

REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE
8th December 2021

REFERENCE: HW/FUL/21/00501

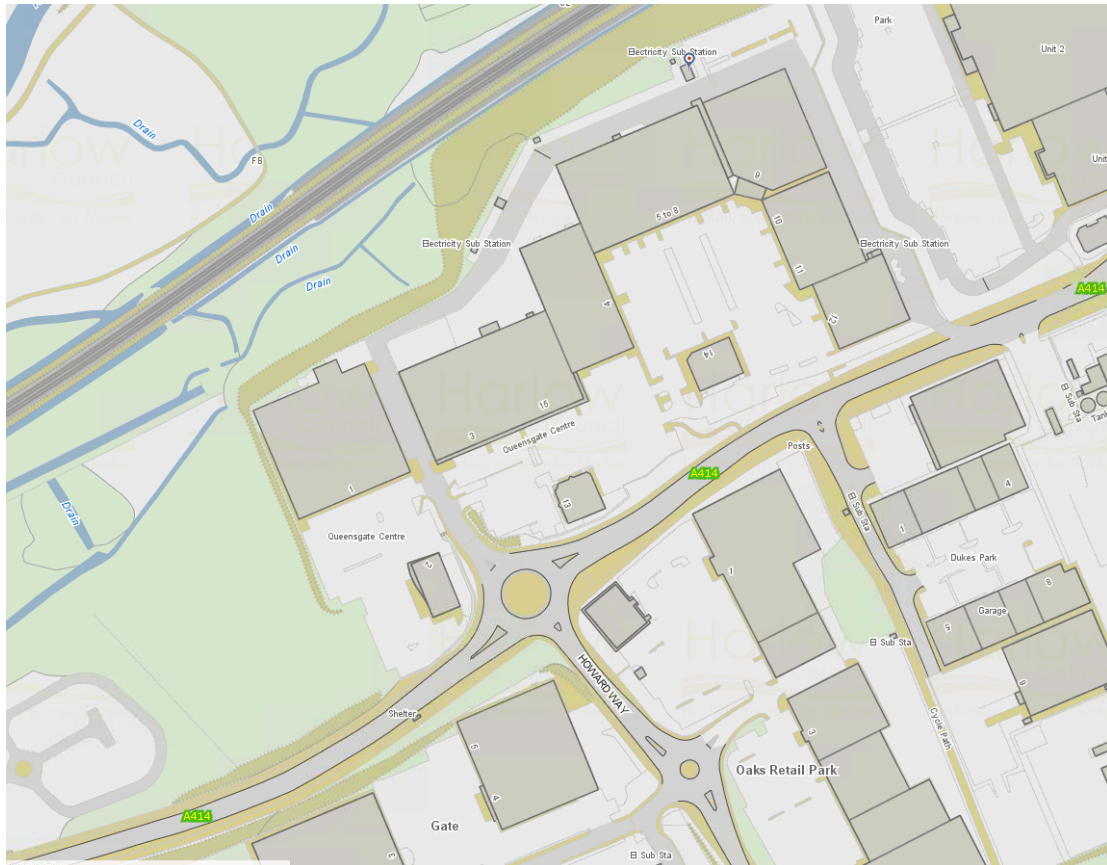
OFFICER: Leah McGuinness

APPLICANT: The Crown Estate

LOCATION: 3A - 3B Queensgate Centre
Edinburgh Way
Harlow
Essex

PROPOSAL: External alterations associated with the amalgamation of Units 3A and 3B, reinstatement of garden centre, continued use of the combined unit for Class E and to allow for the sale of food (up to 10% of GIA), drink (up to 5% of GIA), toiletries (up to 5% of GIA) and other associated works

LOCATION PLAN



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REASON BROUGHT TO COMMITTEE: A major application which is considered to be of significant public interest.

Application Site and Surroundings

The application site comprises Units 3A and 3B at the Queensgate Centre in Harlow, along with the external areas to the rear of the unit. The Queensgate Centre is a retail park located in an 'out of centre' location which includes a number of retailers including Smyths Toys, Hobbycraft, Currys PC World, Next Home, and Wren Kitchens. It also accommodates a Tim Hortons, Costa and Subway.

The northern boundary comprises the railway line which runs along an embankment. The site is accessed from Edinburgh Way at the roundabout with Howard Way. There is an egress only onto Edinburgh Way to the eastern end of the site adjacent to Mothercare.

Units 3A and 3B are located to the north of the main entrance and opposite Pizza Hut Restaurant. Unit 3A is soon to become vacant following the relocation of Bensons for Beds into Unit 6A (subject to planning), while Unit 3B is vacant following the closure of Decathlon in early 2020.

The site lies within a designated '*Out of Centre Retail Park*'.

Details of the Proposal

Planning permission is sought for external alterations associated with the amalgamation of Units 3A and 3B, reinstatement of the garden centre, relaxation of the range of goods to allow the sale of food (up to 10% of GIA), drink (up to 5% of GIA), and other associated work to allow the occupation of the unit.

The proposal will accommodate B&M, a specialist discount retailer, selling a limited range of discounted convenience and comparison goods. B&M's unique selling point is the competitiveness of its low prices and the breadth of the predominantly bulky goods product range. The stores primarily sell paint, wallpaper, furniture, home textiles, home furnishings, wall decor, garden ranges & leisure products. Food and drink products are also sold within the stores made up of largely non perishable foods including tinned foods, cereals, teabags etc and a large variety of sweets and drinks. They are stored on shelves and usually are placed at the entrance.

B&M are currently trading at Princes Gate Retail Park. Their relocation to the application site would allow B&M to operate with a garden centre and expand their current offering. It is anticipated the existing store will close and much of the current trade will simply 'transfer' over to the new store. B&M will vacate the existing store when the lease expires, however it is not known what the landlords plans for re-letting the store will be.

The proposals involve the reinstatement of the former garden centre to the rear of the unit, associated with the previous use of the unit as a DIY retailer. The garden centre will be used for the storage and display of a range of garden and associated products.

Once amalgamated, Unit 3 A/B will measure a total of 3,232 sq.m (GIA) at ground floor level, in addition to 796 sq. m for the external garden centre, to provide a total of 4,027 sq. m, which will be used principally for the sale of comparison goods. The existing mezzanine floor in Unit 3A will be removed, resulting in an overall net reduction of GIA floorspace of 746 sq. m. In addition, it is not proposed to retain the safeguarded mezzanine provision of 689 sq. m in Unit 3B.

RELEVANT PLANNING HISTORY:

<u>App Number</u>	<u>Proposal</u>	<u>Status</u>	<u>Decision Date</u>
HW/CND/20/00100	Application for approval of details reserved by condition 5 (quantum and location of floorspace) of planning permission HW/PL/14/00069	Condition Discharged	17.06.2021
HW/PL/14/00354	External Alteration to Unit 3, The Queensgate Centre	Granted planning permission.	02.10.2014
HW/PL/14/00285	Confirmation that the Occupation of Floorspace Comprising Units 3b and 3c (as shown on drawing 1340-U3-P22-A, date stamped 01.07.2014) by Decathlon for the Sale of Sports Goods and Equipment Falls Within the Scope of Planning Permission HLW/220/88.	Lawful Certificate Granted.	06.08.2014
HW/PL/14/00069	Sub-division of Units 3 & 3A Queensgate Centre to Create 3 No. Units, Insertion of Mezzanine Floors, Alterations to the External Appearance Including New Shopfronts & Entrance Features, and Associated Works Including the Reconfiguration of Car Parking.	Granted planning permission.	09.04.2014
HW/PL/12/00100	Alterations to elevations and associated works including revised external storage area to support Sub-division of the Unit	Granted planning permission.	29.05.2012
HW/PL/08/00262	Application for the Variation of Condition 3 of Planning Permission HLW/220/88 to Facilitate the Re-Occupation of Part of the Property by Another Retailer within the Home Retail Group Ltd-Home Store and More.	Granted Planning Permission	26.09.2008
HW/PL/05/00189	Variation of Condition 3 Attached to Planning Permission Reference HLW/220/88 to Allow a Catalogue Retailer to Trade From Part of Unit 3 And Formation of Mezzanine Floor.	Granted Planning Permission	30.08.2005

CONSULTATIONS

Internal and external Consultees

ECC Highways

No objection.

The applicant has submitted a robust Transport Assessment (TA) that demonstrates, to the satisfaction of the Highway Authority, in terms of safety and capacity that the impact of the proposed development, will result in a small but acceptable level of increase.

Consequently, the impact of the development on the highway network could not be considered as severe. Furthermore, the parking provision is considered to be acceptable. Consequently, 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.

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions.

The above measures are to ensure that this proposal is not contrary to the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, and policies IN1, IN2 & IN3 of the Harlow Local Development Plan 2020 and the NPPF 2021.

Neighbours and Additional Publicity

Number of Letters Sent: 5

Total Number of Representations Received: 0

Date Site Notice Expired: N/A

Date Press Notice Expired: N/A

Summary of Representations Received

None received.

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

- SD1 (Presumption in Favour of Sustainable Development)
- RS1 (Retail Hierarchy)
- RS2 (Future Retail Floorspace)
- RS3 (Protecting and enhancing existing Retail Centres).

Development Management Policies

- PL1 – Design Principles for Development
- PL3 – Sustainable Design, Construction and Energy Usage.
- PR5 (Sequential Test and Principles for Main Town Centre Uses)
- PR10 (Development in Retail Parks)
- IN1 - Development and Sustainable Modes of Travel
- IN2 – Impact of Development on the Highways Network including Access and Servicing
- IN3 – Parking Standards

For the benefit of this application it is noted that Use Class A1 was revoked and Use Class E a) now covers display or sale of retail goods.

PLANNING STANDARDS

National Planning Policy Framework (NPPF) (2021) - sets out the Government's key economic, social and environmental objectives and the planning policies to deliver them. These policies will provide local communities with the tools they need to energise their local economies, meet housing needs, plan for a low-carbon future and protect the environmental and cultural landscapes that they value. It seeks to free communities from unnecessarily prescriptive central government policies, empowering local councils to deliver innovative solutions that work for their local area.

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.

Supplementary Planning Documents (SPD) /Other Guidance

The following local planning guidance is relevant to this application:

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.

ECC Essex Parking Standards Design and Good Practice (2009)

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.

Planning Practice Guidance (PPG)

Summary of Main Issues

The key issues for consideration in the determination of this application are: the principle of the development; the proposals compliance with the sequential approach; the impact on the vitality and viability of the town centre; and impact on highway safety and accessibility.

Assessment

Principle of Development

Condition 3 of Planning Permission HW/PL/14/00069 restricted the range of goods which could be sold be from the unit to *DIY goods, furniture, floor coverings, textiles and furnishings (including soft furnishings) and homewares, leisure and garden products, motor accessories and electrical and ancillary goods and services only*".

It is considered that 'ancillary goods' include the sale of food and drink, however the applicant wants to vary the condition wording from the previous permission and have the following wording included as a condition within this new permission to include the specific range of foods. This includes *'used for the sale of food (up to 10% GIA), drink (up to 5% GIA), and toiletries (up to 5% GIA)* for clarity.

Harlow Local Development Plan 2020 (HLDP) Policy PR5 seeks to protect the vitality and viability of town centres by ensuring that all town centre uses must be directed in the 1st instance to town centres unless there are no suitable or available sites. Development will be supported if all of the following criteria are met: a) the sequential test is met; b) an active frontage is achieved at ground floor; c) the vitality and viability of the retail centre is preserved and enhanced; and d) is well relation to public transport facilities or where sustainable transport can be provided.

Also of relevance is policy PR10 of the HLDP which specifically relates to development proposals on retail parks. This policy specifies that proposals for development must meet the following criteria and will not be permitted if they involve any of the following a) the sequential approach is satisfied; b) the development is in Use Class A1 and is for the sale of bulky goods, or provides leisure activities; c) any sub-division does not result in any separate retail unit being less than 1,000 sq.m in size.

B&M is in Use Class A1 (Class E) and would be for the sale of bulky goods. Therefore the proposal would comply with policy PR10 (b) and would be deemed acceptable. Overall it is considered that there are no sequentially preferable sites for such development and the retail impact of the development would not be harmful on existing retail centres. The proposal would be in accordance with policy PR5 and the overall strategy set out in the Development Plan and therefore should be granted. These issues are detailed below.

Sequential Test

The application site is an established retail destination in a highly accessible location. Due to its location in an out-of-centre location, a sequential test must be undertaken in line with national and local policy.

The National Planning Policy Framework (NPPF) seeks to protect the vitality and viability of town centres by ensuring that Local Planning Authorities apply a sequential test for planning applications for retail development (and other main town centre uses) that are not in existing centres or in accordance with up-to-date Local Plans. The sequential assessment requires applications for main town centre development uses should be located, firstly, in town

centres, then in edge of centre locations and only if suitable sites are not available should out of centre location be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and Local Planning Authorities should demonstrate flexibility on issues such as format and scale.

The National Planning Policy Guidance for Town Centres & Retail (NPPG) advises that the sequential test should recognise that certain town centre uses may have particular location requirements which mean they may only be accommodated in specific locations and the Local Planning Authorities need to be realistic and flexible in terms of their expectations of the sequential assessment. It also advises that sequentially preferable sites must be 'suitable' and the developer must consider whether there is scope for flexibility in terms of format and scale of proposals. The NPPG advises that it is for the applicant to demonstrate compliance with the sequential test.

The applicant identified specific requirements for candidate sites, as follows:

- minimum floorspace threshold of 2,320 sqm gross for the covered store area
- floor area for a garden centre
- sites should be currently vacant, or be available in the short term

A total of 39 sites were examined by the applicant in Harlow Town Centre. The applicant identified two units that met the minimum floorspace including the former BHS unit at the 24 Harvey Centre (3,160 sqm) and the former Odeon Cinema on West Gate (3,000 sqm). LSH considered the assessments by the applicant on both units and concluded that 24 Harvey Centre is not available and can be discounted as sequentially preferable to the application site and the Odeon is not suitable as it is not available to support the level of bulky goods floorspace required.

The applicant has also assessed the potential to accommodate the proposal within the Town Centre North scheme in Harlow Town Centre but LSH agree that the site is not suitable or available to support the proposal.

In terms of Neighbourhood Centres a high level desktop review has been carried out on Old Harlow, The Stow, Staple Tye Shopping Centre, Church Langley, and Bush Fair and no vacant or suitable units were identified.

Therefore LSH concluded;

'The assessment of sites was based on the potential to accommodate a B&M Home Store and Garden Centre, but subject to demonstrating flexibility in format and scale. We have questioned whether ME has adequately demonstrated flexibility in format in scale, specifically in only considering a floorspace reduction of 10%. However, we acknowledge that even if a further reduction in floorspace is applied, such as to reflect a minimum unit size sought by B&M in other locations, this would not change the outcome of the conclusions.

That conclusion is that there are no sites within or edge of centre to Harlow Town Centre and the District's neighbourhood centres that are suitable and/or available to accommodate the type of bulky goods floorspace intended for occupation by a bed retailer.

Therefore, we consider that the sequential test has been passed in line with paragraph 86 of the NPPF and Policy PR5 of the Harlow Local Development Plan.'

On the basis of the advice from LSH, it is considered that the sequential test is met in accordance with policy PR5 criteria (a) of the HLDP.

Impact on Vitality and Viability

Separate to the sequential test, policies RS3 and PR5 criteria (c) require that the impact of the proposal on the vitality and viability of town centres is assessed. The role of Harlow Town Centre, Neighbourhood Centres, Hatches and Retail parks should be protected. The threshold for a formal impact assessment is 500 sq m.

An impact assessment is not required on the basis that the area of floorspace (484.8 sqm GIA) that is subject to the removal of condition relating to the sale of goods falls under the Council's threshold for triggering an impact assessment (500 sqm gross). However, there is still a need to consider the impact of the proposal on the vitality and viability of town centres.

The proposed new store at Queensgate retail park will enable an established business to expand their current offering by providing a dedicated garden centre, thereby improving customer choice and competition within Harlow. The existing store at Princes Gate will close and much of the current trade will simply 'transfer' over to the new store. Both locations consist of '*Out of Centre Retail Parks*' and it is not considered the proposal would have a significant impact on Harlow Town Centre.

On this basis, it is considered that the proposal would be in accordance with policies RS3 and PR 5 criteria (c).

Other Retail Issues

Policy PR5 criteria b) and d) requires that an active frontage is achieved and that the site is well related to public transport facilities. Given that the use is existing, these requirements of policy PR5 do not apply and are therefore considered to be met.

Overall

The vitality and viability of the Town Centre is important to the local economy and to ensure it is an attractive place for residents, employees and visitors. The proposed amalgamation of the site and reinstatement of the garden centre will not result in any significant impact to trade of other centres and it could not have been provided in a sequentially better location. On this basis, the proposal would be in accordance with policy PR5 of the HDLP.

Visual Amenity

The proposal includes the addition of composite metal to the roof of the building (no increase in height) which would integrate well with the existing building and raises no concerns.

The proposed fencing located to the rear of the garden centre element measures 4.8m in height and is made of galvanised mesh panels and roll with 3 strands of barbed wire on top of this. No concerns are raised with this addition.

The proposed sprinklers would measure 6.5m in height and would not be visible from the street scene. They are required in the event of a fire and their location in the corner of the site is considered acceptable. The proposed pumphouse would measure 3m in height, 2.6m in width and 3.4 in depth. It is small in scale and simple in design and would be a minor addition to the site.

Overall the proposed development would not result in any harm to the character and appearance of the site or wider area and would be in accordance with Policy PL1 of the HLDP.

Highway Safety and Accessibility

A Transport Assessment has been submitted with the application and accessed by ECC Highways Officer. Whilst the proposed development would result in a small increase in the level of traffic flow to the site, it would be considered acceptable. Any impact to the highway network would not be considered severe and the parking provision provided is acceptable also. Two suggested conditions will be attached to ensure local and national highway policies are complied with.

One condition relates to a Travel Plan to be secured by a legal agreement for the one off payment of £6,132. The applicant has agreed to the condition.

Conditions

The proposal seeks planning permission for external alterations associated with the amalgamation of Units 3A and 3B which include a new composite metal profiled roof, new fence enclosure with associated fire exit, to the proposed garden centre area to the rear of the unit, along with two sprinkler tanks and a pump house.

The applicant also wants the following condition with the specific wording below to be included within the application.

“Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), the range of goods to be sold from the subdivided retail warehouse units, identified as Unit 3a, Unit 3b and Unit 3c on the 'Unit 3, Subdivision Proposed Site Plan' drawing 1340-U3-LP22, date stamped 17th February 2014, shall be restricted to DIY goods, furniture, floor coverings, textiles and furnishings (including soft furnishings) and homewares, leisure and garden products, motor accessories and electrical and ancillary goods and services only. In addition, Unit 3A/B as shown on Drawing Ref. 154482-STL-03-00-DR-A-XXXX-01000-PL01 can also be used for the sale of food (up to 10% GIA), drink (up to 5% GIA), and toiletries (up to 5% GIA).

The wording suggested above by the applicant is considered acceptable.

Planning Balance

In determining this application, there is also a need to have regard to the economic benefits of the proposal. This is one of the three pillars of sustainable development that are set out in the NPPF. These benefits should be weighed against any harm that is identified.

The proposed development will allow an established business to expand their current offering by providing a dedicated garden centre, thereby improving customer choice and competition within Harlow. It would also protect existing jobs and taking this into account the proposal is recommended for approval.

CONCLUSIONS

Overall the location of the proposed development from one 'Out of Centre Retail Park' to another is considered acceptable in this instance as it allows the applicant to expand their current store offering by providing a dedicated garden centre, and improving customer choice and availability of goods.

The sequential test looked at whether the proposal could be located in a better location. The conclusion of the assessment was that there was no suitable alternative site. The proposal would therefore be in accordance with policies RS3, PR 5 and PR10 of the HLDP and the Development Plan as a whole and planning permission should be granted.

RECOMMENDATION

That Committee resolve to APPROVE subject to the following conditions subject to

- a. a unilateral undertaking including a one off monitoring fee of £6,132 (Six Thousand One Hundred Thirty-Two Pounds index linked from April 2021) to be paid to Essex County Council prior the first occupation.
 - b. to the conditions outlined below.
1. The use of Unit 3A & 3B hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To comply with Section 91 (as amended) of the Town and Country Planning Act 1990.
 2. The external materials to be used in the construction of development hereby permitted shall be those which are outlined on the Unit 3A/3B Proposed GA Elevations (Dr No.02000 Rev PL01) submitted with this application. These materials shall not be varied without approval and written consent from the Local Planning Authority.
Reason: In the interest of visual amenity and to accord with policy PL1 of the Harlow Local Development Plan, December 2020.
 3. "Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), the range of goods to be sold from the subdivided retail warehouse units, identified as Unit 3a, Unit 3b and Unit 3c on the 'Unit 3, Subdivision Proposed Site Plan' drawing 1340-U3-LP22, date stamped 17th February 2014, shall be restricted to DIY goods, furniture, floor coverings, textiles and furnishings (including soft furnishings) and homewares, leisure and garden products, motor accessories and electrical and ancillary goods and services only. In addition, Unit 3A/B as shown on Drawing Ref. 154482-STL-03-00-DR-A-XXXX-01000-PL01 can also be used for the sale of food (up to 10% GIA), drink (up to 5% GIA), and toiletries (up to 5% GIA).
Reason: Reason - To protect the vitality and viability of town centres in accordance with policy PR5 of the Harlow Local Development Plan 2020.
 4. 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
154482-STL-03-XX-DR-A-XXXX-02000	R PL01	Proposed Elevations	03/09/21
154482-STL-03-XX-DR-A-XXXX-03000	R PL01	Proposed Sections	03/09/21
154482-STL-03-02-DR-A-XXXX-01001	R PL01	Proposed Roof Plan	03/09/21
154482-STL-03-00-DR-A-XXXX-01000	R PL01	Proposed Ground Floor Plan	03/09/21

5. Prior to the commencement of the development details shall be submitted to the Local Planning Authority for approval in writing for the provision of staff cycle parking. The approved facilities shall be safe, secure and covered and provided prior to the first occupation of the development.

Reason: To ensure appropriate bicycle parking is provided, in the interests of relying on the private motor vehicle.

6. Prior to the first occupation of the proposed development, the Developer shall submit a Workplace Travel Plan for approval in writing to the Local Planning Authority, in consultation with Essex County Council. The approved Workplace Travel Plan shall then be actively implemented for a minimum period of 5 years.

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

7. The fencing to the rear of the building shall be built and completed in accordance with the fencing details submitted with this application (Dr No. JHJ-BM-SD) and shall not be varied without written consent from the Local Planning Authority.

Reason : In the interest of visual amenity and to accord with policy PL1 of the Harlow Local Development Plan, December 2020.

INFORMATIVE CLAUSES

1. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address these concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.