

**REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE**  
**17<sup>th</sup> August 2022**

**REFERENCE:** HW/S106/22/00217

**OFFICER:** John Hoad

**APPLICANT:** Strawberry Star

**LOCATION:** 15 - 29 West Gate  
Harlow  
Essex  
CM20 1JP

**PROPOSAL:** A deed of variation request for removal of Schedule 3 (Car Parking) from S106 Agreement linked with planning permission HW/FUL/19/00291, Block D.

**LOCATION PLAN**



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**REASONS BROUGHT TO COMMITTEE:** The application amends a significant proposal for Harlow Town Centre.

## Background

Planning Permission for Block D of the Strawberry Star development at 15 - 29 West Gate, Harlow (Ref: HW/FUL/19/00291) was approved by the Development Management Committee on 13th November 2019. The decision included the need for a legal agreement to secure 69 car parking spaces to serve the development to be provided off site within the 'vicinity of' the development. The applicant now wants to vary the legal agreement and replace the requirement for 69 spaces with enhanced "travel planning" requirements for the residents and occupiers of the commercial spaces.

The previous Committee report, update sheet and minutes are attached in Appendix 1.

## Application Site and Surroundings

The site is located at 15-29 West Gate, Harlow and is part of the wider redevelopment area now known as 'Harlow Quarter'. See 'Relevant Planning History' below.

## Details of the Proposal

The application seeks approval for removal of a part of the planning agreement previously made under Section 106 of the Planning Acts (S106), forming part of planning permission HW/FUL/19/00291.

The section proposed for removal is Schedule 3 (Car parking) which requires that 69 car parking spaces to serve the development are to be provided off site (within the 'vicinity of' the development and thus expected to be in the Town Centre) to be replaced with the following obligations that the Travel Plans for block D include:

- a) permanent appointment of a TP coordinator role within the estate service provider staff team;
- b) travel planning welcome and information pack for all occupiers;
- c) provision and active management of secure cycle storage for occupiers;
- d) method for public transport and active travel information provision permanently provided and maintained on site;
- e) provision of car club for residents based on the proposal in planning application / permission submitted document *Caneparo Associates Transport Assessment June 2019 Appendix D Car Club Feasibility Report*, with 1 car club parking space in a location agreed with the Local Planning and Highway Authorities ;
- f) travel planning budget to the value of two hundred pounds (£200) per property to be used for any of discounted public transport travel, cycle purchase vouchers, or such other initiatives as proposed and approved in the travel plans (and as taken up and recorded in monitoring / budget reports), and standard local authority monitoring fees; and
- g) method for undertaking annual travel surveys and providing annual monitoring reports on travel planning activity, budget accounts and the surveys to occupiers and copied to the Local Planning and Highway Authorities.

When permission was granted, it was agreed that the landowner / developer would provide these spaces through, first temporary, then permanent, arrangements approved by the Council. The location was to be either within the wider Harlow Quarter development (See 'Relevant Planning History' below), or (possibly) in existing town centre car parks. The applicant's preference was for the wider Harlow Quarter option. However, also, the latter option was envisaged as being achievable through property provisions tied to the purchase or rental of the new apartments (e.g. developer lease of a section of a car park for use by the residents, or a guaranteed offer of season tickets or similar for spaces). Given the peak demand period for residential parking is for evenings / night-time there would be sufficient scope to accommodate such parking demand without detriment to the retail and commercial functions of the Town Centre. Overall, the arrangement was seen as making better use of existing parking. At the time all concerned accepted that either solution would be practical.

The applicant is seeking the change to the existing legal agreement on the basis that:

- There is now new Harlow Council (HDC) policy / guidance on parking provision for new Town Centre residential development, in that the Council accepts, and indeed encourages, a full 'car free' approach. This change arises from the introduction of new policy; in the form of the Harlow and Gilston Garden Town (HGGT) Transport Strategy and related HLDP Policy HGT1 and Harlow Town Centre Master Plan Framework Supplementary Planning Document (HTCMF SPD) – see details under 'Planning Policy' below.
- The Highway Authority (HA) (Essex County Council – ECC) promotes and works to these new policies. Its view is that car free residential development in Harlow Town centre is clearly acceptable in a Town Centre location because residents will have excellent access to community facilities and services, and public transport. This position has the potential to reduce traffic pressures on the road network and to encourage more journeys by foot, cycle or public transport with environmental and reduced infrastructure cost benefits.
- A car free approach is being taken to development of the wider area residential Harlow Quarter redevelopment (under Planning Application HW/OUTAM/21/00251). This has been accepted in principle by the Council as Local Planning Authority (LPA) (Officer advice following appropriate consultation with the lead HDC councillors) and the HA. This approach compromises the applicant's original solution for Block D parking provision because there will be very limited parking provision in the Harlow Quarter (service and disability parking only).

### **Planning permissions / applications**

Covering whole of 'Land At Harvey Centre'; now known as 'Harlow Quarter' mixed use redevelopment site

(The application / site has also become known as the 'Strawberry Star' (SS) site, after the current landowner / developer)

<b><u>App Number</u></b>	<b><u>Proposal</u></b>	<b><u>Status</u></b>	<b><u>Decision Date</u></b>
HW/FUL/17/00097	Demolition of the existing buildings and	Permitted	08 / 2018

<p>Existing permission covering application site plus adjoining area (whole of SS site)</p>	<p>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.</p>		
<p>HW/FUL/19/00291</p> <p>Amended scheme for Block D section of the SS site only</p> <p>(The subject application for the relevant Planning Agreement)</p>	<p>Demolition of existing building at 15 – 29 Westgate and redevelopment of the site to provide a mixed-use development within a part 8 and part 12 storey building comprising 163 residential units, flexible commercial (Use Class A1-A5) floorspace, and ancillary communal amenity, car parking and cycle storage.</p>	<p>Permitted</p>	<p>02 / 2020</p>
<p>HW/LDCE/21/00433</p> <p>Certificate of Lawful Development Planning</p>	<p>Permission W/FUL/17/00097 has been lawfully commenced</p>	<p>Approved</p>	<p>09 / 2021</p>
<p>HW/OUTAM/21/00251</p> <p>Application covering adjoining area, (forming the remainder of the SS site)</p>	<p>Outline planning application with all matters reserved to demolish the existing buildings and provide a comprehensive re-development of the site with a mixed-use development comprising up to 678 residential units, up to 3,000sqm (GEA) flexible retail / drinking establishment / leisure / community /</p>	<p>Under consideration</p>	<p>NA</p>

	<p>commercial space (Use Classes E and sui generis), communal residential amenity space, a new pedestrian boulevard, public realm improvements, car parking spaces and cycle parking with associated plant and hard/soft landscaping (Amended Description due to scheme amendments; and now expected to be subject to further amendment in July 2022)</p>		
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## CONSULTATIONS

### Internal and External Consultees

New consultation is not essential as necessary consultee information is available from past / current applications under 'Relevant Planning History' (see above). This is referred to below as relevant.

### Essex County Council as Highway Authority

No objection, based on responses to Application HW/OUTAM/21/00251.

Note: The Highway Authority provides some standardised advice to planning applicants and technical and monitoring support to planning authorities in setting up and administering travel planning (measures to encourage transport options other than car). The permission granted did envisage some minimalist measures on travel planning but the new proposals described below substantially improve on this to support a car free approach. Advice from ECC has contributed to the proposal now recommended.

### Neighbours and Additional Publicity

Not applicable. Neighbour publicity and consultation is not appropriate in the circumstances of this case. This is because there is a specific policy change applicable to the form of the planning agreement and this consideration is the only factor that should determine the decision on directly related changes to a legal agreement.

Number of Letters Sent: 0

Total Number of Representations Received: 0

Date Site Notice Expired: N/A

Date Press Notice Expired: N/A

### Summary of Representations Received

Not applicable.

## **PLANNING POLICY**

### **National Policy and Guidance**

#### National Planning Policy Framework (NPPF) – regularly updated

This set 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.

#### (National) Planning Practice Guidance (PPG) – regularly updated

Detailed guidance to complement the NPPF, where particularly relevant this is noted in the report.

### **Development Plan**

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that proposals should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan consists of the Harlow Local Development Plan (HLDP, Dec 2020), Essex and Southend-on-Sea Waste Local Plan 2017 and Essex Minerals Local Plan 2014.

The relevant policies of the Harlow Local Development Plan 2020 (HLDP) 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
- SIR1 - Infrastructure Requirements

#### Development Management Policies

- PL1 - Design Principles for Development
- PL2 - Amenity Principles for Development
- PL3 - Sustainable Design, Construction and Energy Usage
- PL10 - Pollution and Contamination
- H2 - Residential Development
- PR5 - The Sequential Test and Principles for Main Town Centre Uses
- PR6 - Primary and Secondary Frontages in the Town Centre
- PR11 - Evening and Night Time Economy
- 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

## Supplementary Planning Documents (SPD) / Other Current Planning Guidance

### Harlow (District) Council (HDC)

- Design Guide SPD (2011) and its Addendum (2021)
- Harlow Town Centre Masterplan Framework (HTCMF) SPD (2022)

This SPD is central to consideration of this proposal.

The Council has embarked on preparation of a Harlow Town Centre Area Action Plan - see below. However, in the face of significant, immediate, pressure to achieve HLDP Town Centre regeneration aims and determine relevant major planning applications, the Council prepared a 'Town Centre Masterplan Framework SPD'. Evidence and draft material from the Area Action Plan has been used in the HTCMF SPD, so the evolution of these documents is compatible.

Guidance Note 2E is particularly relevant to the application:

#### *'Town Centre Guidance Note 2E: Parking and servicing*

*Car Parking Policy IN3 of the HLDP refers to the Essex Vehicle Parking Standards. The minimum standards set out for Essex and Harlow as per Policy IN3, are not applicable to the Town Centre. A low level of parking provision or car free development will be encouraged in new residential developments with appropriate justification.*

*Justification should include the degree to which the development makes provision for:*

- *Travel planning arrangements to encourage and incentivise car free travel.*
- *Property design and management to facilitate car free living (especially in respect of servicing and delivery and cycle storage).*
- *Car club facilities and incentives.*
- *Disability / accessibility housing requirements.*
- *Financial contributions to strategic infrastructure and service improvements for public transport.*

*Proposals for residential uses should consider 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. Early engagement with Harlow District Council will be encouraged in relation to this issue.*

*Through proactive use of Travel Planning and an integrated approach to the enhancement of public transport, the Council will seek to encourage a low level of dedicated parking for new commercial workspace in the town centre, potentially car-free.*

*The consolidation of surface car parking as decked structures or multi-storey car parks. will be supported where they make more efficient use of town centre sites. These opportunities are set out in the relevant Opportunity Area policies.'*

(Extract)

Spatially specific Town Centre Guidance Note 8, Opportunity Area 3 Town Centre North applies for the application subject to report.

#### Essex County Council (ECC)

- Essex Parking Standards Design and Good Practice (2009)
- ECC Development Management Policies (2020 - living document with regular updates).
- Essex Local Viability Protocol (2018)

#### Harlow and Gilston Garden Town (HGGT)

- HGGT Infrastructure Delivery Plan (2017) (undergoing evidence and costs refresh; currently unpublished)
- HGGT Vision (2018)
- HGGT Design Guide (2018)
- HGGT How to Guide on Planning Obligations and Viability (2019)
- HGGT Quality Review Panel (QRP) (QRP Terms of Reference) (2020)
- HGGT Sustainability Guidance and Checklist (2021)
- HGGT Transport Strategy (2021)
- HGGT Draft Healthy Garden Town Framework (2019)

This HGGT guidance has less weight than a formal SPD, but is material. Harlow is a designated 'Garden Community' under the Government's Garden Communities Programme. NPPF Para. 73 provides the specific national policy context for 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 Guidance elaborates on the HGGT's interpretation of *garden city principles* and sets expectations for high quality development to accord with the principles.

For all major development, HGGT Local Planning Authorities (LPAs) take independent specialist advice on urban design and related sustainability matters (as included in the HGGT Guidance and Checklist noted above). This is through Essex Place services (ECC) and the HGGT QRP. Often this advice is provided at an informal, pre-application enquiry, stage, where early influence is important.

The development that is the subject of this application was permitted with the benefit of QRP advice.

#### **Emerging Policy**

The draft Harlow Town Centre Area Action Plan - AAP (HTCAAP) (Issues and Options - Regulation 18 version completed in 2018, with a Pre Submission - Regulation 19 version prepared in 2019).



The pre-submission draft Plan was submitted to Cabinet in December 2019. It was originally intended that it would be progressed to public consultation. However, following a review of progress in relation to current and expected development pressures in the town centre, work on a statutory AAP was paused. Despite this the HTCAAP is of background relevance. It indicates 'direction of travel' in respect of the Council's objectives for regeneration of Harlow Town Centre, following on from HLDP Section 9 Retail Ambitions and Town Centre Redevelopment and Policy RS2, which defines an enlarged Town Centre. HTCAAP Opportunity Area (OA) Town Centre North policy applies for the application subject to report. As a draft, the AAP has limited decision weight.

### Harlow Town Plan Consultation Draft

This is a corporate document setting out the Council's vision and aspirations for Harlow / HGGT growth beyond the current Development Plan period. This has no formal role in planning decisions, but it does provide an important context for decisions on major planning applications. It is relevant here in respect of long term regeneration and transport aspirations.

### **Summary of Main Issues**

The only issues for consideration of this application are:

- **Is this change to the planning agreement acceptable in planning policy and guidance terms?**
- **Will the change assist overall Town Centre regeneration objectives?**

### **ASSESSMENT**

#### **Planning Policy**

The proposal clearly accords with the Development Plan (HLDP Policies HGT1 and PL1). The new HTCMF SPD (Guidance Note 2E) specifically invites a car free approach to Town Centre development.

These are new policies have been adopted since the development was permitted.

#### **Regeneration**

The financial viability of high-density town centre mixed use development in Harlow generally, and of this proposed development specifically, is known to be marginal (HLDP general development viability evidence and site-specific viability evidence considered in granting the Block D permission).

The Council, acting as LPA, wishes to support progress in development of this key Town Centre site at the earliest opportunity. Development of Block D should provide a stepping off point for redevelopment of the wider Harlow Quarter site and help start the regeneration of this important part of the Town Centre area.

It is relevant to note that the effect of this proposal would be to remove the compulsory provision of residential parking associated with the permission. This will not prevent the landowner / developer from offering voluntary paid for arrangements for use of off-site parking in the Town Centre. Also, it will not prevent future residents from using existing Town Centre ample car parking on an independent commercial basis.

The Council can accept this prospect as:

- an appropriate evolution of the approach previously agreed for this development;
- a change that can facilitate households in a transition to car free living, but still allow some scope for initial marketing of the new homes on the basis that a wide range of transport options will exist for the residents; and
- it offers reasonable freedom of choice for future residents who may or may not place high priority on owning, or need to own, a car.

Good planning practice for car free development suggests that measures should be taken by the landowners / developers to provide a practical 'travel planning' package appropriate to the development and its location. Travel planning is intended to encourage, incentivise, and support occupiers to use public and active transport and to minimise car ownership and use. For Harlow Town Centre the approach to travel planning is now set out in HTCMF guidance (see above).

The HA advice on the original planning application is also relevant:

*'ECC - Highways*

*No objection:*

*The previous application had included this site within it and as such had already been assessed. This application has very little, or no highway impact as the site only contains 7 parking spaces. The parking provision is considered to be more than acceptable given the location of the site and its position in terms of easy access to other modes of sustainable methods of travel. 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. The proposal is not contrary to current National/Local policy and safety criteria.*

*Recommends conditions or obligations to:*

*.....provide and retain the parking and cycle spaces as shown on the plans, require Residential Travel Information Packs to be provided to residents, require the approval of a Delivery and Servicing Plan and provide contributions towards the Sustainable Transport Corridors.*

*(Extract / HDC emphasis added).*

Note this advice did not have reference to the later decision to provide some off site parking.

To deal with the issue of sustainable travel / travel planning measures, the permission is already subject to a condition (justified by the original decision to permit parking below normal standards):

*'Condition 10.*

*Prior to first occupation of the development, the Developer shall provide to each dwelling a Residential Travel Information Pack for sustainable transport which shall have been approved by Essex County Council and includes six one day travel vouchers for use with the relevant local public transport operator.*

*REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport, in accordance with policy T4 of the Adopted Replacement Harlow Local Plan 2006'*

In addition, the planning agreement includes Schedule 2 'Travel Plan Monitoring' covering financial contributions to HDC and ECC towards travel plan monitoring only for both residential and workplace travel planning. The agreement definitions seem to assume a residential and workplace travel plan submission will be made and, in this respect, cross refer to permission conditions 13 and 14. These supposed conditions seem to be non-existent in the decision notice, in so far as this content is concerned. It appears that this matter was not fully resolved in the original permission and agreement.

Condition 10 is relevant to travel planning but is quite limited and does not deal with travel planning generally, referring only to a travel information pack and public transport vouchers for residents rather than wider travel plans (as was requested by the HA consultation response). The development will also have some commercial content; thus workplace travel planning is relevant, but not covered.

Also of some relevance is that a good level of secure cycle storage / parking and effective servicing / delivery provision to support car free living is shown in the application plans. This is reasonably secured in the physical design form of the building / terms of the permission (Approved drawing HTC-HLM -04-00-DR -A00624-REVPO4).

Overall, the result is that the scope, content and financial value of any travel plans or information packs finally agreed is left largely to the good will of the applicant and further LPA / HA negotiation at the time they are prepared (and, for residential, submitted / approved).

This planning agreement variation application necessitates fresh thinking about travel planning. It is envisaged that final travel planning arrangements for the site can be devised to offer better support for car free development. With this in mind, the applicant has agreed to include improved travel planning arrangements in the variation of the planning agreement. The proposed Heads of Terms for the revised travel planning arrangements are set out in the recommendation below.

As context it is also important that the travel planning package for the wider area is further developed through the likely new planning permission for redevelopment as part of the wider Harlow Quarter (SS) proposals (see 'Relevant Planning History' above). This will provide opportunities for more comprehensive planning obligation commitments to support public transport and active travel measures (e.g. related site property management / stewardship arrangements, greater and longer running public transport user incentives, larger more flexible car club, cycle facility retention and management, cycle hire, comprehensive ongoing travel information provision etc. will need to be considered). All this will be more economic and efficient to provide and more effective as the number of homes in the redevelopment grows).

## **CONCLUSIONS**

The proposal represents an appropriate, updated, approach to the transport planning aspects of mixed use / residential development in Harlow Town Centre.

Car free development is well justified by the new HGGT and HTC MF SPD policy and guidance. It supports future transport infrastructure needs and encourages mode shift to

active travel and public transport. It also offers real advantages in achieving best use of Town Centre land by creating redevelopment opportunities that are likely to be better designed and visually more attractive (due to reduced space devoted to car parking, and removal of dominant building features required to accommodate cars either with the residential scheme or off site). Furthermore, the lower build or provision costs arising from not having to provide underground or multi storey parking should make a contribution to improved development viability.

Approving the proposed planning agreement change will contribute to the Council's overriding objective (HTCMF) of encouraging new mixed use and residential redevelopment that can assist in Town Centre regeneration.

## **RECOMMENDATION**

**That Committee resolve to grant the variation of the planning agreement associated with Planning Permission HW/FUL/19/00291 to remove Schedule 3 (Car Parking) and replace Schedule 2 (Travel Plan Monitoring) with a new Schedule 2 (Travel Plan and Monitoring) to cover enhanced travel planning measures, with content set out as Heads of Terms below:**

- Removal of reference to 'condition 13' and 'condition 14' (as an administrative correction required because these condition numbers are referred to in the existing planning obligations but were not included in the final decision notice)
- Addition of requirement to submit a Residential Travel Plan and Commercial Travel Plan prior to first occupation.
- Specify that Travel Plans must include commitment to and details of:
  - a) permanent appointment of a TP coordinator role within the estate service provider staff team
  - b) travel planning welcome and information pack for all occupiers
  - c) provision and active management of secure cycle storage for occupiers
  - d) method for public transport and active travel information provision permanently provided and maintained on site
  - e) provision of car club for residents based on the proposal in planning application / permission submitted document *Caneparo Associates Transport Assessment June 2019 Appendix D Car Club Feasibility Report*; with 1 car club parking space in a location agreed with the Local Planning and Highway Authorities
  - f) travel planning budget to the value of two hundred pounds (£200) per property to be used for any of discounted public transport travel, cycle purchase vouchers, or such other initiatives as proposed and approved in the travel plans (and as taken up and recorded in monitoring / budget reports), and standard local authority monitoring fees
  - g) method for undertaking annual travel surveys and providing annual monitoring reports on travel planning activity, budget accounts and the surveys to occupiers and copied to the Local Planning and Highway Authorities

For the avoidance of doubt these requirements will satisfy the previously imposed Condition 10 (covering a requirement for provision of a residential travel pack and public transport vouchers) and this will be stated in the agreement.

Gavin Cooper, Development Manager

(Case Officer, John Hoad, Garden Town consultant for Harlow District Council)