



REGULATORY SERVICES COMMITTEE

12 March 2015

Subject Heading:

Ward

Report Author and contact details:

Policy context:

Financial summary:

REPORT

P0104.15: R/O 57 Brookdale Avenue

To modify the approved scheme P1510.12 for two semi-detached houses to two detached houses on land to the rear of 57, 59 and 61 Brookdale Avenue, with a slight alteration to the boundaries of 59 and 61 with a shared access drive as before.

Upminster

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Local Development Framework
The London Plan
National Planning Policy Framework

None

SUMMARY

This application seeks an alteration to a previously approved scheme for two new dwelling houses to the rear of 57 Brookdale Avenue. The previous application proposed two adjoining properties, however consent is now sought to create a separation distance between the two dwelling houses making them detached.

The proposal is considered acceptable in all material respects, including design and layout, impact on neighbouring amenity, environmental impact and parking and highway issues and subject to safeguarding conditions it is recommended that planning permission is granted.

A new Section 106 Agreement will be required to secure the necessary tariff of payment of £12,000 as the site boundary has changed.

This planning application has been called in by Councillor Ron Ower, owing to the concerns about access and the impact on the properties in Brookdale Avenue

RECOMMENDATIONS

That it be noted that proposed development is liable for the Mayors Community Infrastructure Levy (CIL) in accordance with London Plan Policy 8.3. The applicable fee is based on 152m² new gross internal floor space. The proposal would therefore give rise to the requirement of £3,040 Mayoral CIL payment (subject to indexation).

That the proposal is unacceptable as it stands but would be acceptable subject to the applicant entering into a Legal Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended), to secure the following:

- A financial contribution of £12,000 to be used towards infrastructure costs in accordance with the draft Planning Obligations Supplementary Planning Document.
- All contribution sums shall include interest to the due date of expenditure and all contribution sums to be subject to indexation from the date of completion of the Section 106 agreement to the date of receipt by the Council.
- The Developer/Owner to pay the Council's reasonable legal costs associated with the Legal Agreement prior to the completion of the agreement irrespective of whether the agreement is completed.

- Payment of the appropriate planning obligations monitoring fee prior to the completion of the agreement.

That the Head of Regulatory Services be authorised to enter into a legal agreement to secure the above and upon completion of that agreement, grant planning permission subject to the conditions set out below.

1. Time Limit - The development to which this permission relates must be commenced not later than three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004)

2. Accordance with plans - The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans (as set out on page one of this decision notice):

Reason: To accord with the submitted details and LDF Development Control Policies Development Plan Document Policy DC61.

3. Car parking - Before the building(s) hereby permitted is first occupied provision shall be made within the site for 2 No. car parking spaces per dwelling and thereafter this provision shall be kept free of obstruction and made permanently available for the parking of vehicles associated with the development, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that adequate car parking provision is made off street in the interests of highway safety.

4. Materials - Before any of the development hereby permitted is commenced, samples of all materials to be used in the external construction of the building(s) shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be constructed with the approved materials.

Reason: To ensure that the appearance of the proposed development will harmonise with the character of the surrounding area and comply with Policy DC61 of the Development Control Policies Development Plan Document.

5. Landscaping - No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping, which shall include indications of all existing trees and shrubs on the site, and details of any to be retained, together with measures for the protection in the course of development. All planting, seeding or turfing comprised within the scheme shall be carried out in the first planting season following completion of the

development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local Planning Authority.

Reason: In accordance with Section 197 of the Town and Country Planning Act 1990 and to enhance the visual amenities of the development, and that the development accords with the Development Control Policies Development Plan Document Policy DC61.

6. Removal of permitted development rights - Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 Article 3, Schedule 2, Part 1, Classes A, B and C, no extensions, roof extensions, roof alterations shall take place unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In the interests of amenity and to enable the Local Planning Authority to retain control over future development, and in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

7. Storage of refuse - Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity of occupiers of the development and also the visual amenity of the development and the locality generally, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

8. Cycle storage - Prior to completion of the works hereby permitted, cycle storage of a type and in a location previously submitted to and agreed in writing by the Local Planning Authority shall be provided and permanently retained thereafter.

Reason: In the interests of providing a wide range of facilities for non-motor car residents, in the interests of sustainability and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC36.

9. Construction Methodology – Before development is commenced, a scheme shall be submitted to and approved in writing by the Local Planning Authority making provision for a Construction Method Statement to control the adverse impact of the development on the

amenity of the public and nearby occupiers. The Construction Method statement shall include details of:

- a) Parking of vehicles of site personnel and visitors; b) storage of plant and materials;
- c) Dust management controls;
- d) Measures for minimising the impact of noise and, if appropriate, vibration arising from construction activities;
- e) predicted noise and, if appropriate, vibration levels for construction using methodologies and at points agreed with the Local Planning Authority;
- f) Scheme for monitoring noise and if appropriate, vibration levels using methodologies and at points agreed with the Local Planning Authorities;
- g) Siting and design of temporary buildings;
- h) Scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies;
- i) Details of disposal of waste arising from the construction programme, including final disposal points. The burning of waste on the site at any time is specifically precluded.

And the development shall be carried out in accordance with the approved scheme and statement.

Reason: To protect residential amenity, and in order that the development accords the Development Control Policies Development Plan Document Policy DC61.

10. Secure by design Prior to the commencement of the development hereby permitted, details of the measures to be incorporated into the development demonstrating how 'Secured by Design' accreditation might be achieved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, and shall not be occupied or used until written confirmation of compliance with the agreed details has been submitted to and approved in writing by the LPA

Reason: In the interest of creating safer, sustainable communities, reflecting guidance set out in PPS1, Policy 4B.6 of the London Plan, and Policies CP17 'Design' and DC63 'Delivering Safer Places' of the LBH LDF.

11. Boundary Treatment Prior to the commencement of the development hereby approved, details of all proposed walls, fences and boundary treatment shall be submitted to, and approved in writing by, the Local Planning Authority. The boundary development shall then be carried out in accordance with the approved details and retained permanently thereafter to the satisfaction of the Local Planning Authority.

Reason: To protect the visual amenities of the development and to prevent undue overlooking of adjoining properties and in order that the

development accords with Policies DC61 and DC63 of the LDF Development Control Policies Development Plan Document.

12. No Flank Windows Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no window or other opening (other than those shown on the submitted and approved plan,) shall be formed in the flank wall(s) of the building(s) hereby permitted, unless specific permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In order to ensure a satisfactory development that will not result in any loss of privacy or damage to the environment of neighbouring properties which exist or may be proposed in the future, and in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

13. Wheel Washing Before the development hereby permitted is first commenced, wheel scrubbing/wash down facilities to prevent mud being deposited onto the public highway during construction works shall be provided on site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be retained thereafter and used at relevant entrances to the site throughout the duration of construction works to the satisfaction of the Local Planning Authority.

Reason: In order to prevent materials from the site being deposited on the adjoining public highway, in the interests of highway safety and the amenity of the surrounding area, and in order that the development accords with the Development Control Policies Development Plan Document Policies DC61 and DC32.

14. Hours of construction All building operations in connection with the construction of external walls, roof, and foundations; site excavation or other external site works, including any works of demolition; works involving the use of plant or machinery; the erection of scaffolding; the delivery of materials; the removal of materials and spoil from the site, and the playing of amplified music shall only take place between the hours of 8.00am and 6.00pm Monday to Friday, and between 8.00am and 1.00pm on Saturdays and not at all on Sundays and Bank Holidays/Public Holidays.

Reason: To protect residential amenity, and in order that the development accords with the Development Control policies Development Plan Document Policy.

15. External Lighting The development hereby permitted shall not be commenced until a scheme for the lighting of external areas including the low level lighting of the access road, has been submitted to and approved in writing by the local planning authority. The scheme of

lighting shall include details of the extent of illumination together with precise details of the height, location and design of the lights. The approved scheme shall then be implemented in strict accordance with the agreed details prior to the first occupation of the development and retained thereafter.

Reason: In the interests of security and residential amenity and in order that the development accords with the LDF Development Control Policies Development Plan Document Policies DC61 and DC63

16. Non Standard Condition Before any of the development hereby permitted is commenced, surfacing materials for the access road and vehicle turning area shall be submitted to and approved in writing by the Local Planning Authority and the works to provide the access road and form the turning area shall take place in accordance with the approved materials. Once constructed, the extended part of the access road and vehicle turning area shall be kept permanently free of any obstruction (with the exception of the parking spaces shown on the plans) to prevent their use for anything but turning and access.

Reason: To ensure that the appearance of the proposed development will harmonise with the character of the surrounding area, in the interests of Highway Safety and to safeguard neighbour amenity.

REPORT DETAIL

1. Site Description

- 1.1 The application site is triangular in shape with a narrow access from Brookdale Lane. The site is located to the rear of residential properties from 57-73 Brookdale Road and 65-75 Bridge Avenue. It should be noted that the applicant owns the whole of the triangle-shaped area of land. The site has been slightly enlarged by incorporating an area at the foot of the gardens of 59 and 61 Brookdale Avenue.
- 1.2 The site has been used for domestic animals and was, prior to being cleared recently, particularly overgrown with a number of mainly self-seeded trees which are not the subject of any protection. The site has an area of 0.164 hectares.

2. Description of Proposal

- 2.1 The proposal seeks consent for two detached houses on the application site. It must be noted that consent was previously given for two adjoining properties which occupied a similar footprint. This proposal seeks to separate the previously approved properties, while retaining the same orientation/features.

- 2.2 The proposed dwellings would be accessed via an existing shared 45.0m long driveway that is 4.50m wide, narrowing to 3.10m wide adjacent to no 57 and 51 Brookdale Avenue.
- 2.3 The proposed dwelling on Plot 2 (Northern plot) would have three bedrooms and take the form of a chalet bungalow with barn hipped roof with two dormer windows to the front and one to the rear. This property would measure 8.30m deep and 9.70m wide.
- 2.4 The proposed dwelling on Plot 1 (Southern plot) would also take the form of a chalet bungalow, however would benefit from a half-hip roof with two dormer windows to the front and a single dormer to the rear. The building has been designed in such a way that it would have two building lines and measures 9.63m wide, 10.34m deep and would be set back from Plot 2 by approximately 3.30m.
- 2.5 The proposed dwellings would be orientated to face North East as with the previous application.
- 2.6 Parking for two vehicles for each dwelling has been shown and will occupy the space between Plot 1 and 2 in respect of the dwelling to the North – and to the front of the proposed house sited to the South to the rear of no. 57 Brookdale Avenue.
- 2.7 The proposed dwelling to the North would have rear amenity space of 197m² which stretches around the property to the North West corner of the application site.
- 2.8 The proposed dwelling to the south would have rear amenity space of 349² that is located to the south of the dwelling.

3. History

- 3.1 P1510.12 – A pair of semi-detached houses on land to rear of 57 Brookdale Avenue with a shared access drive
- 3.2 P0705.12 – Change of use of part of the land forming part of the application site to residential use and retention of garage and hard standing – Approved
- 3.3 P0675.10 - Demolition of garage at 57 Brookdale Avenue to provide access to land at the rear of the property and construction of a 3 bedroom and 2 bedroom house – Refused

4. Consultation/Representations

- 4.1 The application was publicised by way of direct notification of adjoining properties. Nine letters of objection were received as summarised below

- Inadequate provision for refuse collection
- Risk of accident due to an increase in traffic
- Obstruction of views/potential overlooking
- Noise and disturbance from vehicles
- Noise and disturbance from use
- Congestion
- Exhaust fumes
- Discrepancies on submitted plans
- Maintenance of shared driveway
- Inappropriate development/overdevelopment

5. **Relevant Policy**

- 5.1 London Plan Policies: 3.3 (increasing housing supply), 3.4 (optimising housing potential), 3.5 (quality and design of housing developments), 3.8 (housing choice), 3.9 (mixed and balanced communities), 6.3 (assessing effect on transport capacity), 6.9 (cycling), 6.10 (walking), 6.13 (parking), 7.3 (designing out crime), 7.4 (local character), and 8.2 (planning obligations).
- 5.2 Local Plan Policies: Policies CP1, CP2, CP9, CP10, CP17, DC2, DC3, DC6, DC7, DC30, DC32, DC33, DC34, DC36, DC40, DC49, DC50, DC51, DC53, C55, DC61, DC63, and DC72 of the Local Development Framework Core strategy and Development Control Policies Development Plan Document ("the LDF") are material considerations. In addition, the Residential Design Supplementary Planning Document ("the SPD"), Designing Safer Places SPD, Landscaping SPD, sustainable Design and Construction SPD, and Draft Planning Obligations SPD are also material considerations in this case.
- 5.3 The provisions of the National Planning Policy Framework are also a material consideration.

6. **Staff Comments**

- 6.0 The issues arising from this application are the principle of the development, in respect of the alterations made to previously approved scheme and the impact of its design, scale and massing upon the character of the area together with impact upon neighbours living conditions, parking and highway matters.

6 Principle of Development

- 6.1 Policy CP1 of the LDF seeks to ensure an adequate supply of housing within the Borough.
- 6.2 This application follows planning application P1510.12 which sought consent for a pair of adjoined houses with similar orientation and footprint which was approved subject to a number of safeguarding conditions which at present have not been discharged.

- 6.3 The previous application confirmed that the development of residential units on the application site is acceptable in principle and this position is not changed by the amendments sought.

7 Density and Layout

- 7.1 The proposal has been altered from the previous application, P1510.12, by separating the adjoined units by approximately 3.30m, but maintaining the orientation and outlook of the previously approved scheme.
- 7.2 The separation of the two proposed dwelling houses has been enabled by the addition of a small area of the adjacent gardens of 59 and 61 Brookdale Avenue. The revised proposal achieves a satisfactory layout on the site which will appear not appear cramped or overbearing within the rear garden environment of neighbouring properties, the closest of which is 25m away..
- 7.3 The proposal retains the favourable aspect of orientating the proposed dwelling houses towards the turning head, avoiding a relationship which affords direct views towards neighbouring properties.
- 7.4 The proposed garden arrangement differs slightly from the previous scheme, however despite the alteration from adjoined to detached, a greater amount of amenity space has been shown that would ensure that any future occupants would benefit from adequate outdoor space for their enjoyment and privacy.

8 Design / Impact on Streetscene

- 8.1 Policy DC61 states that development must respond to distinctive local building forms and patterns of development – and respect the scale, massing and height of the surrounding context.
- 8.2 The proposed dwellings, despite the separation introduced are still positioned centrally which staff consider favourable as it allows greater separation distance from the boundary of the application site and from the surrounding residential properties.
- 8.3 The bungalows are of an identical height to those previously approved, and are considered to be in keeping with the scale and form of the existing bungalows in the area with a design that is sympathetic to the prevailing character of the area.
- 8.4 Staff consider that the proposed development by reason of its positioning, scale and design would not constitute an over bearing garden development nor cause any material harm to the residential appearance of the surrounding area.
- 8.5 The proposal also incorporates an access road to the side of the existing dwelling, no. 57 Brookdale Avenue which has not changed from the previously approved scheme – the proposed gated access is over 24.0m

from the highway and well away from the existing dwellings which will flank the access road.

- 8.6 Staff are satisfied that the revised layout does not give rise to any materially greater impact on the rear garden scene than the previously approved scheme and the proposal is considered to be in accordance with Policy DC61 and advice contained within the NPPF.

9 Impact on Amenity

- 9.1 Policy DC61, states that planning permission will not be granted where development results in unacceptable overshadowing, loss of sunlight/daylight, overlooking or loss of privacy to existing or new properties.
- 9.2 The two proposed dwelling houses maintain their north western orientation at the same angle to one another, thus preventing inter-looking. The separation of the two properties will bring the southern dwelling 3m closer to the rear of 59 and 61 Brookdale Avenue, but with a separation of 26m and a design and orientation designed to minimise any overlooking, it is not considered that any significant harm to amenity will result.
- 9.3 The rear dormers on both proposed properties will be obscure glazed, with a view to negating any potential for overlooking of neighbouring occupiers.
- 9.4 Concerns have been raised by neighbouring occupiers over the harmful impact of the use of the access road and it is acknowledged that the close proximity to the host property and neighbour to the opposing flank formed a reason for refusal of a previous application. It is the view of staff however, that these points were addressed under the subsequent application P1510.12 which followed and allowed the use of the access road, which it must be noted, has not changed in any form as part of this current application. The host property benefits from an existing solid wall which would serve to provide a reasonable level of acoustic screening. The neighbour to the opposing flank also benefits from a boundary fence which would partly mitigate any harmful impact as a result of the use anticipated by occupiers of the proposed dwelling houses.
- 9.5 Subject to safeguarding conditions – in particular a pre-commencement condition relating to landscaping it is considered that the proposal would not have any materially greater impact upon the amenities of neighbouring properties to that which was previously approved under application P1510.12 and as such is in compliance with Policy DC61 and the guidance set out in the NPPF.

10 Highway/Parking

- 10.1 Policy DC33 of the Development Control policies Development Plan Document states that planning permission will only be granted if new developments provide car parking spaces to the standards provided in

Annex 5 which are based on those provided in the London Plan. Annex 5 refers to the density matrix in Policy DC2 for residential car parking standards.

- 10.2 As outlined by Policy, the Council will generally seek at least two off street car parking spaces in the location identified, and the developer has shown this. The layout has changed from the previously approved application, however staff have no objections to this alteration and no adverse representation has been received by the Highways Authority. The proposal is therefore in accordance with Policies DC2 and DC33 as it was previously.

11 Mayoral CIL

- 11.1 The proposal would result in the formation of 152m² new gross internal floor space giving rise to the requirement of £3,040 Mayoral CIL payment (subject to indexation).

12 Planning Obligations

- 12.1 This planning application is subject to the Council's tariff under the Planning Obligations SPD. The proposal would give rise to a contribution of £12,000.00 towards infrastructure cost. This payment was previously secured by a legal agreement, so in this instance planning permission should not be granted until a new agreement has been prepared.
- 12.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that, *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise"*. Section 70 of the Town and Country Planning Act 1990 sets out the general considerations for Local Planning Authorities in determining planning applications and Section 70(2) requires that, *"in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations"*. Paragraph 2 of the National Planning Policy Framework (NPPF) reiterates this: *"Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise"*.
- 12.3 The proposal is liable to a contribution of £12,000 in accordance with adopted Policy DC72 of the Development Plan and the adopted Planning Obligations SPD. These policies are up to date and accord with Paragraph 12 of the NPPF and the proposal should therefore be determined in accordance with these policies unless material considerations indicate otherwise. Staff have had regard to the Planning Policy Guidance (PPG) relating to the application of a residential unit threshold for infrastructure tariff which advises that no contribution be sought for developments of 10 residential units or less and which is a material consideration however

officers consider that greater weight should be accorded to up to date Development Plan Policy and the supporting Planning Obligations SPD. Staff consider that this guidance in the PPG does not immediately supersede current adopted policy as set out in the existing development plan and adopted supplementary planning guidance and that greater weight should be given to adopted policy within the development plan.

13. Conclusion

- 13.1 Having had regard to the LDF Core Strategy and Development Control Policies Development Plan Document, all other relevant local and national policy, consultation responses and all other material planning considerations it is considered that the proposed dwellings would not harm the form and character of the surrounding area, the residential amenity of the occupants of neighbouring properties or parking standards.
- 13.2 The application therefore complies with the aims, objectives and policies of the LDF Core Strategy and Development Control policies Development Plan Document, London Plan and the intentions of the National Planning Framework. Approval is accordingly recommended.

IMPLICATIONS AND RISKS

Financial Implications and risks:

None.

Legal Implications and risks:

Legal resources will be required to prepare and complete a new legal agreement.

Human Resource Implications:

None.

Equalities and Social Inclusion Implications:

The Council's planning policies are implemented with regard to Equalities and Diversity.

BACKGROUND PAPERS

Application form and drawings received 28th January 2015.