

## REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE

**REFERENCE:** HW/FUL/23/00346

**OFFICER:** Ross Brereton

**APPLICANT:** Hybrid Planning & Development c/o Hybrid Holdings (Harlow) Ltd

**LOCATION:** 5 Wych Elm  
Harlow  
Essex  
CM20 1QP

**PROPOSAL:** Demolition of existing building and erection of ground plus 11 storey building comprising 53no. residential dwellings (Use Class C3), communal amenity space, associated cycle parking, waste/recycling storage, plant and equipment, and other ancillary works.

### LOCATION PLAN



## **Reason for Committee Referral**

The planning application is proposed in Wych Elm where significant regeneration is earmarked to take place. The proposed development is considered to be in the public interest and is put to the Planning Committee for consideration.

## **Recommendation**

Following a thorough assessment of the planning application it is considered that, on balance, the proposed development accords with National and Local planning policy and is recommended to the Planning Committee for approval, subject to the signing of a S106 Agreement and planning conditions listed below.

## **Details of the Proposal**

Detailed planning permission is sought for the redevelopment of land relating to no.5 Wych Elm, Harlow. The application seeks to demolish the existing, vacant industrial building, and replace it with a ground plus 11 storey building comprising 53 flats (21 x 1-bedroom and 31 x 2-bedroom flats), communal amenity space, cycle parking and waste storage.

## **Application Site and Surroundings**

No.5 Wych Elm is located to the north of Harlow town centre in the area commonly referred to as 'Wych Elm'. The site is approximately 445sqm and currently accommodates a single storey 'L-shaped' building with an informal parking area behind a roller shutter door. The building has remained vacant since August 2021 and was previously in light industrial use (Use Class E(g)(iii)).

The building is located at the northern edge of Wych Elm. The site is bound by a cycleway to the north that runs parallel with the existing building; no.6 Wych Elm to the south which is in use as a place of worship and immediately abuts the site boundary; no.4 Wych Elm to the west which is currently in use as a gym but under consideration for a high-rise, mixed-use development comprising 90 flats and commercial floorspace; and the Arriva bus depot to the east.

In terms of Local Plan designations, the site is located within the Harlow town centre boundary as identified by the Harlow Local Development (HLDP) (December 2020). A woodland TPO covering the entirety of Rectory Wood is located beyond the cycle way to the north. There are no statutory designated heritage assets on or within the vicinity of the site. The site is within Flood Zone 1 but is within a Critical Drainage Area identified by Essex County Council (ECC).

The HLDP is supported by the Harlow Town Centre Masterplan Framework SPD (HTCMF SPD) (March 2022). The site is located within *Opportunity Area 2 – Wych Elm* which is identified for residential development with community, healthcare, civic and other uses supported at ground floor. It notes that Wych Elm could be used more intensively and be better integrated with the town centre which is currently separated by the inner ring road (Fourth Avenue). It is also considered suitable for higher density buildings and has the potential to accommodate taller development.

The HLDP is also supported by the Wych Elm Development Brief (December 2022) which has been prepared to guide the regeneration and redevelopment of Wych Elm Area. The site is located within Land Parcel E which mirrors the HTCMF SPD whereby flexible active uses at ground floor level with residential uses above are considered acceptable.

## **RELEVANT PLANNING HISTORY:**

There is no planning history available for the site.

## **RELEVANT APPEAL HISTORY:**

There is no relevant appeal history available for the site.

## **CONSULTATIONS**

### **Internal and external Consultees**

#### **Environment Agency**

The Environment Agency raise no objection to the proposed development and request several informatives be attached to any grant of planning permission.

#### **Stansted Aerodrome Safeguarding**

London Stansted Airport raise no objection to the development in terms of height; lighting; wildlife; communication, navigation and surveillance systems and materials. They have requested an informative relating to procedures for crane and tall equipment be imposed should planning permission be granted.

#### **UK Power Network**

No representation received.

#### **Harlow District Council (HDC) – Cleansing & Environment**

The Cleansing & Environment team objected to the proposed development for reasons pertaining to the size and layout of the refuse store, the access door arrangement, presenting bins on the footpath on collection day, and refuse collection vehicles (RCV) having to reverse further than 12m as recommended by guidance.

#### **HDC – Environmental Health**

The Council's Environmental Health department raise no objection to the proposed development, subject to conditions requiring site investigation to determine contamination risks, and demonstrating that habitable rooms are not affected by noise from external noise sources, or noise from mechanical plant. They have also requested that controls relating to construction noise, working hours and dust mitigation are imposed, which would be added to the standard Construction Management Plan condition.

#### **Essex County Council (ECC) – Growth & Development**

No representation received.

## **ECC - Highways**

ECC Highways have considered the planning application, visited the site and assessed the submitted transport information and have concluded that the proposed development is not contrary to national/local highway and transportation policy and safety criteria.

The applicant has submitted a Transport Statement 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 proposed parking provision is considered to be acceptable especially given the location of the site and its position in terms of easy access to the town centre and other modes of sustainable travel. The surrounding roads in the locality are also well secured with appropriate parking restrictions.

ECC have concluded that the proposed development would not be detrimental to highway safety, capacity or efficiency at this location or on the wider highway network. It is well located for access to walking, cycling and public transport.

ECC Highways have also requested that if any highway requires Stopping Up then the proposed use shall not be commenced, and the subject land shall not be enclosed from the Highway until such time as a Stopping Up Order has been confirmed extinguishing all Highway Rights to protect the public's right and ease of passage over the Highway.

ECC have requested conditions be imposed relating to a Construction Management Plan; cycle parking arrangements, the implementation of a Residential Travel Pack and a financial contribution towards the Sustainable Transport Corridors initiative. The Stopping Up Order would be imposed as an informative.

## **HDC – Arboricultural Officer**

The Council's Arboricultural Officer has undertaken a site visit to assess potential arboricultural constraints. They note that the proposed development has sufficiently considered the impact to trees and green infrastructure and considers that the impact is minimal and the works needed to enable the proposed development would not have a significant impact on trees.

They do note that there is the potential for longer term conflicts with trees close to development, however, this is not viewed as a major issue as such work should be undertaken to reduce conflict with buildings. On balance, it is felt that the impact to trees is generally low, but the building's juxtaposition close to a protected woodland (Rectory Wood) and other trees to the east of the site may lead to development conflict.

To counter this, they consider it necessary to ensure that the proposed development is supported by an Arboricultural Method Statement so that the proposed development does not impact on nearby trees, and that methods of working around trees are shown and can be examined by the Council before works commence. A pre-commencement condition is requested to be imposed should planning permission be granted.

## **Essex Police – Designing out Crime Officer**

Essex Police's Designing out Crime Officer (DOCO) considers that it is important that the proposed development is designed incorporating the maximum achievable benefit of Crime

Prevention Through Environmental Design (CPTED) for which Secured by Design (SBD) is the preferred enabler.

The DOCO also made observations as to how public realm and shared facilities would be managed and requested further details of the proposed lighting specification, physical security (including bin stores, doors and glazing, cycle storage, and access controls), boundary treatments and construction security. The DOCO has agreed that such requirements can be controlled by appropriate conditions at specific times in the development process should planning permission be granted.

The DOCO also requested amendments to the ground floor and roof plan layout to minimise both the risk and fear of crime.

### **Affinity Water Ltd**

Affinity Water made no comment in regard to the proposed development.

### **Essex County Fire & Rescue Service**

Essex County Fire & Rescue Service have made comments relating to access, building regulations, water supply and sprinkler systems. These would be imposed as informatives should planning permission be granted.

### **ECC – Sustainable Drainage**

ECC's Sustainable Drainage team have raised no objection to the proposed development, subject to conditions requiring the proposed development be built out in accordance with the approved Flood Risk Assessment; the preparation of a maintenance plan to maintain the drainage system, and ensuring yearly logs of maintenance are maintained.

### **Place Services – Urban Design**

#### Representation 1 – 12 October 2023

Place Services Urban Design team initially commented on the scheme, confirming it to be generally acceptable from an urban design perspective, but that some elements could benefit from further design refinement to ensure that a good standard of design is achieved. Their comments are summarised as follows:

- The site is in a sustainable location and the progression of a taller scheme is welcomed.
- Positive that the proposed development enables dual aspect dwellings.
- No layout concerns.
- Pleased that the building would create residential frontages to provide overlooking and natural surveillance on the two key frontages including the cycle way.
- Positive to see the provision of M4(3) dwellings.
- Pleased to see that a landscaped privacy buffer has been provided.
- Would encourage further consideration of the arrival arrangements to ensure a transition is created with convenient access to the cycle store and post boxes.
- Scale is in line with the scale of the emerging buildings surrounding the site.
- The design approach is considered to respond to the Harlow context design features.
- Concerns raised relating to the elevation treatment of the crown, proportionality and material and fenestration detailing and require further refinement.
- Pleased to see consideration of sustainability and response to energy hierarchy.

- Duals aspect is commendable and the inclusion of green roofs, PVs and a car free development is positive.

### Consultation Response 2 – 12 December 2023

Following the applicant's willingness to remedy urban design comments, Place Services consider significant improvements have been made to the proposal including differentiation between the base, middle and crown elements through material selection. This includes white brick for the crown, grey brick for the middle and dark brick for the base. The design of the fenestration was also noted as being improved.

Overall, the proposed development is considered to be acceptable and responds to the principles of the National Design Guide and the HTCMF SPD.

### **ECC – Infrastructure**

ECC's Infrastructure team have reviewed the proposed development and expect it to generate the need for up to 1.40 Early Years and Childcare (EY&C) places, 4.65 Primary School places, and 3.10 Secondary School places.

They confirm that there is sufficient capacity for EY&C, Primary and Secondary places in the local area and no financial contributions are sought. Similarly, no School Transport contribution is sought given the proximity of schools to the site.

ECC Infrastructure have, however, requested a financial contribution of £4201.20 (plus indexation) towards Library Services, and an Employment and Skills Plan to set out how the developer will engage with and maximise local labour and skills opportunities. Monitoring Fees would be charged at a rate of £550 per obligation.

### **ECC – Education**

No representation received.

### **Harlow Civic Society**

No representation received.

### **Thames Water**

Thames Water (TW) have not raised any objection to the proposed development and have requested several informatives be attached to any grant of planning permission in respect of waste water assets and surface water drainage.

### **NHS Hertfordshire & West Essex Integrated Care Board**

The HWE ICB have assessed the impact of the proposed development on existing primary health care provision in the vicinity of the development.

The proposed development would create 129.6 new patient registrations.

The HWE ICB have identified that the development would have an impact on primary health care provision in the area, and its implications, if unmitigated, would be unsustainable for the NHS.

A contribution of £69,768 is sought through a S106 planning obligation to be focused on Addison House Surgery and Barbara Castle Surgery. A trigger point of payment on occupancy of the 15<sup>th</sup> dwelling is requested.

### **EDF Energy Networks**

No representation received.

### **Health and Safety Executive**

The Health and Safety Executive (HSE) are required to be consulted for development that exceeds 18m or more in height (or 7 or more storeys) and contains two or more dwellings.

HSE have confirmed that they are content with the fire safety design to the extent it affects land use planning applications.

### **Neighbours and Additional Publicity**

Number of Letters Sent: 47

Total Number of Representations Received: 3

Date Site Notice Expired: 19 October 2023

Date Press Notice Expired: 19 October 2023

### **Summary of Representations Received**

Three representations have been received and are summarised as follows:

- Daily noise pollution from building works.
- Daily dust, dirt and traffic disruption from the development.
- Daily traffic chaos for businesses, customers and delivery drivers.
- Severe parking shortages. Builders would take up most of the local parking and obstruct local business; some of which require 24 hour access.
- Would affect the overflow public parking which serves the Princess Alexandra Hospital.
- Local business being surrounding by high rise, densely populated tower blocks.
- Continued erosion of the light industrial nature of Wych Elm and impact to local economic activity.
- Inadequate parking provision, including disabled parking.
- Too many homes in a small space.
- Local services (doctors, dentists and schools not able to cope with growing population).
- More money needed to provide NHS services.
- Harlow Council struggling with keeping the public area free from litter.
- Question as to whether the development would provide homes to people on Harlow's waiting list.
- Concerns that limited car parking would push cars to surrounding local streets.

### **PLANNING POLICY**

National Planning Policy Framework (NPPF) (2023) 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.

## **Development Plan**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that in regard 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).

The relevant HLDP policies referred to in the determination of this application are as follows:

- SD1 – Presumption in Favour of Sustainable Development
- HS1 – Housing Delivery
- ED2 – Protecting Existing Employment Areas
- WE1 – Strategic Green Infrastructure
- WE3 – General Strategy for Biodiversity and Geodiversity
- SIR1 – Infrastructure Requirements
- PL1 – Design Principles for Development
- PL2 – Amenity Principles for Development
- PL3 – Sustainable Design, Construction and Energy Usage
- 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  
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 / Current Planning Guidance**

Town Centre Masterplan Framework SPD (2022);  
Wych Elm Development Brief (2022);  
Green Infrastructure and Public Open Space SPD (2022)  
Affordable and Specialist Housing SPD and Addendum (2021 and 2022);  
Harlow Design Guide (2011); and  
Harlow Design Guide Addendum (2021).

## **SUMMARY OF MAIN ISSUES**

The key planning matters considered relevant to the determination of this application are as follows:

- Principle of development;
- Housing (including mix, standard of accommodation and amenity space);
- Affordable housing;
- Fire safety;
- Design, layout and landscaping;
- Designing out Crime;
- Arboriculture;
- Daylight, sunlight & overshadowing;
- Noise;
- Energy & sustainability;
- Highways & servicing;
- Land contamination;
- Flood risk and drainage;
- Ecology and biodiversity net gain; and
- Planning obligations.

### **Principle of Development**

The Harlow Local Development Plan (HLDP) Policy HS1 identifies sites to deliver at least 9,200 dwellings during the Local Plan Period.

Whilst the site is not allocated in the Local Plan to deliver a proportion of this identified need, NPPF Paragraph 70 states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, adding that to promote the development of a good mix of sites, local planning authorities should (inter alia) support the development of windfall sites through decisions, giving great weight to the benefit of using suitable sites within existing settlements for homes. The site is within the town centre and considered an appropriate and sustainable location for housing delivery.

The HLDP is supported by two recently adopted SPDs which are a material planning consideration in the determination of this application. Firstly, the site forms part of *Opportunity Area 2 – Wych Elm* which is set out in the Harlow Town Centre Masterplan Framework SPD (HTCMF SPD) (2022). This opportunity area is identified for residential development with community, healthcare, civic and other uses supported at ground floor. It notes that Wych Elm could be used more intensively and be better integrated with the town centre which is currently separated by the inner ring road (Fourth Avenue). It is also considered suitable for higher density buildings and has the potential to accommodate taller development.

The second document which supports the HLDP is the Wych Elm Development Brief (December 2022). The vision for Wych Elm is to be a place where residents and visitors will want to shop, relax, eat, socialise, play and make use of community services as well as live and work. Wych Elm is to be redeveloped for a mix of uses, including new homes and active day-time services including community and civic facilities.

More specifically, the site is located within Land Parcel E which states that flexible active uses (Use Class E) at ground floor level, with residential uses above are acceptable. In addition, Parcel E is considered suitable for blocks of up to six storeys in height although taller buildings that (inter alia) front the cycleway to the north may be considered appropriate.

Whilst it is noted that the proposed development would not provide any active ground floor commercial uses, it is considered acceptable in this case because of the constraints of the site, noting in particular its location at the far northern edge of Wych Elm fronting the cycleway where footfall is likely to be lower unlike the area to the south fronting Fourth Avenue, for example.

Based on the site’s location within Harlow town centre, and more specifically Wych Elm, which is earmarked for tall buildings accommodating residential uses, the principle of development is acceptable.

## Housing

### *Housing Mix*

HDLP Policy H6 (Housing Mix) states an appropriate mix of housing tenures, types and sizes will be expected to be provided, in order to create balanced communities, which reflect Harlow’s housing needs and local character. To achieve this, developers should take account of the latest Strategic Housing Market Assessment (SHMA) or other additional appropriate evidence directly related to Harlow’s housing needs.

The proposed housing mix in terms of size of units is as follows:

<b>No. of units</b>	<b>1-bed</b>	<b>2-bed</b>
53	21	32
Proportion	39.6%	59.3%

The proposed housing mix would include 21 x 1 bed flats and 32 x 2 bedroom flats. Whilst no family accommodation is proposed as part of this development (3+ bed units), it is noted in the HTCMF SPD that housing delivery in the town centre could meet a range of housing needs, from higher density smaller units in the core town centre, grading down to family-size units on the edges of the town centre. Coupled with the size constraints of the site and it

being a high-density development, the proposed mix of housing (including a particularly high proportion of 2-bedroom units) is considered acceptable in this location.

#### *Standard of Accommodation*

The Nationally Described Space Standards (NDSS) were introduced in March 2015 and set out the requirements for the Gross Internal Area of new dwellings across all tenures. The NDSS is also supported by the Harlow Design Guide Principle DG46.

All homes would meet the minimum gross internal floor areas set out within the NDSS and would comprise 1b2p, 2b3p and 2b4p units.

In addition, HLDP Policy H5 (Accessible and Adaptable Homes) requires all new dwellings to be at least the Building Regulations Part M4(2) standard for accessible and adaptable homes. In major residential developments, a suitable proportion of Building Regulations Part M4(3) standard dwellings for wheelchair users should be provided based on the latest SHMA or other appropriate evidence directly related to the housing needs of Harlow. For market housing, the requirement for Part M4(3) dwellings is 10%.

The development proposes to provide 10 M4(3) dwellings equating to 19% of provision. These would all be 2b3p flats located across floors 1-10. The remaining 43 units would all be M4(2) compliant. All homes would, therefore, be in accordance with the requirements of Policy H5 and a condition is proposed to retain these unit types in perpetuity.

It is also noted that all units would be dual aspect and include spacious internal areas combining kitchen, living and dining areas in addition to full bathrooms and adequate built-in storage space.

#### *Amenity Space*

The Harlow Design Guide Addendum SPD provides guidance for amenity space in tall buildings. The minimum standard for flats is 20qsm, which can include balcony space and a proportion of informal and formal communal areas, roof-top gardens, amenity areas above ground floor and children's play spaces.

Each proposed unit would be served by private amenity space. 1-bedroom flats would be served by 5sqm balconies, and 2-bedroom flats served by 6sqm balconies. The flat on the 11<sup>th</sup> floor would have a larger private patio equating to 10sqm. This floor would also contain a communal amenity space providing 172 sqm.

In total, the proposed development would provide 473sqm, which is the equivalent of 8.9sqm per unit.

Whilst this amount falls short of the minimum standard set out in the Harlow Design Guide, a lower standard may be considered appropriate if the site is within a 10-minute walking distance (or 800m as the crow flies) of an alternative, appropriate, and accessible multi-functional green space.

It is noted that Rectory Wood is located immediately north of the site, Hester's Park to the northwest (approx. 350m) and Harlow Town Park to the west (approx. 400m).

Based on the provision of private and communal amenity space, coupled with nearby public green space, the levels of amenity space are considered acceptable for the proposed development on this occasion.



this percentage may be permitted for viability reasons. Any reduction or non-agreement between the development and the Council will require an independent viability assessment.

Policy IN6 adds that where it is accepted that planning contributions are reduced below the requirements set out in policies of the Local Plan, a viability review mechanism will be required to enable a fully policy compliant level of contributions to be achieved over the lifetime of the project.

The applicant has submitted a Financial Viability Assessment (FVA) which determines that is unviable to provide any affordable housing on-site, or any financial contributions towards off-site delivery. The applicant's FVA has been independently reviewed by the Council's appointed viability consultant, as required by Policy H8, and concludes that the provision of any affordable housing, either on site or by means of a commuted payment, would be unviable.

Policy IN6 allows the Council to impose a review mechanism to enable a fully policy compliant level of contribution to be achieved over the lifetime of the project. This can be imposed through a variety of mechanisms such as an early-stage review (ESR) or as a late stage review (LSR). This is set out in the Council's Affordable and Specialist Housing SPD (2021).

The difference between an ESR and LSR is that the former usually requires the developer to re-submit the viability information within a timeframe prior to the development being implemented, whereas the latter requires the information to be provided usually on disposal of 75% of the units. Whilst the latter offers a greater chance of securing affordable housing contributions, it presents greater risk to developers obtaining funding from lenders.

Following extensive discussions between the Council's and applicant's viability consultants, no agreement was reached on securing a LSR mechanism. The applicant has offered to undertake an ESR and this would be secured as part of the S106 Agreement. They have also provided evidence from a lending source that the development would be unfinanceable if an LSR were to be imposed.

Furthermore, the applicant has provided similar examples of applications that have been refused planning permission, but subsequently allowed at appeal whereby a Council has attempted to impose a LSR mechanism to secure affordable housing contributions.

One example is an appeal decision on a single phase, 51-unit scheme in Weybridge (Elmbridge Borough Council). The Inspector noted that their affordable housing policy states that affordable housing will be sought '*where viable*'. This is similarly worded to Harlow's Policy H8 – '*reduction of this percentage may be permitted for viability reasons*'.

The Inspector concluded:

*"I acknowledge the Council's explanation of an acute need for affordable housing provision in Elmbridge but [the policy] only seeks provision of affordable housing 'where viable'. On the viability evidence before me and through examination of the policy basis upon which the Council is relying, the need for a LSR in the event that either proposal may enable a contribution towards affordable housing has not been demonstrated'.*

In other words, there is no specific policy requirement requiring applicants to undertake a LSR. Only Policy IN6 of the Harlow Local Plan states that '*a viability review mechanism will be required*' whilst the range of mechanisms that are available are set out within the SPD.

Given that the applicant is awarded flexibility through the policy wording, and that the SPD sets out varying methods (but the latter can only be treated as a material consideration), an alternative mechanism to an LSR can be agreed.

Should the Council attempt to impose a LSR mechanism on this scheme, there is a high likelihood that an Inspector would allow an appeal on this matter because there is no specific wording within Policy H8, or indeed Policy IN6, requiring a LSR where affordable housing is not provided.

Given that the Council can secure an ESR mechanism through a S106 Agreement, this is considered an acceptable approach that could still clawback affordable housing contributions. This decision must also be balanced against the Wych Elm regeneration benefits of the scheme.

## **Fire Safety**

Measures to ensure the consideration of fire safety matters are incorporated at the planning stage for schemes involving a relevant high-rise residential building. This has led to the introduction of Planning Gateway One which requires the applicant to submit a fire statement setting out fire safety considerations specific to the development, and to establish the Health and Safety Executive (HSE) as a statutory consultee for relevant applications. These details are set out in Planning Practice Guidance (PPG) and are legislated in the Town and Country Planning (Development Management Procedure and Section 62A Applications (England) (Amendment) Order 2021.

Relevant buildings are defined as meeting a height condition of 18m or more in height, or seven or more storeys, and containing two or more residential dwellings. This application triggers Planning Gateway One.

In addition, the Secretary of State announced in July 2023 that 18m would be the threshold for new buildings requiring second staircases. The proposed development would ensure that this threshold is met by providing two staircases that extend between the ground floor and roof terrace.

The applicant has submitted a fire statement, which has been prepared by a senior fire engineer. HSE have reviewed the information provided and are content with the fire safety design set out in the application, to the extent it affects land use planning considerations.

Essex County Fire & Rescue Service (ECFRS) have also responded to the consultation and raise no objection. They have, however, recommended several informatives relating to access, building regulations, water supplies and sprinkler systems, to be imposed to any decision to grant planning permission.

Based on the information provided, and the responses received from HSE and ECFRS, it is considered that the fire safety measures proposed for the development are acceptable in planning terms.

## **Design, Layout and Landscaping**

HLDP Policy PL1 (Design Principles for Development) requires a high standard of urban and architectural design for all development and must meet the criteria set out within the policy. This requires development to demonstrate design rationale; provide local distinctiveness; respond to scale, height, massing and architectural details; provide legibility; provide a logical and legible layout, form inclusive development; provide flexibility and create a safe and secure environment.

The HLDP is supported by the design principles set out in the 2011 Harlow Design Guide 2011 (and 2021 Addendum).

The application is supported by a comprehensive Design & Access Statement (DAS), prepared by Ackroyd Lowrie Architects and detailed drawings; both of which have been reviewed by the Council and Place Service's Urban Design team.

The height of the building is proposed to be 12 storeys which is considered to be an appropriate height that would bookend Wych Elm, and in line with the Development Brief. It is also positive that the building has been designed with a flank wall up to the 6<sup>th</sup> storey to allow for future redevelopment to the south of the site.

In terms of massing, the building has been designed to emphasise one of the four corners of Wych Elm (Nos, 4, 5, 10 and Wych Elm House) that ultimately define the character of the area. Within the site itself, the form of the block makes maximum use of the available footprint whilst allowing some insets and projections to allow all units to be dual aspect as well enhancing the visual aesthetic.

The DAS provides commentary on the proposed material design, which has been chosen to emphasise the crown, middle and top as distinctive elements. This is achieved by separating each section with a thick white brick banding. The base would be constructed in dark brick and comprise the ground and first floors. Due to the increased height of the ground floor storey, this would result in a base which is taller and visually more prominent than the crown. The natural incline of the existing site from west to east results in a 'wedge-shaped' plinth as part of the base. This zone, lower than the cycle way, is articulated with a different brick for emphasis.

The middle would be built using a lighter, grey brick with each storey being individually expressed with white brick banding. These horizontal bands would be combined with vertical brick piers to create a gridded framework, synonymous with building design in Harlow town centre. Lastly, the crown would be constructed using a white brick and be proportionally smaller than the base to create a lighter weight character.

The proposed windows and balconies would be dark grey/black and match the colour palette of the blank panels to be used on the south elevation on floors 1-5.

The layout of the building has been designed to provide a welcoming entrance lobby with generous floor-to-ceiling height, and full height glazing to open up the building to Wych Elm. Two flats are proposed at ground floor level towards the eastern side of the ground floor. The strategy is to ensure these units are not impacted by their proximity to the adjacent cycle way where the cycle path is at a significantly lower level. The remainder of the ground floor towards the centre and the west of the site would present the building core, refuse and cycle stores. An external alley with a gate to the south-west of the building provides a secondary entrance/exit to the building.

Floors 1-10 are repeated for structural efficiency and are arranged to provide high-quality residential spaces with living spaces laid out to maximise daylight. Five units are proposed on each of these floors, with the majority fronting Rectory Wood. All units are designed in line with national space standards, benefit from dual aspect layouts and include private amenity space. Two stair cores and two lifts are provided in line with fire safety guidance. As noted in the sections above, floors 1-5 have panels instead of windows on the south elevation to enable the redevelopment of the adjacent units in the future.

Floor 11 would comprise a single 2-bedroom flat and 172sqm of communal amenity space which would be accessible to all residents. The roof (above the flat, core and mechanical

plant) would be covered in a green roof and PV panels to maximise biodiversity and energy efficiency, respectively.

With regards to the public realm at ground level, it is acknowledged that there is very limited room given the size constraints of the site. The applicant, has, however, agreed to enter into a S278 Agreement to refresh and make good the pavement immediately outside of the site on Wych Elm. In addition, appropriate conditions would be imposed requiring the developer to submit details of the external materials and the proposed communal amenity space at roof level.

Overall, the proposed development would help to continue regenerating Wych Elm, as directed by the Wych Elm Development Brief, and addresses all consultation responses issued by Place Services.

Whilst it would be the Council's preference to see Wych Elm be developed comprehensively, it is noted that Wych Elm is made up of varying land ownerships, and doing so would be significantly challenging to achieve during the Plan Period. Therefore, when coupled with Wych Elm House (which is now complete) and the live applications at No.4 and No.10, the proposed development is considered to be a significant enabler in bringing forward positive regeneration to the area, and indeed the north of the town centre. Therefore, based on the proposed design and layout, and subject to the satisfactory discharge of the proposed conditions, the development is considered to be acceptable and in accordance with the Local Plan, and relevant SPDs.

### **Designing out Crime**

HLDP Policy PL1 partly requires development to create safe and secure environments which help to reduce opportunities for crime and to minimise the fear of crime.

As part of the determination of this application, Essex Police's Designing out Crime Officer (DOC) has been consulted. Whilst the Development Plan does not require development to meet the requirements of Secure by Design (SBD), Essex Police consider that it is important to achieve the maximum achievable benefit of Crime Prevention Through Environmental Design (CPTED), for which SBD is the preferred enabler.

Following further discussions with the DOC during determination, amendments to the ground floor layout and roof terrace were requested. This has resulted in an additional lobby door in the ground floor circulation to enhance security, the repositioning of the roof terrace flat so that there is no outlook onto the communal terrace, and the introduction of an internal corridor between the communal terrace and flat entrance to ensure adequate separation and security to the occupiers of that particular unit.

In addition, the applicant has agreed to a planning condition requiring the developer to meet a minimum level of CPTED prior to first occupation. This would include compartmentalisation of all residential accesses, audio and visual external access, secure parcel and mail delivery arrangements, a management plan for public realm and shared facilities, and windows, doors and balcony doors to meet minimum security specifications.

The improvements made to the proposed plans, together with the requirements of the proposed condition, have further helped to reduce the opportunity for crime, and to minimise the fear of crime, in accordance with HLDP Policy PL1.

### **Arboriculture**



HLDP Policy PL7 states that development which ensures that trees and hedges are protected and enhanced, will be supported. The acceptability of development and tree works will be assessed on criteria relating to the impact of the development and the proposed measures to mitigate any impacts; the character and value of the trees; the existing condition of the trees; any existing specific protection; and the provision of replacement trees which are a suitable species.

The application is supported by an Arboricultural Impact Assessment & Method Statement, prepared by Canopy Consultancy. This was reviewed by the Council's Tree Officer, who requested the applicant reassess any significant specimens in Rectory Wood to the north (which is protected by a TPO) and map them individually with root protection areas. In addition, the applicant was also asked to include consideration for the need to scaffold on the north-east side of the site near to existing trees close to the site boundary.

The applicant has provided an updated Arboricultural Impact Assessment & Method Statement to remedy the Tree Officer's concerns, which on balance, confirms that the impact to trees is generally low. However, the building's juxtaposition close to a protected woodland, and other trees to the east, may lead to development conflict.

To ensure that the proposed development does not impact trees, due to improper usage of land near trees, and that methods of working around trees are shown and can be examined by the Council before work commences, the Tree Officer has requested a planning condition be imposed to any grant of planning permission, requiring the applicant to submit an Arboricultural Method Statement prior to the commencement of development.

Subject to the satisfactory discharge of this requested planning condition, the proposed development is considered to accord with the requirements of HLDP Policy PL7.

### **Daylight, Sunlight & Overshadowing**

HLDP Policy PL2 (Amenity Principles for Development) requires the Council to determine the acceptability of development on overshadowing and loss of daylight and sunlight.

The applicant originally submitted an Internal Daylight Assessment, prepared by NRG Consulting, which confirmed that the daylight levels within the proposed habitable rooms are adequate and would exceed the target criteria set out in BRE guidance. However, it was noted that the report did not assess the potential impact arising from the proposed development at No.4 Wych Elm directly opposite the site (ref: HW/FUL/22/00406).

Whilst the application at No.4 has yet to be determined, it would have the potential to impact on the amount of daylight and sunlight the proposed flats on the western elevation of No.5 could receive, particularly those on floors 1-5. This is because these flats are proposed to have single aspect bedrooms to avoid restricting the development potential of the commercial units that adjoin the site's southern boundary.

The applicant has since instructed their daylight and sunlight consultants to review the potential impact of No.4 on No.5, but note that BRE guidance does not require schemes that have not been granted permission to be assessed. However, in the interests of proper planning, and to ensure Wych Elm can be redeveloped in accordance with the adopted Development Brief, they have sought a further assessment.

Their findings identify that the impact of the proposed building at No.4 Wych Elm means there is now a very small minority of assessed rooms that would fall short of the target (14 rooms of 138). This would equate to a 90% compliance rate.

In an urban context, achieving 100% compliance can be challenging due to constraints such as surrounding buildings, limited open space, and the orientation of sites. Therefore, BRE guidance does allow for a degree of flexibility and discretion, especially in challenging urban environments.

Based on a 90% compliance level in a constrained urban environment that is earmarked for regeneration, this is considered acceptable and in line with the requirements of Policy PL2.

## **Noise**

HLDP Policy PL2 also states that in assessing the acceptability of development on amenity, the compatibility and sensitivity of adjacent uses will be considered. This is further supported by Policy PL10 (Pollution and Contamination) which requires all development proposals to minimise, and where possible, reduce all forms of pollution, which includes noise pollution.

The application is supported by a Noise Impact Assessment (including noise surveys), prepared by ES Acoustics. The report confirms that noise impacts have been assessed against the guidance presented in *Professional Practice Guidance on Planning and Noise (ProPG)*, as well as local and national planning policy.

When assessed against the initial risk assessment criteria of ProPG, it has been found that the development site falls within the 'low' risk category during daytime and the 'medium' risk category during night-time with regards to adverse effects from noise, when considered in the absence of mitigation measures.

The report makes a series of recommendations to avoid significant adverse effects and minimise adverse effects. This includes non-glazed external building fabric, glazing and ventilation specifications.

Environmental Health have reviewed the submitted Noise Impact Assessment and raise no objection subject to conditions being imposed on any grant of planning permission that require the developer to submit details of the glazing and ventilation specifications, and to ensure that any mechanical plant installed does not exceed the prevailing background noise level identified within the report.

Subject to the satisfactory discharge of the recommended planning conditions, the proposed development is considered to accord with the requirements of HLDP Policies PL2 and PL10 with regard to noise pollution.

## **Energy & Sustainability**

NPPF Paragraph 157 states that the planning system should support the transition to a low carbon future in a changing climate and help to shape places in ways that contribute to radical reductions in greenhouse gas emissions; minimise vulnerability and improve resilience; encourage the reuse of existing resources; and support renewable and low carbon energy and associated infrastructure.

This is supported by HLDP Policy PL3 (Sustainable Design, Construction and Energy Usage), which states new development will be expected to deliver high standards of sustainable design and construction and efficient energy usage, taking account of predicted changes to heating and cooling requirements as a result of climate change. The supporting policy text outlines that for development proposals, the minimum requirement for the conservation of fuel and power should be exceeded, preferably by at least 19%.

The application is supported by a Sustainability and Energy Report, prepared by Ensphere. The report confirms that a range of sustainable design features are proposed, and construction would be responsibly managed to ensure minimal impact on the environment and local community. The energy strategy is considerate of the Energy Hierarchy and a priority is given to efficient design. Air source heat pumps are proposed for domestic hot water, along with an array of 36 PV panels at roof level, thermal efficiency and high efficiency lighting. On this basis, carbon savings are anticipated to be greater than 19% relative to Part L of the 2021 Building Regulations based on the modelling of three flats. The applicant has provided further clarity on the estimated reduction for the entire building once scaled up which is anticipated to result in a 74% reduction.

Based on the findings of the report, the proposed energy strategy is estimated to significantly exceed the requirements of Policy PL3. A planning condition would be imposed requiring the development to be built out in accordance with the recommendations and strategy set out within the report.

### **Highways & Servicing**

NPPF Paragraph 115 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

HLDP Policy IN1 states all development should have regard to the modal hierarchy, adding that major development proposals should identify ways to reduce the use of the car and promote alternative ways to travel. This should be detailed in a supporting Travel Plan.

HLDP Policy IN2 requires development not to cause a severe residual cumulative impact on highway congestion and movement; would not cause a detrimental impact on the safety of all highways users; and provide for adequate, safe and convenient loading and servicing arrangements, access points and drop-off areas, and consideration to the movement and turning of emergency and refuse vehicles.

HLDP Policy IN3 requires vehicle parking to be provided in accordance with the adopted Essex Vehicle Parking Standards, unless otherwise indicated elsewhere in the Local Plan and/or supporting documents.

The application is supported by a Transport Statement, prepared by Entran Ltd. The report confirms that the site is in a sustainable location and well placed to promote journeys via modes other than the private car. As a result, the proposed development would be car free. A total of 96 cycle parking spaces (including 11 visitor spaces) would be provided in accordance with the requirements of the Essex County Council. The proposed development would also be serviced via Wych Elm.

ECC Highways have reviewed the proposed development and conclude that it would not be contrary to national and local policy and safety criteria. They are content that the Transport Statement demonstrates that in terms of safety and capacity, it would have an insignificant level, and that a car free development would be acceptable given the site's town centre location, and parking restriction on the surrounding roads. This would be subject to imposing planning conditions relating to a Construction Management Plan, implementing cycle parking in accordance with the approved plans, distributing a Residential Travel Pack to the occupiers of the units, and providing a contribution towards the Sustainable Transport Corridors initiative.

In addition to ECC Highways comments, HDC's Cleansing & Environment team have submitted representations to the application. In summary, their comments relate to the size

and layout of the refuse store, presentation of the bins to the footpath on collection day and refuse collection vehicle (RCV) access to the ground floor store.

The applicant has taken these comments into consideration and made a series of revisions to the proposed bin store to accommodate the required bin numbers. This has resulted in an enlarged store with an improved layout, and a more appropriately sited access door which is considered acceptable.

Regarding the RCV matter, the Cleansing & Environment team have objected to the proposed refuse strategy based on an RCV having to reverse 36m due to safety concerns. Guidance recommends RCVs should not have to reverse more than 12m. They acknowledge that this is guidance, and that flexibility should be afforded, but consider that the concentration of people in the area, substantial usage of the route, and the risk of injury is too great for them to support the proposal.

However, in this case, it is acknowledged by the planning department that the site is at the end of a cul-de-sac and accessing it in line with the specified guidance is inherently challenging. Given that the site forms part of the Wych Elm Development Brief to provide mixed-use development, a degree of flexibility must be applied in the context of constraints of the site. The applicant has therefore undertaken a Road Safety Audit to determine an appropriate solution to the safety of the RCV reversing down this section of Wych Elm in isolation, and without wider redevelopment of Wych Elm. This could be achieved by extending the existing Traffic Regulation Order (TRO) to be continuous along the length of Wych Elm leading to no.5.

This Council has sought confirmation from ECC Highways on the proposed solution and they have not raised any objection on safety grounds to the developer seeking to extend this TRO. They have suggested that this amendment could be dealt with by condition or sought as part of any other highway works that need to be undertaken via a S278 Agreement. This, coupled with the proposed bin store being located in the most accessible location of the site (fronting Wych Elm), is therefore deemed acceptable in this instance.

The applicant has also confirmed that refuse collections would take place from the bin store, and placed back in the store, once collected. This would avoid the need for the bins to be placed on the footpath prior to and after collection. It is proposed that access to the refuse store would be made available by the building management.

Based on the applicant's willingness to remedy the concerns raised by the Cleansing & Environment team, and the recommendation to extend the TRO along this part of Wych Elm, the proposed refuse strategy is considered acceptable and in line with the requirements of the NPPF and HLDP Policies IN1, IN2 and IN3 regarding highway safety. The applicant has opted for this to be dealt with by means of a condition.

It also worth noting that no.4 Wych Elm (opposite this site) is subject to a live planning application for a mixed-use development which would improve the access situation to no.5 Wych Elm in any case.

### **Land Contamination**

NPPF Paragraph 189 requires that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination. This is supported by HLDP Policy PL10 (Pollution and Contamination) which requires that all development proposals must minimise and, wherever possible, reduce all forms of pollution and contamination.

The application is supported by a Phase I Desk Study and Preliminary Contamination Risk Assessment, prepared by Brown Fisher Environmental.

The report confirms that the historical use of the site was used as a depot where a range of potential contaminants could have been introduced. In addition, the yard drains to a central point which may have accepted unknown contaminants and there remains the possibility that these drains may have leaked at some point in time. The immediate surrounding land is used as depots and garages, and the large Aviva depot to the east contains significant fuel storage. Based on the findings, further work is required to confirm and characterise the presence of contamination on site through the preparation of an intrusive geo-environmental investigation.

The Council's Environmental Health department have reviewed the supporting information and have requested conditions be imposed requiring the developer to submit an intrusive site investigation before development commences, and to submit a remediation strategy should unidentified contamination be found. Subject to the satisfactory discharge and compliance of these conditions, the proposed site is considered suitable for residential development and accords with the requirements of HLDP Policy PL10.

### **Flood Risk and Drainage**

NPPF Paragraph 173 states local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment (FRA). NPPF Paragraph 175 adds that major development should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

These national requirements are further supported by HLDP Policy PL11 (Water Quality, Water Management, Flooding and Sustainable Drainage Systems), adding that development proposals should identify how there is sufficient surface water, foul drainage and treatment capacity which can serve the development. The use of SuDS in all development proposals is encouraged and will be supported.

The application is supported by an FRA and Drainage Strategy (DS), prepared by Cole Easdon. The report confirms that the site is in Flood Zone 1 and a Critical Drainage Area. However, flood risk from sources such as fluvial, sewers, groundwater, reservoirs and overland flow is considered to be Low, and therefore, no mitigation is required.

The proposed surface water drainage strategy is to use an attenuation-based strategy, with disposal to the existing surface water sewer. On-site attenuation would be provided within two cellular attenuation tanks. This would be supported by a green roof.

Water quality has also been assessed and determines that runoff from roof areas is considered fairly un-contaminated, therefore the passage of water through proposed catchpits would provide adequate water quality treatment before entering the proposed attenuation tank.

Lastly, SuDS exceedance flows would follow the natural topography of the site and flow to the west of the site and enter the highway corridor. From here, flows would follow the topography of the highway and move in a northerly direction away from the site and without impacting upon the proposed or adjacent, existing development.

The applicant has also confirmed that the proposed green roof, cellular attenuation tanks and associated drainage network would be maintained by the site owner(s) or a private maintenance company acting on their behalf.

The Lead Local Flood Authority (LLFA), Essex County Council, have reviewed the FRA and proposed DS and have no objection subject to conditions requiring the developer to follow the mitigation measures detailed, submitting a maintenance plan prior to occupation, and ensuring yearly maintenance logs are maintained.

Subject to the satisfactory compliance and discharge of the proposed planning conditions, the proposed development is considered not to increase flood risk elsewhere and would incorporate a sustainable drainage system in line with national and local planning policy.

### **Ecology and Biodiversity Net Gain**

NPPF Paragraph 174 requires planning decisions to contribute to and enhance the natural and local environment by (inter alia) minimising impacts on and providing net gains for biodiversity. This is further supported by HLDP Policy PL9 which states development must conserve and enhance existing biodiversity features to ensure a net gain.

The application is supported by a Preliminary Bat Roost Assessment (including a biodiversity net gain calculation) prepared by Weddle Landscape Design. The document confirms that a Preliminary Roost Assessment was undertaken which identified no ecological constraints for roosting bats or foraging and commuting bats. The existing building was assessed as supporting Negligible roosting suitability as no potential roost features were recorded with no identified access point.

The assessment also identified that Rectory Wood has the potential to support bat activity, displaying Low suitability. As such, a low-light mitigation strategy is recommended to ensure that existing habitats used by local bat populations are not being negatively impacted.

The assessment also identified no evidence of existing breeding birds on the site, or the proposed development having any negative or long-term effect to surrounding designated ecological sites. No additional ecological surveys are required to support the proposed development, but several enhancement measures, including the installation of bat boxes, and the maintenance of the proposed green roof, are recommended.

The report has also assessed the biodiversity net gain for the proposed development, confirming that the baseline for the site is 0.00 biodiversity units. The applicant is proposing to deliver a 172sqm green roof, amounting to 0.3 habitat units. Therefore, the proposed development would deliver a +100% net gain in biodiversity.

Based on the findings of the Preliminary Roost Assessment, the proposed development would not impact negatively on identified ecological habitats. In addition, the proposed development would achieve a significant biodiversity net gain, far exceeding the 10% legal requirement to be introduced in January 2024. Planning conditions would be imposed requiring the developer to introduce the recommended ecological enhancement measures set out within the report, provide an appropriate lighting strategy, as well as details of the green roof and a maintenance plan. These conditions would ensure the development is in accordance with HLDP Policy PL9.

### **Planning Obligations**

Policy IN6 states that planning permission will only be granted for development if provision is secured for related infrastructure, affordable housing, services, facilities and environmental protection, and any other planning contributions which are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind.

Several consultees have responded to this application setting out the financial contributions sought for local infrastructure.

Following negotiations with the applicant, full contributions have been offered to the NHS Hertfordshire & West Essex Integrated Care Board, and Essex County Council for libraries. A contribution towards the Sustainable Transport Corridor would also be made as requested by Essex County Council Highways.

The agreed Heads of Terms would be captured by a Section 106 Agreement and are as follows:

- £69,768 to the NHS Hertfordshire & West Essex Integrated Care Board to be focused on Addison House Surgery and Barbara Castle Surgery. Payment shall be made on the occupancy of the 15<sup>th</sup> dwelling.
- £29,280.80 to Essex County Council to support the delivery of the Sustainable Transport Corridor.
- £4201.20 to Essex County Council to support library services.
- A non-financial contribution to prepare an Employment and Skills Plan to set out how the developer will engage with and maximise local labour and skills opportunities.
- An Early Stage Review mechanism requiring a re-assessment of the Financial Viability Appraisal to determine affordable housing contributions.
- Monitoring Fees charged at a rate of £550 per obligation (x5).

The applicant has shown willingness throughout the determination period to provide an appropriate level of financial contribution to make the proposed development acceptable in planning terms. On this basis, the proposed development is considered to broadly align with the requirements of Policy IN6.

## **Conclusions**

The proposed development seeks to redevelop a plot of brownfield land containing a vacant single storey industrial unit in Harlow town centre. The site is located in the Wych Elm area which has an adopted vision to be redeveloped that includes new homes. The Harlow Town Centre Masterplan Framework SPD considers the area to be suitable for higher density and tall buildings. In addition to Wych Elm House, and other live applications for mixed-use development in the Wych Elm area, the proposed development would act as a catalyst for further regeneration in a sustainable location.

Other benefits of the scheme include: the delivery of a substantial number of new homes that meet space standards, policy compliant levels of accessible units, high standards of accommodation with good outlook and residential amenity, communal open space and close proximity to areas of public open space, measures to minimise the risk and fear of crime, biodiversity net gain through enhancements including the provision of a green roof, policy compliant carbon reductions and the introduction of air source heat pumps and PV arrays, a car free development with good access to alternative modes of transport and the delivery of a sustainable drainage system.

Furthermore, whilst the proposed development has been assessed as not being financially viable to deliver on-site or off-site contributions towards affordable housing, the applicant has committed to agreeing to an ESR mechanism to be secured through the S106 Agreement to clawback affordable housing contributions should circumstances allow. The applicant has also agreed to provide financial contributions towards healthcare services, libraries and the Sustainable Transport Corridor; all of which have been sought by our consultees and would make the development acceptable.

Therefore, on balance, the proposed development is considered acceptable and is recommended for approval subject to the signing of a S106 Agreement and the planning conditions set out below.

## RECOMMENDATION

It is resolved that the Development Management Committee **GRANT PLANNING PERMISSION** subject to conditions listed below and a Section 106 Agreement to secure the Heads of Terms detailed within the report.

**Should the S106 Agreement not be signed by the applicant by 13 August 2023 (6 months from the date of planning committee), that powers be delegated to the Head of Planning to refuse the planning application (unless evidence provided by the applicant demonstrates that reasonable endeavours have, and continue to be made between the signatories of the S106 Agreement) for the reason set out below:**

*Suitable provision to secure financial contributions towards infrastructure (health care, libraries and sustainable transport initiatives) have not been secured. The application therefore fails to adequately address the necessary infrastructure requirements to make the proposed development acceptable and is therefore contrary to the requirements of HLDP Policy IN6.*

1	<p>The development hereby permitted shall be begun before the expiration of the three years from the date of this permission.</p> <p>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.</p>
2	<p>Before development commences other than for investigative work:</p> <ul style="list-style-type: none"> <li>a) Using the information already submitted in the Phase 1 Desk Study and Preliminary Contamination Risk Assessment prepared by Brown Fisher Environmental (ref: 21CLR5153CW, dated 30 July 2021), an intrusive site investigation shall be conducted for the site using information obtained from the desktop study and Conceptual Model. The site investigation must be comprehensive enough to enable: a risk assessment to be undertaken, refinement of the Conceptual Model, and the development of a Method Statement detailing the remediation requirements.</li> <li>b) The risk assessment and refined Conceptual Model shall be submitted, along with the site investigation report, to the Local Planning Authority which shall be submitted to, and approved in writing by, the Local Planning Authority prior to that remediation being carried out on site.</li> <li>c) Where remediation of contamination on the site is required, completion of the remediation detailed in the method statement shall be carried out.</li> <li>d) A report that provides verification that the required works have been carried out, shall be submitted to, and approved in writing by the Local Planning Authority before the development is occupied.</li> </ul>



	Reason: To ensure the development can be implemented and occupied with adequate regard for environmental and public safety.
3	<p>If during development contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.</p> <p>Reason: To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with NPPF Paragraph 189.</p>
4	<p>No development shall take place, including any ground works or demolition, until a Construction Management Plan, has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for the following all clear of the highway where possible:</p> <ul style="list-style-type: none"> <li>a) Safe access into the site.</li> <li>b) The parking of vehicles of site operatives and visitors.</li> <li>c) Loading and unloading of plant and materials.</li> <li>d) Storage of plant and materials used in constructing the development,</li> <li>e) Wheel and underbody washing facilities.</li> </ul> <p>Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose material and spoil are not brought out into the highway in the interest of highway safety.</p>
5	<p>No development shall take place until a method statement to demonstrate how dust production, and noise will be minimised during the permitted working hours of the demolition and construction phases.</p> <p>Reason: To protect the amenity of neighbours, in accordance with Policy PL2 of the Harlow Local Development Plan, December 2020.</p>
6	<p>No development shall take place on site, including site clearance, tree works, demolition, or any other works, until the details relevant to the safe retention and protection of on-site and any relevant off-site trees are submitted within an Arboricultural Method Statement (AMS) in accordance with <i>BS 5837:2012 – Trees in relation to design, demolition and construction</i>. Following the written approval of the AMS, the development shall be undertaken in accordance with the approved details unless otherwise agreed by the Local Planning Authority in writing. The AMS shall include a detailed Tree Protection Plan showing the positions and dimensions of protective fencing (and if necessary temporary ground protection) to safeguard all retained vegetation.</p> <p>The AMS shall include all relevant details such as level changes, demolition and construction techniques (including methods of access and construction traffic management), location of services and drainage, design detail of structures and foundations, and the control of potentially damaging operations such as burning, storage and the handling of materials, and access and the parking of vehicles</p>

	<p>during construction. Details of supervision at key stages of development will also be included.</p> <p>Reason: To ensure that damage to vegetation for retention is avoided and to comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 and policies PL1, PL7, PL8 and WE1 of the Harlow Local Development Plan, December 2020.</p>
7	<p>The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA:</p> <ul style="list-style-type: none"> <li>• Run off rates from the site should be limited to 1.4l/s.</li> <li>• An updated detailed drainage plan will be provided showing attenuation storage (including locations on layout plan) for all storm events up to and including the 1:100 year storm event inclusive of climate change.</li> </ul> <p>The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.</p> <p>Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure accordance with Policy P11 of the Harlow Local Development Plan, December 2020.</p>
8	<p>Prior to occupation, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.</p> <p>Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.</p> <p>Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site. To ensure accordance with Policy P11 of the Harlow Local Development Plan, December 2020.</p>
9	<p>The applicant or any successor in title must maintain year logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.</p> <p>Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk. To ensure accordance with Policy P11 of the Harlow Local Development Plan, December 2020.</p>
10	<p>Prior to the commencement of above ground works/installation, specifications and samples of all external finish materials shall be submitted to and approved</p>

	<p>in writing by the Local Planning Authority. Works shall be implemented in accordance with the approved materials and details specified and shall be permanently maintained as such.</p> <p>Reason: In the interest of visual amenity and to ensure accordance with Policy PL1 of the Harlow Local Development Plan, December 2020.</p>
11	<p>Prior to the commencement of above ground works, the developer shall submit details of proposed improvement works to the public footpaths surrounding the site immediately west and north, including appropriate boundary treatment.</p> <p>Reason: To provide improvements to the public realm and to ensure its compatibility with the development. To ensure accordance with Policy PL1 of the Harlow Local Development Plan, December 2020.</p>
12	<p>Prior to the commencement of above ground works, details of the double glazing and ventilation proposed to be installed shall be submitted to and agreed in writing by the Local Planning Authority.</p> <p>The specification will be in accordance with the approved Noise Impact Assessment, prepared by ES Acoustics (ref: 20502.ENIA.RPT01, dated 9 August 2023). The development shall be carried out in accordance with the approved details prior to first occupation and maintained as such for the lifetime of the development.</p> <p>Reason: To protect occupiers of the premises from excessive noise, and to ensure accordance with Policies PL2 and PL10 of the Harlow Local Development Plan, December 2020.</p>
13	<p>The cumulative rating level of any mechanical plant installed to the building (as defined by BS4142:2014) shall not exceed the prevailing background noise level identified within the approved Noise Impact Assessment, prepared by ES Acoustics (ref: 20502.ENIA.RPT.01, dated 9 August 2023). If the background noise level is exceeded, the use of mechanical plant shall cease until it is brought below this level. The measurement position and assessment shall be made according to BS4142:2014 (+A1:2019).</p> <p>Reason: To protect occupiers of the premises from excessive noise from mechanical plant, and to ensure accordance with Policies PL2 and PL10 of the Harlow Local Development Plan, December 2020.</p>
14	<p>Prior to above ground works, the developer must obtain a Traffic Regulation Order (TRO) from Essex County Council that extends the existing TRO leading to No.5 Wych Elm.</p> <p>Reason: To ensure the development achieves the recommendations of the approved Road Safety Audit, the safety of pedestrians using Wych Elm and to allow the building to be appropriately serviced.</p>
15	<p>Prior to above ground works, details of external lighting to be installed on the site shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason: To provide a high standard of design and to minimise the risk of harm</p>

	to bat habitats, in accordance with Policies PL1 and PL9 of the Harlow Local Development Plan, December 2020.
16	<p>Prior to the first occupation of the development, the cycle parking, both internal and external, as indicated on the approved plans, shall be provided and retained as such for the life of the development.</p> <p>Reason: To ensure that appropriate cycle parking is provided, and to ensure accordance with Essex County Council's Supplementary Guidance, February 2011; and Policies IN1, IN2 &amp; IN3 of the Harlow Local Development Plan, December 2020.</p>
17	<p>Prior to first occupation of the development, the Developer shall be responsible for the provision and implementation per dwelling of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include season tickets for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.</p> <p>Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport, and to ensure accordance with Essex County Council's Supplementary Guidance, February 2011; and Policies IN1, IN2 &amp; IN3 of the Harlow Local Development Plan, December 2020.</p>
18	<p>Prior to first occupation, details demonstrating the incorporation of Crime Prevention Through Environmental Design measures for the residential demise, will be submitted to and approved in writing by the Local Planning Authority for the following:</p> <ul style="list-style-type: none"> <li>• Security and compartmentalisation for all residential accesses, including refuse and cycle stores;</li> <li>• Audio and visual external access system;</li> <li>• Secure parcel and mail delivery arrangements;</li> <li>• Management Plan for public realm and shared facilities;</li> <li>• All windows and balcony doors to first floor level, and all residential front doors, to meet a minimum of <i>PAS 24: 2022 Standard</i>.</li> </ul> <p>CCTV should provide evidential quality and be monitored 24/7, if required.</p> <p>The development shall be carried out in accordance with the approved details and for the lifespan of the development.</p> <p>Reason: To create a safe and secure environment which helps to reduce opportunities for crime, and minimise the fear of crime, in accordance with Policy PL1(h) of the Harlow Local Development Plan, December 2020.</p>
19	<p>Prior to first occupation, details of the proposed planting for the green roof, and its ongoing maintenance, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and for the lifespan of the development.</p> <p>Reason: To ensure that the green roof is integrated with the Green Infrastructure network and provides a biodiversity net gain. To ensure accordance with the requirements of Policies PL8 and PL9 of the Harlow Local</p>

	Development Plan, December 2020
20	<p>Prior to first occupation, the following biodiversity enhancement measure shall be incorporated in the site, as set out in the Preliminary Roost Assessment (Revision C, August 2023):</p> <ul style="list-style-type: none"> <li>• Installation of two surface mounted bat boxes on the western elevation of the proposed building. The bat box should be fitted at a height of no less than 5m from ground level, be free of climbing vegetation and not be positioned exposed to driving rain or weathering.</li> </ul> <p>Reason: To ensure that the green roof is integrated with the Green Infrastructure network and provides a biodiversity net gain. To ensure accordance with the requirements of Policies PL8 and PL9 of the Harlow Local Development Plan, December 2020.</p>
21	<p>Prior to first occupation, details of the communal roof terrace, (e.g. seating areas, planting and play provision) shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason: To ensure the development provides inclusive development that is accessible to all, in accordance with Policy PL1 of the Harlow Local Development Plan, December 2020.</p>
22	<p>Prior to first occupation, the approved footpath improvement details to satisfy condition 11, shall be implemented and maintained as such for the lifetime of the development.</p> <p>Reason: To provide improvements to the public realm and to ensure its compatibility with the development. To ensure accordance with Policy PL1 of the Harlow Local Development Plan, December 2020.</p>
23	<p>The development shall be carried out in accordance with the measures outlined within the Sustainability and Energy Report, prepared by Ensphere (Version V4, dated August 2023), to ensure the development achieves carbon savings that exceed Building Regulation requirements by at least 19%.</p> <p>Reason: In the interests of ensuring sustainable design, construction and efficient energy use, in accordance with Policy PL3 of the Harlow Local Development Plan, December 2020.</p>
24	<p>No demolition or construction work shall take place outside of the hours of 08:00 to 18:00 Monday to Friday and 09:00 to 13:00 Saturday. No works are to be carried out on site on Sundays, Bank or Public Holidays.</p> <p>Reason: In the interests of the amenity of adjoining residents, and to accord with Policies PL2 and PL10 of the Harlow Local Development Plan, December 2020.</p>
25	<p>The kitchen windows on the southern elevation of flats identified as '05', and the bathroom windows on the eastern elevations of flats identified as '03' on the approved Proposed Typical Floor Plans (dwg nos. 044-101 &amp; 044-106) shall be made obscure.</p>

	Reason: To ensure privacy to the occupiers of the flats, and to ensure accordance with Policy PL2 of the Harlow Local Development Plan, December 2020.
26	The communal roof terrace shall be made accessible to all occupiers of the units and retained as such for the lifetime of the development.  Reason: To ensure inclusive public space is provided as part of the development, in accordance with Policy PL1 of the Harlow Local Development Plan, December 2020.
27	The flats identified as M4(3) on the approved plans shall be implemented and retained as such for the lifetime of the development. All remaining flats will be M4(2) compliant.  Reason: To ensure that homes are both accessible and adaptable to meet the changing needs of occupants, in accordance with Policy H5 of the Harlow Local Development Plan, December 2020.
28	No windows shall be installed on the outer façade of the southern elevation between ground and 5 <sup>th</sup> floor level.  Reason: To ensure privacy to the occupiers of the flats, and to ensure neighbouring land is not unduly constrained to enable future development in accordance with Policy PL2 of the Harlow Local Development Plan, December 2020.
29	Access to the refuse store will be made available by the building management to refuse collectors on collection days and will be retained as such for the lifetime of the development.  Reason: To ensure accordance with the requirements of Policy H2 of the Harlow Local Development Plan, December 2020.
30	No bonfires shall be held on site during the construction of the development.  Reason: To prevent unnecessary air pollution, and to ensure accordance with Policies PL2 and PL10 of the Harlow Local Development Plan, December 2020.
31	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
844-001	P2	Site Location Plan	18/01/2024
844-002	-	Existing Site Plan	18/09/2023
844-010	-	Existing Ground Floor Plan	18/09/2023

844-020	-	Existing Elevations	18/09/2023
844-99	P1	Proposed Site Plan	18/01/2024
844-100	P2	Proposed Ground Floor Plan	18/01/2024
844-101	P1	Proposed Typical Floor Plan – L01-05	18/01/2024
844-106	P1	Proposed Typical Floor Plan 2 – L06-10	18/01/2024
844-111	P3	Proposed Roof Terrace Plan	18/01/2024
844-112	P2	Proposed Roof Plan	18/01/2024
844-120	P2	Proposed Elevations 1 – North West and North East	18/01/2024
844-121	P2	Proposed Elevations 2 – South East and South West	18/01/2024
844-122	P2	Proposed North West Elevation – GF	18/01/2024
844-130	P1	Proposed Section AA and BB	18/01/2024

## 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 Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13. Access for Fire Services is satisfactory. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.
- 3 It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. Applicants can decide whether to apply to the Local Authority for Building Control or appoint an Approved Inspector. Local Authority Building Control will consult with the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority (hereafter called "the Authority") in accordance with "Building Regulations and Fire Safety - Procedural Guidance". Approved Inspectors will consult with the Authority in accordance with Regulation 12 of the Building (Approved Inspectors etc.) Regulations 2010 (as Amended).

- 4 The architect or applicant is reminded that additional water supplies for firefighting may be necessary for this development. The architect or applicant is urged to contact Water Section at Service Headquarters, 01376 756000.
- 5 The applicant is advised that even where not required under Building Regulations guidance, Essex County Fire & Rescue Service would strongly recommend a risk-based approach to the inclusion of Automatic Water Suppression Systems (AWSS), which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met.
- 6 The applicant is advised to review the letter issued by the Environment Agency, dated 6 October 2023, in regard to use of deep borehole soakaways, direct inputs into groundwater, waste permits, water resources, and pre-application advice.
- 10 The applicant's attention is drawn to the procedures for crane and tall equipment notifications, please see: <https://www.caa.co.uk/Commercial-industry/Airspace/Event-and-obstacle-notification/Crane-notification/>
- 11 Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).
- 12 Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- 13 Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- 14 It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- 15 The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- 16 We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.
- 17 The Highways measures should be imposed by way of negative planning conditions or a planning obligation.



- 18 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.
- 19 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 [development.management@essexhighways.org](mailto:development.management@essexhighways.org).
- 20 The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design checks, 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.
- 21 Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charger [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.
- 22 There are public sewers crossing or close to your development. If you're planning significant work near our sewers, it's important that you minimize the risk of damage. We'll need to check that your development doesn't limit repair or maintenance activities, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes.
- 23 The proposed development is located within 15 metres of our underground waste water assets and as such we would like the following informative attached to any approval granted. The proposed development is located within 15 metres of Thames Waters underground assets and as such, the development could cause the assets to fail if appropriate measures are not taken. Please read our guide 'working near our assets' to ensure your workings are in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures. Should you require further information please contact Thames Water. Email: [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk) Phone: 0800 009 3921 (Monday to Friday, 8am to 5pm) Write to: Thames Water Developer Services, Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB.
- 24 Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Management of surface water from new developments should follow guidance under sections 167 & 168 in the National Planning Policy Framework. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website.

- 25 We would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. Should the Local Planning Authority be minded to approve the planning application, Thames Water would like the following informative attached to the planning permission: "A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by emailing [trade.effluent@thameswater.co.uk](mailto:trade.effluent@thameswater.co.uk). Application forms should be completed online. Please refer to the Wholesale; Business customers; Groundwater discharges section.
- 26 Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.
- 27 The [approved roof plan] illustrates the installation of photovoltaic (PV) panels. Where the roof top installation of PV panels is proposed, it should be noted that fire safety standards require suitable support of cabling to avoid obstruction of escape routes and firefighting access due to the failure of fixings and consideration should be given to ensure that all power supplies, electrical wiring and control equipment is provide with appropriate levels of protection against fire.

