

REPORT 16/12/20 DM Committee (Special meeting to consider Gilston Area development issues only)

REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE

16 December 2020

REFERENCE: 3/19/1045/OUT* OFFICER: Andrew Bramidge

*East Hertfordshire District Council (EHDC) application.

Report recommends a Harlow District Council (HDC) consultee response to this application

APPLICANT: Places for People (PfP)

LOCATION: Land North of the Stort Valley and the A414 Gilston Hertfordshire

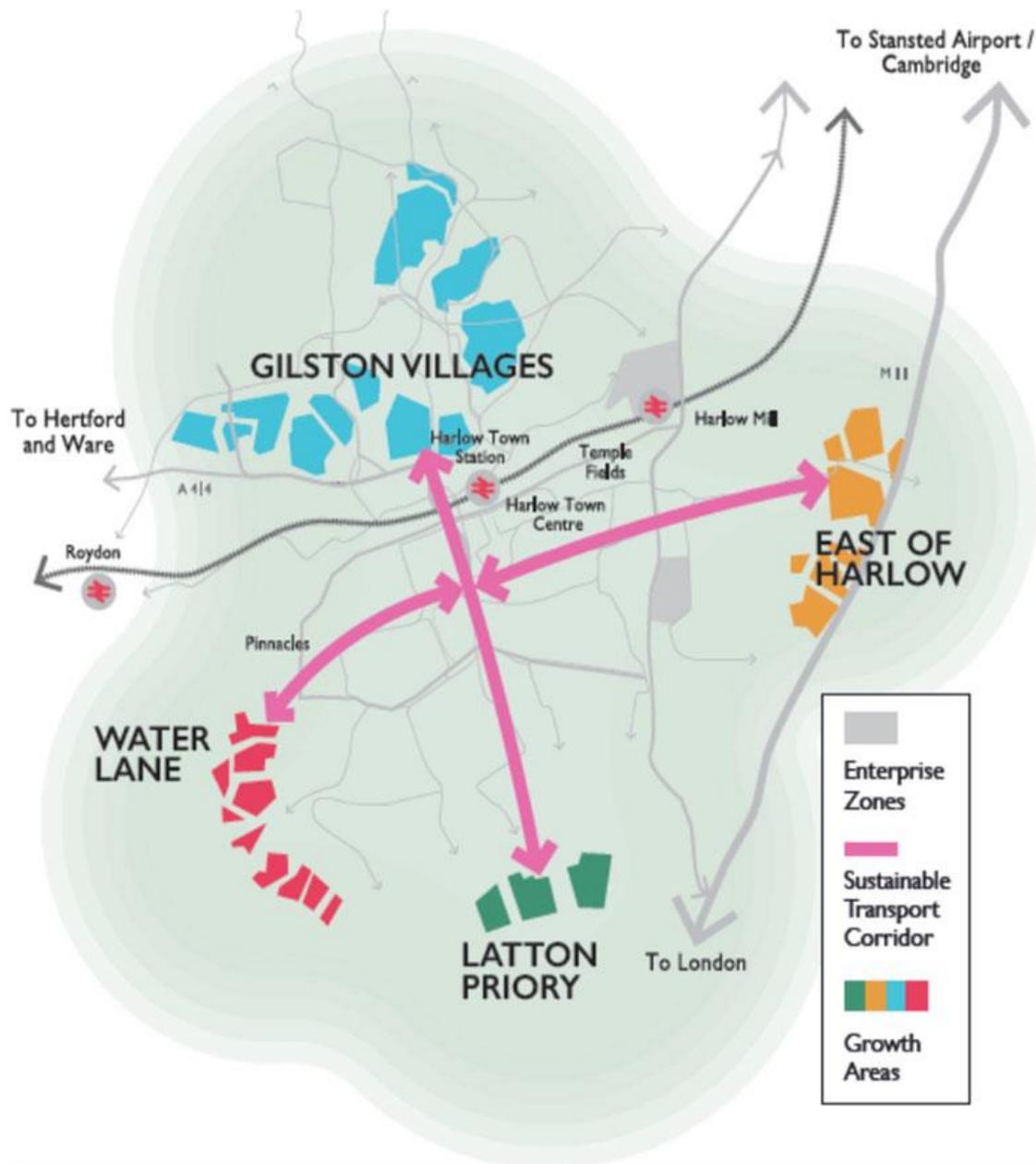
PROPOSAL: Gilston Area Villages 1-6 (V1-6)

Outline planning with all matters reserved apart from external vehicular access for the redevelopment of the site through the demolition of existing buildings and erection of a residential led mixed use development comprising up to 8,500 residential homes including market and affordable homes; retirement homes and extra care facilities; provision for Gypsies and Travellers pitches/ Travelling Showpeople plots; a range of community uses including primary and secondary schools, health centres and nursery facilities; retail and related uses; leisure facilities; business and commercial uses; open space and public realm; sustainable urban drainage systems; utility and energy facilities and infrastructure; waste management facilities; vehicular bridge links; car parking; creation of new vehicular and pedestrian accesses into the site, and creation of a new vehicular, pedestrian and cycle network within the site; improvements to the existing highway and local road network; undergrounding and diversion of power lines; lighting; engineering works, infrastructure and associated facilities; together with temporary works or structures required by the development.

(Application originally submitted May 2019. Amendments submitted 19 November 2020, including description as indicated in underlines above)

LOCATION PLAN

Note; The diagrammatic plan below shows the location of the whole Gilston Area (GA) (Gilston Villages) development in the context of the plans for the growth area of Harlow and Gilston Garden Town (HGGT) as a whole. The amended application that is the subject of consultation covers the majority of the GA. Only Village 7; the most westerly of the Villages, is excluded (separate ownership).



REASON BROUGHT TO COMMITTEE

The Council is a statutory consultee on the outline applications for development of the Gilston Area in East Hertfordshire District. The original application submission for Villages 1-6 (V1-6) has been amended and is now subject to re-consultation (closes 21 December 2020). This report recommends a consultation response.

Consultation responses on planning applications in other local authority areas are usually made under officer delegation. This application is for a very large development on the edge of Harlow, that will become part of the Town and the wider HGGT initiative. Planning of the GA development is of considerable significance for the future of Harlow. It is therefore important that the Committee decides the Council's consultation response, particularly now that the applicant has finalised the outline proposals following feedback from the Local Planning Authority (LPA) – EHDC, taking account of all consultee responses on the original submission.

Consideration by the Committee is also important because the Council (this Committee) will be directly responsible, with EHDC, for determination of related planning applications for some of the transport infrastructure that is necessary to facilitate the development (the Stort Valley crossings – see below).

Full details of the HGGT and related applications context for the consultation response on this application are set out in the 'Gilston Area Development - Update' report.

APPLICATION SITE AND SURROUNDINGS

The application is for development of the Gilson Area V1-6 (general location plan above).

DETAILS OF THE PROPOSAL

The application description above provides a general summary. More information on the most important matters for Harlow is provided in the body of this report.

RELEVANT PLANNING HISTORY

There is no relevant planning history, but, in deciding its consultation response, the Committee should be aware of current related, undetermined, planning applications (submitted in 2019) as follows:

Application Ref: 3/19/2124/OUT Gilston Village 7. Outline planning application for development including demolition of existing structures, refurbishment and change of use of existing Grade II Listed Brickhouse Farm Barn and structures and erection of a residential led mixed use development comprising: up to 1,500 residential market and affordable homes; a mixed use local village centre; retail, business and community uses; primary school, early years and nursery facilities; leisure and sports facilities; open spaces, ecological areas, woodlands and public realm; pedestrian, cycle and vehicular accesses and network within the site; associated drainage, utilities, energy and waste facilities and infrastructure; works to and realignment of the existing highway; other supporting works, facilities and infrastructure; together with associated temporary enabling works or structures. With all matters reserved apart from detailed works to the A414 Church Lane junction.

(An amendment of this application will be imminent, or already submitted, by the time this report is considered).

Land Off Church Lane A414 Hunsdon And Eastwick Hertfordshire

3/19/1046/FUL The Central Crossing. Alterations to the existing Fifth Avenue road/rail bridge, and creation of new bridges to support the widened highway to west of the existing structure to create the Central Stort Crossing, including embankment works, pedestrian and cycle facilities, a pedestrian and cycle bridge over Eastwick Road, lighting and landscaping works and other associated works.

Land adjacent to Fifth Avenue existing Eastwick Crossing Hertfordshire / Harlow.

3/19/1051/FUL The Eastern Crossing. Erection of a new road, pedestrian and cycle bridge; Erection of a new road, pedestrian and cycle bridge; ~~alterations to~~ replacement of an existing rail bridge at River Way; alterations to the existing local highway network; lighting and landscaping works; listed building works to Fiddlers Brook Bridge; and other associated works (amended application including description as indicated in underline and strike through above - November 2020).

Land to The South and East of Gilston Village and North of River Stort Gilston Hertfordshire / Harlow.

3/19/1049/LBC Fiddlers Brook Bridge. Erection of a new road, pedestrian and cycle bridge; alterations to an existing rail bridge at River Way; alterations to the existing local highway network; lighting and landscaping works; listed building works to Fiddlers Brook Bridge; and other associated works.

Land to the South and East of Gilston Village and North of River Gilston Hertfordshire / Harlow.

Progress of these applications is noted in the 'Gilston Area Development - Update' report.

Because of the Council's differing roles and responsibilities in respect of the various GA applications, (as noted in the 'Update' report), it is important to keep consideration of the V1-6 application separate from the crossing applications (where the Council is a Local Planning Authority - LPA). There are inevitable overlaps in the implementation of all aspects of the development, (particularly in respect of the funding and phasing matters to be covered in the planning obligations for the village developments), but the crossing applications must be determined on their own merits. The crossing application decisions are to be made on the basis of whether the development led off-site transport schemes proposed are suitably designed physical proposals that can be permitted on the basis of Development Plan policies and other material considerations. That matter will be dealt with in future reports. Any decision related consideration, or early expression of view, under the auspices of this report could affect the Council's future decision role as LPA.

CONSULTATIONS

The Council is itself a statutory consultee (see above) and now has the opportunity to comment on the amended application.

There have been numerous detailed consultation responses to the initial application submission. These are detailed on the EHDC public access case file under the reference quoted above. A weblink is provided below:

[EHDC Case files](#)

For reference and context the Council's own initial consultation response (made under officer delegation) is reproduced in an appendix to this report (Appendix 1). This was

generally supportive of the proposals for HGGT growth in accordance with Council policy. It was not appropriate at that stage to be overly concerned with the details of how the development would be delivered, partly because the application submission had not included a Statement of Delivery Statement (as required under guidance published by the LAs). Therefore further information from the applicant was considered necessary and it was expected this would be provided through ongoing HGGT Partnership engagement.

In summary the most important points raised by HDC at the outset, and those of most relevance to the position now, were:

- The need to ensure that adequate transport infrastructure is provided early in the development to mitigate impacts on the local road system in Harlow
- The need to manage transport choices of residents, businesses and visitors in the Gilston Area and wider Garden Town to achieve a high level of public transport and active (walk and cycle) movement, to mitigate potential adverse traffic impacts from the development
- The need for a comprehensive, suitably phased, approach to development with V7
- The need for housing for Harlow residents and its affordability
- The need to achieve HGGT principles generally

The application amendments are intended to address matters arising from the initial consultation responses and subsequent exploration of those or other issues. The Council's consideration and consultation response to the amendments should be decided with that in mind.

The application amendment re-consultation will result in further responses from a wide range of statutory and other consultees. The Council has to consider its response without the benefit of seeing these latest consultee views. However, officers have been able to take account of likely feedback as a result of direct involvement in the consideration of the application through the HGGT partnership. Of particular significance for HDC are the views of the local Highway Authorities (HAs) Essex County Council / Hertfordshire County Council (ECC / HCC). Relevant issues are noted in the body of the report.

Neighbours and Additional Publicity

EHDC has conducted a full Local Planning Authority (LPA) notification and re-consultation on the application amendments. In addition the applicant has provided their own publicity and information, including general public webinars and briefings for Local Authority (LA) Elected Members.

Summary of Representations Received

Not applicable - see above.

PLANNING POLICY

All the GA applications are to be determined against the East Hertfordshire District (Local) Plan; but there is also a wider policy and guidance framework to take into account:

The Development Plan

- EHDC District (Local) Plan (adopted 2018)

Many aspects of the Plan are relevant, but the most important policies are:

GA1 (and related GA2) The Gilston Area

This policy is central to consideration of whether the application is policy compliant. The policy is therefore referenced specifically in the main body of the report.

Note: There is also an emerging Neighbourhood Plan that covers the GA. However this is not taken into account in this assessment due to the current stage in its preparation.

- HDC (Replacement) Local Plan (adopted 2006)
- HDC Local Development Plan submitted 2018 (at Inspector's Report stage; to be adopted shortly).

The most important policies from this Plan, which has been prepared in a HGGT growth context, are:

HGT1 Development and Delivery of Garden Town Communities in the Harlow and Gilston Garden Town

SIR1 Infrastructure Requirements

SIR2 Enhancing Key Gateway Locations

IN1 Development and Sustainable Modes of Travel

IN2 Impact of Development on the Highways Network including Access and Servicing

IN6 Planning Obligations

NATIONAL PLANNING POLICY FRAMEWORK (NPPF) / NATIONAL PLANNING PRACTICE GUIDANCE (PPG)

The NPPF and PPG set the Government's national policy and detailed expectations on how planning decisions should be made. They are fundamental to consideration of the applications, both by the determining authority and by the Council as a statutory consultee.

The most important issues to note for this application are the presumption in favour of sustainable development, meaning that approving development proposals that accord with an up-to-date development plan without delay is a central consideration, and the urgent, and in many respects overriding, priority given to housing delivery. These NPPF imperatives are relevant to final LPA judgments about the level of quality achieved by the application proposals, particularly in relation to Development Plan policies and HGGT guidance.

Supplementary Planning Documents (SPD) and other Guidance or Evidence

EHDC:

Gilston Charter SPD

Affordable Housing SPD

Planning obligations SPD

Sustainability SPD (Draft for Consultation)

Gilston Area Concept Framework

Infrastructure Delivery Plan

HGGT:

Harlow and Gilston Garden Town Vision

Harlow and Gilston Garden Town Design Guide

Infrastructure Delivery Plan

Strategic Viability Assessment

'How To' Guide for Planning Obligations and Viability

Transport Strategy (Draft for Consultation)

Sustainability Guidance and Checklist (Draft for Consultation)

Healthy Garden Town Framework (Draft for Consultation)

HCC:

The Planning Obligations Guidance Toolkit for Hertfordshire

ECC:

Development Management Policies

Developers' Guide to Infrastructure Contributions

The HGGT Vision and the reference to the Garden City Principles within the allocation Policy GA1 of the EHDC District Plan, as well as the support for high quality large scale housing development and Garden City principles in the NPPF (Para 72), suggests there should be a somewhat higher 'bar' for quality than might exist with many ordinary housing led developments. The HGGT initiative certainly creates greater political and public expectation about what the major housing developments proposed should offer. This expectation, and the landowners' intent to deliver against it, was central to promotion of the GA development through EH DC District Plan preparation and Public Examination process. The adopted Plan policies reflect this.

This background should be borne in mind when considering the application amendments and progress on the application generally, but then balanced against the NPPF weighting of planning priorities.

PLANNING ASSESSMENT

Summary of Main Issues

Growth of Harlow

Effectively the villages and their environs of the Gilston Area development will become a functional part of HGGT and the Council's views are based on that reality. It is also important to recognise the scale of the overall development allocation proposal of 10,000 homes, which equates to almost half of the current planned growth in the Garden Town. With a population of approximately 25,000 new residents this would represent an increase in the population in the existing Harlow area of between 1/4 and 1/3.

As a result, infrastructure provision and development quality issues are crucial to the HGGT Partnership.

EHDC is acutely conscious of the essential relationship between the Gilson Area development and Harlow and its economy, infrastructure and the many higher order social and community facilities the Town provides. In its LPA role, EHDC has worked to ensure that the relationship with Harlow and potential impacts on the Town are fully considered and addressed both within the Policies of the EHDC District Plan and the approach to engaging HDC and ECC on this application.

The HGGT partnership has created an invaluable opportunity for the Council to be closely involved in assessment of the application, even though it is not LPA. The Council (through the Portfolio Holder for Environment) has been represented on the GA Steering Group (a consultative forum with the applicant and local community representatives). Harlow Council and ECC transport / highways officers have also had direct involvement in the negotiations between EHDC and the applicant, albeit officers can only provide advice and seek influence.

EHDC and Harlow Council Elected Members and officers have also worked together through consultative and informal briefing arrangements.

This background is further explained in the 'Gilston Area Development - Update' report.

Generally the Council is supportive of GA growth and welcomes this application and the opportunities it presents as set out in the HDC Local Development Plan.

Development Plan

The Development Plan allocation of the GA clearly establishes the principle of development.

HGGT 'Principles'; infrastructure and development quality

As LPA, EHDC are responsible for achieving HGGT principles and quality on all aspects of the development. They do this in accordance with the specific details in Development Plan policies and by consideration of the results of consultation and engagement with others. The Council can, and has, assisted in the application assessment process both through helping to shape and agree joint HGGT guidance and through other engagement. However, many detailed aspects of the application; especially site layout planning / design and on-site infrastructure provision are mainly for the LPA to decide and are not matters that this report seeks to comment upon.

The Council's input through this report, and in the collaborative work described above, is primarily focused on the issues that are of strategic significance for HGGT. These are:

Process issues:

1. Proposed 'commitments' and 'strategies' secured in planning conditions and obligations (with obligations offered by the applicant clearly defined before decision)
2. Comprehensive, phased, development across landownerships achieved via planning conditions and obligations
3. Master planning and Reserved Matters application / detail design coding process secured via planning conditions / obligations
4. HDC (HGGT) influence in ongoing development process (through the planning agreement and by participation in a next stage Planning Performance Agreements -

PPAs with the LPA and applicant; to cover master planning, reserved matters applications and implementation of the planning agreement)

Substantive issues:

1. HGGT Infrastructure Delivery Plan (IDP) - as the most up to date evidence of infrastructure need relevant to GA - secured, including with effective use and recycling of available Government support funding - the Housing Infrastructure Grant (HIG) and related Rolling Infrastructure Fund (RIF).

The Council's interests are particularly focused on transport infrastructure.

2. Securing the most important HGGT applicant promised 'Commitments' and 'strategies' (in effect this can only be done through planning obligations). The most important issues for Harlow are:
 - a. Sustainable transport
 - b. Housing
 - c. Employment
 - d. Energy
 - e. Community facilities stewardship

Analysis of Application Proposals as Amended

An analysis of the application as amended, set against these issues, is at Appendix 2. It uses a simple Red / Amber / Green (RAG) progress rating system.

The analysis is not intended to be definitive or exhaustive for all aspects of the application. This is because the Council's interests as consultee have deliberately been focused on HGGT strategic issues, as noted above.

The purpose of the RAG rating is to highlight in a simple way the *degree of progress* so far in securing the relevant HGGT outcomes. To emphasise, this is a point in time assessment based on the amendment submissions and statements therein, or other information provided in associated planning obligation negotiations. It may be that the applicant will make improvement to the overall application offer on these matters, but that is not evident now.

The RAG rating does not accord any differentiation or priority between these issues because they are all taken as extremely important for the development of HGGT.

Overall conclusions and recommendations are drawn from this as set out below.

CONCLUSION

This report recommends a detailed, formal, consultation response to EHDC. The response consists of the entirety of the report and appendices, but the Council's headline views are focused through the specific recommendation points below.

The Committee is asked to consider and approve the recommended response (with any amendments it decides are necessary).

Despite the application amendments, there are significant concerns at this stage. Most relate to the 'commitments' and 'strategies' submitted with the application and their

acceptability. There are serious uncertainties as to what these statements / documents actually amount to and how they will be secured through:

- application documents proposed for approval: Development Specification (DS), Parameter Plans (PPs), Strategic Design Guide (SDG) and one document that is specifically excluded from approval by the applicant; a Land Use Budget (LUB)
- planning conditions
- planning obligations

These aspects of the application are necessarily complex and detailed matters for a development of this scale, expected to take place over at least 25 years.

For an outline application, most aspects of the plans are not expected to be finally detailed or designed. In this situation effective planning conditions and obligations that secure important principles and mechanisms for future planning and implementation, as well as essential actions and funding matters, are fundamental. They are core matters for the determination of the application. In a sense conditions and planning obligations are 'all' in terms of strategic HGGT outcomes.

Currently this is a matter that is hard to fully assess because only very limited information is available. This takes the form of:

- very general statements in submitted and now amended application documents (some suggested for approval / others illustrative only)
- a series of quite vaguely worded proposed 'Commitments' and 'Strategies'
- some quite specific statements resisting / countering requirements the LPA and HGGT partnership have flagged as essential (particularly on IDP funding)

In overall effect the applicant appears to be indicating that it is not prepared to agree matters that are very important to the Council and HGGT and that have been included in planning policy and guidance from the outset. This is disappointing and very unhelpful at this late stage in the application process.

The minimum, and quite normal, requirement at this point is a comprehensive and well detailed Heads of Terms document that can serve as the basis for application determination. Moreover, the HGGT procedural guidance says that the LAs expect to have a full engrossed agreement as the basis for a determination of the application (See 'Gilston Area Development - Update' report).

Officers will continue to work closely with EHDC officers and the HGGT Partnership to support speedy progress on these aspects of the application. The consultation response will provide a focus for that work.

In particular officers will continue to suggest to the LPA that it is necessary to seek much greater certainty on the planning obligations that can and cannot be agreed with the applicant.

The outcome of negotiations on the planning obligations should certainly be much clearer before any decisions are taken - preferably in the form of a complete engrossed planning agreement as requested in guidance or, at least, in the form of unambiguous endorsement by the applicant of detailed Heads of Terms.

RECOMMENDATION

That Committee approves the following consultation response:

1. The Council is supportive of development of the Gilston Area as it contributes greatly to achieving important growth aims for Harlow and Gilston Garden Town (HGGT).
2. However, the Council's support for any particular application is dependent on confidence that a planning permission will achieve development that accords with both the Development Plan as a whole, (in this case, particularly the East Herts District Plan Policy GA1) and the HGGT Vision.
3. The Council supports the application amendments on design of the site accesses and the commitments to internal circulation principles. The changes should provide essential dedicated space and prioritisation for public and active transport to help achieve the mode share targets, together with traffic signal controls that can manage traffic flows from the development onto the road network. This provides the opportunity for the village development itself to accord very well with the HGGT vision for transport. The Council will continue to work with EHDC and the applicant on appropriate conditions and obligations to secure these aspects of the scheme.
4. Generally, the Council considers that agreement of appropriate planning obligations for the development is fundamental to securing development quality and mitigating its impacts in a manner compliant with policies and guidance and with due regard to other material considerations.
5. The Council cannot support the application on the basis of the planning obligations presently set out, or suggested in general terms by the applicant as adequate. The Council considers the obligations proposed would fall considerably short of the commitments required to address Development Plan policies and supporting HGGT guidance and evidence.
6. In particular the Council identifies the following concerns:
 - There are still many uncertainties on how far the applicant is prepared to commit to HGGT principles
 - On essential sustainable transport matters commitments to adequate funding for, and timely delivery of, the Stort Valley Crossings and proportional contributions to the funding of the Sustainable Transport Corridor network are still not confirmed
 - Due to the lack of clarity on planning obligations it is unclear how the application will support effective use of the Housing Investment Grant (HIG) funding which the Councils have been awarded to help 'unlock' the delivery of the Gilston Area development. This is particularly the case in respect of the lack of commitment to the provision of adequate repayment of 'grant' into the Rolling Infrastructure Fund (RIF) that will support the provision of the wider Sustainable Transport Corridor (STC) infrastructure that is essential to support sustainable growth
 - Other important HGGT matters are unresolved; the details of affordable housing for Harlow residents to support social mobility; provision of adequate employment land and premises to support balanced economic growth of the

Garden Town; energy strategy measures; and future community facility stewardship arrangements

- The promised formal Memorandum of Understanding (MoU) between the applicant and the V7 landowner / applicant on comprehensive development and shared and consistent commitments in planning obligations has still not been provided. The result is that, in effect, the V1-6 application and future V7 application are put forward for decision in isolation. This position could, if permissions are granted in the wrong form, result in significant planning harm. In particular, failure to establish an effective mechanism for the phasing of development and coordination of its infrastructure, including transport planning and funding, the overall provision of employment land and social and community facilities and the stewardship approach are all seriously affected and subject to much greater uncertainty and risk
7. The Council's position of general support for the application is dependent upon these matters being satisfactorily addressed in advance of the LPA determining the application. The Council wishes to contribute to that endeavour through a continuation of engagement with partners and the applicant on planning conditions and planning obligations.
 8. The Council provides notice that, to reflect the conditional nature of its support, it may seek to comment further at the point that greater clarity on planning conditions and obligations is provided, for example upon production of draft recommended conditions and applicant agreed Heads of Terms that support an officer report to the LPA.
 9. EHDC and the applicants are asked to take note of more detailed points explaining these concerns - set out in the Table 'Analysis of Application – Key Issues for Harlow' (Report Appendix 2). The Council therefore requests that EHDC should only contemplate a grant of planning permission after these points have been fully considered; to the extent that they can be either resolved, or weighed in the decision balance.