

# REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE

**REFERENCE:** HW/FUL/22/00406

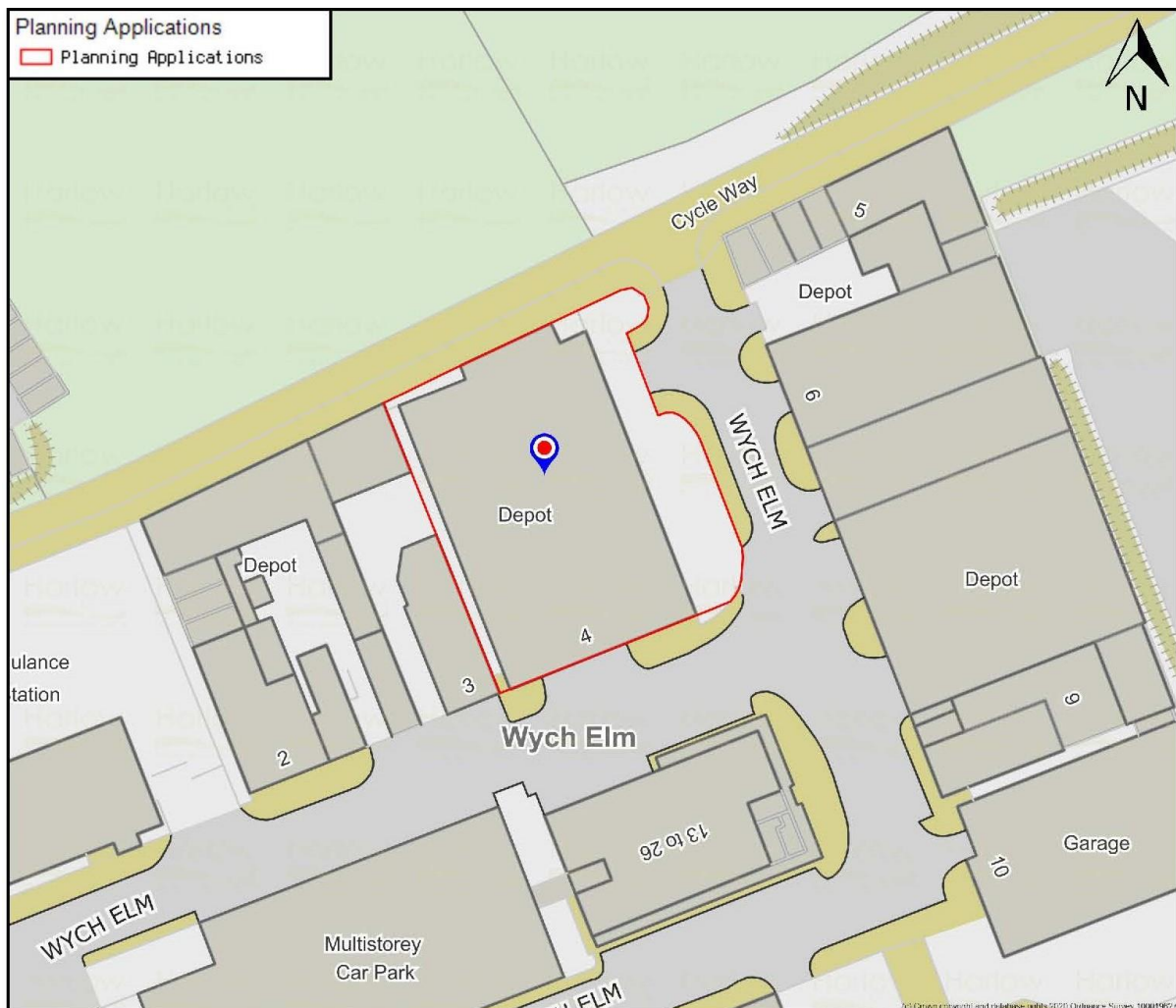
**OFFICER:** Ross Brereton

**APPLICANT:** Alper Kani

**LOCATION:** 4 Wych Elm  
Harlow  
Essex  
CM20 1QP

**PROPOSAL:** Demolition of the existing building and erection of building ranging between 6 and 15 storeys comprising 84 residential flats (Use Class C3) and flexible commercial floorspace (Use Class E), communal amenity space, with associated parking, waste/recycling storage and other associated works

## LOCATION PLAN



## **Reason for Committee Referral**

This 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 before the Planning Committee for consideration.

## **Summary**

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 complying with the planning conditions listed below.

## **Details of the Proposal**

Detailed planning permission is sought for the redevelopment of land relating to no.4 Wych Elm, Harlow. The application seeks to demolish the existing single storey building currently occupied by Ripper Gym and replace it with a tall building ranging between six and 15 storeys. It would comprise commercial floorspace, undercroft car parking, commercial and residential refuse storage and plant room at ground level, with 84 flats comprising 4 x studios, 36 x 1-bedroom, 38 x 2-bedroom and 6 x 3-bedroom flats, communal amenity space on the first and eleventh floor levels and cycle parking above. The ground level would also comprise boundary treatment along the northern and western elevations.

## **Application Site and Surroundings**

No.4 Wych Elm is located to the north of Harlow town centre. The site is approximately 0.12ha and currently accommodates a single storey commercial building with a pitched roof. The building is currently in use as a gym (Use Class E).

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.3 Wych Elm to the west, which is in use as an office; Nos.17-19 Wych Elm to the south, which are occupied by light industrial uses; and No.5 Wych Elm to the east, which has recently received a resolution to grant planning permission for an 11 storey building comprising 53 residential flats. Nos 6-10 Wych Elm, also to the west, are in use as a place of worship, a tyre shop and funeral directors, respectively.

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 the Wych Elm Area. The site is located within Land Parcel C which sets out a development strategy to deliver a 6-15 storey building with commercial ground floor uses and residential flats above.

## RELEVANT PLANNING HISTORY:

<u>App Number</u>	<u>Proposal</u>	<u>Status</u>	<u>Decision Date</u>
HW/PL/05/00254	Change of use from warehouse and trade counter to mixture of rehearsal, storage and retail (Sui Generis).	Granted	02/09/2005
HW/PL/08/00126	Change of use from B1(c) (B8) to D2 gymnasium.	Granted	23/06/2008
HW/FUL/21/00181	Demolition of the existing building and erection of building ranging between 6 and 15 storeys comprising 82 residential flats (Use Class C3) and flexible commercial floorspace (Use Class E), communal amenity space, with associated parking, waste/recycling storage and other associated works.	Refused	17/09/2021

## RELEVANT APPEAL HISTORY:

There is no relevant appeal history available for the site.

## CONSULTATIONS

### Internal and external Consultees

#### Environment Agency

No representations received.

#### Thames Water

Thames Water have raised no objection to the proposed development subject to a condition requiring the submission of a piling method statement before the commencement of development. They have also made several advisory comments regarding the disposal of waste water, surface water drainage, pollution control and the protection of assets which would be imposed as informatives should planning permission be granted.

#### Affinity Water

No representations received.

## **Natural England**

No representations received.

## **East of England Ambulance Service (EEAS)**

EEAS have sought a contribution of £25,855.20 towards emergency service infrastructure.

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

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

The proposed development is estimated to create 168 new patient registrations.

The HWE ICS 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 £90,468 is sought through a S106 planning obligation to be focused on Addison House Surgery and/or Old Harlow Health Centre. A trigger point of payment on occupancy of the 15<sup>th</sup> dwelling is requested.

## **Health and Safety Executive (HSE)**

The HSE previously raised concern regarding the two single staircases located in each tower connecting to ancillary areas such as the ground floor car park, plant room and the first floor level bike store.

The applicant has since revised the proposed development to ensure each storey is served by a minimum of two staircases and that the two cores are linked (2<sup>nd</sup> - 10<sup>th</sup> floor) via an open common walkway (balcony approach). There would be a total of three staircases across the development.

The HSE welcome these revisions and the provision of additional available stairs on each level. Following a review of this information, the HSE is content with the fire safety design as set out in the project description to the extent it affects land use planning considerations.

## **Essex County Council - Sustainable Drainage (SuDS)**

ECC SuDS have removed their holding objection following the submission of further information in the form of a Technical Note. SuDS have requested conditions be imposed requiring the developer to submit a detailed surface water drainage scheme prior to the commencement of development, the submission of a maintenance plan prior to occupation, and the completion of yearly maintenance logs.

## **Essex County Council – Infrastructure**

ECC's Infrastructure have reviewed the proposed development and expect it to generate a need for up to 1.98 Early Years and Childcare (EY&C) places, 6.60 Primary School places, and 4.40 Secondary School places. They confirm that there is sufficient capacity for Primary and Secondary places, but a contribution is required to accommodate the 1.98 EY&C places. This would amount to £34,190.64 (plus indexation).

No School Transport contribution is sought given the proximity of schools to the site. A further contribution towards Libraries is sought amounting to £6,535.20 (plus indexation), along with the preparation of an Employment and Skills Plan to drive forward an increase in construction employability levels and workforce numbers.

### **Essex County Council – Green Infrastructure**

Essex County Council's Green Infrastructure team have assessed the proposed development and raise no objection subject to conditions regarding landscaping, construction management and SuDS.

### **Essex County Council – Highways**

Essex County Council Highways note that the applicant has submitted a Transport Statement, which demonstrates, in terms of safety and capacity, that the impact of the proposed development would be insignificant, and that no junction assessments are considered necessary.

They add that the methodology informing the parking provision is considered acceptable especially given the location of the site and its position in terms of easy access to other modes of sustainable transport. They note that the surrounding roads in the locality are well secured with appropriate parking restrictions.

Overall, they conclude that the proposal would not be detrimental to highway safety, capacity or efficiency in this location or on the wider highway network. It would also improve cycling and walking opportunities within the vicinity of the site.

Several pre-commencement and compliance conditions have been requested which include the submission of a Construction Management Plan, delivering access and parking arrangements in accordance with the submitted plans, preparation of a Travel Plan and offering each new household a Residential Travel Information Pack.

### **Places Services – Urban Design**

Place Services Urban Design team have been consulted on the proposed development on two separate occasions. Their representations are summarised as follows:

#### 24 November 2022

- Concerns raised about how the proposed redevelopment of the site may impact on the development potential of no.3 Wych Elm.
- Recommendations made to HDC that a study is undertaken to agree the likely requirements of No.3 Wych Elm.
- No comments made in relation to the specified external materials.
- Expectation that hard and soft landscaping details, including details of a green wall, will be conditioned alongside a maintenance strategy.

#### 13 March 2024

- The revisions primarily revolve around changes to the location and number of stair cores, and the introduction of a connecting internal deck access.
- No significant concerns raised of the revisions.
- Minor misalignment of the fenestration is noted on the 7<sup>th</sup> and 8<sup>th</sup> floors.

- No assessment of the impact on the wider masterplan and potential development of No.3 Wych Elm has been provided to avoid privacy and overlooking issues.
- The western elevation shows full use of fenestration from the first storey upwards but the offset to the redline boundary would be under 2m in places.
- This could displace future development and in turn create an uninviting relationship with the development of the wider [Wych Elm] site.

The applicant provided further information to satisfy these comments which is outlined in the design section of this report.

### **Places Services – Heritage**

No representations received.

### **Place Services – Archaeology**

The Council's archaeology consultant acknowledges that the area has been extensively disturbed by the construction of the current building on the site, and it is unlikely that any archaeological remains survive in the area. No further work is considered required.

### **Harlow District Council – Tree Consultant**

The Council's tree consultant has confirmed that the applicant has sufficiently considered the impacts to trees and green infrastructure in neighbouring Rectory Wood for the planning stage.

They note that the cycleway is likely to be restricting significant root growth [towards the site], that scaffolding could be arranged without pruning a nearby oak tree, and that shading cast by the proposed building is not considered to be detrimental to the trees.

Should planning permission be granted, the tree consultant requests that a pre-commencement planning condition be imposed requiring the developer to demonstrate that there would be no improper usage of land near to trees, and the methods of working around trees are illustrated so that they can be examined by the Council before works commence.

### **Harlow District Council – Environmental Health**

The Council's Environmental Health team raise no objection to the proposed development, subject to the submission of an intrusive site investigation should planning permission be granted.

### **Harlow District Council – Cleansing and Environment**

The Council's Cleansing and Environment team have made several comments regarding the size and configuration of the proposed residential and commercial bin stores, alongside their internal and external access.

### **Harlow District Council – Housing Services**

No representations received.

### **Harlow District Council – Regeneration**

The Council's Regeneration team have expressed their disappointment with the lack of affordable housing being provided on site and request a financial review mechanism at an appropriate stage to ensure that should viability improve then the requirements for affordable housing can be reviewed.

### **Harlow District Council – Assets and Facilities Management**

No representations received.

### **Harlow Civic Society**

Harlow Civic Society object to the proposed development based on its height that would cast a shadow over a large swathe of Rectory Wood and the adjacent cycleway. They add that any new building should be no taller than the existing development.

### **Essex Wildlife Trust**

No representations received.

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

Essex Police's Designing out Crime officer requested to meet with the applicant to understand the management and maintenance of the undercroft parking provision, cycle storage, lighting, postal deliveries and egress/access across the development including the public realm spaces.

Following a meeting with the architect, the DOCO is satisfied that the proposed development is acceptable from a crime mitigation perspective subject to planning conditions requiring further details of the security provisions and the submission of a management plan.

### **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.

### **London Stansted Airport Aerodrome Safeguarding**

The Safeguarding Authority for Stansted Airport raises no objection to the proposed development subject to a condition requiring robust measures to be taken to control dust and smoke clouds during demolition and construction and an informative concerning crane and tall equipment to be imposed.

## **Neighbours and Additional Publicity**

Number of Letters Sent: 101

Total Number of Representations Received: 3 (1 support, 2 objections)

Date Site Notice Expired: 28 October 2022

Date Press Notice Expired: 27 October 2022

## **Summary of Representations Received**

Three representations have been received and are summarised as follows:

- New development would create variety and interest to the skyline.
- Would provide good density and encourage use of nearby sustainable transport.
- High-rise development in such a location helps to protect the countryside from sprawl.
- Too few car parking spaces for the number of dwellings proposed.
- Wych Elm is heavily congested already.
- The development should not be taller than nine storeys as it would be out of character with the area.
- A tall building would be overbearing and reduce sunlight and privacy.
- Wych Elm is a 'light industrial area'. New residential development will squeeze businesses out of the area.
- Lack of car parking would encourage residents to park on-street.
- Development would overshadow the existing footpath and cycle path and discourage its use.

## **Development Plan**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that "where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise".

The Local Plan in this instance is the Harlow Local Development Plan (2020).

### Harlow Local Development Plan 2020

Planning law requires that proposals should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan for the site consists of the Harlow District Council (HDC) Harlow Local Development Plan 2020 (HLDP), Essex County Council (ECC) Essex and Southend-on-Sea Waste Local Plan 2017 and ECC Essex Minerals Local Plan 2014.

The part of the Development Plan applicable to the proposal is the HDLP. The HDLP is prepared in the context of the National Planning Policy Framework (NPPF) – see 'Planning Standards' below. It is important to note that this is a very recently adopted and therefore 'up to date' plan in terms of NPPF Para.12.

Policies of most relevance to the proposal are:

- SD1 – Presumption in Favour of Sustainable Development
- HS1 – Housing Delivery
- ED2 – Protecting Existing Employment Areas
- RS1 – Retail Hierarchy
- RS2 – Future Retail Floorspace
- RS3 – Protecting and Enhancing Existing Retail Centres
- 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  
PR5 – The Sequential Test and Principles for Main Town Centre Uses  
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).

Harlow and Gilston Garden Town (HGGT) is a designated 'Garden Community' under the Government's Garden Communities Programme.

The following are material planning considerations in the determination of applications and appeals:

#### National Planning Policy Framework (NPPF) (2023)

The Development Plan is prepared taking account of the National Planning Policy Framework (NPPF) (as extant at the time - the NPPF is regularly updated; currently in its 2023 version) and the associated Planning Practice Guidance (PPG) (first published in March 2014 but also regularly updated with the NPPF). The NPPF is a material consideration in the determination of applications.

#### HDC Design Guide SPD (2011)

Design Guide Addendum SPD (adopted December 2021).

#### Essex Parking Standards (2009)

ECC Development Management Policies (2020 - living document with regular updates).

#### HGGT Guidance

Harlow and Gilston Garden Town (HGGT) is a designated 'Garden Community' under the Government's Garden Communities Programme.

NPPF Para.72 provides the national policy context for Harlow and Gilston Garden Town (HGGT) as a location for larger scale (housing) development. Of particular note is the emphasis on; existing or planned investment in infrastructure, the areas economic potential

and the scope for net environmental gains..... plus; clear expectations for the quality of development and how this can be maintained (such as by following garden city principles).

The HGGT (Local Authorities) Partnership has published a series of documents that set the standards expected for developments in the Garden Town and are therefore relevant to this application.

The HGGT Vision elaborates on the HGGT's interpretation of garden city principles and sets expectations for high quality development to accord with the principles.

The HGGT Design Guide requires consideration of design quality in a garden city principles sense and draws attention to specific local issues.

## **SUMMARY OF MAIN ISSUES**

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

- Principle of development;
- Standard of accommodation;
- Affordable housing;
- Fire safety;
- Design and layout;
- Designing out crime
- Landscaping;
- 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 development and has the potential to accommodate tall buildings. The SPD's indicative 3D view illustrates a building on the site up to 15 storeys.

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 C which indicates that flexible active uses (Use Class E) at ground floor level with residential uses above would be acceptable. Indicative capacity estimates for Parcel C suggest that c.82 homes and c.400sqm of ground floor commercial floorspace would be suitable in a staggered building between six and 15 storeys.

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

### **Standard of Accommodation**

#### *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>Studio</b>	<b>1-bed</b>	<b>2-bed</b>	<b>3-bed</b>
84	4 2,110	36 28,485	38 48,108	6 11,077.50
Proportion	5%	43%	45%	7%

The table illustrates that the majority of units would comprise of one and two-bedroom flats. This is similar to the recently approved developments at No.5 and No.10 Wych Elm and is considered acceptable in a town centre location. The applicant also proposes a proportion of studios and three-bedroom flats following negotiations with the applicant. Studios offer a suitable product for single occupants, whilst the latter would be suitable for families.

This unit mix has been amended during the determination process to ensure that the development can cater to a range of needs. Therefore, given the size constraints of the site, and the building's high-density nature, the proposed unit mix is acceptable.

#### *Floorspace*

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 for 1b1p, 1b2p, 2b3p and 3b5p units.

It is highlighted that the four studio (1b1p) units are proposed to be either 37sqm or 37.2sqm. Whilst this is the minimum size for a studio, they would each be served by large private amenity space of either 11sqm or 6.1sqm and be located on the 13<sup>th</sup> or 14<sup>th</sup> floors. This is considered to be a suitable compromise for the smallest units proposed as part of the development.

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 12% of provision. The remaining 74 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, whilst the first and eleventh floors would contain communal amenity space to be made accessible to all residents.

In total, the proposed development would provide 1,154.2sqm, which is the equivalent of 13.7sqm 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.

#### **Affordable Housing**

HLDP Policy H8 (Affordable Housing) states in residential developments of more than 10 dwellings, it will be expected that at least 30% affordable housing is provided. A reduction of 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 Council's Affordable and Specialist Housing SPD (2021) adds that if there is a proven viability issue wherein the policy requirement for affordable housing cannot be fulfilled, the Council will seek mechanisms to secure the affordable housing should [the applicant] have concluded the economic circumstances have improved to comply with policy. Paragraph 2.104 states that this clawback can include (but not be limited to) a variety of mechanisms.

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, BPS, 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. BPS recommend that the scheme be subject to review mechanisms in order that the viability can be reassessed.

Therefore, in line with No.5 and No.10 Wych Elm, that have recently been issued a resolution to grant planning permission by the Planning Committee, an early-stage review mechanism has been negotiated with the applicant to be secured as part of the S106 Agreement. This would require the developer to re-submit the viability information within a timeframe prior to the development being implemented in an attempt to secure financial contributions should the financial viability change. This agreement is balanced with the S106 contributions and the strategic need to redevelop Wych Elm, and is considered to align with the requirements of both Policy IN6 and the SPD.

## **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 application was submitted for consideration before the introduction of legislation and therefore did not comply with the new regulations. The HSE were initially consulted in October 2023 and raised concern about the means of escape. The previous iteration included two stairwells, with only one reaching the top storey.

The applicant has since revised the scheme to ensure two staircases reach the top habitable storey (level 14). The HSE were consulted for a second time in March 2024 which has resulted in them removing their objection and confirming that they are content with the fire safety design to the extent that it affects land use planning considerations. There would be a total of three staircases across the development, with two reaching level 14.

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

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 and Layout**

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 (and 2021 Addendum).

The application is supported by a comprehensive Design & Access Statement (DAS) and detailed drawings prepared by Ackroyd Lowrie Architects; 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 part 6, 9, 11, 14 and 15 storeys, with the tallest element located at the north-east corner of the site adjacent to the cycle path and Wych Elm. This design approach aligns with the strategy for Land Parcel C within the Wych Elm Development Brief which states that a staggered point block and shoulder block design of between 6-15 storeys, with the taller blocks located along the eastern and northern edges will be supported. Where each storey terminates, they will either include communal terraces, PV panels with green roof, or mechanical plant.

In terms of the layout, the building has been designed to make the most effective use of the small site, whilst taking into consideration its relationship with neighbouring sites and development. For example, two of the proposed commercial units at ground level would be located on the eastern elevation fronting No.5 Wych Elm, whilst the third unit would be located on the corner to provide dual frontage to the cycle path. The residential and commercial access would also be located on the eastern elevation which would provide additional surveillance to and from No.5 Wych Elm, following a recent resolution to grant planning permission for residential development. The commercial and residential bin stores, and vehicular access to the car park, would be located on the southern elevation to form an undercroft. There would be no active ground floor frontage on the west elevation to maintain a suitable relationship with No.3 Wych Elm.

The residential demise (with the exception of access) would begin at first floor level. The building has been designed in a 'horse shoe' shape from this level which would surround a large communal amenity space on three sides at first floor level. The building would be built upwards around this amenity space along the north, east and south elevations to varying heights specified above. This is considered an appropriate design response that breaks up the proposed massing by ensuring the tallest elements are located towards its edges whilst stepping down towards the direction of the multi-storey car park. It also enables all units to be dual aspect, provide private amenity space and maximise light into the central courtyard and lower floors.

In turn, this is also considered to ensure that the development potential of Land Parcel B which includes No.3 Wych Elm to the west, and the existing multi-storey car park site to the south, is not compromised. The applicant has provided commentary on this matter, explaining that the flats that would be located closest to this boundary at the north-west and south-west corners would be dual aspect, but would have their principal aspects on their respective north and south elevations. They add that by not placing fenestration on the western elevation would create an undesirable blank façade, particularly if the redevelopment of No.3 Wych Elm is not forthcoming.

Notwithstanding this, the landowners of No.3 Wych Elm have not submitted representations to this application, and the Wych Elm Development Brief states that the redevelopment of Land Parcel B will be required to consider Land Parcel C in respect of impact on its amenity, noting that the redevelopment of No.3 is a medium to long term strategy (10-15 years) whereas the redevelopment of No.4 is a short term strategy (<5 years or less). At the time of determination, no pre-application request, or formal planning application had been submitted to determine the potential relationship of any proposed development at No.3 Wych Elm, therefore the design approach taken by the applicant is considered proportionate and acceptable.

In terms of materiality, the proposed building would be constructed from a varied colour palette of white concrete and warm, grey and green masonry that would help to define the various components of the scheme such as the different demises, floors and towers that form the overall development. The windows, door frames, railings and balconies would be formed of dark grey aluminium to provide contrast between the fenestration and masonry. The fenestration and elevation articulation also present linear vertical emphasis which is synonymous with development in Harlow.

The Council's urban design advisor has reviewed the proposed development and raises no objection to the proposed development subject to the applicant demonstrating the acceptability of the relationship between the site and No.3 Wych Elm. As set out above, the applicant has since provided this information which is considered an appropriate and balanced response based on the size of the site, the overall aspirations for Wych Elm, and the longer term strategy for No.4 Wych Elm. It is also highlighted that the relationship between the two sites has not changed since the previous iteration was put before planning committee, and subsequently did not form a reason for refusal.

On the basis of the proposed design in terms of its height, bulk, massing and layout aligns with the principles of the strategy for Land Parcel C within the Wych Elm Development Brief, and generally accords with the requirements of HLDP Policy PL1 and the Harlow Design Guide. The applicant will be required to submit details of the proposed materials prior to their first use should planning permission be granted.

## **Landscaping**

Policy PL1 states that development must provide appropriate physical, legible and safe connections with surrounding streets, paths, neighbouring development and Green Infrastructure. Policy PL8 adds new Green Infrastructure and landscaping must be well planned, taking into consideration the practicalities and requirements of future management and maintenance, and providing appropriate footpaths, for example. Policy PL4 states major development should provide and maintain public art.

The proposed development demonstrates that the boundary will be treated with new paving, planting, semi-mature deciduous trees and an area to introduce a sculpture along the eastern elevation at ground level. This would be coupled with dense planting adjoining the cycle path.

Given the size constraints of the site, there are limited opportunities to introduce landscaping at ground level beyond the boundaries, therefore, the applicant proposes to introduce green roofs and additional planting as part of the communal terraces at first and eleventh floor levels.

The proposed indicative landscaping scheme shown on the proposed ground floor plan has been reviewed by ECC, the Council's arboricultural consultant and urban design advisors, and no objection has been raised. Whilst there is limited scope to introduce green infrastructure because of the constraints of the site, the proposed landscaping would be an improvement on the existing scenario and would integrate with the proposed boundary treatment at No.5 Wych Elm.

It has been agreed with the applicant that a landscaping and planting strategy for the public realm can be dealt with by condition prior to first occupation with implementation during the first planting season following completion of the development. In addition, a further condition would be imposed requiring the applicant to engage with the Harlow Arts Trust to source a suitable sculpture to be placed in the area earmarked on the proposed site plan. This area of public realm would be subject to a detailed method statement to ensure adequate maintenance.

Providing all the above conditions are suitably discharged, the proposed development would demonstrate accordance with Policies PL1, PL8 and PL4.

### **Designing out Crime**

HLDP Policy PL1 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 (DOCO) 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.

At the request of the DOCO, a meeting was held between Essex Police, Harlow planning officers and the applicant to discuss the layout of the proposed development, including access and the communal amenity areas.

The DOCO has concluded that they are content with the proposed development but has requested a planning condition be imposed that requires 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 shared facilities, and windows, doors and balcony doors to meet minimum security specifications.

Subject to the satisfactory discharge of the proposed condition, the applicant has ensured that the proposed development has considered ways 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 document has been reviewed by the Council's arboricultural consultant who confirms that the applicant has sufficiently considered the impact of the proposed development on trees and green infrastructure in neighbouring Rectory Wood.

A site visit undertaken by the arboricultural consultant revealed that the site is divided by the cycle path immediately north which is likely to be restricting significant root growth. Furthermore, the applicant has pointed out that scaffolding can be arranged without pruning a nearby oak tree, and that shading cast by the proposed building is not considered to be to the detriment of nearby trees.

The arboricultural consultant concludes that whilst sufficient details has been provided at planning stage, further information in the form of an Arboricultural Method Statement is required to understand how demolition and construction will take place whilst adequately protecting nearby trees. This detail would be required 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.

Matters relating to daylight and sunlight did not form part of the planning assessment for the previously refused application at 4 Wych Elm. This was a result of the proposed development not being surrounded by other residential development in which existing or proposed residential amenity could be affected.

Since this application, a resolution to grant planning permission at No.5 Wych Elm has been issued by the Council. This site is located directly opposite the site to the east. Therefore, given its proximity, the Council has requested the applicant undertake a daylight, sunlight and overshadowing assessment to determine the impact of the development on No.4 Wych Elm.

The report, submitted by NRG Consulting, confirms that No.5 Wych Elm would have a minimal impact on the proposed development. The assessment demonstrates that the

majority of the the habitable windows/rooms in No.4 Wych Elm would meet the target Vertical Sky Component guidance as specified by the Building Research Establishment (BRE). Where windows fall short of this guidance, planning precedence does allow this where development is located in an urban area.

The report also confirms that some windows would fall short of the guidance in urban areas. However, these particular windows can be considered secondary to other windows that serve the same habitable rooms which *do* fully comply with BRE guidance. Therefore, on balance, the habitable rooms on the eastern façade would receive an adequate level of daylight for an urban context and is considered acceptable and in accordance 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 Report, prepared by KP Acoustics. This report confirms that the noise survey data and subsequent analysis has allowed the assessment of daytime and night-time levels that would be experienced by the proposed development, which in turn has determined a suitable glazing specification and ventilation strategy.

Environmental Health have not responded to this application on noise matters and so it is considered that they have no objection to the proposed development. Standard planning conditions requiring the applicant to submit details of the glazing and ventilation specifications, and to ensure that any mechanical plant installed, does not exceed the prevailing background noise levels identified within the report would be imposed.

Conditions would also be imposed restricting the opening hours of the commercial floorspace to between 07:00 and 23:00 daily and restricting deliveries outside of these hours to protect the proposed and surrounding residential amenity.

Subject to the satisfactory discharge and compliance of the recommended planning conditions, the proposed development is considered to accord with the requirements of HLDP Policies PL2 and PL210 regarding 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 175 PV panels at sixth, ninth, fourteenth and roof levels. This would be coupled with 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. The applicant has provided further clarity on the estimated reduction for the entire building once scaled up which is anticipated to result in a 65% 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.

### *Parking*

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 meet and exceed the requirements for cycle parking, providing 106 spaces (including six visitor spaces), whilst only providing 13 car parking spaces (including three accessible spaces). 10 spaces would be served by electric vehicle charging points.

The application and Transport Statement have been reviewed by ECC Highways who confirm that the impact of the proposed development, in terms of safety and capacity, would be insignificant and that no junction assessments are considered necessary. They add that the methodology informing the parking provision is considered acceptable especially given the location of the site and its position in terms of easy access to other modes of sustainable transport. They also note that the surrounding roads in the locality are well secured with appropriate parking restrictions.

Overall, they conclude that the proposal would not be detrimental to highway safety, capacity or efficiency in this location or on the wider highway network and would improve cycling and walking opportunities within the vicinity of the site.

Several pre-commencement and compliance conditions have been requested which include the submission of a Construction Management Plan, delivering access and parking arrangements in accordance with the submitted plans, preparing a Travel Plan and offering each new household a Residential Travel Information Pack. A contribution is also sought towards the Sustainable Transport Corridor and further information is set out in the Financial Obligations section of this report.

It is highlighted to the Planning Committee that the previous application at this site, proposing 82 flats and 10 parking spaces, was partly refused for lack of car parking provision despite officers recommending the application be approved. Since this application was refused, Members of the Planning Committee have allowed a resolution to grant planning permission for an entirely car free residential development comprising 53 units at No.5 Wych Elm, and three parking spaces to serve a mixed-use development comprising 57 units at No.10 Wych Elm. This demonstrates that the Council have accepted reduced parking on sites in the vicinity in recognition of the highly sustainable nature of the location and the trend to move to car-free developments in such locations.

To ensure that the provision of car parking is suitably allocated to households, the applicant has agreed to offer the right of first refusal to occupiers of three-bedroom units who are more likely to have access to a car, followed by two-bedroom occupiers and so on. This would not include the accessible spaces, which would be allocated only to occupiers of accessible units on a first come, first served basis. This is covered by a planning condition to ensure certainty to those looking to purchase one of the units.

### *Servicing*

A loading bay to serve the development would be located along the southern elevation to provide ease of access to refuse collection vehicles (RCV). Delivery vehicles would be able to use the same loading bay when not in use by RCV, or park along the eastern elevation of the building opposite No.5 Wych Elm.

The application has been reviewed by the Council's Environment and Cleansing team who initially made several comments in relation to the size and configuration of the bin stores, as well as the internal and external access. The applicant has responded to these queries, which has included the bin store doors being widened to 2m and opening inwards and outwards, ensuring that the gradient between the bin stores does not exceed 1:12 and installing a flushed kerb with the road. The amendments to the public footpath to facilitate the proposed loading bay would be secured through a separate S278 agreement as requested by ECC Highways. This is imposed as an informative.

Based on the applicant's amendments to the proposed development 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.

### **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 site may be contaminated for the end use. This relates to the historical use of the site as a garage and depot, which was likely used for the servicing and repair of commercial vehicles with the possibility that oils, lubricants, fuels and paints could have been used and stored there. There is also the possibility that a waste oil tank or above-ground fuel tank was used at the site.

As the proposed development would contain residential uses, the reports recommends that the soils on site should be further understood and assessed for possible presence of contamination. This should be combined with a geotechnical assessment to determine the suitability of the site soils for the proposed structure. Therefore, further work in the form of an intrusive site investigation and further generic or detailed risk assessment should be undertaken. Should pollutant linkages be confirmed as unacceptable, then some form of remediation will be required.

The Council's Environmental Health department have reviewed the supporting information and agree with the report's recommendations. They request that 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 encourage and will be supported.

The applicant has submitted a Flood Risk Technical Note demonstrating that the site is in Flood Zone 1 and at Low risk of flooding from fluvial, groundwater and reservoir flood risk. The site is, however, in a Critical Drainage Area and is at High risk of surface water flooding.

The applicant has therefore submitted a Surface Water and Foul Drainage Assessment to determine an appropriate strategy for SuDS. This has subsequently been updated in the form of a Surface Water Drainage Strategy Technical Note to reflect revisions to the proposed development during the determination period, and to provide further information to address a holding objection issued by ECC SuDS.

The proposed SuDS will include on-site storage to be provided within a blue roof structure to be located on the first floor, and a cellular attenuation tank to be located beneath the ground floor parking area. All proposed impermeable roof area would discharge first into the proposed blue roof before being piped directly into the proposed cellular attenuation tank beneath ground. The proposed parking area is to be covered by the extent of the first floor with no direct rainfall. Any runoff that would occur from wind blow or drip from cars would be collected by a series of gullies and channel drainage. This would flow into the proposed cellular attenuation tank.

ECC SuDS have reviewed the updated information provided by the applicant and are content with the strategy. This has resulted in them removing their holding objection subject to several conditions requiring the developer to submit a detailed surface water drainage scheme for the site, the submission of a maintenance plan detailing the maintenance arrangements of the proposed surface water drainage system and undertaking yearly logs.

Therefore, 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 applicant has not submitted any form of preliminary ecological assessment to assess the potential impact to on-site biodiversity. However, the entire site accommodates the existing building and some hardstanding around the boundary, therefore, no assessment was considered necessary on this occasion.

The proposed development would increase the amount of green infrastructure on-site through the introduction of a green roof and planting at first floor level, and additional planting as part of the other communal areas at eleventh floor level. The proposed site plan also illustrates semi mature deciduous trees and dense planting to be located along the eastern elevation fronting Wych Elm. There is no requirement for the site to demonstrate a 10% biodiversity net gain as the application was submitted before this became law in February 2024. However, the proposed landscaping would result in a significant net gain when compared to the existing scenario.

It is also highlighted that the application for residential development at No.5 Wych Elm included a bat roost and breeding bird assessment to determine whether the site had potential to support roosts or nests, respectively. This information would be required to be submitted prior to the commencement of development. A condition requiring the preparation of a suitable lighting strategy to ensure local bat populations are not negatively impacted would also be imposed.

Subject to the satisfactory discharge of the proposed conditions, the development would be in accordance with the requirements of 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 agreed for the NHS Hertfordshire & West Essex Integrated Care System, East of England Ambulance Service and Essex County Council for libraries and early years & childcare. A negotiated 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:

- An Early-Stage Review mechanism requiring a re-assessment of the Financial Viability Appraisal to determine affordable housing contributions.
- £90,468 to be paid to the NHS Hertfordshire & West Essex Integrated Care System and focused on Addison House Surgery and/or Old Harlow Health Centre to be paid on the occupancy of the 15<sup>th</sup> dwelling.
- £25,855.20 to be paid to the East of England Ambulance Service to support emergency health services.
- £6,535.20 to be paid to Essex County Council to support library services.
- £34,190.64 to be paid to Essex County Council to support early years & childcare provision.
- £68,634 to be paid to Essex County Council to support the delivery of the Sustainable Transport Corridor (index linked to Q3 2021).
- 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.
- Monitoring Fees charged at a rate of £550 per obligation (x7).

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. These sums are balanced with the regeneration benefits of the scheme and align closely with contributions sought for No.5 and No.10 Wych Elm. 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 single storey commercial unit in Harlow town centre. The site is located in Wych Elm which has an adopted vision to be redeveloped to provide mixed-use development comprising commercial floorspace at ground level with residential units above. The Harlow Town Centre Masterplan Framework SPD considers the area to be suitable for higher density and tall buildings. The proposed development, if approved, would complete the 'four corners' of Wych Elm and act as a catalyst for further regeneration in a sustainable location.

Other benefits of the scheme include: the delivery of a high density and well designed building using high-quality materials; a significant number of new homes that would provide an appropriate mix and meet space standards; policy compliant levels of accessible units; high standards of accommodation with good outlook and residential amenity; communal open space; measures to minimise the risk and fear of crime; landscaping and public art initiative; the creation of new jobs; the introduction of air source heat pumps and PV arrays; low car 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 an early-stage review 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 primary healthcare and emergency services infrastructure, early years & childcare, libraries and the Sustainable Transport Corridor.

Therefore, on balance, the proposed development is considered acceptable and is recommended for approval subject to the signing of a S106 Agreement and complying with the list of 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 February 2025 (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 The development hereby permitted shall be begun before the expiration of the three years from the date of this permission.

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.

- 2 Prior to the commencement of all work on site, an inspection of the site by a qualified ecologist to verify if there are any bat roosts or breeding bird potential shall be undertaken. A report shall then be submitted to the Local Planning Authority confirming the findings.

If the report indicates bat roosts or breeding birds exist, or there is a likelihood they exist, it should also include mitigation measures be taken, licensing arrangements, or further survey work to be carried out for approval by the Local Planning Authority.

Prior to construction work commencing, these measures having been agreed by the Local Planning Authority under the terms of this condition, shall be implemented in full.

Reason: To minimise the risk of harm to bat and bird habitats and to ensure compliance with Policy PL9 of the Harlow Local Development Plan, December 2020.



- 3 Before development commences other than for investigative work:
- a) Using the information already submitted in the Phase 1 Preliminary Contamination Risk Assessment prepared by Reports 4 Planning (ref: 21CLR5127CW, dated 9 February 2020), 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.
  - 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.
  - c) Where remediation of contamination on the site is required, completion of the remediation detailed in the method statement shall be carried out.
  - 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.

Reason: To ensure the development can be implemented and occupied with adequate regard for environmental and public safety.

- 4 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.

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.

- 5 No piling shall take place until a Piling Method Statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to significantly impact / cause failure of local underground sewerage utility infrastructure. Please read our guide 'working near our assets' to ensure workings will be in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures.

- 6 No development shall take place, including any ground works or demolition,

until a Construction Management Plan (CMP), has been submitted to and approved in writing by the Local Planning Authority. The approved CMP shall be adhered to throughout the construction period. The Plan shall provide for the following all clear of the highway where possible:

- a) Proposed hours of operation.
- b) Safe access into the site.
- c) The parking of vehicles of site operatives and visitors.
- d) Loading and unloading of plant and materials.
- e) Storage of plant and materials used in constructing the development,
- f) Wheel and underbody washing facilities.

Reason: To ensure that residential amenity is protected, that on-street parking of 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.

- 7 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 *BS 5837:2012 – Trees in relation to design, demolition and construction*. 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.

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 during construction. Details of supervision at key stages of development will also be included.

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.

- 8 No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme should include but not be limited to:

- Limiting discharge rates to 1l/s for all storm events up to and including the 1 in 100 year plus 40% allowance for climate change storm event. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.

- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final detailed modelling and calculations for all areas of the drainage system in line with the Drainage Calculations Guide. All manholes should be modelled, and their cover levels and invert levels provided.
- The appropriate level of treatment for all runoff leaving the site (both runoff from the roof and the car park area), in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. Provision of the mitigation indices of the proprietary treatment system to demonstrate sufficient treatment for the car park area.
- Confirmation of the cover level and invert level of the outfall.
- The storage depth of the blue roof to be finalised and detailed hydraulic modelling provided, as well as details regarding the exceedance drain down point of the blue roof.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance route, FFL and ground levels, and location and sizing of any drainage features.
- An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; to ensure the effective operation of SuDS features over the lifetime of the development; to provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

- 9 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.

The specification will be in accordance with the approved Noise Impact Assessment Report, prepared by KP Acoustics (ref: 21534.NIA.01), dated 18 November 2020). 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.

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.

- 10 Prior to the first use of the external materials to be used for the finish of the development hereby permitted, a detailed materials schedule which clearly depicts the external materials proposed to be used in the development and the exact location of each material, shall be submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the agreed details and maintained in perpetuity.

Reason: To ensure the development responds appropriately to its context and in the interest of visual amenity in accordance with Policy PL1 of the Harlow Local Development Plan, December 2020 and the Harlow Design Guides.

- 11 Prior to above ground works, the developer shall submit details of the external lighting to be installed on the site to be approved in writing by the Local Planning Authority.

Reason: To provide a high standard of design, minimise the fear of crime and to minimise the risk of harm to bat habitats, in accordance with Policies PL1 and PL9 of the Harlow Local Development Plan, December 2020.

- 12 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. This should include but not limited to the proprietary treatment system and filter drain.

Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.

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.

- 13 Prior to the first occupation of the development the access arrangements as shown in principle on the Proposed Ground Floor Plan (dwg no. 761-100 Rev P5), including provision for the proposed 'Loading Bay' shall be fully implemented, with all details being agreed with the Highway Authority.

Reason: To ensure that appropriate access for the development is provided.

- 14 Prior to the first occupation of the development the vehicle/cycle parking and turning areas, as indicated on the approved plans, shall be provided, hard surfaced, sealed and marked out. The parking and turning areas shall be retained in perpetuity for their intended purpose.

Reason: To ensure that appropriate parking and turning is provided.

- 15 Prior to first occupation of the proposed development, the developer shall submit a Residential Travel Plan for approval in writing to the Local Planning Authority, in consultation with Essex County Council. The approved Travel Plan shall then be actively implemented for a minimum period from first occupation of the development until one year after final occupation. It shall be accompanied by an annual monitoring fee of £1,596 (index linked from April 2022) to be paid to Essex County Council.

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

- 16 Prior to first occupation of the proposed 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.

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

17 Prior to the first occupation of the development hereby permitted, a hard and soft landscaping plan for ground level, all communal terraces and green roofs shall be submitted to and agreed in writing by the Local Planning Authority. This shall include details of:

- Planting types, including trees, shrubbery and plants;
- Plant boxes, including their material and finish;
- Boundary treatments;
- All areas that would be covered in hardstanding, including the material, finishing and jointing; and
- Public and communal amenity space furniture, including seating areas.

The approved hard landscaping shall be implemented prior to first occupation.

The approved soft landscaping at ground level and communal roof terrace shall be implemented during the first planting season following completion of the development hereby permitted.

Reason: To enable the local planning authority to retain adequate control over the landscaping of the site, to screen and enhance the development in the interests of visual amenity, and to achieve a biodiversity net gain in accordance with Policies PL1, PL7, PL8 and PL9 of the Harlow Local Development Plan, December 2020.

18 Prior to first occupation of the development hereby permitted, the developer shall work with the Harlow Arts Trust to curate a suitable piece of public art to be installed in the area identified on the approved site plan. The public art agreed shall be installed prior to first occupation of the development and maintained thereafter.

Reason: To ensure the form of public art would comply with Policy L3 of the Harlow Local Development Plan, December 2020 and principle DG22 of the Harlow Design Guide.

19 Prior to first occupation of the development hereby permitted, a landscape and green roof management plan which details the maintenance and management of the hard and soft landscaping at ground level, the communal roof terrace and green roof, shall be submitted to and agreed in writing by the Local Planning Authority.

The development shall be carried out in accordance with the landscape management plan agreed in perpetuity.

Reason: To protect green infrastructure and landscaping, and to ensure accordance with Policy PL8 of the Harlow Local Development Plan, December

2020.

20 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:

- Security and compartmentalisation for all residential accesses, including refuse and cycle stores;
- Audio and visual external access system;
- Secure parcel and mail delivery arrangements;
- Management Plan for public realm and shared facilities;
- All windows and balcony doors to first floor level, and all residential front doors, to meet a minimum of *PAS 24: 2022 Standard*.

CCTV should provide evidential quality and be monitored 24/7, if required.

The development shall be carried out in accordance with the approved details and for the lifespan of the development.

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.

21 The applicant or any successor in title must maintain yearly 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.

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.

22 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 Noise Impact Assessment Report, prepared by KP Acoustics (ref: 21534.NIA.01, dated 18 November 2020).

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).

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.

23 The development shall be carried out in accordance with the measures outlined within the approved Sustainability & Energy Statement, prepared by Ensphere Group Ltd (ref: 20-E136-004 V2, dated June 2024), to ensure the development achieves carbon savings that exceed Building Regulation requirements by at least 19%.

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.

- 24 The communal roof terraces at first and eleventh floor levels shall be made accessible to all occupiers of the residential 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.

- 25 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.

- 26 The developer shall offer first refusal of car parking provision (excluding accessible spaces) to occupiers of the largest units before making them available to the occupiers of the smaller units based on number of bedrooms.

Reason: To ensure the largest households, who are more likely to have access to a vehicle, the ability to secure a car parking space.

- 27 Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, the commercial floorspace at ground floor hereby approved shall be restricted to Commercial, Business and Service use (Use Class E) only and shall not be used for any other purpose unless approval is obtained for a variation of this condition through the submission of a planning application.

Reason: In order to restrict the use of the premises to one compatible with the surrounding area because other uses within the same Use Class or another Use Class are not necessarily considered to be acceptable, consistent with Policy PL1 of the Harlow Local Development Plan, December 2020.

- 28 The Use Class E floorspace at ground floor level hereby permitted shall be restricted to hours of operation between 07:00 and 23:00 from Mondays to Sundays, including Bank and Public Holidays. No deliveries shall take place outside of these hours.

Reason: In the interest of amenity, and to ensure accordance with Policy PL2 of the Harlow Local Development Plan, December 2020.

- 29 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.

- 30 During demolition and construction, robust measures must be taken to control dust and smoke clouds.

Reason: Flight safety – dust and smoke are hazardous to aircraft engines; dust and smoke clouds can present a visual hazard to pilots and air traffic controllers.

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.

<b>Plan Reference</b>	<b>Version No</b>	<b>Plan Type</b>	<b>Date Received</b>
761-001	P3	Site Location Plan	12.09.2022
761-011	P3	Existing Ground Floor Plan	12.09.2022
761-012	P3	Existing Roof Plan	12.09.2022
761-021	P3	Existing West and South Elevations	12.09.2022
761-022	P3	Existing East and North Elevations	12.09.2022
761-050	P3	Ground Floor Demolition Plan	12.09.2022
761-051	P3	Roof Demolition Plan	12.09.2022
761-052	P3	West and South Elevations Demolition	12.09.2022
761-053	P3	East and North Elevations Demolition	12.09.2022
761-99	P4	Proposed Site Plan	16.02.2024
761-100	P5	Proposed Ground Floor Plan	21.05.2024
761-101	P4	Proposed First Floor Plan	16.02.2024
761-102	P4	Proposed Second Floor Plan	16.02.2024
761-103	P4	Proposed Third Floor Plan	16.02.2024
761-104	P4	Proposed Fourth Floor Plan	16.02.2024
761-105	P4	Proposed Fifth Floor Plan	16.02.2024
761-106	P5	Proposed Sixth Floor Plan	22.04.2024
761-107	P5	Proposed Seventh Floor Plan	22.04.2024



761-108	P5	Proposed Eighth Floor Plan	22.04.2024
761-109	P4	Proposed Ninth Floor Plan	16.02.2024
761-110	P4	Proposed Tenth Floor Plan	16.02.2024
761-111	P4	Proposed Eleventh Floor Plan	16.02.2024
761-112	P4	Proposed Twelfth Floor Plan	16.02.2024
761-113	P4	Proposed Thirteenth Floor Plan	16.02.2024
761-114	P4	Proposed Fourteenth Floor Plan	16.02.2024
761-115	P4	Proposed Roof Plan	16.02.2024
761-140	P5	Proposed South Elevation	21.05.2024
761-141	P5	Proposed North Elevation	22.04.2024
761-142	P5	Proposed East Elevation	22.04.2024
761-143	P4	Proposed West Elevation	16.02.2024

## 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 Please read [Thames Water] 'working near our assets' to ensure your workings will be in line with the necessary processes you need to follow if you're considering working about or near to [Thames Water] pipes or other structures. Should you require further information please contact Thames Water.
- 3 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. Thames Water will need to check that your development does not limit repair or maintenance activities, or inhibit the services they provide in any other way. The applicant is advised to read their guide working near or diverting our pipes.
- 4 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 their website.

- 5 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. Thames Water 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.
- 6 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.
- 7 Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 – Section 13 and is acceptable provided that the arrangements are in accordance with the details contained in the Approved Document to Building Regulations B5. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.
- 8 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).
- 9 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.
- 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 The proposed 'Loading Bay' will probably have to be adopted into the highway and have an appropriate Traffic Regulation Order (TRO) created to maintain it for loading purposes. Furthermore, the developer may well have to adjust the existing TROs as necessary for the access work, loading bay etc. This can be done as part of the S278 highway works.
- 12 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.

- 13 If any highway requires Stopping Up then the proposed use shall not be commenced and subject land shall not be enclosed from the Highway until such time as an order has been confirmed extinguishing all highway rights therefrom to protect the public's right and ease of passage over the Highway. The applicant should establish title to the land.
- 14 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) or by post to: SM03 – Essex Highways, Unit 36, Childerditch Industrial Park, Childerditch Hall Drive, Brentwood, Essex, CM13 3HD.
- 15 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.
- 16 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 Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.
- 17 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).
- 18 Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- 19 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.
- 20 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.

- 21 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.
- 22 [ECC] 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