

Development Management Committee: 23rd March 2023
Additional Representations Summary

East Herts Council: Development Management Committee
Date: 23rd March 2023

Summary of additional representations and updates received after completion of reports submitted to the committee, but received by 8pm on 22nd March 2023

Agenda No 5a
3/19/2124/OUT

Summary of representations/amendments

1. Additional representations received:

- **Hertfordshire and West Essex Integrated Care Board (ICB) letter dated 21st March 2023 from Sue Fogden and Rachael Donovan of the ICB and;**
- **Email of 21st March 2023 at 20.05pm from Aarti O'Leary of Lawson Planning Partnership on behalf of the ICB.**

- 1.1 Please note the letter received referenced both applications 3/19/2124/OUT and 3/19/1045/OUT. The representation summary relates only to 3/19/2124/OUT.
- 1.2 The ICB assert they learned on the 20th March 2023 that the application was to be heard at committee on 23rd March 2023. They express disappointment at perceived lack of engagement and request that the acute care position is reconsidered.
- 1.3 The Integrated Care Board considers there is an unresolved healthcare contribution. The 2019 Harlow and Gilston Garden Town (HGGT) Infrastructure Delivery Plan (IDP) covers S.106 contributions expected from HGGT developments towards healthcare provision to serve residents. The emerging HGGT IDP update has been informed by a Health Impact Assessment using the Healthy Urban Development Unit (HUDU) commissioned by Princess Alexandra Hospital. The Council has adopted the HGGT IDP as guidance and it should be considered.
- 1.4 For primary health care, community, and mental health, the ICB is content with the provision of a Health Centre of up to 3,515m² floorspace to be provided within Villages 1-6. However, the ICB feels that the commercial arrangement related to lease or rent is unacceptable to the ICB, and while the ICB recognise that commercial arrangements sit outside planning they require greater reassurance on those terms and have requested that instead of the previously agreed arrangement whereby the applicant deliver the Health Centre, the ICB now

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request that sufficient, suitable, serviced land be provided at nil value and the applicant provide £14.9m to the ICB who will deliver the Health Centre itself.

- 1.5 For ambulance services, the ICB proposed two options for the delivery of an enhanced ambulance service that would serve the catchment within which the development falls. While the ICB recognises that the detail of the two projects were not defined, they consider that S.106 contributions are collected to meet increased housing growth and request that these projects are considered further if and when the ICB provide additional information and clarification on such projects.
- 1.6 For acute care, the ICB consider that the Officer Report incorrectly states that the request is not compliant with the CIL regulations; that Princess Alexandra Hospital (PAH) is seeking contributions towards meeting local health impacts (particularly acute health needs) arising from the development. The ICB considers that the application is supported by an inadequate Health Impact Assessment and considers this is not the case for the PAH work. The PAH has little or no capacity and a funding shortfall is also likely, therefore an agreed contribution should be included in the S.106 and the specific acute facility(s) to be funded would be identified and specified accordingly.

Officer response

- 1.7 The ICB were made aware of the proposed committee timings for this application at the GA1 wide meeting held on 23rd February 2023 attended by officers and representatives of the ICB. The ICB were also notified of the committee date as a statutory consultee of the application.
- 1.8 A Health Impact Assessment has been submitted by the applicants. This is supported by the Human Health Chapter of the Environmental Statement. Health and Wellbeing is a running theme throughout the application, including the Development Specification Statement and the approach to sustainable travel, sports facilities and walkable neighbourhoods.
- 1.9 In relation to primary care, the representations relate to the facility to be delivered within Villages 1-6 which was recently considered by members in respect of application 3/19/1045/OUT (Villages 1-6 of Gilston) and the related section 106 HoT's were endorsed by members for that application. Officers consider that the preferred route of delivery for the Health Care Centre to be delivered within the boundary of application 3/19/1045/OUT (Villages 1-6 of Gilston) by the owner of that land to the specification and triggers agreed and to secure the facility through the legal agreement. This route rather than delivery by the NHS is considered to

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give greater assurance that the facility will be delivered in a timely and cost-effective manner and avoiding conflicts with other construction activities. Under the section 106 HoT's for this Village 7 application, the Village 7 owner will make a proportionate 15% contribution towards the costs of delivery of that facility, and this will be secured within the section 106 agreement with detailed matters relating to triggers to be addressed within that agreement.

- 1.10 The commercial arrangement as to how the Health Centre is made available to service providers is a matter primarily between the landowner (the V1-6 owner) and the provider. However, the relevant S.106 obligation is likely to set out that the relevant owner needs to offer it on reasonable commercial terms at a reasonable rent having regard to the use proposed. The proportionate contribution would also support an early years subsidised rent (offered by the owner of Villages 1-6 in the section 106 HoT's) which is likely to involve an independent valuer. The detail of this will be addressed within the S.106 itself. The requirement within the s.106 planning obligation will be sufficient to assure delivery of the Health Centre at the point in time at which it is required to an appropriate specification to serve the Gilston Area as a whole and the contribution to that Health Centre through this application is proportionate and fair. It is not considered necessary - or appropriate - to require the detailed terms on which service providers take up the space to be defined in the obligation. However, the proposed Draft Heads of Terms which were supported by the planning committee on 28th February enable the option of delivery by the ICB to be explored provided that suitable controls can be secured that ensures delivery by the same triggers.
- 1.11 In relation to ambulance provision, space will be provided for an ambulance bay as part of the specification to be agreed for the primary Health Care Centre located within village 1, outside of the red line boundary for this application. It is not considered necessary for a further provision to be required regarding the operation of the ambulance service.
- 1.12 In terms of acute care, the application is supported by a Health Impact Assessment and there is a Human Health Chapter within the Environmental Statement. Health and wellbeing principles are embedded within the Development Specification Statement and will inform the master planning and Reserved Matters Application stages of the development, the ethos of which is to provide healthy homes and design of development where active movement and recreation is given priority, with access to parks, open spaces, and recreational opportunities within walking distance of homes.

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- 1.13 While Officers are sympathetic to the acute care situation and the difficulties faced in the NHS, Officers remain of the view that insufficient evidence has been provided to justify contributions towards PAH and acute healthcare provision, regardless of whether PAH is relocated or remains in its current location. The Gilston Area (GA1) allocation responds to household projections, which are the same projections used by the NHS to prepare and plan for service delivery. The information presented doesn't provide sufficient or robust evidence for Officers to be satisfied that the development will generate impact on the acute sector such that the funds requested are necessary to make the development acceptable in planning terms; are directly related to the development and are fairly and reasonably related in scale and kind to the development.
- 1.14 The position put to Officers is that this development necessitates additional floorspace to provide beds for elective, emergency, and maternity patients, but does not demonstrate whether or how this requires the actual provision of new floorspace or demonstrate where/how this floorspace will be provided. Varied calculations have been presented; one based on a HUDU model resulting in a cost of between £9.5m and £18.5m depending upon assumed levels of in-migration and whether funds are directed to refurbishment, redevelopment, or relocation of PAH. Another position is that included in the 2019 HGGT IDP which takes the total cost of providing a new hospital, divides that by the cost per square metre then multiplies that cost by the number of new homes coming forward in the HGGT area, including the Gilston Area factoring in a population increase over a 15-year period. This does not reflect that the PAH relocation plan is not intended to serve only the new homes arising from development but serves a significantly greater catchment and includes a significant current population. This also contradicts previous NHS advice in which it was suggested that additional demand for healthcare services may not be met solely through new floorspace, but through other solutions, including making better use of existing premises, investing in IT or the workforce.
- 1.15 It is noted that the 2019 HGGT IDP has been approved for use as guidance in considering planning applications in the Gilston Area. Whilst the IDP is material, the East Herts District Plan Infrastructure Delivery Plan that was taken through a full examination process did not identify that contributions would be required for acute care services, nor was such a request made by the NHS during the examination process. Taking the HUDU model point, the model fails to acknowledge that even where backfill occurs the population moving into the Trust catchment will already have been accounted for in the NHS budget and that in time changes to population in a catchment are captured by budgetary reviews through the National Tariff and Block Contract process.

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- 1.16 The NHS have indicated that there is a significant shortfall between the cost of providing acute healthcare and the available funding, regardless of where the service is delivered from and that this gap is an existing situation borne from the capital allowance provided to the hospital through the National Tariff being insufficient to provide for new infrastructure, including buildings, equipment, and technology. The ICB suggest that there is no routine eligibility for capital allocations from either the Department for Health or local commissioners to provide new capital capacity to meet additional healthcare demands.
- 1.17 Officers understand that “Monitor” was established by the Health and Social Care (Community Health and Standards) Act 2003 and the main duty of Monitor is to have regard to the likely future demand for health care services and the NHS use ONS projections to plan for service requirements. Officers consider that there has been, and will continue to be, sufficient time available for the NHS to plan for the identified growth, particularly as each local plan in the HGGT area has based their housing numbers on meeting the needs identified through ONS projections.
- 1.18 The ICB states that the rationale for the new hospital is based on the need to modernise facilities and provide additional capacity to help meet current and future needs but identifies that there remains a significant funding gap in either hospital development scenario i.e., whether it is redeveloped in situ or relocates to a new site, and that this funding gap is directly and proportionally increased by the ‘new’ residents of the Gilston Area development. Officers have not been provided with the evidence to justify this statement. The business case for the hospital development options recognised the planned growth in the area, including all sites, not just those in the Gilston Area. It is not clear how it is the responsibility of development to plug a funding gap in a business plan which has considered the planned growth which has been allocated in an adopted plan since 2018.
- 1.19 Officers acknowledge that hospital services are under pressure and that development will result in demands for acute healthcare services, but do not consider that sufficient or robust evidence has been provided to demonstrate how funding requested will or is necessary to mitigate the impacts of development to make the development acceptable in planning terms. The Trust has not been able to identify how funds would be spent, or how other measures other than new floorspace would provide the same mitigation, and this is therefore considered to fail the necessity test in the CIL Regulations.

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- 1.20 An existing capacity issue has been identified but no evidence is provided to explain how the funding sought will address 'new' impacts arising from development. Nor is it evidenced that the planned growth in adopted Plans allocated to meet ONS projections are not or cannot be accounted for in normal business planning for acute services. Finally, Officers have not been provided sufficient evidence to justify why the funding gap identified in the hospital relocation development option is fairly and reasonably related in scale and kind to the 'new' development rather than across the hospital catchment, and no evidence is provided to justify how shortfalls in service and existing capacity is related to the development.
- 1.21 The ICB repeatedly requests in its letter that contribution requests are reconsidered by officer's post committee and negotiation continued if further information provided. The application was submitted in 2019 and further information is provided in relation to the NHS requests. Officers recommend, on balance, that the application before members be approved, since sufficient information has been provided to fully assess the proposals and, where appropriate, sufficient mitigation has been provided.

2. Additional representations received: **Town Legal for Hunsdon House.**

- 2.1. Town Legal refer to previous detailed representations made on behalf of Hunsdon House in respect of matters relating to EIA, alternatives, and technical disciplines such as transport, sports provision and heritage assets.
- 2.2. Town Legal also refer to and reiterate comments raised by statutory consultees in relation to the highway impacts of village 7 should it come forward as a standalone development, comprehensive development and its relationship to sports provision and the potential of the pitches to cause a moderate to high level of less than substantial harm to Hunsdon House in terms of heritage considerations.
- 2.3. Town Legal request that should the committee resolve to grant planning permission, that their client be consulted on S106 and conditions and for the S106 and conditions to be approved by the committee before permission is granted.

Officer Response

- 2.4. The previous representations of Hunsdon House have been considered in preparing the report and in recommending the application for approval.

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- 2.5. The comments raised by consultees have been raised in their previous representations or those of others and therefore have been considered by officers and assessed in the officer report.
- 2.6. In respect of highways, the Local Highway Authority is satisfied that there are sufficient controls in place that the development cannot be substantively progressed in isolation of villages 1-6. This includes negatively worded conditions in respect of the delivery of key infrastructure such as the Sustainable Transport Corridor from Village 7 to Village 1 and the Crossings. It is intended that a single S106 agreement be completed across both applications and the HoT's for each application have been prepared in a coordinated manner. Officers are satisfied that there are sufficient controls through conditions and the section 106 HoT's to ensure necessary infrastructure will be delivered when required to mitigate impacts and to facilitate comprehensive delivery in a coordinated manner.
- 2.7. The parameter plans for village 7, supported by the development Specification Document secure in excess of policy requirements in respect of sports provision to mitigate the impacts generated by Village 7.
- 2.8. It is acknowledged that there is a less than substantial level of harm to Hunsdon House because of the proposals, including the Football Hub. The detail of this is addressed within the main officer report. This was assessed at the District Plan stage when the site was allocated and the location included in the Concept Framework, which has the status of an adopted Supplementary Planning Document. At the closest point, the football pitches are located approximately over 400m from the front bay window of Hunsdon House and behind a dense belt of mature trees. As noted within the main report, the harm has been given substantial weight and is of considerable importance, but the benefits of the proposal are considered to clearly outweigh the harm in this case. The location of the Football Hub has been carefully considered, including alternatives. As part of this, full regard has been had to duties under the Listed Building Act and the need to consider alternatives to seek to avoid harm to heritage assets. Having done so, this location is considered appropriate, and officers are not satisfied based on the information available there is a feasible alternative which would reduce harm in the circumstances. The application will also be subject to appropriate planning controls, such as the Village and Strategic Landscape Masterplans and Conditions.
- 2.9. Officers consider it inappropriate to consult an individual homeowner on a legal agreement that is specific to a planning application to which they will not be

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signatory. The legal agreement is designed to address the application and while Officers recognise that the S.106 Agreement is unavoidably detailed and technical, it is normal practice that legal drafting is undertaken by those qualified to do so, working with officers. If, however, there are fundamental changes that occur in the interim period between a committee resolution and the completion of a S.106 Agreement Officers have an obligation to report changes back to the committee. There are also statutory legal duties on local planning authorities to publish drafts of the section 106 agreement once prepared on the Planning Register which will be publicly available.

3. Additional Representations received: **Savills for Taylor Wimpey (as applicant).**

3.1. The Applicant has produced material for members outlining the key proposals and benefits of the application.

4. Additional Representations received: **Mr Trower**

4.1. Mr Trower considers that previous objections have not been addressed and that there has been a lack on consultation with neighbouring landowners.

4.2. Mr Trower considers the development is not sustainable in transport and community terms and that planning permission should not be granted until villages 1-6 are substantially progressed. The delivery of the Roydon Commuter Link is questioned and it is suggested that no cycle access to Roydon Station should be permitted.

4.3. Mr Trower queries the capacity of the sewerage treatment works and cites flooding in storm events because of a broken pipe and requests permission not be granted until these issues are resolved.

4.4. Mr Trower considers the proposals would result in visual intrusion to surrounding areas and the proposal should be rejected.

Officer Response

4.5. All submitted representations have been considered and assessed in the planning balance.

4.6. The development proposals include a commitment to 60% modal shift towards sustainable transport modes. The development is based around walkable neighbourhoods providing day to day facilities close to residential development

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thereby reducing reliance on the private car. The planning controls in the form of S106 and conditions ensure that the infrastructure and community facilities will come forward in a timely way thereby supporting strong community foundations. The development is also supported by a stewardship and governance strategy which ensures future residents can be integral to the future of their community.

- 4.7. Thames Water has been consulted as part of the application and has raised no objection to the proposals. Wastewater operators are obligated under Section 94 of the Water Industry Act to enable developers to connect into existing networks, regardless of capacity issues (although none have been identified here). It is not therefore reasonable for a Council to refuse permission on the lack of planned improvements in an area.
- 4.8. The site is allocated for development at policy GA1 of the District Plan and the delivery of 10,000 homes across the whole allocation. It is clear therefore that the character of the area is expected to change. This application represents 15% of those homes. The Places for People application represents the remaining 85%. The applications before the council are therefore consistent – in principle – with the council's plan for growth. The application is accompanied by a suite of plans and documents which respond to a wide range of issues, including landscape and visual impacts. Additional controls have been imposed in the form of pre-Reserved matters stages which seek a greatly level of detail than in most circumstances. Officers are therefore satisfied that impacts are consistent with the proposed use of the site and satisfactorily managed by the controls imposed.

5. Proposed Amended Draft Conditions

Table 1

Condition A2	Added text shown in yellow	Applications for approval of Reserved Matters, namely details of the means of internal access, layout, scale, appearance, and landscaping (hereinafter called "the Reserved Matters") shall be made to the Local Planning Authority no later than 10 (ten) years from the date of this permission. The first Reserved Matters application shall be submitted within three years of the date of this permission.
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		Reason: To comply with the requirements of Section 92(2) of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
Condition D1	Added text shown in yellow	<p>No development (with the exception of Preliminary Works) shall take place, nor shall any Village Masterplan pursuant to condition D4 or Reserved Matters application for commercial or residential floorspace pursuant to condition C1 be approved for any part of the site, until a Strategic Landscape Masterplan (SLMP) for the site (which shall include a Design Code and associated Regulatory Plan) has first been submitted to and approved in writing by the Local Planning Authority.</p> <p>The SLMP shall be accompanied by:</p> <ul style="list-style-type: none"> • A Strategic Landscape Infrastructure Delivery Plan setting out the phasing of key infrastructure within the SLMP area; • A Landscape and Visual Impact Appraisal Compliance Statement demonstrating no new or materially different significant effects to those reported in the Environmental Statement; • A Strategic Landscape Ecology Strategy for the SLMP area; • A Strategic Landscape, Energy & Sustainability Strategy confirming measures to minimise climate impacts arising from the SLMP area. <p>Reason: To ensure a coordinated and comprehensive approach to development in accordance with Policies GA1, CC1, CC2, NE2, DES1, DES2 and DES4 of the East Herts District Plan and Policies AG1, AG2, AG3, AG4, AG5, AG7, BU4, LA1, TRA1, TRA2, and D1 of the Gilston Area Neighbourhood Plan.</p>

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E9	New Condition Added	<p>No part of the development shall be occupied until confirmation has been provided that either</p> <ul style="list-style-type: none"> (I) Wastewater network upgrades required to accommodate foul water flows for that part of the development have been completed; or (II) A housing and infrastructure phasing plan has been agreed with Thames Water to allow that part of the development to be occupied. <p>Where a housing and infrastructure phasing plan has been agreed with Thames Water, no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.</p> <p>Reason: Network reinforcement works are likely to be required to accommodate the proposed development. Any reinforcement works identified will be necessary in order to avoid sewage flooding and/or potential pollution incidents.</p>
F2	New Condition Added	<p>No part of the development shall be occupied or brought into use until the site investigation and post investigation assessment for that part of the development has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition F1 and submitted to and approved in writing by the LPA, and thereafter provision made for analysis and publication where appropriate.</p> <p>Reason: to ensure the appropriate investigation for presence /recording of heritage assets and to comply with the requirements of Policy GA1 V (o).</p>
H5	New Condition Added	<p>Five years following completion of each Reserved Matters approval (plus every five years thereafter for a period of 10 years) a LEMP monitoring report shall be submitted to LPA for approval. The report shall confirm the effectiveness of the LEMP and</p>

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		<p>shall be carried out by a Chartered Member of the Landscape Institute (CMLI) and/or other suitably qualified professional. As a minimum the report shall include a suite of quantitative and qualitative indicators using methods such as annual site walkovers, surveys, and fixed-point photography, to monitor the implementation and effectiveness of mitigation/management measures. The report shall include any remediation works required to address where measures may not be functioning and/or meeting Biodiversity Net Gain targets expected. The details of all survey findings shall be shared with Herts Ecological Record database and any remediation works identified shall thereafter be implemented in accordance with the approved details.</p> <p>Reason: To ensure that the development maintains, enhances, and contributes appropriately to the local and wider ecological network in accordance with Policy NE2 of the East Herts District Plan.</p>
Village 7 and 1 Phasing Scheme DEFINITION	Text removed (shown as strikethrough) / added as shown in yellow	<p>Means a scheme relating to the phasing of the development within Village 7 relative to the timing of delivery of key infrastructure and facilities within Village 1 and sustainable transport connections from Village 7 to Village 1 facilities and the Central Stort Crossing, such scheme to demonstrate there will be sustainable access for residents of Village 7 to the appropriate education and other facilities, the planned sustainable transport corridor link from Village 7 to Village 1 and the Central Stort Crossing in a timely manner. The detail of which shall be addressed within the section 106 agreement itself. The scheme shall include a timetable and negatively worded occupation triggers linked to the Village 7 development</p>