

REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE

12 March 2025

REFERENCE: HW/FUL/24/00442

OFFICER: Mick Gavin

APPLICANT: Mr Andrew Start

LOCATION: Redevelopment Of Elm Hatch
Elm Hatch
Harlow
Essex
CM18 6BH

PROPOSAL: Installation of modular retail units to provide temporary trading space for the Convenience Store for the duration of the development works associated with planning application reference HW/FUL/23/00331

LOCATION PLAN



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PROPOSED DEVELOPMENT: Installation of modular retail units to provide temporary trading space for the Convenience Store for the duration of the development works associated with planning application reference HW/FUL/23/00331

Reason for committee

The application is reported to Committee because the applicant is Harlow District Council.

Recommendation

It is considered that the proposal accords with National and Development Plan policies, and it is recommended to the Committee for approval, subject to appropriate planning conditions as set out below.

Site and surroundings

Elm Hatch ("the site") is located approximately 1.2km southeast of Harlow town centre. The site is bound by Waterhouse Moor to the south (including no.144), a row of terraced houses to the east, the Church of St Andrew to the north (which has been repurposed as the Harlow Study Centre) and a path which leads to the Harlow Study Centre to the west.

The western portion of the site (excluding the garage land) is allocated in the Local Plan for an indicative capacity of 13no. dwellings under Policy HS2-9 (Elm Hatch and Public House). It also identified as a 'hatch' in the retail hierarchy under Policy RS1. The western portion of the site abuts the Netteswellbury Conservation Area to the north and west. This Conservation Area surrounds the Grade I listed building (Church of St Andrew), extending north towards the Harlow Holocaust Memorial Garden, Netteswell Pond and beyond Second Avenue. The Grade I listed building itself is approximately 30-40m from the proposed development.

The southern part of the Conservation Area between the western portion of the site and the Church is also designated as a Local Wildlife Site. There are no flood risk (e.g. Flood Zone 2, 3 or Critical Drainage Areas), environmental or heritage designations covering the site itself.

Details of proposal

Temporary permission is sought for Installation of modular retail units to provide a temporary trading space for the convenience store for the duration of the development works associated with the planning permission granted under HW/FUL/23/00331 for:

Erection of 6 no. new C3 apartments, two new Class E1 retail units and 1 no. wheelchair accessible family house, with associated new hard and soft landscape and parking.

The temporary commercial premises are proposed to be located in the southeast corner of the site, orientated towards Waterhouse Moor. It will be a modular flat roof building, 3 metres high and 14.5 metres wide by 9.5 metres deep

The proposed unit is required to enable the existing occupier on the site to relocate for a temporary period of time to allow the approved permission, which includes two retail units, to be developed to ensure there is no loss of provision.

It is noted that this is a retrospective application in that the modular unit is already in situ and certain works have taken place on the ground to make a flat surface on which to sit the unit.

RELEVANT PLANNING HISTORY

Planning Applications

<u>App Number</u>	<u>Proposal</u>	<u>Status</u>	<u>Decision Date</u>
HW/FUL/23/00331	Erection of 6 no. new C3 apartments, two new Class E1 retail units and 1 no. wheelchair accessible family house, with associated new hard and soft landscape and parking.	GTD	12.12.2023

CONSULTATIONS

Internal and external Consultees

Place Services

The application site is located on the edge of the Netteswellbury Conservation Area and to the southwest of a group of listed buildings consisting of the Grade I listed, 13th century St Andrew's Church (list entry no. 1111692) and the surviving elements of the Netteswellbury manorial site containing two grade II listed, 15th century barns (list entry nos. 1306476 and 1111693), a Grade II* listed (and scheduled), 15th century barn (list entry nos. 1337041 and 1002183) and an early 19th century grade II listed farmhouse (list entry no. 1169570). The site is therefore particularly sensitive, especially given the proximity of Grade II* and I listed buildings which are considered to be of the highest level of national importance.

Officer comment: See Assessment below.

Arboriculture Consultant

Request Arboricultural Impact Assessment to assess how the tree adjacent to the unit will be protected during development and provide a clear, actionable remediation strategy to assess damage already caused so as to ensure it has the best possible chance of recovery and prevent further decline.

Officer comment: It is considered that this matter can be satisfactorily addressed by a suitable condition which is proposed in this instance.

Essex County Council - Highways

No objection.

HDC Environmental Health Services

No adverse comment to make.

Neighbours and Additional Publicity

Number of Letters Sent: 20

Total Number of Representations Received: 0

Date Site Notice Expired: 1 January 2025

Date Press Notice Expired: 9 January 2025

Summary of Representations Received

None received.

PLANNING POLICY

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 HDLP is prepared in the context of the National Planning Policy Framework (NPPF). 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 Retail Hierarchy
RS2 – Future Retail Floorspace
RS3 – Protecting and Enhancing Existing Retail Centres
WE4 - Heritage PL1 – Design Principles for Development
PL2 – Amenity Principles for Development
PL7 – Trees and Hedgerows
PL8 – Green Infrastructure and Landscaping
PL9 – Biodiversity and Geodiversity Assets
PL12 – Heritage Assets and their Settings
IN1 – Development and Sustainable Modes of Travel
IN2 – Impact of Development on the Highways Network including Access and Servicing
IN3 – Parking Standards

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.

Supplementary Planning Documents

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

HDC Design Guide SPD (2011)

Design Guide Addendum SPD (adopted December 2021).

Essex Parking Standards (2009)

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 area's 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.

PLANNING ASSESSMENT

The application has been submitted to enable the tenant of the existing retail unit to be accommodated on the site, whilst the redevelopment in accordance with the approved permission is undertaken. This will ensure that there is no loss of retail provision and continuity for the tenant. The applicant has advised that a two-year temporary permission is sufficient in this instance, and upon its expiry, the tenant will be relocated to one of the new retail units and the temporary structure removed from the site. A condition to this respect is proposed.

The proposed modular building work would be positioned on the southwestern extent of the site to ensure that it can remain in situ whilst the wider redevelopment is undertaken without the need for further displacement. It is positioned so that it addresses Waterhouse Moor, with access direct off the pavement. Refuse storage would be located to the rear of the proposed unit, away from public vantage points.

The design of the building is such that the internal space can be configured to meet the individual need of the occupiers.

Whilst it is accepted that in design terms, it is not the most visually appealing structure, it is for a temporary period of time to ensure continuity of retail provision and will be seen against the backdrop of a wider development site, which itself will contain temporary buildings such as for welfare space. Once the wider development is completed it will be removed from the site.

Similarly, the adverse impact on heritage assets would be limited and as such any impact is limited and reversible upon its removal. It is considered that the benefits of continuing retail provision during the period of construction, and the economic benefits that would ensue, would set aside any temporary limited impact on the heritage asset.

Turning to the issue of the impact on trees, whilst it is unfortunate that works have taken place on site to facilitate the positioning of the modular unit, it is not considered that the impact is sufficient enough to warrant refusal of permission. It is important that the tree is protected and managed, and to that end, it is considered that an Arboricultural Impact Assessment report is appropriate, and this is to be secured by condition within an appropriate timescale. The applicant has agreed to such.

No objection is raised by the highway authority and the facility is within walking distance from a number of established residential properties.

It is not considered that there will be any harm to residential amenity through noise and disturbance.

It is considered that the benefits of the scheme outweigh any limited harm, and the imposition of conditions can mitigate such impacts and ensure that the unit is removed from site at the end of the temporary permission.

Equalities

Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have regard to the need to:

“(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”

For the purposes of this obligation the term “protected characteristic” includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The above duties require an authority to demonstrate that any decision it makes is reached “in a fair, transparent and accountable way, considering the needs and the rights of different members of the community and the duty applies to a local planning authority when determining a planning application.” Officers consider that the application does not give rise to any concerns in respect of the above.

RECOMMENDATION

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

- 1 The building hereby permitted shall be removed on or before two years from the date of this permission hereby approved, and the land restored to its use associated with planning permission reference HW/FUL/23/00331 within a period of 30 months from the date of this permission.

Reason: To respect the temporary nature of this application to acknowledge the need for continued retail provision whilst the wider development proceeds, in the interest of the visual qualities of the site.

- 2 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 used as retail (Use Class E (a)) only and shall not be used for any other purpose unless approval is obtained to 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.

- 3 The retail unit(s) hereby permitted shall be restricted to customer opening hours between 07:00 and 21:00 from Mondays to Sundays, including Bank and Public Holidays.

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

- 4 No deliveries to the retail unit(s) hereby permitted shall be made between the hours of 22:00 and 06:00 from Mondays to Sundays, including Bank and Public Holidays.

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

- 5 Within one month from the date of this permission hereby approved, the applicant shall submit an Arboricultural Impact Assessment (AIA) to the Council for approval. The development shall proceed in accordance with the approved AIA.

Reason: To ensure that the proposed development ensures the continued maintenance and safety of trees on site.

- 6 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.

11542-PR-ZZ-ZZ-DR-A-PL101 REV P2 – Proposed Ground Floor Plan 6 December 2024

11542-PR-ZZ-ZZ-DR-A-PL102 REV P1 – Proposed Roof Plan – 2 December 2024

11542-PR-ZZ-ZZ-DR-A-PL201 REV P1 – Proposed Elevations – 2 December 2024