

Reason for Committee Referral

The application is referred to Committee as there have been more than two letters of objection received contrary to the officer recommendation of approval.

Summary

Permission is sought for the construction of a temporary shop for a period of two years to meet the convenience retail needs of the local community pending completion of permanent, previously approved retail units. The shop would be provided within a converted shipping container to be placed on open land opposite Fieldfare Way.

A condition is proposed to ensure that once the two-year period has elapsed the use would cease and the shop unit and associated infrastructure would be removed, leaving the site to be laid out in accordance with previously approved development. Subject to this and other appropriate conditions the proposal is considered acceptable and is recommended for approval.

Background and Details of Proposal

The application site lies immediately to the south of Fieldfare Way, at the heart of the Gildea Park development, which was allowed on appeal in November 2012 (reference: HW/PL/11/00055) for the development of 1,200 dwellings (limited to 1,100 by condition), a new primary school, community buildings and retail / business / live work units together with associated uses including allotments and public open space. This scale and nature of the retail element was fixed through the legal agreement, the details of which were further secured through the subsequent reserved matters process. The relevant Reserved Matters application HW/PL/15/00006 was subsequently approved in September 2015 for the site. The Phase 1 Reserved Matters approval, included detailed permission for 300 sq m of commercial retail floorspace, comprising the following (consistent with the provisions of the legal agreement):

- Unit 1 (220 sq m) – A1 Use
- Unit 2 (80 sq m) – A1 or A5 Use

The retail and community facilities have not yet been provided. The applicant explains that the main reason for the delay has been the impact of Covid disruption which delayed the commencement of marketing activities and disrupted the development sector more generally for a lengthy period. This application therefore seeks a temporary permission for a pop-up shop to provide the residents of Gildea Park with convenient access to everyday convenience shopping facilities until the approved, permanent provision has been delivered. A temporary consent for two years is sought. The applicant advises that two years has been requested because this corresponds with the anticipated build-programme for the permanent retail units.

The shop (Use Class E(a)) would be provided within a converted shipping container. The proposed container is 12.0m wide by 3.1m deep, 2.6m high, with a dark grey paint finish, a fully glazed front elevation and aluminium framed, glass central entrance doors. The double entrance doors will open wide enough to enable wheelchair access. A small waste storage structure (0.977m by 1.486m) and air conditioner unit are attached to the rear elevation. The applicant advises that the shop would operate between the hours of 09.00 - 21.00 and be managed by three staff.

Application site

The proposed shipping container would be sited opposite 10-15 Fieldfare Way, which forms the southern edge of residential development to its north and east/ west. The site is south of this wider residential development, and presently comprises an area of hardstanding flanked by landscaping which will form part the linear park running east-west at this point to serve the development. The hardstanding will ultimately serve the community building which will be located south of the application site. The site falls within a Green Finger as designated on the Harlow Local Development Plan 2020.

The site is not within a conservation area.

RELEVANT PLANNING HISTORY

- HW/PL/11/00055 | Erection of 1,200 Dwellings, New Primary School, Community Buildings and Retail/Business/Live Work Units together with Associated Uses Comprising Allotments and Public Open Space, Plus Associated Infrastructure and Engineering Works, with Vehicular Access from Gilden Way. Allowed on Appeal on 15 November 2012 (limited to 1,100 dwellings by agreed condition).
- HW/PL/15/00006 | Approval of All Reserved Matters for Strategic Infrastructure and Phase 1 (Approximately 716 Dwellings and Associated Community Building, Commercial Units, Open Space and Facilities), In Accordance with Condition 1 of HW/PL/15/00142. Granted on 8 September 2015. Temporary Pop-up Shop | Gilden Park, Harlow Document No. IMS-F-18, Revision 1, 01.05.2018
- HW/PL/15/00142 | Application for the Removal of Condition 39 and the Variation of Conditions 4 and 37 of HW/PL/11/00055 to Reflect Amendments to Scale Parameters Plans. Granted on 21 May 2015.
- HW/REM/15/00389 | Approval of All Reserved Matters for Phase 2 (Approximately 195 Dwellings and Associated Open Space Including Sports Pavilion, Sports Pitches and Allotments), in Accordance with Condition 1 of HW/PL/15/00142, and the Revised Phasing Plan (Submitted Under Application HW/PL/15/00007). Granted on 22 December 2015.
- HW/FUL/18/00359 | Residential Development Comprising the Erection of 592 Dwellings with Associated Access Roads, Play Areas, Open Space, Landscaping and Drainage Infrastructure as Part of the Wider Development of Land North of Gilden Way, Replacing Approved Development of 449 Dwellings. Granted on 30 January 2020

CONSULTATIONS

Internal and external Consultees

Essex County Council - Highways

The Highway Authority has no objections. The proposal is not contrary to the Highway Authority's Development Management Policies or Policies IN1, IN2 & IN3 of the Harlow Local Development Plan 2020.

Neighbours and Additional Publicity

Number of Letters Sent: 35

Total Number of Representations Received: 48

Date Site Notice Expired: 2 November 2023

Date Press Notice Expired:

Summary of Representations Received

47 representations were received: of these 21 support the proposal and 25 object. The representations are summarised below:

Objections

- Unightly and out of place; eyesore, especially for Fieldfare residents, don't want shipping container outside windows
- Noise from vehicles, slamming doors, early morning deliveries, customers congregating, refrigeration
- Additional traffic and on-street parking to the detriment of residents; parking provision inadequate for staff and customers
- Concern at litter/ rubbish/ odour
- Can see facility being made permanent, who knows how long it would be there, will inevitably be there for more than two years
- Temporary provision not good enough, need permanent not temporary solutions; need the facilities promised when properties were purchased, still not available years after moving in; what's next a school in a shipping container; would feel more comfortable if guarantee facility would not affect timeline for permanent facilities
- Facility not needed as two Co-ops and two Tescos are nearby

Officer comment: These comments are addressed within the body of this report.

Support

- Facility is necessary, long overdue, fills a crucial gap, extremely helpful to majority of residents but should be temporary solution only
- Welcome shop on doorstep; accessible walking distance shop is convenient and helpful and benefit to residents without car like single mothers and elderly
- Hub for social interaction; enhance quality of life
- Should be no restriction on what shop sells – should provide goods of normal convenience store; opening hours should be 8am to 10pm

PLANNING POLICY

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 2023 version) and the associated Planning Practice Guidance (PPG) (first published in March 2014 but also regularly updated with the NPPF). The relevant strands are considered further in the report.

Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material

considerations indicate otherwise. For the purposes of this application, the Development Plan comprises the Harlow District Local Plan (HDLP).

The NPPF (2023) is a material planning consideration and also states in paragraph 47 that:

“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing”.

Paragraph 38 of the NPPF further states that:

“Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.”

This is echoed in policy SD1 of the HDLP which advises that development that is in accordance with the Local Plan should be supported unless material considerations indicate otherwise, any adverse impact significantly (my emphasis) outweigh the benefits or specific national policies indicate that development should be restricted.

For the purposes of this application, the Development Plan consists of the Harlow District Council (HDC) Harlow Local Development Plan 2020 (HLDP). Policies of most relevance to the proposal are:

- SD1 – Presumption in Favour of Sustainable Development
- RS3 – Protecting and Enhancing Existing Retail Centres
- WE2 - Green Belt, Wedges and Green Fingers
- PL1 – Design Principles for Development
- PL2 – Amenity Principles for Development
- PL3 – Sustainable Design, Construction and Energy Use
- PL5 – Green Wedges and Green Fingers
- PL10 – Pollution and Contamination
- PR5 – The Sequential Test and Principles for Main Town Centre Uses
- L2 – The Provision and Loss of Recreational, Sporting, Cultural and Community Facilities
- IN1 – Development and Sustainable Modes of Travel
- IN2 – Impact of Development on the Highways Network including Access and Servicing
- IN3 – Parking Standards

Supplementary Planning Documents/Current Planning Guidance

- The Harlow Design Guide SPD (2011)
- The Harlow Design Guide Addendum SPD (2021)
- Essex Parking Standards Design and Good Practice (2009)
- ECC Development Management Policies (2020 – living document with regular updates)

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.

ASSESSMENT

Principle

HLDP policy PL5 relates to Green Wedges and Green Fingers. The purpose of this policy is to continue to protect the Green Wedges and Green Fingers from encroachment and visual intrusion, while recognising there may be opportunities for some development within them, for example where the development benefits the wider community. The policy states:

Development on land designated as Green Wedge or Green Finger must meet one or more of the following criteria:

- (a) it is for small-scale development;*
- (b) it is for infrastructure, including local transport infrastructure, which demonstrates a requirement for a Green Wedge or Green Finger location and demonstrates it is of benefit to the wider community;*
- (c) it is for the alteration, extension or replacement of buildings.*

Additionally, development must meet both the following criteria:

- (d) it demonstrates that the roles and functions and historic significance of the Green Wedges and Green Fingers (as set out in policy WE2) are preserved, enhanced and not adversely affected; and*
- (e) it demonstrates that the wider landscape and setting is preserved, enhanced, promotes biodiversity and integrates with existing Green Infrastructure.*

Where development includes replacement uses, redevelopment, extensions or alterations, it must meet all the following criteria:

- (f) it does not result in a greater negative impact on the roles and functions of the Green Wedges and Green Fingers than the existing development;*
- (g) it does not result in disproportionate additions to the original building(s); and*
- (h) any replacement buildings must be in the same use.*

The proposal is for small-scale development which comprises community infrastructure to serve day to day retail needs pending permanent provision of these facilities. The facility would be in place for a temporary period of two years only, which is to be secured by an appropriate condition. Following removal of the facility the already approved development, including the linear park and community building which will occupy this space in the long term, will be implemented. Given that the application site is the subject of previously approved development and that the propped structure it be in situ for a temporary period only there is no conflict with the roles and functions of the Green Finger.

For the reasons stated above there is also no conflict with HLDP policies which seek to protect the viability and vitality of the town's retail centres.

The principle of development is supported.

Design, character and appearance

Policy PL1 of the HLDP is relevant and requires that development:

(b) it protects, enhances or improves local distinctiveness without restricting style and innovation, whilst taking account of local character and context, including patterns of development, urban form and landscape character, Green Infrastructure including trees and landscaping, building typology and the historic environment;

(c) it responds to the scale, height, massing, architectural detailing, materials and front boundary treatments of the surrounding area and is visually attractive;

The building is by its nature a functional, utilitarian structure and its siting is prominent, being set in an exposed position on otherwise open land and directly opposite dwellings along Fieldfare Way. However, the building is to be removed after two years. The building's utilitarian appearance emphasises its temporary function. Although the building would clearly be inappropriate as a permanent feature, given the circumstances set out above no objection is raised to the building's appearance. To that extent there is no conflict with the aims of HLDP policy 2020 and the proposal is considered acceptable.

The submitted drawings show signage on the top of the building. Signage would need to be the subject of a separate application for advertisement consent and does not form part of this application (although it is noted that the applicant confirms there is no intention for illuminated signage).

Highways

Policy IN2 of the HLDP 2020 requires development to preserve highway safety, including provision of adequate and safe access points. Policy IN3 requires parking to be provided in accordance with the Essex Vehicle Parking Standards 2009.

Two tandem parking spaces would be provided in a new parking bay to the front of the shop, to mirror the layout of existing on street parking bays. The ECC Parking Standards 2009 require six spaces for a retail space of 73sqm, as proposed. The shortfall is considered acceptable in these circumstances where the shop would sit within walking distance of the immediately adjacent residential area it is intended to serve, and the facility will provide for day-to-day retail needs not bulk shopping trips. In addition, four Sheffield cycle stands are proposed, providing eight cycle parking spaces, which is double the four spaces required by the Parking Standards.

The applicant advises that a waste collection agreement will be entered into with a private waste collection company. Deliveries to the site would be by small transit vans with only 2-3 deliveries taking place each week. The applicant advises that deliveries would take place before opening hours, ensuring that there is no conflict between the parking of delivery vehicles and the parking of customers. A condition can be imposed to ensure deliveries do not occur at unsocial hours.

Given the above, and the modest scale of the proposed premises, it is considered the proposal complies with policies IN2 and IN3 of the HLDP 2020.

Residential amenity

Policy PL2 of the HLDP 2020 states that development which preserves the level of amenity of existing neighbours in the local area will be supported.

The concerns expressed by some neighbours are noted. In terms of noise, disturbance and on-street parking pressure, it is considered unlikely that a shop of this size, which is likely to

be principally accessed on foot by neighbouring residents, would generate any significant level of vehicular traffic and parking.

The proposed opening hours of 0900 to 21.00 mean that the facility would be closed to customers during the early morning and late evening periods, safeguarding the amenity of nearby residents. Deliveries to the premises would be by transit van scale vehicles and would be infrequent (estimated maximum three times per week). A condition is proposed to ensure deliveries do not occur before 0800hrs or after 22.00 to prevent disturbance at unsocial hours.

A condition is also proposed to secure details of how litter and refuse would be managed.

Given the above and subject to these conditions it is considered that no material adverse impact would result to the amenities of nearby residents, and the proposal is considered to comply with policy PL2 of the HLDP 2020.

The issue raised around alcohol sales and anti-social behaviour is not a planning matter. There is no reason to believe such impacts would occur, but any such incident would be addressed by the police.

CONCLUSION

Given the delay in provision of permanent retail facilities the proposed temporary shop is supported, subject to appropriate conditions.

RECOMMENDATION

That Committee resolve to grant permission subject to the following conditions:

1. The building hereby permitted shall be removed and the land restored to its former condition on or before the date of the expiry of two years from the date of this permission.
REASON: Permanent retention of the building would be inappropriate due to its design and appearance.
2. The retail outlet hereby permitted shall not be open to customers otherwise than between the hours of 09.00 and 21.00 Monday to Sunday.
REASON: To protect the amenities of nearby residents and to comply with Policy PL2 of the Harlow Local Development Plan 2020.
3. Deliveries to the site shall not be made otherwise than between the hours of 08.00 and 22.00 Monday to Saturday.
REASON: To protect the amenities of nearby residents and to comply with Policy PL2 of the Harlow Local Development Plan 2020.
4. Prior to commencement of the use a litter and refuse management plan shall be submitted to and approved in writing by the local planning authority and the use shall be implemented at all times in full accordance with the approved management plan.
REASON: To protect the amenities of nearby residents and the appearance and character of the area and to comply with Policies PL1 and PL2 of the Harlow Local Development Plan 2020.

INFORMATIVE CLAUSES

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. The applicant is advised that this permission does not authorise any advertisement, including shopfront fascia or hanging signs. A separate application for advertisement consent would be needed for that purpose.