

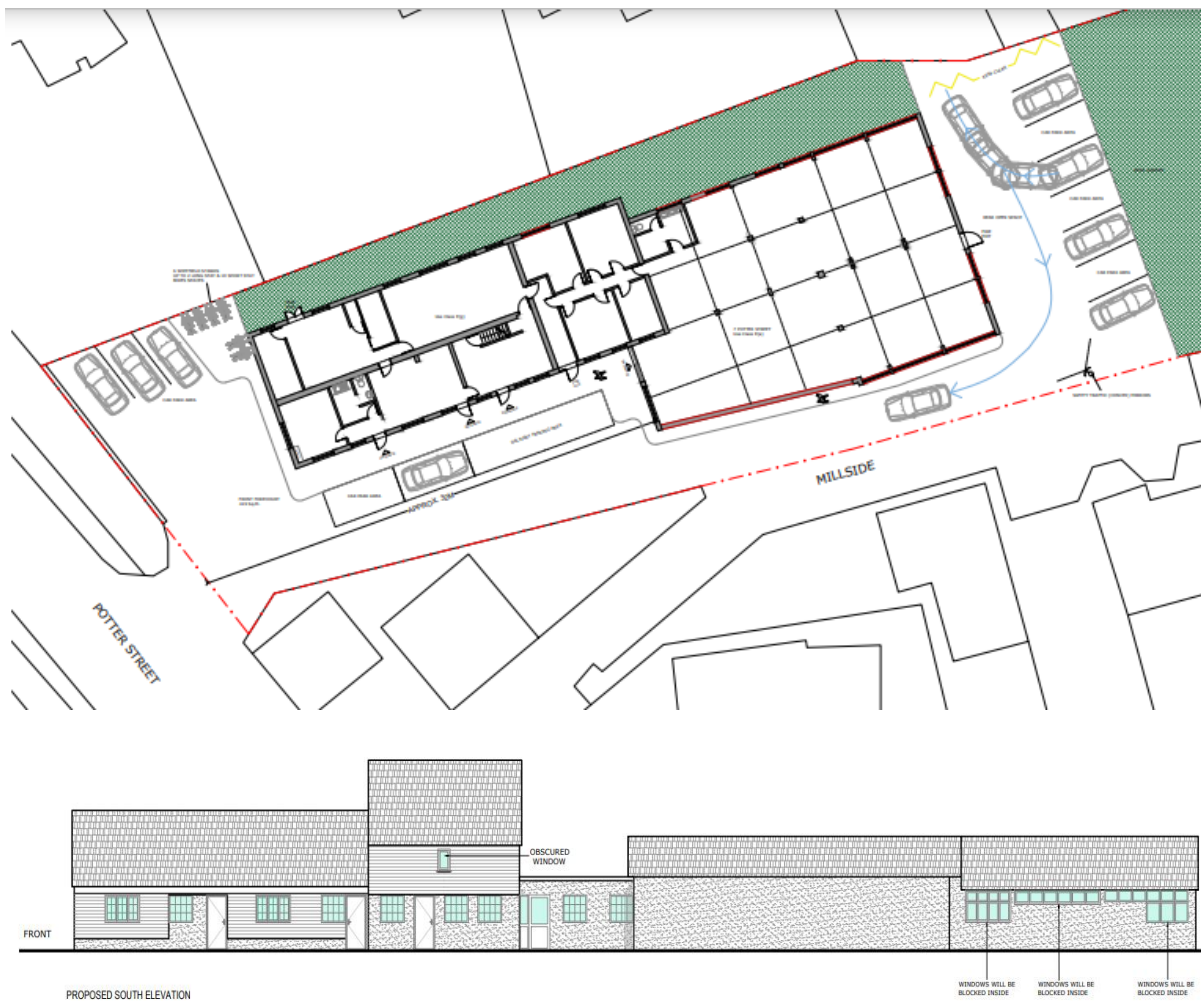
Item 12

HW/FUL/23/00015 - 7 Potter Street, Harlow

Amended information submitted

Revised plans have been received showing the following:

1. Introduction of cycle parking comprising 6 Sheffield stands providing 12 cycle parking spaces.
2. A lorry parking space introduced to the front of the retail space.
3. A segregated pedestrian pathway adjacent to the front and side of the building.
4. A convex mirror and tracking shown to the rear parking area.
5. Introduction of an obscure glazed window to the first floor south elevation.



Officer response

The Highway Authority has reviewed the amended layout and state:

Other than addressing the cycle parking issue the objections to the proposal remain unchanged.

The proposed changes to the layout do not address the issues identified in the report which would result in inadequate manoeuvring space and servicing capacity and the proposed reason for refusal 3, below, remains relevant.

3. The proposal would be detrimental to highway safety by virtue of inadequate on-site manoeuvring space which would fail to efficiently and safely accommodate parking and servicing resulting in congestion and on street parking to the detriment of the free and safe flow of traffic, and absence of arrangements to segregate vehicle and pedestrian traffic. The proposal thereby conflicts with policies IN2 and IN3 of the Harlow Local Development Plan 2020.

Additional submission

A legal opinion has been submitted on behalf of the applicant. The main points are summarised below.

- i) The approach adopted in the Officer Report is unlawful.
- ii) iChange of use from light industrial to a shop and office space are changes within Use Class E of the Town and Country Planning (Use Classes) Order 1987 and so do not require planning permission.
- iii) The application for consideration is limited to the physical works proposed to the building and the creation of the car park. Those are the only elements for consideration.
- iv) The Officer Report suggests that in this case it is appropriate to also consider the change of use. They have provided no legal justification for doing so, because there is none.
- v) The applicant could apply today for a certificate of lawfulness under s.191 of the 1990 Act to certify that the premises can be used as a shop and office and the Council would be bound to grant it, as is implicitly recognised in the Officer Report. The assessment is flawed. The applicant can use the premises now as a shop and office it does not require planning permission. All that requires planning permission are the elements in the description of development and they are all that can be considered by the Council.
- vi) If the Council were to refuse permission and the applicant appeals then this is a case where a costs award would be made against the Council. Costs awards can be made where the LPA has behaved unreasonably. Refusing planning permission for the application on the basis that a change of use which is permitted development is unacceptable is obviously unreasonable. At Paragraph: 049 of the Planning Policy Guidance (PPG) the PPG gives as an example of behaviour that could lead to an award of costs *“preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations”*. The Council’s behaviour is a clear example of this.

Officer response

It is accepted that the change of use would normally not require planning permission, but the works are so extensive that these cannot be considered in isolation from the use of the building. To do so would be perverse.

Changes to Recommendations

Minor changes to the reasons for refusal and report are set out below.

1. Delete reason for refusal 4 (see below) as cycle parking is now proposed which meets and exceeds required provision.

~~4. No cycle parking is provided and the proposal thereby fails to provide for sustainable modes of transport in conflict with policies IN1 and IN2 of the Harlow Local Development Plan 2020 and the Essex County Council Parking Standards 2009.~~

2. Delete reason for refusal 5 (see below) as not necessary – the proposed end-use is not residential.

~~The proposal fails to demonstrate that the scheme would not harm future users of the site by reason of the lack of a Phase 1 Desktop assessment of contamination risk which addresses the potential impact on the proposed residential sensitive end-use. The proposal would therefore be contrary to policy PL10 of the Harlow Local Development Plan, December 2020.~~

3. Amend reason for refusal 3 (see below)

The proposal would be detrimental to highway safety by virtue of inadequate on-site car parking and inadequate manoeuvring space which would fail to efficiently and safely accommodate parking and servicing resulting in congestion and on street parking to the detriment of the free and safe flow of traffic, and absence of arrangements to segregate vehicle and pedestrian traffic. The proposal thereby conflicts with policies IN2 and IN3 of the Harlow Local Development Plan 2020.

4. Renumber drawing numbers to reflect amended drawings (Informative Clause 2).