

REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE
15 September 2021

REFERENCE: HW/FUL/21/00181

OFFICER: Gavin Cooper

APPLICANT: Alper Kani

LOCATION: 4 Wych Elm
Harlow
Essex
CM20 1QP

PROPOSAL: Demolition of the existing building and erection of building ranging between 6 and 15 storeys comprising 82 residential flats (Class C3) and flexible commercial floorspace (Class E), communal amenity space, with associated parking, waste/recycling storage and other associated works

LOCATION PLAN



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Reasons brought to Committee

- The application raises strategic issues for the future of the Town Centre related to emerging planning policy considerations (Harlow Town Centre Area Action Plan).
- More than two objections received.

Application Site and Surroundings

The site is located in the Wych Elm area of Harlow Town Centre. Wych Elm is currently made up of employment uses including offices and some light industrial, community / leisure uses and a car park.

The application site measures approximately 0.12 hectares and comprises a one-storey building currently used as a gym (Planning Use Class E) with associated car parking on the hard-standing area at the eastern boundary.

To the north of the site is Rectory Wood; an urban woodland with public access. A cycle and pedestrian route (designated as part of National Cycle Route 1) runs in an east-west direction between the site and Rectory Wood. Within the immediate context of the site the route provides vehicle free movement between Hodings Road in the east and Hamstel Road in the west. It is a valuable traffic free connection between the central area and neighbourhoods of Harlow, Town Park, Harlow Town Railway Station and employment areas on the northern side of the Town.

The site is located within Flood Risk Zone 1.

Details of the Proposal

Full planning permission is sought for the demolition of the existing building and erection of a new building ranging between 6 and 15 storeys, comprising 82 flats and flexible use ground floor commercial floorspace (approx. 400 sq m) within Class E, with communal amenity space, parking, waste/recycling storage and other associated works.

The proposed housing mix would be 29 one bedroom flats (35%), 45 two bedroom flats (55%), and 8 three bedroom flats (10%). 18% of the units would be affordable housing.

A total of 11 car parking spaces are proposed in an under-croft garage, of which 8 are suggested as unallocated (including 4 with electric vehicle charging points) and 3 as designated disability spaces.

Cycle storage (capacity 106) is provided in a secure internal space on the first floor (with lift access to the street level entrance).

The scheme has been subject to an extensive pre-application process including engagement with the Harlow and Gilston Quality Review Panel.

RELEVANT PLANNING HISTORY

There is no relevant planning history for the site itself, but it is important to be aware of recent higher building / high density residential developments, (including some conversions from former office uses), either in progress or permitted in the northern part of the Town Centre.

Planning permissions / applications

| <u>Wych Elm House</u> | | | |
|-----------------------|--|----------------|----------|
| HW/FUL/19/00241 | Demolition of existing buildings and the erection of a | Granted (under | 06/02/20 |

| | | | |
|--|--|-------------------------------------|----------|
| | 2-11 storey building comprising 122 no. residential units (Class C3), and 763 sq. m of ground floor commercial floorspace (Classes A1, A2, A3, D1), together with associated works and public realm improvements | construction) | |
| <u>The former Square (The Angle site)</u> | | | |
| HW/FUL/15/00193 | Demolition of all Existing Buildings and Construction of 69 New Residential Dwellings, Including Flats and Houses, Ranging from 3 to 13 Storeys, With Associated Car Parking and Landscaping - APP/N1540/W/16/3146636 | Granted | 28/09/16 |
| <u>Land North of Kitson Way</u> | | | |
| HW/FUL/20/00161 | Erection of residential building ranging between 7 and 9 storeys to provide 49 flats (26 x 1 bed, 21 x 2 bed and 2 x 3 bed) with associated parking, amenity areas and other associated works | Granted | 29/01/21 |
| <u>Land At Harvey Centre (Strawberry Star)</u> | | | |
| HW/FUL/17/00097 | Demolition of the existing buildings and comprehensive re-development of the site to provide a mixed-use development (including 4 new buildings ranging from 3 to 16 storeys) comprising 447 residential units, circa 4,000 sqm of flexible retail floorspace, communal amenity space, a new pedestrian boulevard, car parking, cycle parking, with associated hard and soft landscaping, revised access and servicing arrangements. Open for comment icon | Granted | 02/08/18 |
| HW/OUTAM/21/00 | Demolish the existing buildings and provide a comprehensive re- | Under consideration To supercede | NA |

| | | | |
|--|--|---------------------|--|
| | <p>development of the site with a mixed-use development comprising up to 837 residential units, up to 3,000sqm (GEA) flexible retail/drinking establishment/leisure/community/commercial space (Use Classes E and sui generis), communal residential amenity space, a new pedestrian boulevard, public realm improvements, up to 450 car parking spaces and cycle parking with associated plant and hard/soft landscaping.</p> <p>7 to 27 storeys.</p> | <p>above scheme</p> | |
|--|--|---------------------|--|

There are currently several active pre-application enquiries about further tall building residential redevelopment in Wych Elm itself. These are shown on the submitted indicative visualisation of what the comprehensive development of the Wych Elm Area, including Kitson Way and Wych Elm House could potentially look like in the future.

CONSULTATIONS

Internal and external Consultees

External

Essex County Council as Fire and Rescue Service

No objection.

The nearest existing statutory fire hydrant is within a reasonable distance of the proposed development and therefore additional fire hydrant provisions are not a requirement.

Should details of the development change significantly provisions for firefighting can be re-evaluated.

(Note; Building fabric related fire safety is mainly a matter of design to, and compliance, with Building Regulations)

Essex County Council as Highway Authority

No objection subject to mitigation / infrastructure provision.

The applicant has submitted a Transport Statement and Addendum 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 insignificant 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.

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.

Conditions and financial contributions in relation to travel planning and sustainable transport are recommended. This includes financial contributions to the ECC programme for development of Sustainable Transport Corridors (STCs) to enable bus and active travel priority.

Essex County Council as Lead Local Flood Authority

Having reviewed the Flood Risk Assessment and the associated documents re-submitted which accompanied the planning application, we do not have objection to the granting of planning permission.

Thames Water Utilities Ltd

No objection, subject to the sequential approach to the disposal of surface water.

Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required.

The proposed development is located within 15 metres of a strategic sewer. Thames Water requests conditions and informatives to be added to any planning permission.

In the case of significant work near sewers, it is important to minimise potential risk of damage. The development must not limit repair or maintenance activities, or inhibit the services we provide in any other way.

Essex County Council as infrastructure provider

No objection subject to mitigation / infrastructure provision.

The following advice is provided on child care, education, and libraries impacts and potential financial contributions in mitigation (provided pre-application, meaning the final housing mix was not known).

Assumed unit mix: 27 one-bedroom flats and 53 flats of two bedrooms or more. The costs outlined below are indicative.

Education contributions sought would be £71,852.90 for Early Years and Childcare, £163,038.60 for Primary Education, and £132,123.70 for Secondary Education.

The basis for the above figures are as follows:

The EY&C pupil generation factors are 0.045 per flat of two bedrooms or more, and 0.09 per house of two bedrooms or more. The pupil generation number is then multiplied by the EY&C cost-per-place, which for this year stands at £30,127.00. The final number of £71,852.90 does not include indexation.

The primary pupil generation factors are 0.15 per flat of two bedrooms or more, and 0.3 per house of two bedrooms or more. The pupil generation number is then multiplied by the primary cost-per-place, which for this year stands at £20,508.00. The final number of £163,038.60 does not include indexation.

The secondary pupil generation factors are 0.1 per flat of two bedrooms or more, and 0.2 per house of two bedrooms or more. The pupil generation number is then multiplied by the secondary cost-per-place, which for this year stands at £24,929.00. The final number of £132,123.70 does not include indexation. If a development does not generate more than 6 secondary school pupils, a contribution request is not sought.

(HDC Note; in this case the final housing mix is such that secondary pupil yield is below 6)

Libraries - £77.80 per dwelling; total £6,379.60.

NHS (West Essex CCG)

No objection subject to mitigation / infrastructure provision

The proposed development is likely to have an impact on the services of 4 GP practices operating within the vicinity of the application site. The GP practices do not have capacity for the additional growth resulting from this development.

The proposed development will likely have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. West Essex CCG would therefore expect these impacts to be fully assessed and mitigated.

The planning application does not appear to include a Health Impact Assessment (HIA) or propose any mitigation of the healthcare impacts arising from the proposed development.

A Healthcare Impact Assessment has been prepared by West Essex CCG to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area.

The development could generate approximately 197 residents and subsequently increase demand upon existing constrained services.

The primary healthcare service directly impacted by the proposed development and the current capacity position are shown in Table 1.

Table 1: Summary position for primary healthcare services within 2km catchment (or closest to) the proposed development

| Premises | Weighted List Size ¹ | NIA (m ²) ² | Capacity ³ | Spare Capacity (NIA m ²) ⁴ |
|------------------------|---------------------------------|------------------------------------|-----------------------|---|
| Nuffield House Surgery | 12,328 | 742.44 | 10,827 | -102.91 |
| Addison House Surgery | 19,915 | 910.89 | 13,284 | -454.71 |
| Sydenham House Surgery | 3,464 | 248.52 | 3,624 | 10.99 |
| Lister Medical Centre | 19,257 | 1,264 | 18,433 | -56.48 |
| Total | 54,964 | 3,165.85 | 46,168 | -603.11 |

Notes:

1. The weighted list size of the GP Practice based on the Carr-Hill formula, this figure more accurately reflects the need of a practice in terms of resource and space and may be slightly lower or higher than the actual patient list.
2. Current Net Internal Area occupied by the Practice
3. Based on 120m² per 1750 patients (this is considered the current optimal list size for a single GP within the East DCO). Space requirement aligned to DH guidance within “Health Building Note 11-01: facilities for Primary and Community Care Services”
4. Based on existing weighted list size

The intention of West Essex CCG is to promote Primary Healthcare Hubs with coordinated mixed professionals. This is encapsulated in the strategy document: The NHS Five Year Forward View.

The development would give rise to a need for improvements to capacity, in line with both the emerging CCG and ICP estates strategies, by way of extension, refurbishment, reconfiguration or potential relocation for the benefit of the patients at Addison House Surgery, a proportion of the cost of which would need to be met by the developer.

Table 2 provides the Capital Cost Calculation of additional primary healthcare services arising from the development proposal.

Table 2: Capital Cost calculation of additional primary healthcare services arising from the development proposals

| Premises | Additional Population Growth (82 dwellings) ⁵ | Additional floorspace required to meet growth (m ²) ⁶ | Spare Capacity (NIA) ⁷ | Capital required to create additional floor space (£) ⁸ |
|-----------------------|--|--|-----------------------------------|--|
| Addison House Surgery | 197 | 13.51 | -454.71 | 40,530 |
| Total | 197 | 13.51 | -454.71 | 40,530 |

Notes:

5. Calculated using the Harlow District average household size of 2.4 taken from the 2011 Census: Rooms, bedrooms and central heating, local authorities in England and Wales (rounded to the nearest whole number).
6. Based on 120m² per 1750 patients (this is considered the current optimal list size for a single GP within the East DCO). Space requirement aligned to DH guidance within "Health Building Note 11-01: facilities for Primary and Community Care Services"
7. Existing capacity within premises as shown in Table 1
8. Based on standard m² cost multiplier for primary healthcare in the East Anglia Region from the BCIS Public Sector Q3 2015 price & cost Index, adjusted for professional fees, fit out and contingencies budget (£3,000/m²).

A developer contribution will be required to mitigate the impacts of this proposal. West Essex CCG calculates the level of contribution required, in this instance to be £40,530. Payment should be made before the development commences.

West Essex CCG therefore requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 planning obligation.

West Essex CCG and NHS England are satisfied that the basis and value of the developer contribution sought is consistent with the policy and tests for imposing planning obligations set out in the NPPF.

{OFFICER Response: Planning Obligations such as this are considered in the report below. It should be made clear that all requests must meet the requirements of Policy IN6 of the HLDP. Often due to viability issues not all contributions such as this can be secured.}

Essex Police

Has requested the opportunity to provide advice on detailed design to achieve Secure By Design principles.

Civic Society

Objection.

Wych Elm as a whole could benefit from redevelopment. This piecemeal proposal does not fit well with our ideas, which we submitted to Harlow Council in 2005.

Unless there is a coherent scheme that links Wych Elm to the town centre in a pedestrian friendly way and addresses the needs of current work/live developments, we consider that this application is totally inappropriate.

The development is too high; too bulky. It overshadows everything in the vicinity. A slimmer and shorter tower might be more acceptable. As it stands we are opposed to this application.

National Trust

No objection subject to mitigation / infrastructure provision

The proposed development is approximately 12.5km from the Site of Special Scientific Interest (SSSI), National Nature Reserve (NNR) areas and ancient woodland of Hatfield Forest. The area has been owned and managed by the National Trust since 1924.

The forest is experiencing rapid and unsustainable growth in visitor numbers which is putting it under considerable pressure and there are signs that the SSSI, NNR and other designated/protected features there are being damaged.

New housing development within the sites Zone of Influence (ZOI) will contribute further (both individually and cumulatively) towards recreational pressure on the Forest. The National Trust, in consultation with Natural England, has prepared a Mitigation Strategy. This includes a costed package of mitigation measures. The Strategy seeks a proportion of costs to be met through developer contributions, the rest would met by the National Trust. This issue is also acknowledged in para's 10.34-10.39 of the Harlow Local Plan (2020). Policy WE4 (Safeguarding Wildlife Sites Beyond the District Boundary) makes reference to the requirement for avoidance or mitigation measures in order to address recreational issues as a result of new development.

It is noted that due to the size of the site little on-site greenspace is proposed and it is therefore important that off-site mitigation is secured.

For the proposed development we consider the following mitigation would be appropriate:

A financial contribution of £12,450 to the National Trust for use at Hatfield Forest towards visitor and botanical monitoring and mitigation works.

In the absence of a tariff setting out a cost per dwelling a contribution of £12,450 would be proportionate to requests made for other developments within the ZOI, based on the number of dwellings proposed.

Internal (specialist) advice to HDC

Essex Place Services – Design

It is clear that the dialog during the pre-application sessions and design panel (HG Garden Town Quality Review Panel - GT QRP - see details in main body of report) that further strength has been given to the project, where refinement and a clearer narrative has been applied. This process has developed the proposals further adding additional quality to both the setting and built form.

The openness and response to the comments made in the lead up to the application have been positive where engagement and discussions have been constructive. With that and the submitted application presented, we support the application.

We have outlined several additional comments and observations which are worth considering.

Overall, it is considered the approach and delivery of the arrangement of the proposed apartment block is suitable to the size and orientation of the site. However, we have some concerns around how the proposed site would impact and affect future development to the West. This is, in particular, relevant to privacy and overlooking. The western elevations show full use of fenestration from the first storey to the top, but the offset to the redline boundary would be under 2m in places. Considering the likelihood of more low-rise development between the corner tower blocks, this displaces future development and in turn creates an uninviting development opportunity to the wider site.

We initially discussed the need of a Masterplan to help shape and guide development to this area. There could be the opportunity for the applicant or Council to undertake a study to assess massing and viability to neighbouring parcels. This will then dictate how to respond to neighbouring boundaries, ensuring a well-considered development throughout Wych Elm.

Essex Place Services – Heritage

The proposal will affect the setting of Harlow Town Park, a Grade II listed registered Park and Garden.

Due to the height it will impact some views from within Harlow Town Park. The Town Park is surrounded by development. However, it is relatively low level and there are many views from within the Town Park where development does not intrude. Trees and the vegetation on the edges of and within the park screens surrounding development and contribute to the garden character and the way one experiences the Town Park. The addition of another high-rise building will inevitably have some impact on the setting by introducing additional development into the tree lined views.

Page 70 of the Townscape and Visual Impact Assessment states: Due to the relatively low height of development within the Site, there is currently a lack of visibility towards the Site, which is screened by the parkland vegetation. Harlow Town Park is a registered parks and garden and the view does contribute positively to the visual amenity of the park and therefore is considered to be Medium Value. The visual amenity of this view is likely to be of moderate to high importance to the experience of park users therefore is identified as being of High Susceptibility to Change and of Medium-High Sensitivity.

I would be mindful of the cumulative impact such development could have on the setting of the registered Park and Garden. In order to preserve the setting and thus significance of the Registered Park and Garden, there is a preference to reduce the height of the proposal as this will lessen the impact on Harlow Town Park. Notwithstanding the above, the views of the proposed building from within the park are largely from higher ground and the proposal will not be visible from lower or denser screened parts of the park. Development as a whole is mostly screened by surrounding vegetation.

Therefore, I do not consider the impact of the proposed building to equate to any level of additional harm to the significance of the Registered Park and Garden and the proposal does not conflict with Section 16 of the NPPF.

Tim Moya Associates providing arboricultural advice

It is crucial that green infrastructure including trees is considered sufficiently within the planning and development process.

The proposed development has sufficiently considered the impacts to trees and green infrastructure. Specifically, it appears that and based on the evidence provided that there will be minimal impact on trees.

There are a few self-seeded saplings on the boundary to the west of little importance, and due to the divide from the development provided by the public access path that Rectory wood it is agreed that impact on rooting areas is unlikely.

There is no proposed work to the trees, and it is outlined that scaffolding can be arranged without pruning an oak (marked T1) in Rectory Wood. There is therefore no negative impact on the trees themselves.

Therefore, the proposed development can be considered for consent, having satisfied arboricultural matters sufficiently at this stage of the planning process.

However, it will be necessary to ensure that the proposed development will be undertaken in full accordance with the fit-for-purpose Arboricultural Method Statement (AMS) that follows the recommendations of BS 5837:2012 - Trees in relation to design, demolition and construction. This therefore requires a performance condition.

Regeneration Team

The offer of 18% affordable housing on a commercially expedient basis is disappointing. However, we accept this is a good offer given that the scheme is unviable.

The site has a very good geographical location within the town as it is central to many services such as the hospital, town centre and town park. Therefore AH housing within this location would be desirable to many tenants.

Waste Services

No objection

Neighbours and Additional Publicity

Number of Letters Sent: 41

Total Number of Representations Received: 15

Consultation expiry date: 22 April 2021

Summary of Representations Received

There have been five objections and one neutral comment. These raise the following issues:

- Overdevelopment. The site is far too small for a 6-15 storey building. It would be too close to the surrounding woodland, affecting wildlife and amenity.
- Height. The tower will block the light and ruin the outlook from Rectory Wood, which is a quiet wooded area. It would overlook and take light from nearby / surrounding homes and gardens. A 3-4 storey building would suit this site better.
- Traffic pressures will increase, including through traffic in residential areas
- Lack of parking.
- Pressure on schools and other public amenities in the local area.
- Antisocial behaviour. Residential use will add to problems of drug dealing and drinking in the woods and on the cycle track.
- Lack of family dwellings. Not enough space for families in flats.
- Lack of affordable housing.
- Detrimental effect on neighbouring property. Any structure that is erected on the proposed site that is above the current ridge line height of the building that occupies the location currently would have a detrimental impact on the amount of natural light coming into adjoining employment premises (Particularly Robinson House).
- Noise and air pollution during construction. Consideration must be given to the impact on nearby businesses, including undertaker with visits by bereaved.

PLANNING POLICY

Development Plan

Planning law requires that proposals should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan for the site consists of the Harlow District Council (HDC) Harlow Local Development Plan 2020 (HLDP), Essex County Council (ECC) Essex and Southend-on-Sea Waste Local Plan 2017 and ECC Essex Minerals Local Plan 2014.

The part of the Development Plan applicable to the proposal is the HDLP. The HDLP is prepared in the context of the National Planning Policy Framework (NPPF) – see ‘Planning Standards’ below. It is important to note that this is a very recently adopted and therefore ‘up to date’ plan in terms of NPPF Para.12.

Policies of most relevance to the proposal are:

Strategic Policies

- HGT1 - Development and Delivery of Garden Communities in the Harlow and Gilston Garden Town
- SD1 - Presumption in Favour of Sustainable Development
- HS1 - Housing Delivery
- ED3 - Developing a Skills Strategy for Harlow
- WE1 - Strategic Green Infrastructure
- WE2 - Green Belt, Green Wedges and Green Fingers
- WE3 - General Strategy for Biodiversity and Geodiversity
- WE4 - Safeguarding Wildlife Sites Beyond the District Boundary
- WE5 - Heritage
- SIR1 - Infrastructure Requirements

Development Management Policies

- PL1 - Design Principles for Development
- PL2 - Amenity Principles for Development
- PL3 - Sustainable Design, Construction and Energy Usage
- PL5 - Green Wedges and Green Fingers
- PL6 - Other Open Spaces
- PL7 - Trees and Hedgerows
- PL8 - Green Infrastructure and Landscaping
- PL9 - Biodiversity and Geodiversity Assets
- PL10 - Pollution and Contamination
- PL11 - Water Quality, Water Management, Flooding and Sustainable Drainage Systems
- PL12 - Heritage Assets and their Settings
- H2 - Residential Development
- H5 - Accessible and Adaptable Housing
- H6 - Housing Mix
- H8 - Affordable Housing
- H9 - Self-build and Custom-build Housing
- PR1 - Development within Employment Areas
- PR4 - Improving Job Access and Training
- PR5 - The Sequential Test and Principles for Main Town Centre Uses

- L1 - Open Spaces, Play Areas and Sporting Provision and Facilities in Major Development
- L4 - Health and Wellbeing
- IN1 - Development and Sustainable Modes of Travel
- IN2 - Impact of Development on the Highways Network including Access and Servicing
- IN3 - Parking Standards
- IN6 - Planning Obligations

Planning Standards

Several forms of 'planning standard' are relevant to the application. These standards complement Development Plan policies.

National Planning Policy Framework (NPPF)

The Development Plan is prepared taking account of the National Planning Policy Framework (NPPF) (as extant at the time - the NPPF is regularly updated; currently in its 2021 version) and the associated Planning Practice Guidance (PPG) (first published in March 2014 but also regularly updated with the NPPF).

Harlow and Gilston Garden Town (HGGT) is a designated 'Garden Community' under the Government's Garden Communities Programme.

NPPF Para.72 provides the national policy context for Harlow and Gilston Garden Town (HGGT) as a location for *larger scale* (housing) *development*. Of particular note is the emphasis on; *existing or planned investment in infrastructure, the areas economic potential and the scope for net environmental gains..... plus; clear expectations for the quality of development and how this can be maintained (such as by following garden city principles)*.

The HGGT (Local Authorities) Partnership has published a series of documents that set the standards expected for developments in the Garden Town and are therefore relevant to this application.

HGGT Guidance

The HGGT Vision elaborates on the HGGT's interpretation of *garden city principles* and sets expectations for high quality development to accord with the principles.

The HGGT Design Guide requires consideration of design quality in a *garden city principles* sense and draws attention to specific local issues.

The HGGT Transport Strategy (Draft) explains the transport infrastructure investment and travel behaviour change (encouragement of bus, walking and cycling) being planned.

The HGGT Infrastructure Delivery Plan sets out infrastructure investment plans and developer contribution requirements.

The HGGT Sustainability Guidance and Checklist lists specific development quality standards and provides a quality assessment process. Applicants for any major development are expected to prepare a self assessment of their proposals using this document and submit it with the application. The purpose is to allow the applicant to demonstrate the quality of the development within a consistent comparative framework. The assessment is set in the context of Development Plan and the NPPF, but it can also to show where the development achieves high quality outcomes against HGGT principles, and may therefore exceed baseline planning policy requirements.

For all major development, HGGT Local Planning Authorities (LPAs) take independent specialist advice on urban design and sustainability matters (as included in the Checklist noted above) from the HGGT Quality Review Panel (QRP) (QRP Terms of Reference). Often this happens at an informal pre application enquiry stage, where early influence is more readily achieved. On this scheme the applicant engaged with the QRP at pre-application and subsequently amended the scheme following the detailed feedback.

The HGGT How to Guide on Planning Obligations and Viability sets out expected good practice on these matters, which are central to decision making on major developments. The Guide is based on the principle that Heads of Terms should be considered by the applicant at pre application stage and submitted in draft, but specific and detailed, form with the application. This facilitates effective negotiation with the LPA on these important matters. The aim is then to have a full planning agreement in draft form at the point the application is determined. For this application, because of the viability position (see below), this report includes only initial information and recommendations on Heads of Terms.

Supplementary Planning Documents (SPD) /Other Guidance

The following local planning guidance is relevant to this application:

HDC Affordable Housing and Specialist Housing Supplementary Planning Guidance (SPD) (2007) – currently being updated (a draft is published)

HDC Design Guide SPD (2011) – currently being updated with a Design Guide Addendum SPD (a draft is published). The addendum is particularly relevant as it includes guidance on tall buildings, privacy and overlooking.

HDC Open Spaces, Sport and Recreation SPD (2007)

HDC Employment and Skills Contributions in New Development (2021)

HDC Use Class Order and Town Centre Frontages (2021) this explains how policies in the Local Plan that refer to specific use classes should be applied in light of recent changes to the use class order.

ECC Essex Parking Standards Design and Good Practice (2009)

ECC Development Management Policies (2020 - living document with regular updates).

Essex Local Viability Protocol (2018) An Essex wide approach to best practice for viability assessment that is generally compatible with the wider ranging HGGT How To Guidance noted above.

Emerging Policy

HDC's draft Town Centre Area Action Plan (HTCAAP) (Issues and Options - Regulation 18 version completed in 2018, with a Pre Submission - Regulation 19 version prepared in 2019, but not further progressed). Work on the Plan is currently paused. Little decision making weight can be given to a draft plan. Despite this it does provide useful information and evidence on current issues for Harlow Town Centre. Specifically, the draft Plan encourages residential redevelopment and tall buildings as part of an overall regeneration strategy (quotes below are extracts only):

Vision

.....the town centre will have a diverse mix of shops and services; offer high quality office and employment spaces; civic and wide ranging leisure uses including cafés and restaurants; and a thriving evening economy and cultural offer. The town centre will also have a range of high quality homes that can support a mixed and balanced community. (Page 30)

Tall Buildings.....

.....Tall buildings will be supported in the town centre (Page 74)

(Extracts only)

The draft HTCAAP includes 'Policy OA2 - Opportunity Area 2 (Wych Elm)':

... identified for residential development with community and civic uses supported at ground floor in order to provide active frontages along Fourth Avenue. (Page 86)

Summary of Main Issues

The main issues for consideration of this application are:

- HGGT growth context
- Principle of development
- Impact on the character and appearance of the area (including relationship of the development with adjoining uses and green spaces and general impacts of the building height and massing on townscape character and views)
- Urban design detail (including appearance, public realm and landscaping and building height impacts on day and sunlight and micro climate)
- Impact on the development potential of adjoining land and the amenity of its existing and future occupiers
- Transport, highway access and parking
- Infrastructure requirements
- Housing provision including type/ size mix, accessible housing and affordable housing
- Sustainability
- Viability

ASSESSMENT

HGGT growth context

Major residential development proposals in Harlow must be considered in the context of the very substantial proposed growth of the Town as whole and its future as a 'Garden Town'. (HDLP Policy HGT1).

National and local partnership arrangements and policies for achieving Garden Town 'principles' (HGGT Vision, NPPF Para 72) are relevant to major urban redevelopment sites and thus to this application. HGGT principles for Sustainability (HGGT Sustainability Guidance and Checklist), facilitating transport mode shift (Draft Transport Strategy) and infrastructure provision (HGGT IDP) are particularly important.

The general form of the proposed development accords well with the main HGGT principles because:

- it provides much needed new housing;
- the new housing is in a highly accessible location, creating an opportunity to live close to existing community facilities, services and public transport and thus minimising reliance on travel by private car;
- it achieves efficient use of urban land through redevelopment and intensification.

Achievement against HGGT principles and quality on some more detailed matters is assessed as part of some of the considerations below.

Principle of development

The HLDP and NPPF generally give very high priority to encouraging urban ('brownfield') residential redevelopment (HLDP Policy SD1, NPPF Paras. 117/118).

The site is located within the 'Town Centre' as defined in the HLDP (HLDP Policy RS2). The Policy allows for town centre mixed use regeneration, including residential development and redevelopment. The NPPF (Para 85), encourages residential development in town centres, stating that residential development often plays an important role in ensuring the vitality of centres.

The HLDP envisages preparation of more detailed policies for the Town Centre in the form of a HTCAAP.

The site sits in HTCAAP Opportunity Area 2, where potential relocation of bus depot, fire station and ambulance depot and comprehensive residential led redevelopment is contemplated, along with ideas for a new school and green open space / foot and cycle route linking Rectory Wood in the north to the Fourth Avenue frontage (HTCAAP Policy OA2).

Taking account of the Development Plan, emerging policy detail for the Town Centre and the emphasis of the NPPF, residential redevelopment in a town centre location is to be expected to make the most effective use of available urban land. The residential yield of sites should be maximised, subject to the contextual character and constraints of the site and development viability.

In Harlow Town Centre, the opportunity clearly exists for substantial residential 'intensification', with high densities derived from high buildings. This is also recognised in the draft HTCAAP.

A number of high residential building developments that respond to this opportunity are either recently permitted or subject to informal pre application enquiries that is shown by the indicative views of how part of the Wych Elm area could be developed (see Planning History).

For the area generally and the application site specifically, mixed use redevelopment including substantial residential, potentially in the form of a high buildings is therefore to be encouraged.

The commercial elements of the development are subsidiary, but clearly acceptable in the existing (and future) mixed use area. As Class E (office, retail, services, food and drink),

defined premises, they offer considerable flexibility in actual use, but all uses must be compatible with residential amenity.

The principle of development is therefore considered to be acceptable and the significant issues for the application relate only to appropriate management of the planned changes in the character and appearance of the area and detailed aspects of urban design (see below).

Impact on the character and appearance of the area

General area character and appearance

The development would continue changes in the use, character and appearance of the outer Town Centre / Wych Elm area encouraged in policy and already underway (see Planning History).

The change is clearly positive, introducing new residential and commercial buildings into an underused and run down employment and service use area. The result will be a mixed use neighbourhood, where residential use could eventually predominate. There are significant Town Centre regeneration benefits.

It should be noted that further residential led redevelopment in the area is likely. Pre-application discussions are in progress with owners of other sites in Wych Elm.

The high building proposed would clearly change the appearance of the area dramatically. Urban design impacts and issues arising are further below.

'Organic' development

There is currently no detailed policy or agreed masterplan for the area, or an effective way of planning redevelopment on an area wide basis. All the residential redevelopment proposals currently active in the Town Centre are for isolated / independent sites in various private ownerships. They are entirely property market, opportunity, led.

An 'organic' pattern of redevelopment is not unusual in an established urban area, but it can be more problematic when residential use is increasing and there will be a continued mix with commercial activity. Residential use requires greater attention to amenity, including creation of recreation opportunities and pleasant streets. The needs of different uses interact and can conflict.

The Council's role in this situation is to use development management as best it can to encourage wider thinking by individual site owners, maximise opportunities and prevent clearly unacceptable design outcomes. Policy H2 of the HDLP does however require that the development would not prejudice the potential for comprehensive development of adjacent land. This is considered in detail below.

Setting aside the limitations of organic development, the proposal is welcome because it recognises and responds well to some key area urban design opportunities:

- The northern elevation and dwelling aspects utilise the permanent public space and amenity of Rectory Wood and the adjoining cycle / foot path well as part of the setting for the building. The new residential use will add activity to this area and create an attractive environment. In particular the commercial ground floor uses are acceptable close to the public space (footway) edge, and will create an active frontage with visual variety, activity and some surveillance. This design opportunity creates a good outlook

and reasonable day and sunlight environment for the high building and its north facing flats. Within these north facing flats there is no prospect of overlooking to and from other existing or future buildings on this frontage.

- The eastern and southern elevations are existing street frontages and the building and dwelling layouts / aspects are designed accordingly, with adequate separation from other buildings (approximately 15 m) and enough space to prevent unacceptable overlooking.
- Commercial uses are retained on the ground floor, providing the benefits of an active frontage on the north and east especially. This fits well with the intended future mixed use character of the area. It will avoid potential amenity problems (outlook, privacy, noise) of ground floor dwellings situated close to public street edges in a mixed use area.
- The idea in the HTCAAP, of creating a better permeability and a green space with pedestrian and cycle route on the line of the north / south section of Wych Elm, (linking the Town Centre and the east west pedestrian and cycle route north of the site), is taken as an important influence on detailed design. On this street frontage the building is to be set back from the street edge and a new area of landscaped public realm with public art would be created, as a first contribution to implementing the concept.
- The western side of the site abuts another ownership block in the street that accommodates an existing low building. This proposed building elevation has to be treated as potential blank elevation, up against a future, immediately abutting, redevelopment. This boundary relationship should not therefore be used to effectively 'steal' space from an adjoining property as a result of incorporation of essential windows to habitable rooms that would overlook the adjoining property and be blocked off if it were developed. It is nevertheless also important to avoid a windowless, uninteresting, and prominent high building elevation if at all possible. The stepped set back of the building together with design of its internal spaces and rooftop amenity areas allows the elevation to contain some windows give visual interest, but to also to future proof main aspects for the eventuality that outlook could well be affected significantly by an adjoining development. The architectural design issues relating to the issue of fitting in with future redevelopment are considered in more detail below.

Height and massing

A 15 storey building will clearly change the appearance of the whole area.

High buildings require careful consideration in terms of the various in principle and detailed matters set out in the Council's emerging Design Guide Addendum.

In terms of in principle matters of appearance and character, there has always been an acceptance that the Town Centre can accommodate high buildings. This is recognised in the original Gibbard plans for Harlow New Town and now reiterated in the HGGT Design Guide (Page 20).

The draft HTCAAP (Policy HTC 6 Page 74) states:

Tall buildings will be supported in the town centre subject to their location, proximity to key views, gateways and landmark areas, their surrounding context including adjacent buildings and layout of streets and the building use/s.

Building heights on the perimeter of the town centre and adjacent to the boulevard streets in particular should not create a barrier between the town centre and neighbourhoods and must avoid any over-concentration of tall buildings in that area. Proposals must also consider the spacing between buildings and views of the skyline

It is important to assess cumulative effects on area character as the number of high buildings increases. There will potentially be changes in longer distance views into the Town Centre, especially from the Town's surrounding countryside and open spaces, including Town Park.

The applicant has submitted a Townscape and Visual Impact Assessment. A total of 12 views are analysed. These views include long views from Hunsdon Airfield and Rye Hill.

The development is assessed to have an appreciable impact only on:

- View looking west from First Avenue Mandela Avenue at the roundabout with A1019;
- View from National Cycle Route 1 at Rectory Wood;
- View from path adjacent to Aylmer House.

Essentially visual impact of higher buildings in Wych Elm is quite localised. This is due to the site being substantially screened by existing buildings.

The development would be primarily viewed from close to Wych Elm, in relation to existing and permitted / proposed tall buildings within the Town Centre. The height and mass would relate well to Wych Elm House under construction at 11 storeys, Joseph Rank House which is 12 storeys, Land north of Aylmer House which is 9 storeys and the former Angle site which has consent for a building of 13 storeys. 15 storeys on the application site is in keeping with the height of these other buildings.

The building will be very close to Rectory Wood. As noted above, this creates space around the building and adds to its amenities, but there will be a significant change in the townscape and visual context for public use and feel of the foot and cycle path and wooded area. However, the height of this building will work well as a landmark for the northern edge of the town centre, set against the green space of Rectory Wood.

It is important that the building design incorporates significant variations in height through its stepped design. This successfully breaks up and reduces the massing at higher level.

On this basis, the height and mass of the building is considered to be acceptable.

Architecture, including materials

Architecture and materials should always take account of context. The building layout, the effects of height and massing, and the overall appearance can create a distinct visual relationship with the form, scale and grain of the surrounding buildings.

In this case, because the whole area is planned to change so dramatically and the existing buildings are not of any particular value, design scope is relatively unconstrained by surrounding buildings. The proposal can and should set a good new standard for further redevelopment.

The stepped form and varied heights create architectural and visual interest from both a public townscape and occupier perspective.

The building form and the layout of the flats utilises the site situation and orientation well (see above). The frontage design exploits the three main frontages to the woodland and streets and accommodates the adjoining building relationship. The design maximises opportunities for high quality living spaces, with dual aspect habitable rooms and balconies.

Outdoor amenity space is provided within the building, through the balconies and inclusion of attractive and useable roof top gardens / amenity spaces (with some play facilities).

The detailed architecture and use of materials is, in the applicant's description:

.....contemporary but references the materials used in other Town Centre buildings. Colour patterns of red brickwork and dark grey aluminium for the window and door frames are intended to create a simultaneously familiar, yet modern aesthetic. This modern approach is especially carried through to the building's articulation, fenestration and use of decorative brick reliefs and inset features. The overall effect is sympathetic and contextually appropriate, whilst being architecturally interesting and distinct. The use of 'Copper Green Glazed Brick' adds visual interest and creates a green wall 'feel' and ties with a living green wall on part of the ground and first floor levels.

High building design needs careful consideration in respect of public and private (occupier / user) issues of day and sunlight and micro climate effects.

The applicant has submitted a standard Design and Access Statement together with a specialist Wind Micro Climate Report (desktop rather than wind tunnel modelling).

The conclusions of the applicant analysis can be generally accepted.

The south and east facing street frontages will benefit from plentiful day and sunlight. The north facing frontage benefits from the space of the public woodland. There will be shadow and shading effects here but this will not affect other buildings. Occupiers with north facing flats will benefit from projecting balconies that will offer some morning and evening sunlight. Shade is acceptable and will provide variety and utility for a short part of the cycle and footpath route.

To provide more private dwelling aspects and better day and sunlight at lower levels there is a substantial outdoor roof amenity space on the first floor.

There are expected to be some wind effects for pedestrians at pavement level close to the building, especially at the south western corner (prevailing, strongest winds) and in rooftop gardens, but these are not significant. This is due to the impact on wind flows from the podium and adjoining low level industrial buildings, Rectory Wood and the proposed soft landscaping at ground, podium and roof terraces.

Specialist advice on detailed urban design and architecture

The Council takes specialist urban design and heritage advice from Essex Place Services to assist in its assessment of some major planning applications. Their advice is detailed in the consultee section of the report. The design advice is that the proposals are acceptable, but attention is drawn to the importance of the design relationship with the abutting site, in respect of its future development potential. This is further considered below.

Under HGGT Partnership arrangements major applications are also subject to 'Design Review' through the HGGT QR Panel (NPPF Para. 129). The conclusions from Design

Review contributed to the evolution of the proposals. The final proposals generally respond to advice provided. Details are included in the applicant's Design and Access Statement.

The QRP Review contribution has influenced the overall conclusions drawn in this report.

The Panel advised on a need for detailed control of architectural detail and materials by planning condition, to ensure quality as built. Also, as with Essex Places Services advice, the Panel identified issues that relate particularly to the likelihood of, and relationship, of the proposal with, further residential redevelopment and high buildings in the locality:

- dilemmas arising from the piecemeal form of development being proposed in the Wych Elm area. There is no overall masterplan including a shared approach to provision for unified public realm and recreational space and infrastructure proposals
- cumulative visual impacts will arise from multiple new high buildings in the town centre
- reliance of development on public green and street space, particularly Rectory Wood, to provide sufficient spacing and a setting around new buildings
- specific physical / neighbour relationships between development proposals and effects on potential for redevelopment of other properties

The Review identifies some specific issues for this proposal on the final point (see below).

The following matters were addressed following the QRP:

- The number of rooftop amenity spaces were reduced. These are provided at first floor and eleventh floor only (solar panels are now proposed at sixth, ninth, thirteenth and roof level instead). The drawings and DAS provide details on the likely users of each communal amenity space;
- A range of options for accessible units among different typologies and sizes between M42 and M43 categories are provided;
- The Blue Badge parking was moved to be closer to the lift access for the residential dwellings, as well as the commercial units;
- The servicing arrangements were revised to ensure that the servicing strategy is feasible, including both the residential and commercial deliveries and waste collection flow;
- Extra windows (on the internal elevation) were added to the larger bike store to increase a sense of safety; and
- A wind & microclimate study was undertaken to assess the impact of the proposal on area at pedestrian level, as well as the communal amenity spaces. Extra landscaping was also proposed to reduce any wind impacts at the corners of the development.

Impact on the development potential of adjoining land and the amenity of its existing and future occupiers

This is always an important issue when new residential buildings are proposed within the grain of an existing urban area. There is particular significance in respect of high buildings, because they can create significant daylight and sunlight impacts on adjoining spaces and extensive overlooking problems for occupiers and adjoining occupiers. It is not acceptable for proposed new housing to rely heavily on the outlook, light and sunlight provided by land

and air space outside of the application site. For an organic form of redevelopment, it is however often reasonable and necessary to permit development at, or close to, boundaries in advance of any knowledge of how an adjoining site could be developed. In this situation the design must be able to accommodate anticipated adjoining redevelopment effects, or be flexible to future changes in its surrounds. Policy H2 of the HDLP does however require that the development would not prejudice the potential for comprehensive development of adjacent land.

This necessitates consideration of some important principles:

- generally understanding and taking account of likely options for adjoining development
- avoiding development at, or in close proximity to, boundaries with sites that may also be developed in future (using set backs)
- if development close to boundaries is necessary or appropriate to benefit the general town scape and street scene (especially in a street block side or party wall relationship), designing to avoid complete reliance on the relevant elevation for main aspects / windows of dwellings

For this application these issues apply mainly at the western boundary with 3 Wych Elm, because it is an abutting party boundary in the street block. To assist the applicant has submitted a visualisation showing how 3 Wych Elm could be developed. This is just an option and no assessment has been made regarding whether this proposal is acceptable in itself.

The proposals are generally satisfactory in that the scheme would not prejudice the redevelopment of 3 Wych Elm. The variation in the floor space and building heights at different levels, and the elevational detailing of relevant parts of the building address the boundary relationship. There is appropriate internal design of the spaces and main aspects of habitable rooms and appropriate placement of windows and balconies. The design offers sufficient future flexibility. In particular this is achieved by:

- setting the building back from this boundary at levels above the level at which west facing residential windows are introduced;
- introduction of the central roof space amenity area at first floor level alongside the higher parts of the building stepping back from the western boundary. This allows the flats close to this area to be designed with main aspects that are not reliant on windows facing on to the western property boundary
- retaining some windows facing the boundary to avoid an undesirable prominent blank façade effect, which could occur in a situation where the adjoining site is not developed.

Transport, highway access and parking

The application includes a Transport Statement (Assessment). The transport approach for proposal is to recognise the highly accessible location, where residents can rely heavily on public transport and active travel (walk and cycle). Accordingly parking provision is very limited.

The proposal would provide just 11 parking spaces (in an under-croft space on the western side of the building, with gated access at the southern site boundary). The focus is on provision of 3 disability spaces linked to the accessible dwelling component of the scheme and 4 spaces for electric vehicle charging which could support a car club approach for residents. Provision is at 6% of the 177 spaces indicated under parking standards.

The resultant very low direct traffic generation from the site has no discernible impact on the capacity of the road network. Thus traffic impact would not be material in a planning decision.

As background, it is important to recognise that, for the transport planning reasons noted above, in town/city centres, private car parking can, and ideally should, be minimal (HLDLP Policies IN1 and IN3, NPPF Paras 105/ 106). The Essex Car Parking Standards (Para. 2.5.1) state:

For main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development. Main urban areas are defined as those having frequent and extensive public transport and cycling and walking links, accessing education, healthcare, food shopping and employment.

The HTCAAP (Page 66 Para. 5.107) indicates:

Proposals for residential uses should consider existing and future public transport accessibility and provide a clear parking strategy which considers the overall level of allocated and unallocated spaces in relation to the type and size of dwellings proposed. Proposals should consider the identification of unallocated parking provision within the consolidated town centre car parks, with the allocated provision forming part of the developments themselves. Alternatively, some unallocated parking could be provided as on-street parking within the new town centre streets.

It is recognised that Harlow Station is located some distance away from the town centre, however the bus terminus located a few hundred meters from the application site provides regular/frequent services to the railway station (which in turn, provides regular/frequent services to London and to the north/north east including Cambridge) and it is accessible by cycle and on foot via the Town Park. In addition, proposals for Sustainable Transport Corridors (STC) would improve this access.

Low parking provision in this location certainly supports the HGGT transport approach of encouraging a significant modal shift towards public transport and walking and cycling (HDLP Policies IN1-3).

Secure bicycle storage (106 spaces on the first - residential – floor with lift access) and external visitor bicycle parking is provided. These facilities are very important in a flatted development with a dependency on active travel, because cycle storage in individual homes is often impractical.

Road access issues relate only to the detailed design of the under-croft car park and its entry and egress and service and waste vehicle access. The submitted reports on vehicle accessibility and plans, with detailed swept path analysis, confirm that parking and on street commercial service and refuse disposal access is suitably catered for and workable in this location.

ECC as Local Highway Authority raise no concerns in terms of traffic issues or highway safety (HDLP Policies IN1-3).

All significant new residential developments should be designed and managed to support reduced reliance on car transport in ways other than simply reduced parking and cycle storage provision. They are also expected to contribute financially to improved public and active transport infrastructure and in this case the development would be expected to provide for:

- financial contributions to public and active transport improvements in the form of the new STC network (HDLP Policies SIR1, IN1, IN6)
- travel planning commitments secured through the property management arrangements for the building. This should, as a minimum include making public and active transport information and incentives available each time a dwelling is newly occupied and guaranteed permanent provision of cycle storage. Consideration of access to car hire / club facilities and support for management of on street parking pressures is also expected. (HDLP Policy IN1)

These are matters that can be dealt with by planning obligation.

Infrastructure requirements

Major residential developments create various new infrastructure demands. This issue is particularly important given the high levels of population growth proposed in HGGT (HDLP Policy IN6./ HGGT IDP).

The IDP apportions clearly linked and proportionate responsibility for financial contributions (and some times 'in kind' land reservations or property development actions) by developers towards necessary infrastructure investments. This is done on the basis of the scale and impact of the main HGGT growth locations, with a residual requirement applicable to smaller developments. However these requirements are always to be considered in relation to development viability (NPPF Para. 57).

The Council applies a case by case, but consistent, judgement on an appropriate order of priority for infrastructure contributions, taking account of viability.

All infrastructure requirements are balanced with the ability of the development to provide affordable housing.

In this case the infrastructure investment priority is clearly for financial contributions to the programme of sustainable transport corridors provision. This supports the approach of low levels of car parking and heavy reliance on public and active transport options.

On the basis of the independently verified viability position in this case (see below) significant infrastructure contributions beyond those to STCs are not likely to be achievable.

Housing provision (including type / size mix, accessible housing and affordable housing)

The proposed housing type / size mix is appropriate in this location and is policy compliant (HDLP Policy H6). It is an advantage that provision of roof top amenity / garden spaces can encourage and support some family occupation.

Accessible housing is provided at policy compliant level; 8 dwellings (10%) (HDLP Policy H5) and this will be secured by condition. Allocation, by property lease, of available on site parking spaces, on a 1 to 1 basis, to these dwellings is expected.

The overall effect on parking provision is that only 3 'unallocated' spaces will remain. This reinforces the need for use of these spaces to be fully managed (by property related restrictions) in relation to the overall parking approach for the development (see above). They might be used for EV charging and potentially car club arrangements.

The applicant considers that the viability of the scheme is marginal and does not readily support affordable housing provision. A review of this by an expert appointed by the Council has agreed that the scheme is not viable. However, an offer of 15 units (18%) provision is made on the basis of 'commercial expediency'. In practice this means that there is sufficient flexibility within the normal assumptions about developer profit and financing to create opportunity.

The tenure mix of affordable housing (to take account of the local market and affordability position) is not yet agreed and this will have to be considered in relation to viability constraints when detailed negotiations take place with regard to the legal agreement post Committee decision.

Thus affordable housing provision is not policy compliant (HLDP H8), although policy must be applied with due recognition of viability constraints. Because of this a late stage market review mechanism is proposed as a part of any affordable housing planning obligation. Review is used to allow for additional on-site in kind provision, or in lieu off-site financial contributions to be agreed should the viability of the scheme improve once sales are well advanced.

Sustainability

The applicant has submitted their own assessment of the quality of their scheme in terms of a wide definition of 'sustainability' using the HGGT Guidance and Checklist.

This is notable in respect of overall the planning decision assessment of the scheme in the following respects:

- an intensive residential redevelopment in this location performs well in general sustainability terms as it is a reuse of scarce land resources
- on travel the scheme rates very well because the location is very accessible and the proposal encourages car free living
- building embodied carbon impact and operational energy performance proposals are disappointing, meeting only the basic policy requirement
- Biodiversity gains are not readily achievable and there is no offset (compensation) proposal

Conditions

The recommendations below on conditions are generally self explanatory. However it is worth highlighting the importance of the following points in a prominent high building scheme:

- The need for control of façade and materials detail through very detailed submissions and approvals

- Comprehensive construction management measures are required in a busy urban area

As the site is flood zone 1 there are no issues with regard to flooding. However, to ensure that drainage is considered in detail a specific condition has been recommended.

Planning Obligations

Taking account of the assessment above a range of planning obligations are recommended as necessary to justify grant of planning permission.

The priorities are for affordable housing provision and transport infrastructure. However policy compliance on these matters is not fully achievable due to scheme viability. Viability has been independently verified. For affordable housing the position justifies an obligation for a late review mechanism that will assess whether the level of provision can be increased if viability improves when the development is built and marketed.

Other potential planning obligations, including those suggested and well evidenced by external consultees; for education, health services, open space and countryside recreation impact mitigation are not achievable in view of the verified viability position. This conclusion, when set against the overall benefits of the development, cannot justify refusal.

The approach taken is in accordance with the normal HGGT and Essex approach to assessment.

Equalities

Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have regard to the need to:

- “(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”

For the purposes of this obligation the term “protected characteristic” includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The above duties require an authority to demonstrate that any decision it makes is reached “in a fair, transparent and accountable way, considering the needs and the rights of different members of the community and the duty applies to a local planning authority when determining a planning application.

Officers consider that the application does not give rise to any concerns in respect of the above.

CONCLUSIONS:

The development would further overall regeneration plans for the Town Centre. It is well designed and would make a positive contribution to the changing character of the Wych Elm area and its public realm. In the absence of an area master plan, the development is appropriate in respect of relationships with adjoining and nearby sites, taking account of the likelihood that they will also be redeveloped at some point. The architectural appearance of the building offers considerable interest, incorporating variations in height and massing and using appropriate window placings, façade detailing and materials.

The proposals are generally policy compliant, with the notable exceptions of the very limited affordable housing provision and in failing to contribute fully to sustainable transport requirements as set out in the HGGT IDP.

However given the independently verified viability position, that effectively limits the scope for greater financial commitments to affordable housing and infrastructure, the planning balance is decisively in favour of grant of planning permission.

RECOMMENDATION

That Committee resolve to GRANT PLANNING PERMISSION subject to:

- (i) The applicant entering into an appropriately worded Section 106 Legal Agreement to secure the following:
1. Affordable housing provision of 15 units (18% of total). An associated early stage upward only review mechanism is required to address under-provision against the normal HDLP policy requirement (30% of total) if substantial implementation has not occurred within 2 years;
 2. Dedicated parking provision for the accessible housing in the scheme (on a one to one basis for the 8 accessible housing units provided), provided permanently by property ownership, covenants and related management arrangements (A detailed scheme submission and LPA approval to be required before development commences).
 3. Transport planning measures undertaken and maintained through permanent property ownership, covenants and related management arrangements sufficient to ensure:
 - provision of occupier / visitor travel planning information
 - provision of resident public transport information and incentive packs to include travel vouchers / season tickets and or discount mechanisms for use with the relevant local public transport operators and car hire /club arrangements
 - resident (and any visitor) parking management (including support for on street parking management) and EV charging point provision and management

- detailed specification and permanent provision, management and maintenance of secure cycle storage

(A detailed scheme submission and approval LPA in consultation with Local Highway Authority to be required before development commences).

4. The agreement of a Public Realm Action Plan including contribution towards the physical public realm (including public art) improvements and complementary public access rights sufficient to implement the application proposals, including in respect of areas of public highway to be included. (A detailed scheme submission and approval LPA in consultation with Local Highway Authority to be required before development commences).
 5. Arrangements for a local employment and training offer and liaison applicable to the construction phase of development (to HDC corporate standard).
 6. Arrangements for planning obligation and condition monitoring fees (to HDC and ECC corporate standards).
 7. Financial contributions of £67,000 towards funding of ECC Sustainable Transport Corridor improvement project / measures.
- ii) Should a S106 Legal Agreement not be signed by the applicant by 15 January 2022 (3 months from the date of the Planning Committee decision), powers be delegated to the Head of Environment and Planning to refuse the planning application for the reasons set out below:
- **The proposal provides no (or insufficient) affordable housing to address local needs. The proposal is therefore contrary to Policy H8 of the Harlow Local Development Plan (2020).**
 - **The Transport needs of a development that is intended to encourage and support residents travelling by public transport and walking and cycling are not fully addressed. The proposal is therefore contrary to Policies SIR1, PL1, IN1 and IN6 of the Harlow Local Development Plan (2020).**
 - **The proposal provides no strategic and local open space and play, childcare and education, health and libraries infrastructure to meet local needs generated by the development. The proposal is therefore contrary to Policies L1, L4 and IN6 of the Harlow Local Development Plan (2020).**

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 No development shall take place until an energy statement which demonstrates a reduction of energy consumption and carbon dioxide emissions together with details

of energy performance which exceed the minimum standards required by Building Regulations by a minimum of 19% shall be submitted to and approved in writing by the Local Planning Authority. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Application or Notice, to enable the building control body to check compliance.

REASON: To ensure that the development is in accordance with Policy PL3 of the Harlow Local Development Plan (2020).

- 3 No development shall commence until an investigation and remediation strategy to deal with the risks associated with the contamination of land, air and water has been submitted to and approved by the Local Planning Authority (in appropriate stages). This strategy shall include the following components:

o a site investigation scheme, based on the preliminary risk assessment/desk studies to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.

o results of the site investigation and the detailed risk assessment referred to above and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how and when they are to be undertaken.

o a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any ongoing remediation measures shall thereafter be implemented in complete accordance with the approved details.

Reason: To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of land, air or water pollution in accordance with Policy PL10 of the Harlow Local Development Plan (2020).

- 4 No development shall take place until detailed plans showing the existing and proposed ground levels of the site and proposed development relative to adjoining land, are submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved level details.

Reason: To ensure that the development is properly related to the levels of adjoining development in the interests of ensuring the development is implemented in accordance with the approved design and in the interests of good design, in accordance with Policies PL1 and PL2 of the Harlow Local Development Plan (2020).

- 5 No development shall take place until comprehensive details of all the external materials shall be submitted to and approved in writing by the Local Planning Authority. These details shall include walls, roof, windows, balustrades to roof areas and, doors, soffits and guttering. The submission should include bay studies for key parts of the building with associated descriptions and drawings of construction details. A set of full samples should be referenced and access provided to mock ups of the finish and architectural detailing. Appropriate documents, drawings and

photographic records of the final approved configuration should be provided. The development shall thereafter be carried out in accordance with the approved details.

REASON: In the interest of the character and appearance of the area and visual amenity, to accord with Policies PL1 and PL2 of the Harlow Local Development Plan (2020).

- 6 Notwithstanding the contents of the approved application drawings, no development (including any demolition, earthworks or vegetation clearance) shall take place before a fully detailed scheme of landscaping, which shall include details of both hard and soft landscape works and earthworks, has been submitted to, and approved in writing by, the Local Planning Authority. This is to include all roof top gardens and amenity spaces and any play equipment therein. Details should include; Tree species, with height, girth, stem, root system; shrubs species, with pot size, height/spread and tree pit designs; hedge formation noted; plant, seed or turf specifications; furniture and equipment specifications. All planting is to have a detailed specification and an establishment and longer term aftercare plan. The landscaping scheme shall demonstrate an approach that can maximise biodiversity benefits.

REASON: To ensure satisfactory landscape treatment of the site in the interests of visual amenity and biodiversity and to comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 and in accordance with Policies PL1, PL2, PL7 and PL8 of the Harlow Local Development Plan (2020).

- 7 No development except demolition shall take place until a detailed surface water drainage scheme for the site, based on the approved drainage strategy which includes sustainable drainage principles and a full assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Lead Local Flood Authority). The scheme should include, but not be limited to, detailed engineering drawings of each component of the drainage scheme and a comprehensive maintenance and renewal plan.

REASON: To prevent flooding by ensuring the satisfactory storage / disposal of surface water from the site, to ensure the effective operation of sustainable drainage features over the lifetime of the development and to provide mitigation of any environmental harm which may be caused to the local water environment in accordance with Policy PL11 of the Harlow Local Development Plan (2020). 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.

- 8 A minimum of 10% of the market dwellings and 15% of the affordable dwellings hereby approved shall comply with Building Regulations Optional Requirement Approved Document M4(3) Category 3: Accessible and adaptable Wheelchair User dwellings (2015 edition). Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Application or Notice, to enable the building control body to check compliance.

REASON: To ensure that accessible housing is provided in accordance with Policy H5 of the Harlow Local Development Plan (2020).

- 9 The permitted dwellings shall not be occupied unless the Optional Technical Housing Standard for water efficiency of no more than 110 litres per person per day as described by Building Regulations has been provided for (by design specification and installation of equipment and control measures). Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Application or Notice, to enable the building control body to check compliance.

REASON: To ensure that the new dwellings minimise impact on the water environment, in accordance with Policy PL11 of the Harlow Local Development Plan (2020).

- 10 No construction works or any other associated works, including any machinery operations, in connection with the development shall take place outside the hours of 0700-1800 on weekdays and 0700-1300 on Saturdays, nor at any time on Sundays or Bank Holidays.

REASON: In the interests of the amenity of adjoining or nearby property occupiers, in accordance with Policies PL2 and PL10 of the Harlow Local Development Plan (2020).

- 11 Doors and windows indicated as obscure glazed on the approved drawings shall be glazed in obscure glass at level 5 of the Pilkington Scale or similar. The windows shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.

REASON: In the interests of the amenity of residents generally and users of roof top gardens and amenity areas, in accordance with Policies PL1 and PL2 of the Harlow Local Development Plan (2020).

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

Reason: To ensure that appropriate parking and turning is provided in accordance with in accordance with Policies PL1, PL2 and IN2 of the Harlow Local Development Plan (2020).

- 13 The proposed development shall be completed in full accordance with the approved arboricultural details and a related detailed method statement has been submitted to and approved by the Local Planning Authority before the development commences.

Any alterations to the approved documents must be approved before any work with potential to affect trees commences.

Reason: To ensure that damage to vegetation identified for retention is avoided and to comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 and in accordance with Policy PL7 of the Harlow Local Development Plan (2020).

- 14 All hard and soft landscape works as required by Condition 6, shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant 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 and in accordance with Policies PL1, PL2, PL7 and PL8 of the Harlow Local Development Plan (2020).

- 15 The applicant or any successor in title must maintain yearly logs of maintenance for all the drainage features of the scheme, to verify that maintenance has been carried out in accordance with the approved maintenance and renewal plan. The logs must be available for inspection upon a request by the Local Planning Authority (in consultation with the Lead Local Flood Authority).

REASON To ensure the approved drainage features are maintained for the lifetime of the development, so that they continue to function as intended to ensure mitigation against flood risk, in accordance with Policy PL11 of the Harlow Local Development Plan (2020).

- 16 Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include travel vouchers/season tickets for use with the relevant local public transport operator or rail operator.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policy IN1 of the Harlow Local Development Plan, December 2020.

- 17 Prior to completion or first occupation of the development hereby approved, whichever is the sooner; a scheme showing the location of the affordable housing units within the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved scheme. Those dwellings providing Affordable Housing shall be made available to occupants in accordance with the approved scheme or as otherwise agreed in writing by the Local Planning Authority.

REASON: To promote tenure mix and ensure the suitable provision of Affordable Housing.

- 18 No preliminary groundwork of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

REASON: In the interest of protecting and conserving any archaeological assets in compliance with PL12 of the Harlow Local Development Plan, December 2020.

- 19 Prior to works commencing, details of 'Secured by Design' measures to be incorporated in the development shall be submitted to and agreed by the Local Planning Authority.. The details shall demonstrate how the development incorporates the principles and practices of Secured by Design. Once approved, the development

shall be carried out and permanently retained in accordance with the approved details.

REASON: To ensure that the Development is safe and that the risk of crime, and the fear of crime, is reduced in accordance with the NPPF and Policy PL1 'of the Harlow Local Development Plan, December 2020.

- 20 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 |
|-----------------------|--------------------|-----------------------------------|----------------------|
| SK01 | -- | Swept Path Analysis | 15.06.2021 |
| | -- | Transport Technical Note Addendum | 11.06.2021 |
| 761 021 | P1 South & West | Existing Elevations | 30.01.2021 |
| 761 001 | P1 | Location Plan | 30.03.2021 |
| 756 011 | P1 | Existing Ground Floor Plan | 30.03.2021 |
| 761 012 | P1 | Existing Roof Plan | 30.03.2021 |
| 761 022 | P1 East & North | Existing Elevations | 30.03.2021 |
| 761 050 | P1 Ground Floor | Demolition Plan | 30.03.2021 |
| 761 051 | P1 Roof | Demolition Plan | 30.03.2021 |
| 761 052 | P1 S&W Elevations | Demolition Plan | 30.03.2021 |
| 761 053 | P1 N&E Elevations | Demolition Plan | 30.03.2021 |
| 761 110 | P1 | Proposed Site Plan | 30.03.2021 |
| 761 112 | P1 | Proposed First Floor Plan | 30.03.2021 |
| 761 113 | P1 | Proposed Second Floor Plan | 30.03.2021 |
| 761 114 | P1 | Proposed Third Floor Plan | 30.03.2021 |
| 761 115 | P1 | Proposed Fourth Floor Plan | 30.03.2021 |
| 761 116 | P1 | Proposed Fifth Floor Plan | 30.03.2021 |
| 761 117 | P1 | Proposed Sixth Floor Plan | 30.03.2021 |
| 761 118 | P1 | Proposed Seventh Floor Plan | 30.03.2021 |
| 761 119 | P1 | Proposed Eight Floor Plan | 30.03.2021 |

| | | | |
|---------|----|--------------------------------|------------|
| 761 120 | P1 | Proposed Ninth Floor Plan | 30.03.2021 |
| 761 121 | P1 | Proposed Tenth Floor Plan | 30.03.2021 |
| 761 122 | P1 | Proposed Eleventh Floor Plan | 30.03.2021 |
| 761 123 | P1 | Proposed Twelfth Floor Plan | 30.03.2021 |
| 761 124 | P1 | Proposed Thirteenth Floor Plan | 30.03.2021 |
| 761 125 | P1 | Proposed Fourteenth Floor Plan | 30.03.2021 |
| 761 126 | P1 | Proposed Roof Plan | 30.03.2021 |
| 761 141 | P1 | Proposed North Elevation | 30.03.2021 |
| 761 142 | P1 | Proposed East Elevation | 30.03.2021 |
| 761 151 | P1 | Typical Section B-B | 30.03.2021 |
| 761 143 | P1 | Proposed West Elevation | 30.03.2021 |
| 761 150 | P1 | Typical Section A-A | 30.03.2021 |
| 761 111 | P2 | Proposed Ground Floor | 18.08.2021 |
| 761 140 | P2 | Proposed Southern Elevation | 18.08.2021 |

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Informatives

- 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. 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.
3. 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.
4. 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 or by post to:

SMO3 - Essex Highways, Unit 36, Childerditch Industrial Park, Childerditch Hall Drive, Brentwood, Essex, CM13 3HD.

5. 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.