus House. Where previously there were contradicting statements and approaches.
- The removal of the green wall and the inclusion of the active frontage facing the bus station will make a great change and help draw focus to this key space.
- It's considered there has been a review of the elevations in terms of fenestration and layout. It's of our opinion that the quality and arrangement of the elevations has been reduced since the previous revisions reviewed. It is considered there is less variation and variety across the elevations. It maybe the quality of plans issued or the level of detail portrayed in the plans which has raised this, but it would be good to discuss further with the applicant.
- It has been recognised that the arrangement of the GF and first floor now marries with the neighbouring car park structure. A small change but still noted.

In summary it is considered the new approach to scale and height of the blocks works well when viewed from both street level and in comparison to Terminus House. We still have concerns that the approach to architecture is still missing from the application where the classification of the townscape being low has been seen to justify proposing a style and finish to the application sites requirements and not the wider context. We do not dispute this hasn't been undertaken and we consider it being an important section to include within the application considering the strong identity Harlow has.

As the application stands currently we would not support the submission based on the missing information and requirement for a clear narrative to design and architecture within the current context.

#### **Historic Buildings Advisor (Comments on revisions)**

The application site is located within Harlow Town Centre, on the south west side of Velizy Avenue and adjacent to Terminus House and Harlow Bus Station.

Previous advice has established that the non-designated status of Terminus House and the multi-storey car park has been reconsidered and reviewed in response to the applicant's comments and a further, more detailed assessment of the site. It was set out that: "Whilst they [Terminus House and car park] are of local distinctiveness and contribute to local character, they are not considered to be non-designated heritage assets. However, they are of value to the townscape in demonstrating the late 1960s growth of Harlow Town Centre and the increased pressure for space at this time which resulted in vertical development. In

*design, materiality and construction techniques the buildings are typical of late the 1960s and reflect the character of the New Town.”*

*As such, it was considered that any new building on the application site should respond to its context, reflecting the architecture of Harlow New Town in terms of its scale, massing, design and detailing.*

*The revised proposals have reduced the height and overall scale of the proposed, as well as reconfigured the massing. This has improved the relationship between the proposed development and Terminus House, which is therefore considered to be an enhancement on the previous scheme.*

*It is considered however that there has been little change to the design and detailing of the proposed and that the design fails to successfully respond to its post-war context or provide reference to the mid-twentieth century heritage within Harlow New Town.*

*It has been noted in previous advice that Paragraph 192 (c) of the National Planning Policy Framework (NPPF) sets out the desirability of new development making a positive contribution to local character and distinctiveness. Whilst the reduction in height and massing of the proposed are considered to be positive, it is considered that a more appropriate design could be achieved which responds to the surrounding context and the identity of Harlow New Town. It is acknowledged however that this is an Urban Design consideration.*

#### **Archaeology**

*The site has previously seen development such that it is not likely any archaeology would remain.*

#### **Harlow Civic Society**

*No Comment Received.*

#### **Designing Out Crime Officer**

*Some measures have been revised to ensure that the scheme would be acceptable in designing out crime terms.*

#### **Essex County Council - Highways**

*The Highway Authority has considered the above planning application, visited the site and thoroughly assessed the submitted transport information and has concluded that the proposal is not contrary to current National/Local policy and safety criteria.*

*The applicant has submitted a Transport Assessment (TA) that demonstrates, to the satisfaction of the Highway Authority, in terms of safety and capacity that the impact of the proposed development will be an acceptable level. Consequently no junction assessments are considered necessary for the proposal.*

*The methodology informing the parking provision is considered to be acceptable especially given the location of the site and its position in terms of easy access to other modes of sustainable travel. Furthermore, the surrounding roads in the locality are well secured with appropriate parking restrictions. The car park surveys demonstrate that there will be no detriment to Town Centre parking as a result of the development.*

*Therefore, the Highway Authority has concluded that the proposal will not be detrimental to highway safety, capacity or efficiency at this location or on the wider highway network and does improve cycling and walking facilities within the vicinity of the site.*

*From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions relating to the submission of a Construction Management Plan, timing of highway works, undertaking of a signage audit, provision/ marking out and retention of vehicle/cycle areas, provision of Residential Travel Information Packs and provision of contributions towards the Sustainable Transport Corridors together with informatives.*

**ECC - Broadband and Connectivity**

*In line with the objectives stated in the Government's Future Telecoms Infrastructure Review 2018, all new developments should include provision of future proofed internet access, ideally Fibre to the Premises. Where this is possible, provision of fully operational 5G mobile connectivity may also be accepted as appropriate broadband coverage, if arrangements are made for all premises in the development to access this at affordable prices, comparable to a fixed-line fibre broadband service, and this access is fully available at the time of completion of the build. Plans for such an approach should be submitted for review by the Planning Authority.*

*Developers are expected to proactively contact a telecommunications network operator of their choice to plan for internet connectivity installation as part of the build process. Developers are expected to provide details of their plans to install internet connectivity as part of their planning applications.*

*Any new housing development over 30 homes is likely to be provided with full fibre internet access (FTTP) free of charge by the large network operators. For smaller developments the network operators may request a contribution to the build cost. Openreach and Virgin Media have New Sites teams where developments can be registered. Other network operators are available and developers can work with them, but confirmation must be provided that fibre connections installed by alternative operators will be fully connected to the internet by appropriate backhaul links and broadband services will be available for customers to subscribe to at the time the development is complete. Where smaller in-fill type developments are built in areas within existing part-copper fibre-to-the cabinet (FTTC) coverage, developers are expected to work with the network operators, either to seek installation of full-fibre connections or to ensure that sufficient FTTC capacity to supply the new premises is made available when properties are completed.*

*Developers should be aware that in Essex, alternative network operator Gigaclear plc has a significant full-fibre network deployment in the Epping Forest, Uttlesford, Braintree and north Colchester areas. Gigaclear is likely to be keen to extend its own FTTP network to new housing, or business parks.*

**Environment Agency (Hertfordshire & North London)**

*No Comment Received.*

**Essex County Fire and Rescue Service**

*No Comment Received.*

**HDC - Housing Services**

*No Comment Received.*

**HDC - Cleansing and Environment**

*No Comment Received.*

**Natural England**

*No Comment Received.*

### **ECC – Natural Environment/Sustainability**

*The amendment to the Design and Access Statement, Landscape Design Statement and Landscape masterplan drawing are welcomed. It is acknowledged that the consideration of using natural and reclaimed materials for the garden/street furniture and to provide natural play that will be provided during the detailed design stage. We would also recommend dual-purpose street furniture/ refuse storage and cycle stand (latter too where viable) i.e. a bench and planter, or a bike park with planters or green roof on refuse/bike storage, to be considered. The design of the street furniture can contribute to the landscape character, greening the town centre, whilst reduce clutter of an area or street and act as a green corridor/link to the wider landscape scale green infrastructure (GI) network.*

*It is not clear from the Design and Access Statement or Landscape Design Statement and drawing whether the bio-diverse roof on the 10-storey build will incorporate bio-solar. It looks like it may be the case from the drawing (if so, it is supported), but there is no mention of this other than the Energy Statement alluding to ruling PV out due to the removal of the feed in tariff.*

*The proposal for bio-diverse roofs and areas, wildlife features such as insect hotel and bird boxes to be built into the fabric of the building and planting of specific species to encourage biodiversity is supported.*

*We reiterate the importance to ensure green infrastructure is integrated in all decision-making at every stage of the planning and design process, thus GI is integral to place-shaping. Covid-19 has highlighted the importance of GI and accessibility to open spaces for daily exercise, as well as the function and facilities provided by that open spaces to be inclusive and to allow for social distancing. The limitations imposed by Covid-19 lock down have brought to the forefront the need to be smart/ innovative about improving access and creating pockets of green space to protect our wellbeing, and that of the wildlife we are welcoming back to our urban environment. GI must not be seen in isolation from 'grey' infrastructure, but as a means to improve its performance and benefits and create new linkages in the surrounding areas to enhance and develop the existing GI networks in our towns.*

*It is also important to ensure appropriate management and maintenance arrangements and funding mechanisms are put in place to secure and maintain high quality value and benefits of the GI assets long-term. It is acknowledged that a document covering a Maintenance Statement and High-Quality Green Infrastructure by Land Design will be submitted in due course to Harlow. We would expect to be made aware if this document is submitted.*

*Electric Vehicle Provision - It is noted that from the applicant's response to previous recommendations for the provision of electric vehicle parking is supported and will included these facilities within the proposal. This is subject to being secured by planning condition in accordance with Policy IN1 of the emerging Harlow Local Development Plan.*

*Climate Change - The UK is bound by the Climate Change Act 2008 to achieve net zero Green House Gas (GHG) emissions by 2050. This shift to net zero target from the previous target of 80% reductions on a 1990 baseline has brought into sharp focus the need to radically tackle GHGs across all sectors including the built environment. Essex County Council (ECC) has a commitment to formulate a Climate Action Plan to reduce carbon emissions across the county of Essex and in addition has recently inaugurated an independent, cross-party Essex Climate Change Commission. The below comments therefore provide feedback on climate change measures included within this proposed development.*

*We welcome the proposal of air-source heat pumps in commercial units, however we would strongly encourage the further consideration of more renewable energy generation on site to meet a larger proportion of the energy demand of the development, as well as installation in residential units. The integration of renewable energy systems into developments will increase the sustainability of homes, reduce pressure on fossil-fuels, and cut running costs, as well as aligning with ECC and the national target to be net zero by 2050. Projects would be expected to include ambitious sustainable energy infrastructure sufficient to meet a very significant proportion of the needs of the development. We suggest that this development should aim to be net zero recognising that homes built now that do not reach this standard add to the size of the challenge to be net zero by, at the latest, 2050.*

*Furthermore, the Essex Design Guide states that “Sustainable energy systems and supplies should be designed into the layout of developments and homes” and that “consideration should be given to how smart infrastructure can be integrated into the communal areas, including waste disposal points, shared batteries for renewable energy sources etc. It is encouraging to see that the proposal has increased CO2 reductions beyond those currently required through current building regulations, however the further inclusion of renewable energy generation will provide an opportunity to also align with the new Future Homes Standards to come into force in 2020 and 2025 with a ‘fabric plus technology’ approach. We suggest that more ambitious plans for on-site renewable generation are included. In addition, no reference is made to the embodied carbon of the development. The development should aim high in seeking to reduce embodied as well as operational carbon use.*

#### **Sustainable Drainage Team/Lead Local Flooding**

*Having reviewed the Surface water Drainage Report and the associated documents which accompanied the planning application, we do not object to the granting of planning permission subject to the attachment of conditions relating to detailed drainage scheme, a drainage maintenance plan and maintenance logs, clearance of existing surface water pipes.*

#### **ECC Early Years**

*The Early Years and Primary/Secondary School contribution requested is £582,934.32. Any change in revised unit numbers and potential impact on contributions requested can be dealt with at the S106 agreement stage. As highlighted earlier in this letter, if Harlow Council are minded to approve the application without such contributions included within a Section 106 agreement, a late viability review mechanism for these contributions should as a very minimum be included. It is highly reiterated however, that the contention that these contributions are to be subject to a late viability review mechanism raises significant concerns since these are important community infrastructure requirements to help mitigate against the impact of the development on local service provision.*

#### **Natural Environment**

*The amendment to the Design and Access Statement, Landscape Design Statement and Landscape masterplan drawing are welcomed. It is acknowledged that the consideration of using natural and reclaimed materials for the garden/street furniture and to provide natural play that will be provided during the detailed design stage. We would also recommend dual-purpose street furniture/ refuse storage and cycle stand (latter too where viable) i.e. a bench and planter, or a bike*

#### **Arboricultural Consultants**

*Following a site visit to assess any potential arboricultural constraints on 31st July 2020, it is evident that the proposed development will require the removal of three London plane trees at the car park entrance. Mature specimens, they are prominent in the locality. However, with the opportunity to enhance the street scene and provide amenity space with trees, it is considered a fair compromise to remove 3 trees for the ability to plant further.*

*Comment should be made on the choice of tree which will be close to the buildings, at this stage they are not set in stone and the applicant should be considerate to the fact of placing trees which will attain a large crown spread close to the buildings proposed. Fastigate species may result in less frequent conflict with buildings. This scheme is considered acceptable, however detailed design of landscaping will be necessary to ensure that the current proposals are feasible moving forward.*

*Therefore, the application can be considered for approval providing a condition is attached to require details of a landscaping scheme for approval.*

**Police – Secured by Design Officer**

*Comments in relation to revisions – following the adoption of suggested changes, the proposal would meet the requirements of Secured by Design.*

**NHS West Essex CCG**

*A request is made for funding towards primary healthcare facilities*

**Essex Wildlife Trust**

*No Comment Received.*

**Neighbours and Additional Publicity**

*Number of Letters Sent: 276*

*Total Number of Representations Received: 7*

*Date Site Notice Expired: 30 August 2019*

*Date Press Notice Expired: 29 August 2019*

**Summary of Representations Received**

*Six comments were received objecting to the proposed development on the following grounds:*

- Overdevelopment, high density and an eyesore*
- Overshadow the adjoining hotel and residential properties*
- Low amount of affordable housing*
- No provision of doctors or educational monies*
- Loss of adjoining hotel parking spaces from Terminus Street Car Park*
- Noise during and after construction (due to through road) affecting hotel business*
- Concerns for pedestrian/cyclist safety to south of building*
- Reduced privacy to hotel bedrooms*
- Insufficient parking provision*
- Building would not provide decent housing or greenspace*
- People will not buy accommodation due to Terminus House concerns*
- Removal of southern entry/exist to Terminus Street Car Park resulting in congestion on the south-bound carriageway/underpass on Velizy Avenue*
- Increased concern for safety of pedestrians and cyclists on Velizy Avenue*

*Following revisions, one piece of correspondence was received reiterating earlier concerns but recognising that the revisions increased the gap between the proposed building and Terminus House and reduced concerns relating to the safety of pedestrian and cyclists to the south of the proposed building. It also indicated that there was a need for a wider review of Velizy Avenue in relation to traffic/congestion/pedestrian and cyclist safety.*

## **PLANNING POLICY**

*BE1:"Character and Identity" new and extended buildings should relate to their setting to strengthen, enhance, protect or create local character. Permission will be granted for new development providing: it is well connected to and integrated with the wider settlement; the height massing, layout, appearance and landscape makes an appropriate visual relationship with that of the form, grain, scale, materials and details of the surrounding area; building design is specific to the site and its context; it enhances the character, image and perception of the area when highly visible.*

*BE3:"Sustainable Development" development on previously developed land at a higher density than that existing will be supported providing; it is accessible by public transport or is in a sustainable location relative to proximity to supporting services and/or employment sites; does not result in over development; is compatible with the character of the area and urban design policies and guidance.*

*BE4:"Accessibility" permission will be granted providing provision has been made to achieve accessibility for disable people, including accessibility to any public or private open space that serves the development.*

*BE5:"Crime Prevention and Personal Safety" proposals should demonstrate how the potential for preventing crime has been satisfactorily addressed through the design, layout and landscaping. These should be integral to the design.*

*BE6:"Listed Buildings" proposals for the extension or alternation of any listed building, alteration of its setting, conversion or change of use should not adversely affect or harm any of the following: the character that forms its value as being of special architectural or historic interest; particular physical features that justify its protection; its setting in relation to its grounds, the surrounding area, other buildings and wider views and vistas.*

*BE15:"Contaminated Land" permission will not be granted for developments on or affected by ground that is known to be contaminated until fully investigated.*

*BE16:"Light Pollution" external lighting will not be granted if: it is unacceptably intrusive; its use would cause an unacceptable disturbance to the surrounding area; it causes danger to road safety; it is proven to have an adverse effect on sites of wildlife importance. Where permission is granted, means of reducing light spillage should be adopted.*

*BE17:"Noise Pollution" permission will be granted if noise sensitive developments are located away from existing noise sources and potentially noisy development are located in areas where noise will not be such a consideration, or adequate provision has been made to mitigate the adverse effects of noise likely to be generated and experienced by others.*

*BE19:"Environmental Improvements" Two areas for regeneration have been identified: Northbrooks Regeneration Area and Old Harlow Area of Opportunity.*

*CP1:"Community" major new housing development should set aside land and make financial contributions for the provision of associated community facilities such as schools, community centres, health centres and churches. These facilities should be sited in local centres or other sustainable locations.*

H2: "Housing Needs" allocated housing sites include the:

- Harlow Sport Centre
- Harlow Swimming Pool
- Old Harlow Area of Opportunity
- Faircroft Little Bays
- Northbrooks Regeneration Area
- Sherards House
- Rye Croft Garage Site
- Marshgate Farm Depot
- Newhall
- Wych Elm
- Ram Gorse Playing Field.

H4: "House Types" new housing and conversions will be required to accommodate a range of dwelling types which reflect the housing need requirements for Harlow.

H5: "Affordable Housing" on site of 15 or more dwellings or more than 0.5 of a hectare affordable housing provision will be negotiated. 30% affordable housing is the baseline for such negotiations.

H6: "Affordable Housing" on sites where there is no RSL involved in the management of affordable housing, planning obligations will be used to secure successive occupants.

IMP1: "Planning Obligations" permission will only be granted for any development if the provision is secured for related infrastructure, services, facilities and environmental protection which are fairly and reasonably related to the scale and in kind.

L13: "Public Rights of Way" the existing network will be safeguarded. New footpaths, bridleways and cycleways will be required as part of new developments and will need to link with existing routes to provide better access to the countryside and wider areas of woodland within the Town and beyond. The highest standard of design, accessibility and personal safety.

L14: "Arts, Culture and Entertainment" encouragement is given to the provision of new cultural and entertainment facilities. In particular those which overcome specific deficiencies identified within the Council's strategy.

L2: "Open Space and Playgrounds/Play Areas" for new development the following provisions will be sought: on residential developments of more than 10 dwellings, public open space and inclusive playgrounds/play areas are required to be provided; off site contributions may be considered where it is not possible to provide it on site due to the circumstances of the development, or if there are particular deficiencies in the surrounding area; open spaces/playgrounds should be offered for adoption to the Council, with an agreed maintenance contribution.

L9: "Local Recreation Provision" new sports and recreation facilities are to be provided at the following sites: Mark Hall School; Church Langley Park; Land to the north of Newhall.

NE10: "Accessible Natural Greenspaces" proposals creating accessible habitats are encouraged if they contribute towards achieving the Accessible Natural Greenspace standards.

*NE11: "Trees and Hedgerows" in considering applications for development affecting trees or hedges the following may be required: a survey of the site and trees and hedges concerned; oppose the loss of trees and hedgerows of amenity value and wildlife importance; serve TPO's to protect trees with public amenity value; may impose conditions to ensure the retention or replacement of trees and hedgerows of amenity value or wildlife importance and their protection during construction.*

*NE12: "Landscaping" major developments shall be accompanied by details of landscaping features and wildlife habitats and suitable landscaping schemes to mitigate against any impact, along with new landscaping.*

*RTCS10: "Primary and Secondary Frontages" within the town centre primary shopping frontage changes of use from A1 to A2 and A3 may be permitted if: no more than 15% of the primary frontage may be occupied by non-retail uses; maximum number of adjoining A3 uses is 2 units and no more than 2 units out of every 5 are to be in non-retail uses; the use is appropriate to the town centre; it should not affect the retail function and character; it is not detrimental to the vitality and viability of the town centre; there is not loss of key facilities.*

*RTCS3: "Town Centre and Regeneration" permission will be granted for proposals that strengthen the role of the town centre by: improving the range and quality of facilities including retailing, employment, leisure, entertainment and culture to encourage a vital and vibrant town centre environment; increasing diversity, quality and inclusive nature of employment opportunities, leisure, social, educational and cultural facilities, to meet the needs of the local population; managing road traffic and improving access and road safety, while improving facilities for passenger transport users, pedestrians, cyclists and those with special needs and providing car parking where appropriate; enhancing the town centres character and appearance; improving facilities for disabled people, elderly people and carers with babies and children; providing mixed use development including residential or other suitable uses on vacant or underused upper floors; retaining key facilities.*

*RTCS4: "Town Centre and Regeneration" permission will be granted for proposals that will produce an improvement in the environmental quality of the town centre, or otherwise be of benefit to those working, visiting or residing within the centre.*

*SD4: "Mixed Uses: Integrating Development and Travel" supports mixed use development within the town centre if the criteria are met: the proposals is for compatible uses; there is no loss of retail or other business uses, which would adversely affect the vitality or viability of the centre or result in the loss of community, cultural or leisure uses; car parking standards may be reduced or not required for residential development in centres.*

*SD5: "Mixed Uses: Integrating Development and Travel" permission will be granted for mixed use proposals if: the uses are compatible and do not prejudice the amenity, function or character of the area; and is in an accessible location.*

*SD6: "Mixed Uses: Integrating Development and Travel" where there is concern regarding future potential adverse effects from intensification of use, a condition or legal agreement will be required to control later changes of use.*

*SD9: "Waste Reduction, Re-Use and Recovery" developments that result in the movement of soil should ensure: techniques to minimise loss and/or damage to soil during handling and storage are employed; optimise the use of soil on the development site; prevent unnecessary mixing of topsoil and subsoil; submit a soil movement strategy where necessary.*

*T3: "Transport Impact Assessments" major developments generating the equivalent of 50 passenger car units or more per hour will be required to produce a TIA, developments will be refused where significant impacts are identified and not mitigated against.*

*T6: "Cycling and Walking" new developments, including re-developments, changes of use and town centre and transport interchange improvements will be required to provide: safe, direct cycleways within the development; appropriate contributions to improve and develop cycleways serving the development; links to the existing cycleway network; safe, secure and convenient cycle storage; other facilities for cyclists as appropriate.*

*T7: "Cycling and Walking" the following improvements will be made to the cycle network within the plan period: T7/1 Town Centre Cycleway; T7/2 Southern Way Cycleway; Edinburgh Way Cycleway.*

*T9: "Vehicle Parking" parking shall be provided in accordance with the adopted vehicle parking standards. Justification is required for the amount of car parking proposed on an operational need and, if applicable, a Green Commuter Plan.*

### **Harlow Local Development Plan Pre-Submission Publication (2018)**

*The new Harlow Local Development Plan is currently being examined by an Inspector appointed by the Secretary of State.*

*Paragraph 48 of the NPPF sets out that weight may be given to relevant policies in emerging local plans according to the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given); the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight may be given); and the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).*

*The 'Harlow Local Development Plan Pre-submission Publication' (the 'emerging Local Plan') was submitted for examination in October 2018. The Examination started with public hearings which ran between March and April 2019.*

*In December 2019, the Inspector wrote to the Council with suggested modifications to the emerging Local Plan. The modifications are necessary in order to ensure the Plan is sound, that issues raised during the Examination have been considered, and that the Plan can, therefore, be formally adopted by the Council.*

*The detailed Main Modifications to the emerging Local Plan, were consulted upon between 12 March and 31 May 2020. On the 8 September 2020: Harlow Council published a new report relating to housing need. A consultation on this report ran for 2 weeks until 25 September 2020. Subject to receipt of the Inspectors report, is anticipated the Plan will be formally adopted by the Council in Autumn 2020.*

*It is considered, therefore, that the policies within the emerging Local Plan are consistent with the policies in the 2012 NPPF, as it was submitted during the transition period between the 2012 and 2018 NPPF versions. Significant weight can, therefore, be given to relevant emerging Local Plan policies at this stage. Relevant policies are discussed within the Planning Assessment section.*

## **Harlow Town Centre Area Action Plan**

*A draft Harlow Town Centre AAP (HTCAAP) was submitted to Cabinet in December 2019 and was to be the subject of public consultation. A recent review, partly in response to the Coronavirus pandemic, has highlighted the need to revisit some details. As a result, the weight to be given to the draft APP is limited.*

### **Other Guidance**

*Harlow Gilston Garden Town Vision and Design Guide  
Affordable Housing SPD  
Harlow Design Guide SPD  
National Planning Policy Guidance (NPPG)*

## **PLANNING ASSESSMENT**

*This application is in full and is for development of part of the car park to the south of Terminus House. The proposal would remove the southern vehicle entrance to the Terminus House Car Park and provide a mix of commercial and residential development together with a gym, external amenity space and environmental improvements to the streetscene to Crown Place.*

*The key considerations in determining this application are: the principle of the development; the design and layout of the scheme; the impact on the character and appearance of the area; the impact on trees and other landscaping; the impact on amenity of local residents; and parking/Highway Safety.*

### **Summary of Main Issues**

#### **Principle of the Development**

*The proposal would result in a redevelopment of the southern part of the existing Terminus House Car Park and provision of a commercial and residential development on upto 11 floors together with a gymnasium to the ground floor.*

*The proposal would result in the removal of the southern vehicle entrance into the private Terminus House car park and some existing parking spaces would be lost. Parking would be provided within the Terminus House Car Park for residential occupiers and visitors.*

*The proposal would also seek to reconfigure the existing access road to provide an improved pedestrian and cycling environment while also providing appropriate servicing access for both the commercial and residential units.*

*The proposal would provide outdoor amenity space at podium level.*

*Policy RTCS3: "Town Centre and Regeneration" indicates that permission will be granted for proposals that strengthen the role of the town centre and Policy RTCS4: "Town Centre and Regeneration" indicates that permission will be granted for proposals that will produce an improvement in the environmental quality of the town centre, or otherwise be of benefit to those working, visiting or residing within the centre.*

*Policy SD4: "Mixed Uses: Integrating Development and Travel" supports mixed use development within the town centre subject to relevant criteria that: the proposals is for compatible uses; there is no loss of retail or other business uses, which would adversely affect the vitality or viability of the centre or result in the loss of community, cultural or leisure*

uses; car parking standards may be reduced or not required for residential development in centres.

Policies RTCS3 and RTCS4 indicate that regeneration of Town Centre sites is welcomed which the proposal would meet. Policy SD4 indicates that mixed uses will be acceptable in the Town Centre; the proposal is for residential, commercial and community uses which would meet this policy.

In addition, Policy BE3 indicates that sustainable development will be enabled at higher densities, as proposed by this development.

Strategic Policies SD1 (sustainable development), HS1 (Housing delivery) and RS3 (protecting and enhancing existing retail centres) of the emerging Local Plan are also relevant.

While the weight to be given to the draft Harlow Town Centre AAP (HTCAAP) is limited, the draft AAP does set out some principles/aims for the regeneration of Harlow Town Centre including the need to welcome in development which has a residential element to help to boost the evening economy and make environmental improvements to the public realm.

The proposed scheme would introduce 150 dwellings into the town centre and provide some commercial development and a gym. It would be located on a strategic link between the town centre shops and civic elements (including the library) and the Harlow College which the emerging Local Plan would incorporate into the Town Centre area. It is considered that the proposal would meet the aims/principles set out in the draft AAP while also improving a link to a new part of the Town Centre as envisioned in the emerging Local Plan.

The proposal would be acceptable in principle, in line with both existing policies of the ADHLP, draft HTCAAP and emerging policies of the draft Local Plan.

### **Design and Its Impact on the Character and Appearance of the Local Area**

The application site lies within Harlow Town Centre to its eastern boundary with Velizy Avenue (dual carriageway). Adjoining the site to the north lies Terminus House and the remainder of the Terminus Street Car Park, to the north east is the bus station, west are shops and rear servicing access and to the south, the Holiday Inn Hotel. To the east across Velizy Avenue is Harlow College with residential properties in The Hides to the north-east.

The scheme would provide a multi-storied block with commercial and community uses to the lower floors with residential rising above them in an “L-shape”. The blocks would present a solid section to the eastern and southern boundaries of the application site.

ECC Place Services indicate that the revisions with its new approach to scale and height of the blocks works well when viewed from both street level and in comparison to Terminus House. However, they consider that there is missing information which would enable them to accept the approach to architecture; particularly that they do not agree with the applicant that the classification of the townscape is low such as to justify proposing a style and finish to the application sites requirements and not drawn from the wider context. However, they do indicate that they do not dispute the work hasn't been undertaken by the applicants only that the application doesn't include a section within in it to explain the new building in the context of the strong Harlow identity.

There is a unique identity to Harlow and its town centre, mainly due to it being conceived and constructed as a whole in the 1950s onwards, rather than incrementally expanding from a core/older area. Nonetheless the originator, master planner/architect Frank Gibberd saw

*Harlow as a town to grow, respond and evolve to meet the needs of the people at the time. In some respects, the original layout for the town centre has already been altered from the original concept with Terminus House and car park being located on what was originally a mainly large open car park area and the Town Hall having been rebuilt with additional building of shops to the south. Harlow College is proposed to be included in the Town Centre boundary in the emerging Local Plan and, neither it nor the Sports Centre were part of the original Town Centre concept.*

*The proposed building would sit between two taller buildings in the Town Centre where it would provide a "Stepping up" arrangement. Notwithstanding, it would be located sufficiently far from Terminus House itself not to result in any diminution of its importance as a landmark in longer distance views. It would also be located away from Holiday Inn to the south a similar distance to other existing gaps ("gate gaps") which provide entry points into the Town Centre from the adjoining roads.*

*The proposal would introduce a more modern block into the town centre. While there is some consideration as to whether a more modern looking, perhaps more "London"-looking, building would be contrary to the historic identity of the Town Centre, consideration must be given to the fact that Harlow is dated around the middle of the 20th Century and this proposal is to be constructed for and in the 21st Century. There is no Conservation Area in the Town Centre and the nearest Listed Buildings are St Peter's Church and Water Gardens some distance away, over which the proposal would not have any impact. As a natural process, Town Centres normally evolve to contain buildings from different eras which contribute to the vitality and viability of the area as well as to the visual amenities of a locality.*

*The building would be relatively tall at 8/10 storeys, set between and viewed as one of a small number of existing tall buildings on this outside edge of the Town Centre onto the dual carriageway of Velizy Avenue. In views from the south, the proposed stepping up from the Holiday Inn to the lower block, then higher block and Terminus House, would provide an element of flow which would not appear out of keeping. From the north the building would be seen in part beyond Terminus House which would remain the tallest building. In views from the east, The Hides and Harlow College, the new "infill" tall building would define more clearly the location of the Town Centre. While the building would be relatively tall, it is not considered that it would be clearly viewable from the west of the town centre given intervening buildings. Wider views, particularly those from higher viewpoints to the south, would be similar to those from The Hides and Harlow College in that the proposed building would help to more clearly define the Centre of Harlow. ECC Place Services support the changes made to lower the building and increase the distance away from Terminus House so that the latter continues its role as a Landmark building.*

*At ground level, the proposal would remove the car park entrance and only vehicles servicing the blocks and commercial/community uses to the ground floor would access the slip road. This allows for significant improvements in the pedestrian and cycling environment with the cycle path being set to the southernmost boundary and the pedestrian link being re-directed to the northern side of the service access on the same side as the commercial activity. The link would be as wide as other "gate gaps" into the Town Centre with high quality materials including tree planting with entrance lobbies to the residential blocks and to the gymnasium providing activity throughout the day. The revisions to the original scheme have also increased the amount and location of the commercial activity such that the scheme would also have an active presence to the western side of the building (replacing the previous green wall curtain) at the south-eastern side of the existing bus station apron, invigorating and rejuvenating the currently poor environment at the southern entrance to the Terminus House Car Park.*

*Above ground level, there is articulation of the blocks both in respect of the blocks being of differing heights, being set at right-angles and also as balconies are provided for all the residential units. Window recesses, fenestration and the external materials also help to break up the overall bulk of the tall building.*

*While the narrative of how the scheme reflects the Harlow identity may not be fully reflected in the supporting documentation, it is considered that a high standard of design is presented which would augment the existing site and the surrounding area to the eastern side of the Town Centre without appearing incongruous. The scheme has also incorporated the design principles of the Harlow Design Guide (2011) such as providing an active street frontage, provision of communal amenity space overlooked by habitable rooms, providing natural surveillance and a sense of ownership. This is together with the provision of high quality hard and soft landscaping to the south which provides a significant environmental improvement to this important link between the shopping and civic areas and Harlow College, such that it is considered that the development would positively contribute to the streetscene.*

*The proposal would, in addition to the individual balconies, include a large podium level communal outside amenity space with areas set aside and equipped for all ages to undertake some physical or social activity in a mainly green environment with lawned and tree'd areas providing for health and wellbeing. The opportunity for physical activity is also provided for residents (and others) in the form of a gymnasium at ground floor level. Social interaction would also be possible providing a café or restaurant is located at street level.*

*It is considered that the design, layout, scale, density and appearance of the proposed development represents a high standard of design and layout and as such, accords with the provisions of saved Policies BE1, BE3, RTSC3 and RTSC4 of the Adopted Replacement Harlow Local Plan (2006) as well as the design principles of the Harlow Design Guide (2011) and emerging Local Plan and draft Town Centre Area Action Plan (TCAAP). The proposal would also support the Harlow and Gilson Garden Town Vision and accord with the HGGT Design Guide, as relevant.*

### **Impact on Trees and other Landscaping**

*The site has a few trees to the south in the link area between the College/Velizy Avenue and the rear servicing areas of the shops/bus station. It is proposed to replace them with a high quality environment with trees to fit in with the new pedestrian/cycling environment with the servicing access. Trees and other soft landscaping would also be provided at Podium level.*

*The Council's Arboricultural Consultant considered that suitable conditions could be attached to any grant of planning permission.*

### **Impact on Amenity of Local Residents**

*Principle DG33 of the Harlow Design Guide (2011) specifies that all development should have some private open space. This space should be appropriate to the type and size of the accommodation. According to the revised drawings, all the flats have access to a balcony and the communal amenity area at podium level. It is considered that the communal open space would meet requirements.*

*It is not considered that any unreasonable overlooking or interlooking will result. No property would be unreasonably over-shadowed by another.*

*It is not considered that the proposed layout gives rise to concerns with regard to unreasonable harm to the amenities of future occupiers.*

*The nearest properties to the site are the residential properties to the east (The Hides) and north (Terminus House). Some disruption may be experienced during the construction phase, including to occupiers of the adjoining hotel, however, this is to be expected from any development and will only be temporary in nature. Conditions/Informatives can be attached to restrict the construction hours and requires the use of wheel washing equipment to ensure that the construction works do not prejudice the amenity of neighbouring residents.*

*There would be some overshadowing of existing dwellings, however, given the reduction in the original height of the building and its revised positioning further away from Terminus House, any overshadowing would be for proportionately short periods of the day and is considered to be acceptable given the town centre location.*

*The provision of the improved east-west route with tree lines together with the landscaping strategy will improve the landscape value of the area and enhance the visual amenity. It is therefore not considered that the proposal would give rise to unreasonable harm to local residents.*

### **Access, Parking and Highway Safety Concerns**

*The site has one existing vehicle access from Velizy Avenue. The proposal would result in a reconfiguration of the existing access and the requirement for a new egress onto Crown Gate into the existing Taxi Rank area.*

*The proposal requires Highway works beyond the application site boundary which do not form part of this application. The applicants indicate that they would enter into the relevant legal agreements with the Highway Authority to undertake works beyond the application site boundary. While the Highway Authority confirms that they have no objections to the proposed access arrangements and the highway works which would be required, suitable controlling methodologies should be included within the legal agreement to ensure that vehicle egress is available before the works commence as there would be no turnaround facility provided for servicing vehicles on site and backing onto Velizy Avenue close to the junction with Crown Gate would be unacceptable.*

*The proposed upgrading of the footpaths and cycle-path would provide good connectivity within the site and the wider area, in particular in relation to the proposals for the upcoming Sustainable Transport Corridors (which include along Velizy Avenue).*

*The scheme will provide car parking spaces for future residents in the retained Terminus Street Car Park. Unallocated visitor parking spaces are also provided. A Residential Travel Plan has been submitted together with a Refuse and Cycling Provision statement in support of the application. Cycle storage will be located in private areas within the car parking adjacent to the rear entrances to the residential blocks and the gym.*

*The overall parking provision would not meet the general parking standards where, for example, all properties (2 or more bedrooms) are expected to be provided with a minimum of 2 dedicated car parking spaces. However, the combination of the highly sustainable/accessible location together with the provision of some car parking, cycle storage and a Travel Plan are considered to be in line with the NPPF that such highly sustainable locations should normally have lower car parking provision and increased modal shift to more sustainable forms of transport. The Highway Authority do not raise any objections to the proposed parking arrangements, although the provision of electric vehicle charging points would be welcomed.*

*Essex County Council Highway Authority initially raised some concerns relating to highway issues but following revised plans have raised no objection to the scheme as it is not contrary to the Highway Authority's Development Management Policies (2011). Highway details and pedestrian protection measures conditions are requested and are proposed to be attached to ensure highway safety and in the interests of visual amenity.*

*The proposed egress onto Crown Gate would result in a displacement of part of the existing Taxi Rank. This would result in the loss of 3 rank spaces (about 18m). However, there are proposals for a new Taxi Rank in the town centre and the new access would be subject to Highway Authority and any other necessary approvals (including consultation) outside the planning process.*

### **Affordable Housing**

*Local Plan Policy H5 indicates that affordable housing should form a percentage of housing on major development sites with 30% being the baseline for negotiation. Policy H8 of the emerging Local Plan similarly indicates that major residential development must provide at least 30% affordable housing and that the reduction of this percentage will require an independent viability assessment. Following submission of a Viability assessment, this proposal provides 7% of affordable housing.*

*The application proposes of the 150 dwellings that 11 would be provided as affordable dwellings as 1- and 2 bed flats. 4 would be provided as intermediate forms (e.g. shared ownership) with 7 for affordable rent.*

*The Harlow Design guide (2011) advises that affordable housing should be tenure blind and pepper-potted throughout the site. The affordable housing is not as widely pepper-potted as would be preferred, however, as part of a flatted block, the affordable housing provided in this scheme would not be viewed in isolation within the wider development.*

*The provision would not accord with Plan Policy's requirement for 30% affordable housing, nonetheless, given the limited viability of the scheme, 7.4% affordable is considered to be welcomed as it would provide affordable housing within the Harlow Town Centre.*

### **Infrastructure (S106) contributions**

*Essex Early Years have asked for a contribution of £582,934.32 for school places and nursery places but no contribution in relation to school transport. Also, Essex Libraries have asked for a contribution of £45,408 to enable the improvement, enhancement and extensions of facilities and services to account of the increased usage of Harlow library. Essex Highways has asked that contributions are made towards the Sustainable Transport Corridors.*

*While not entirely relevant, some monies have recently been secured to enable the merging of the Adult Community Learning Centre at Abbotsweld into the Library.*

*The NHS (West Essex CCG) has also requested £74,070 to mitigate the impacts of the proposal in relation to the provision of primary healthcare services.*

*Essex Highways has not included a specific amount for the Sustainable Transport Corridor contributions.*

*Notwithstanding the requested contributions, the viability assessment submitted indicates that the scheme is not viable but that some limited affordable housing would be provided. It*

is considered that current viability precludes the ability of the scheme to provide additional funding for other projects at this time.

### **The Viability Late Review Mechanism (Claw-back)**

Policy IMP1 indicates in relation to Planning Obligations, that planning permission will only be granted for any development if the provision is secured for related infrastructure, services, facilities and environmental protection which are fairly and reasonably related to the scale and in kind. As is noted above, the viability assessment submitted by the applicants indicates that the scheme is unviable and apart from a limited contribution towards on-site affordable housing no other contributions can be made. This has been confirmed by the Council's expert Viability Assessor who was involved early in the assessment of the application.

The NPPF and policy H5 of the ARHLP stipulate that it is not appropriate to require obligations to a level at which a scheme would become unviable. Furthermore, the Planning Practice Guidance indicates that to incentivise redevelopment of brownfield sites, the Local Planning Authority should take a flexible approach in seeking levels of planning obligations and other contributions. In accordance with the NPPF, it is considered that the Local Planning Authority cannot require the provision of affordable housing or financial contributions. Appeal decisions since the adoption of the NPPF for the schemes at 1-7 Burnt Mill and 'The Angle' (references HW/FUL/16/00400 and HW/FUL/15/00193) have confirmed that refusal of planning applications in such circumstances is unreasonable. The refusal of the current proposal on the basis of viability or not providing affordable housing may prove difficult for the Local Planning Authority to defend at any subsequent appeal.

The current UK House Price Index for England has risen from 1.5 % (Jan 2019) to 2.5% in April 2020 (latest update, published in 19.8.20). Harlow is currently experiencing house prices rises above this Index with the difference in house price between April 2019 and April 2020 being 4.8%. The next HPI figures are expected out in October. Subject to any influence the Covid-19 pandemic has had on the market, it is expected that there would be some improvement in viability of the scheme over time.

In line with the National Planning Policy Framework (NPPF, 2019), where viability has been identified as a reason why limited affordable housing provision is offered and contributions are not being made (as in this case), a late viability review mechanism can be inserted in the Legal Agreement to re-evaluate the scheme nearer the start date/at a later date(s) to see if viability has improved such that additional contributions can be made.

The applicants have agreed to a late review mechanism being inserted into the S106 legal agreement to include a baseline and a hierarchy of contributions of which, given the limited affordable housing offered, this should be the first element in the hierarchy. This is considered to be acceptable and in line with Policy IMP1 of the Local Plan, emerging plan policies and the NPPF.

### **Flooding and SuDS**

The site is not within a flood risk zone, however, it is a major development which would add to the overall hardsurfacing of the area. A sustainable drainage strategy covering the site has been submitted and suitable conditions are attached to require its implementation and maintenance.

There are no significant concerns on flooding or drainage for the current application.

## **Refuse**

*A Refuse Strategy Plan has been submitted to demonstrate that storage capacity based on 0.25m<sup>3</sup> per dwelling will be provided in accordance with the Building Regulations. The refuse collection point would be located on the ground floor near the residential and commercial entrances.*

*The Council's Street Scene Manager has been consulted with no objection received.*

## **Energy**

*An Energy Statement has been submitted which comprises a communal gas heating system for the residential units and Air to Air Heat Pumps for the commercial units and gym, indicates that the overall CO<sub>2</sub> reduction achieved by the scheme would be in compliance with the requirements of the NPPF and Policy PL3 (Sustainable Design, Construction and Energy Usage) in the emerging Local Plan. This would also meet the baseline in Part L of the Building Regulations.*

*A suitable condition will be attached to ensure the details included in the Statement are implemented.*

## **Archaeology**

*The Historic Environment Officer has indicated that the site has been extensively disturbed by the construction of the car-park and that it is unlikely that any archaeological remains survive such that no archaeological work is required.*

## **The Planning Balance**

*The NPPF (and policy IMP1) indicates that if a scheme does not provide the level of contributions needed to offset the impact the scheme would have on local infrastructure (such as roads, education etc.) then it should not be approved. However, the NPPF also indicates that if a Viability Assessment is submitted which indicates that the scheme is unviable then this is a material consideration. While the emerging Local Plan has been viability assessed and when adopted will have set out the contributions expected, this application is being considered under the adopted plan which has not been viability assessed.*

*Given the benefits which would accrue from the scheme, including the provision of housing (including 7.7% affordable housing) within the town centre to help its regeneration with improvements in vitality and viability and the provision of a significant improvement to the pedestrian/cycling environment at an important (and high footfall) link between the Town Centre and Harlow College (which is to be included in the Town Centre boundary for the first time on adoption of the emerging Local Plan) it is considered that this, together with a late review mechanism, would be acceptable such as to tilt the planning balance in favour of the proposed development.*

## **CONCLUSIONS**

*The scheme is considered to be acceptable in principle as it would help to regenerate the town centre, bring in residential occupation to boost the evening economy and it would promote high quality design and landscaping on a strategic link between the town centre and Harlow College. It would not have any significant adverse impact on local amenity and there*

*would be no access, parking or highway safety concerns. While there would be a change to the relationship of built forms with Terminus House it is not considered that this landmark building would be so significantly impacted as to refuse planning permission.*

*The scale, appearance, layout and landscaping of the proposed development are considered appropriate and satisfactory. Access is also considered to be acceptable in highway safety terms, subject to egress works being agreed.*

*An element of affordable housing would be provided and a late review mechanism will be inserted into the legal agreement seeking to secure additional affordable housing /contributions using a baseline figure and hierarchy of contributions.*

*The proposal is considered to accord with national and local policies for the future of the town centre.*