



REGULATORY SERVICES COMMITTEE

12 March 2015

REPORT

Subject Heading:

P1220.14: Erection of three storey building comprising 22 no. retirement living apartments with communal facilities landscaping and parking.

Former Old Windmill Hall Site, St Marys Lane, Upminster

Ward:

Upminster

Report Author and contact details:

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Policy context:

Local Development Framework
Development Control Policies
Development Plan Document

National Planning Policy Framework
National Planning Practice Guidance

London Plan

Financial summary:

Not applicable

SUMMARY

The application has been called in by Councillor Linda Van den Hende on the grounds of over development, bulk at this location, insufficient parking, and effect on the streetscene and impact on Upminster Park.

The application is for the redevelopment of this site previously in community use for 22 older person flats and car parking. The redevelopment is considered acceptable in principle in accordance Development Plan and National Planning Policy Framework policies. The proposed building would fill much of the site and would be visually prominent in the streetscene which is characterised by open well landscaped frontages and large buildings, a number of which are listed. However, the building's design features, including the use of materials and the retention of mature landscaping would help break up the bulk and staff consider that, on balance, the appearance of the development would be acceptable. The proposals would help to meet a housing need for a particular category of occupiers.

No on-site affordable housing is proposed, but following negotiations an off-site contribution has been offered. A viability report has been submitted by the applicant, which has been independently appraised. The advice to the Council is that a larger contribution could be justified. Staff are seeking further clarification on a number of issues, however, based upon the current advice staff consider that the sum offered represents a reasonable amount that would meet development plan affordable housing policies. It will be a matter of judgment for members whether the sum offered is sufficient to meet policy requirements.

This application raises issues where members will need to exercise careful judgment, in particular in relation to design and appearance and affordable housing. Should members judge that these amount to material objections to the application then they could amount to grounds for refusal. Staff consider that, on balance, the proposals would be acceptable, and subject to the prior completion of a S106 legal agreement and conditions, it is recommended that planning permission is granted.

RECOMMENDATIONS

1. That the Committee notes that the development proposed is liable for the Mayor's Community Infrastructure Levy (CIL) in accordance with London Plan Policy 8.3 and that the applicable fee would be £54,800 subject to indexation. This is based on the creation of 2,740 square metres of new internal floor space.

2. 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:

- The financial contribution of £312,000 to be paid prior to the commencement of the development, to be used towards the provision of affordable housing within in Havering in accordance with Policies CP2 and DC6 of the LDF Core Strategy and Development Control Policies Development Plan Document.
- A financial contribution of £132,000 to be paid prior to the commencement of the development, to be used towards infrastructure costs in accordance with the Policy DC72 of the LDF Core Strategy and Development Control Policies Development Plan Document and the 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.
- The Developer/Owner to pay 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: The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

3. Car parking - No dwelling unit shall be occupied until the car/vehicle parking area shown on approved drawing AA44707/2011 has been completed, and thereafter, the area shall be kept free of obstruction and permanently made available for the parking of vehicles associated with the development and shall not be used for any other purpose.

Reason: To ensure that car parking accommodation is made permanently available to the standards adopted by the Local Planning Authority in the interest of highway safety and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC33.

4. *Materials* - The development hereby permitted shall not be commenced until samples of all materials to be used in the external construction of the buildings has been submitted to and approved in writing by the Local Planning Authority. 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 in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

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. *Refuse and recycling* - 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 LDF Development Control Policies Development Plan Document Policy DC61.

7. *Cycle storage* - Prior to first occupation of the development 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.

8. *Boundary treatment* - The development hereby permitted shall not be commenced until details of proposed boundary treatment have been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment shall be installed prior to occupation of that phase of the development and retained thereafter in accordance with the approved plans.

Reason: In the interests of privacy and amenity and to accord with Policies DC61 and DC63 of the LDF Development Control Policies Development Plan Document.

9. *Secured by Design* - The development hereby permitted shall not be commenced until details of the measures to be incorporated into the development demonstrating how the principles and practices of the Secured by Design scheme have been included have been 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 the National Planning Policy Framework, Policy 7.3 of the London Plan, and Policies CP17 and DC63 of the LDF Development Control Policies Development Plan Document.

10. *External and internal lighting* - The development hereby permitted shall not be commenced until a scheme for the lighting of external areas and the undercroft parking area of the development, including any access roads, 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 highway safety and amenity. Also in order that the development accords with Policies DC32 and DC61 of the LDF Development Control Policies Development Plan Document.

11. *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 DC61.

12. *Vehicle Cleansing* – Before the development hereby permitted is first commenced, vehicle cleansing 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 within the site and used at relevant entrances to the site throughout the duration of construction works. If mud or other debris originating from the site is deposited in the public highway, all on-site operations shall cease until it has been removed. The submission will provide;

- a) A plan showing where vehicles will be parked within the site to be inspected for mud and debris and cleaned if required. The plan should show where construction traffic will access and exit the site from the public highway.
- b) A description of how the parking area will be surfaced, drained and cleaned to prevent mud, debris and muddy water being tracked onto the public highway;
- c) A description of how vehicles will be checked before leaving the site – this applies to the vehicle wheels, the underside of vehicles, mud flaps and wheel arches.
- d) A description of how vehicles will be cleaned.
- e) A description of how dirty/ muddy water be dealt with after being washing off the vehicles.
- f) A description of any contingency plan to be used in the event of a break-down of the wheel washing arrangements.

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.

13. *Construction methodology* - The development hereby permitted shall not be commenced until a scheme has been 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 that phase 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 authority; siting and design of temporary buildings;
- g) scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies;
- h) 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 with the LDF Development Control Policies Development Plan Document Policy DC61.

14. *Land contamination* - The development hereby permitted shall not be commenced until the developer has submitted for the written approval of the Local Planning Authority (the Phase I Report having already been submitted to the Local Planning Authority):

a) A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the site ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.

b) A Phase III (Risk Management Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. The report will comprise two parts:

Part A - Remediation Scheme which will be fully implemented before it is first occupied. Any variation to the scheme shall be agreed in writing to the Local Planning Authority in advance of works being undertaken. The Remediation Scheme is to include consideration and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority for written approval.

Part B - Following completion of the remediation works a 'Validation Report' must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.

c) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals, then revised contamination proposals shall be submitted to the LPA; and

d) If during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

For further guidance see the leaflet titled, 'Land Contamination and the Planning Process'

Reason: To protect those engaged in construction and occupation of the development from potential contamination. Also in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC53.

15. *Sustainability* – The development hereby permitted shall not be occupied until the developer has provided the Local Planning Authority with a copy of the Interim Code Certificate confirming that the development design achieves a minimum Code for

Sustainable Homes Level 4 rating. Within 6 months of the date of the final occupation of all the residential units the Final Code Certificate of Compliance shall be provided to the Local Planning Authority in order to ensure that the required minimum rating has been achieved.

Reason: In the interests of energy efficiency and sustainability in accordance with Policy DC49 of the LDF Development Control Policies Development Plan Document.

16. *Renewable energy* - The renewable energy system for the development shall be installed in accordance with details previously submitted to and agreed in writing by the Local Planning Authority and shall be made operational prior to the residential occupation of the development. Thereafter, it shall be permanently retained.

Reason: In the interests of energy efficiency and sustainability in accordance with Policy DC50 of the LDF Development Control Policies Development Plan Document.

17. *Pedestrian visibility splays* – Pedestrian visibility splays shall be provided on either side of the access points onto the public highway of 2.1 by 2.1 metre back to the boundary of the public footway. Thereafter the visibility splay shall be permanently retained and kept free from obstruction or object higher than 0.6 metres within the visibility splay.

Reason: In the interests of highway safety, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC32.

18. *Vehicle access* – All necessary agreements, notices or licences to enable the proposed alterations to the Public Highway as required by the development shall be entered into prior to the commencement of development.

Reason: In the interests of ensuring good design and ensuring public safety and to comply with policies CP10, CP17, and DC61 of the Core Strategy and Development Control Policies DPD.

19. *Alterations to highway* – No part of the building shall be occupied until the proposed alterations to the public highway, including the proposed delivery bay as shown on approved drawing 047.0020.100 has undertaken in accordance with details previously submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC32.

20. *Obscure-glazing* – The proposed flats on the first and second floors on the south eastern corner of the development as shown on approved drawings AA44707/2012 and AA44707/2013 shall not be occupied until screening panels have been provided along their eastern edge which are a minimum of 1.7 metre high and which shall be permanently glazed with obscure glass to a glazing rating level of a minimum of level 3. The screening panels shall be permanently retained thereafter.

Reason: In the interests of privacy, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

21. *Diversion of footpath* – The development hereby permitted shall not commence until the public right of way that crosses the site (Footpath 198) has been formally diverted under the provisions of S273 of the Town and Country Planning Act 1990 (or equivalent legislation).

Reason: The prior diversion of Footpath 198 is necessary to enable the development to be carried out.

Informatives

1. Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: No significant problems were identified during the consideration of the application, and therefore it has been determined in accordance with paragraphs 186-187 of the National Planning Policy Framework 2012.

2. *Secured by Design* - In promoting the delivery of safer, stronger, sustainable places the Local Planning Authority fully supports the adoption of the principles and practices of the Secured by Design Award Scheme and Designing against Crime. Your attention is drawn to the free professional service provided by the Metropolitan Police Designing Out Crime Officers for North East London, whose can be contacted via DOCOMailbox.NE@met.police.uk or 0208 217 3813 . They are able to provide qualified advice on incorporating crime prevention measures into new developments.

3. *Changes to the public highway* - The Highway Authority require the Planning Authority to advise the applicant that planning approval does not constitute approval for changes to the public highway. Highway Authority approval will only be given after suitable details have been submitted considered and agreed. If a new or amended access is required (whether temporary or permanent), there may be a requirement for the diversion or protection of third party utility plant and it is recommended that early involvement with the relevant statutory undertaker takes place. Any proposals which involve building over the public highway as managed by the London Borough of Havering, will require a licence and the applicant must contact StreetCare, Traffic & Engineering on 01708 433750 to commence the relevant approval process. Unauthorised work on the highway is an offence.

4. *Highway legislation* - The granting of planning permission does not discharge the requirements of the New Roads and Street Works Act 1991 or the Traffic Management Act 2004. Formal notifications and approval will be needed for any highway works (including temporary works of any nature) required during the construction of the development.

5. *Temporary use of the highway* - If any construction materials are proposed to be kept on the highway during construction works then they will need to apply for a license from the Council. If the developer requires scaffolding, hoarding or mobile cranes to be used on the highway, a licence is required and Streetcare should be contacted on 01708 434343 to make the necessary arrangements.

6. *Planning Obligations* - The planning obligations required have been subject to the statutory tests set out in Regulation 122 of the Community Infrastructure Levy

Regulations 2010 and the obligations are considered to have satisfied the following criteria:-

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

7. *Mayoral CIL* - The proposal is liable for the Mayor of London Community Infrastructure Levy (CIL). Based upon the information supplied with the application, the CIL payable would be £54,800 (subject to indexation). CIL is payable within 60 days of commencement of development. A Liability Notice will be sent to the applicant (or anyone else who has assumed liability) shortly and you are required to notify the Council of the commencement of the development before works begin. Further details with regard to CIL are available from the Council's website.

REPORT DETAIL

1. Site Description

- 1.1 The application site lies on the south side of St Marys Lane, Upminster between the New Windmill Hall and Gridiron Place. The site currently comprises a public car park and the site of the former community hall, now demolished which is fenced off from the car park. There are two access/egress points to the car park. To the south of the site are the open grassed areas of Upminster Park.
- 1.2 There are a number of mature trees on the site frontage with St Marys Lane and within the site itself. There is also a substantial conifer hedge along the boundary with the park which extends along the park boundary with the New Windmill Hall. There are shrubs along the frontage and the eastern boundary.
- 1.3 To the east of the site is a surfaced pathway that is part of the Sustrans cycle network beyond which is a further landscaped area that forms the boundary with two residential properties in Gridiron Place. Gridiron Place provides access to a block of three-storey flats which back on to the park. Further to the east is the Grade I listed St. Laurence's Church and its churchyard. To the north of the site are residential properties and a primary school.

2. Description of Proposal

- 2.1 It is proposed to erect a three-storey block containing 22 retirement flats following the clearance of the site. The proposed parking comprises 16 spaces, including three disabled, plus a motorcycle space, all of which would be accessed under the building via a single access point from St Marys Lane. The building would be constructed in mainly brick under a tiled roof, including a series of staggered elements with gable ends facing onto St Marys Lane.

- 2.2 The ground floor would include communal facilities, including lounge area, buggy and cycle store and guest accommodation. There would be three ground floor 2-bed flats with rear terraces facing onto the park. The first floor would comprise eight 2-bed and one 1-bed flats. All of the flats would have external balconies.
- 2.3 The building has been design to enable most of the mature trees on the site around the boundaries to be retained. A Horse Chestnut and Crab Apple would be removed to make way for the new access. The conifer hedge to the rear would also be removed. Within the site a number of less mature trees would be removed and some crown reduction would also be required.
- 2.4 The application site includes land currently with Upminster Park which would be landscaped as part of the proposals and returned to the park upon the completion of construction.

3. Relevant History

None

4. Consultations and Representations

Representations

- 4.1 The application has been advertised on site and in the local press as major development and notification letters sent to 100 neighbouring occupiers. There have been 53 representations, eight in support and forty five against raising the following matters:

Objections

- Alter the general ambience of the neighbourhood;
- Increase traffic on St Mary's Lane
- Increased risk of injury to children from local schools due to positioning of access;
- Loss of public car parking, the area should be developed as public parking for the park;
- Should be restored as parkland;
- Loss of outlook from existing dwellings;
- Loss of privacy and overlooking of properties in Gridiron Place from proposed balconies;
- Inappropriate scale and design of building which would not be in keeping with the area and would be overbearing;
- Lack of parking for the development will lead to more parking in local roads;

- Overlooking of park which is frequently in use by children
- Part of the park should not be used for development;
- Impact on listed buildings;
- Inappropriate in a town centre;
- Should be used as car park to help attract visitors to historic buildings nearby;
- Could result in activities at the New Windmill Hall being curtailed;
- Loss of trees and open green space,
- Would reduce the amount of access to the park
- Loss of right of way

Support

- Would be an asset to the area;
- Need more residential places in Upminster of the type being proposed.

Consultations

- 4.2 London Fire Brigade (Water) - no extra fire hydrants required;
- 4.3 London Fire and Emergency Planning Authority - access for a pump appliance should be provided to within 45m of all points of the building;
- 4.4 Public Protection - land contamination, hours of construction, sound insulation and soil testing conditions requested;
- 4.5 English Heritage – no archaeological conditions required;
- 4.6 English Heritage (Listed Buildings) do not object to the principle of development but consider that the height, scale, depth and continuous length of the elevation combine to create a building which would appear bulky and overscaled in the local context of St Mary's Lane and the setting of nearby heritage assets particularly the Grade II listed school. Concerned that the proposals would cause some harm to the setting of the heritage assets and encourages revisions to be sought to secure a development that reflects the bulk, scale and form of that found nearby;
- 4.7 Ramblers Association – do not oppose the diversion of the public right of way to facilitate the development.
- 4.8 Metropolitan Police Designing Out Crime Officer - the principles of secured by design do not appear to have been reflected in the design of the proposed development and does not reflect the seven attributes of Safer Places as required by policy DC63. These matters have been raised with the applicant but have been dismissed without any changes being made that would assist in reducing the vulnerability of the proposed building or its residents to crime. Concerns are raised in relation to the undercroft parking, the buggy and bicycle stores and the refuse store. Other recommendations include: a boundary fence

to the rear, landscaping to the front should have a mature height of no more than 1m, lighting should have dusk to dawn sensors, bollard luminaries should not be used given poor light distribution. Should planning permission be granted a secured by design condition is recommend.

5. Relevant Policies

5.1 Policies CP1 (Housing Supply); CP2 (Sustainable Communities); CP9 (Reducing the need to travel); CP10 (Sustainable Transport); CP15 (Environmental management); CP17 (Design); CP18 (Heritage); DC2 (Housing Mix and Density); DC3 (Housing Design and Layout); DC7 (Lifetime Homes and Mobility Housing); DC32 (The Road Network); DC33 (Car Parking); DC34 (Walking); DC35 (Cycling); DC36 (Servicing); DC40 (Waste Recycling); DC49 (Sustainable Design and Construction); DC50 (Renewable Energy); DC51 (Water Supply, Drainage and Quality); DC52 (Air Quality); DC53 (Contaminated Land); DC55 (Noise); DC61 (Urban Design); DC62 (Access); DC63 (Delivering Safer Places); DC72 (Planning obligations) of the Local Development Framework (LDF) Core Strategy and Development Control Policies Development Plan Document (DPD) are material considerations.

5.2 In addition, the Planning Obligations SPD, Residential Design Supplementary Planning Document (SPD), Designing Safer Places SPD, Protecting and Enhancing the Borough's Biodiversity SPD and Sustainable Design and Construction SPD are also material considerations.

5.3 Policies 3.3 (increasing housing supply), 3.4 (optimising housing potential); 3.5 (quality and design of housing developments), 3.6 (children's play facilities), 3.8 (housing choice), 3.9 (mixed and balanced communities), 3.10 (definition of affordable housing), 3.11 (affordable housing targets), 3.12 (negotiating affordable housing), 3.13 (affordable housing thresholds), 5.2 (minimising carbon dioxide emissions), 5.3 (sustainable design and construction), 5.7 (renewable energy), 5.13 (sustainable drainage), 6.9 (cycling), 6.10 (walking), 6.13 (parking), 7.3 (designing out crime), 7.4 (local character), 7.6 (architecture), 7.14 (improving air quality), 7.15 (reducing noise and enhancing soundscapes), 7.19 (biodiversity and access to nature) and 8.2 (planning obligations) of the London Plan and the provisions of the National Planning Policy Framework and the National Planning Practice Guidance are also material considerations.

6. Staff Comments

Call-in

6.1 This application has been called-in for determination by Councillor Linda Van den Hende on the grounds of over development, bulk at this location, insufficient parking, and effect on the streetscene and impact on Upminster Park.

Background

- 6.2 The application site is owned by the council and includes land that currently forms part of Upminster Park. At its 13 February 2013 meeting Cabinet approved the disposal of the site as being surplus to the Council's requirements. The approval included an adjustment to the site to create a regular boundary with the park. An area of 191 square metres was taken from the park which was replaced with a similar compensatory area from the site. This included a strip along the eastern boundary to accommodate the widening of the Sustrans cycle route. The application site includes the compensatory land and additional land to accommodate a proposed landscaping strip between the new building and the park. The landscaped area would form part of the park upon the completion of the development.

Principle of the development

- 6.3 The site is allocated on the Local Development Framework Proposals Map as being a park/open space where Policy DC18 applies and within Upminster Town Centre where Policy DC16 applies. Annex 4 of the LDF identifies the site as being outside of both the retail core and fringe areas. The most recent use is for community purposes where Policy DC27 applies.
- 6.4 The site can be considered to be previously developed as it has been used for car parking and for community use through the Old Windmill Hall. Currently part of the site is used for public car parking. One of the core principles of the NPPF is to encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value. The application site would meet this objective.
- 6.5 The site lies outside of the core and fringe areas of the town centres where there are no specific policies restricting or regulating development. In the remainder of the town centre residential development is subject to a number of strict policy tests which would not normally allow entirely residential schemes. However, there is no such restriction in this part of the town centre.
- 6.6 Policy CP1 is particularly relevant with regard to housing provision in seeking to prioritise the use of brownfield sites to meet the housing need. Whilst the site is designated land so would not meet one of the policy criteria, as brownfield land it would be included within the scope of the policy. The proposal would help to meet an identified housing need and while the LDF does not include any policies that specifically relate to age restricted tenure, the London Plan policy 3.8 seeks to ensure that in planning decisions account is taken of the changing age structure of London's population, in particular the varied needs of older residents. Details submitted in the application indicate a demand for the type of accommodation proposed. The proposals would help to meet the identified need for one and two-bed properties in Havering.
- 6.7 Policy DC18 seeks to protect parks and open spaces. However, the site has not been used as part of the park for some time, the former play area having been relocated in 1987 when the car parking area was created to support the

hall. The last use of the entire site was for community use, including the car park. Apart from the car parking there is no longer any community use.

- 6.8 The Council has formally determined that the former use, including the car park, is surplus to requirements. Policy DC27 will only allow such sites to be redeveloped where there is no longer a need for the facility or where suitable alternative provision is made. In October 2011 the Council approved a strategy for the future use of community halls. This included the demolition of the Old Windmill Hall, whilst retaining and improving the adjacent New Windmill Hall. The car parking was retained as an operational car park. In February 2013 the Council determined that parking needs in the area were reasonably met elsewhere so the 15 spaces were no longer required. Therefore, staff consider that the requirements of Policy DC27 have been met.
- 6.9 Policy DC18 seeks to protect open space from other uses. However, these may be permitted where it can be shown that the land is surplus to requirements and there is an improvement to other open space in the vicinity. The Council has decided that the land is surplus to open space requirements when it relocated the equipped area of play and developed the site for community use. The terms of the policy have in effect already been met by the change to community use and the relocation of the play area elsewhere within the park.
- 6.10 In terms of the London Plan policy 2.15 states the proposals in town centres should accommodate housing growth through intensification and selective expansion in appropriate locations. Policy 3.15 seeks to ensure that there is adequate social infrastructure provision and where a current facility is no longer needed to take reasonable steps to identify alternative community uses for which needs have been identified. Policy 7.18 seeks to protect open spaces unless equivalent or better quality provision is made within the local catchment area. The guidance in the NPPF is along similar lines. Local services should be provided to meet community needs. One of the core planning principles of the NPPF is to deliver sufficient community facilities to meet local needs, this includes recreational and other social facilities. Existing open space should not be built on unless it has been shown that the land or buildings are surplus to requirements or replaced by better or equivalent provision.
- 6.11 Assessed against these policies staff consider that the redevelopment of the site for housing would be acceptable in principle. The main issues are, therefore, whether the development would be acceptable in terms of its impact on the character and appearance of the area, the scale and design of the development, the impact on the setting of nearby listed buildings and the acceptability in highway terms.
- 6.12 The issue of affordable housing provision is addressed in more detail later in the report. The requirements of LDF policies CP2 and DC6 need to be addressed if the development is to be considered acceptable. The borough wide target set out in LDF policies CP2 and DC6 is 50%. In some cases an off-site contribution would be acceptable and in assessing the viability of a proposal needs to be taken into account. In this case an off-site contribution has been offered.

Density and site layout

- 6.13 The site has a PTAL value of 4 and in accordance with Policy DC2 the site is within the Upminster PTAL area. The site would be classified as suburban and a density range of 50-80 dwellings per hectare is indicated as appropriate, comprising terraced housing and flats. The application site has an area of 0.2 hectare and proposes 22 new dwellings. This equates to a development density of 110 units per hectare, which is outside of the range specified in Policy DC2. The London Plan, Table 3.2 gives a higher range with this proposal being at the upper end. Density is only one measure of acceptability and there are other relevant considerations. These include the need to make efficient use of the site taking account of site constraints and the site layout and its impact on the character and appearance of the area. It is also necessary to provide an acceptable level of accommodation for future occupiers.
- 6.14 In terms of amenity space each flat would have a balcony or terrace. These would all meet the size recommendations in the Residential Design SPD. The space can be considered usable and all would look out onto landscaped grounds, including the park. None of the space would be directly overlooked from the public realm, although those on the north side whilst screened could be visible from the street, especially during the winter months. Those on the north side would also have restricted sunlight. There would be no external communal space, although residents would have the use of the communal lounge and also have the benefit of the adjacent park. Overall staff consider as a matter of judgement that the amenity space provision would be acceptable.
- 6.15 In terms of the parking provision this would be less than one space per unit. London Plan Policy 6.13 and Table 6.2 set a maximum of less than one space per unit; however, the LDF in Policy DC2 would require 1.5-1 space per unit. However, the development would be entirely flats and the site is very accessible to town centre facilities and to public transport, including mainline rail services. On balance, staff consider that the car parking provision would be acceptable.
- 6.16 The proposed building would fill much of its plot width and on the western side be within one metre of the site boundary and only about 2 metres away from the nearest part of the New Windmill Hall. Parts of the building would be set significantly forward of the New Windmill Hall and the houses in Gridiron Place. However, there would be substantial gap on the eastern side which is already significantly landscaped. Issues of impact in the streetscene are dealt with later, nevertheless, given the site coverage the proposals could be considered cramped within the site and amount to an overdevelopment. The proposed density is at the upper end of the range in the London Plan and in excess of that set out in the LDF. The acceptability of the development will, therefore, turn on the overall impact on the character and appearance of the area.

Impact on residential amenity

- 6.17 The nearest neighbours are the dwellings in Gridiron Place and the New Windmill Hall. The nearest dwelling is about 18 metres away from the edge of the new building and 20 metres from the nearest balcony. Neighbours from these properties have expressed concern about the loss of outlook and loss of privacy. In terms of the outlook this would only be experienced at first floor level and given the existing and proposed landscaping staff judge that this would not be significant. In terms of privacy, there would be no windows in the flank elevation facing the dwellings and the main impact would be likely to arise from the nearest balconies, especially that on the second floor. Whilst there could be a perception of overlooking the main impacts could be addressed through the use of obscured glazing panels which could be required by condition. Overall staff judge that the impact on amenity would not amount to an overriding objection to the proposal.
- 6.18 Given the proximity of the New Windmill Hall which holds evening functions, especially at weekends concerns have been raised that new occupiers could make complaints that would result in these activities being restricted. This could undermine the functioning of the hall. However, the nearest part of the hall is a solid wall and a stair well is proposed in the closest part of the new block. The windows of the main part of the hall face over the park and not over any part of the application site. The nearest flats are at first and second floor level and the use of the balconies would be unlikely during periods when noise is likely i.e. late evenings. The applicant has stated that the sales particulars would refer to the potential for social events at the hall. Staff judge that the potential for some noise would not amount to an overriding objection to the proposal.

Design and impact on streetscene

- 6.19 The south side of St Marys Lane is characterised by generally large buildings that are well set back from the road frontage and set in large grounds. The frontage areas are also well landscaped giving the area a distinctive character that is further enhanced by the number of listed buildings; including the Grade I listed Church of St Laurence and the former Convent of the Sacred Heart of Mary. Opposite the site are residential properties also of distinctive character, including a pair of Gothic style Victorian houses and St Joseph's Church. Further along is the Grade II* listed Upminster Windmill which is also set in spacious grounds. The nearest houses to the east in Gridiron Place are set well back from the road frontage.
- 6.20 The proposed block of flats would fill most of the site and would be much closer to the road frontage than other buildings on the south side of St Marys Lane. The former Old Windmill Hall was single storey and occupied only about a third of the site. In comparison the proposed building would have a significantly greater impact. Given its siting the proposed building at three storeys would be visually dominant in the streetscene and would be uncharacteristic in the locality. Whilst the new block would be well separated from the houses to the east it would be very close to the New Windmill Hall to the west.

- 6.21 In order to address the potential visual dominance of the building in the streetscene it has been designed with gable ended sections facing onto St Marys Lane with lower elements between. This helps to break up the bulk of the building and provides visual interest through the range of proposed materials, including red and buff bricks under a slate roof. The building frontage would also be staggered with the site entrance section projecting forward of the main building. The retention of most of the mature frontage trees would also help to break up the massing of the building.
- 6.22 Staff consider as a matter of judgement that the design of the building does break up the bulk to an acceptable degree. Whilst there would be some adverse impact on the character and appearance of the area and on the local context of this part of St Marys Lane with the proximity of a number of listed buildings, this is not considered to amount to a material objection to the proposal such as to justify refusal. However, should members judge that the bulk and scale of the development would be materially adverse to the character and appearance of the area then there would be grounds for refusing planning permission.

Highways and Parking

- 6.23 The proposed parking provision has been addressed as part of the site layout and considered acceptable. With regard to access concerns were initially raised with regard to servicing and deliveries, particularly because of a light controlled pedestrian crossing and bus stop close to the site. A loading bay is proposed on the highway to the west of the access which is considered acceptable in highway safety terms. This will require works to the highway prior to occupation. There have also been issues regarding construction works, but these have now been satisfactorily addressed.

Secured by design

- 6.24 A number of issues have been raised by the Designing Out Crime Officer in relation to the guidance in Safer Places and LDF Policy DC63. These relate to reducing the vulnerability of the building and its residents to crime. The undercroft parking, the buggy and cycle stores and the refuse store are considered to be particularly vulnerable. The applicant has responded by stating that accessibility to these areas of the building is important and that the issues can largely be addressed by on site management, including security systems. An appropriate condition is recommended to address secured by design issues.

Heritage Issues

- 6.25 The application site lies within the vicinity of a number of listed buildings, including the Grade I listed Church of St Laurence and the Grade II* listed, Upminster Windmill. In addition there are three Grade II listed buildings, the nearest being the former Convent of the Sacred Heart of Mary which lies to the west of the New Windmill Hall. There is the potential for the development to have an adverse impact on the setting of these buildings. The guidance in the

NPPF at paragraph 132 is that great weight should be given to the significance of a designated heritage asset. Any harm needs to be clearly justified. In determining applications it is desirable that new development in proximity of a listed building makes a positive contribution to local character and distinctiveness. LDF Policy DC67 and London Plan Policy 7.8 also seek to protect the setting of listed buildings. Harm to the significance of the asset could amount to a material objection to the application.

- 6.26 English Heritage does not object to the principle of the development but considers that the building would appear overly bulky and overscaled in the local context of St Marys Lane and the setting of the nearby heritage assets, particularly the former convent. There is less concern about the church and windmill which are further away. These concerns relate to the impact on the overall character and appearance of the area. These are similar to the issues already addressed. When the disposal of the site was recommended to Cabinet the need for a quality design that took account of the nearby listed building was raised. It will be a matter for members to judge whether the proposals adequately take into account the setting of nearby listed buildings.
- 6.27 Staff consider that a less bulking and visually dominant building would fit better in the streetscene and the context of the listed buildings. However, setting is not defined in the guidance and can vary from asset to asset. In this case staff consider, as a matter of judgement that given the separation of over 70 metres to the nearest listed building and the intervening maintenance buildings on St Marys Lane, the level of impact would not amount to an overriding objection.

Public Right of Way

- 6.28 A public right of way (footpath 198) crosses the site and links St Marys Lane to the park beyond. The path continues across the park to link up with an existing surfaced path that runs north-south from St Marys Lane. The development could not be carried out without affecting the right of way. This impact is material to the consideration of the application and could amount to a material objection if it cannot be diverted along a suitable route. There is an application to divert the footpath which would need to be subject to formal diversion procedures should planning permission be granted. A suitable route around the site would be possible utilising the existing surfaced path that has recently been widened to accommodate the Sustrans cycle route. This additional width means that the path is suitable for the diversion. One of the considerations for diversions is the experience afforded to the walker by the path and that it is equally as usable and does not involve a significantly longer route. The diversion proposed is would provide an equivalent route around the site and staff consider this to be acceptable, subject to the formal advertising procedures and consultations. No objections in principle have been raised by the Ramblers. The formal diversion route would addressed separately and require a further report to the committee following a decision on this application.

Other issues

- 6.29 The site is open land with a number of mature trees and hard surfaced areas, including undeveloped areas following the demolition of the former community hall. This gives the potential for important habitats and protected species. A Phase 1 habitat survey has been undertaken to assess the habitats on the site. The survey did not identify any habitats of ecological significance. Any tree or vegetation removal should take place outside of the bid nesting season.

Affordable Housing

- 6.30 In terms of affordable housing the aim is to achieve 50% across the borough in accordance with Policies CP2 and DC6. Given the proposal is for retirement (older person) accommodation the principle of an off-site payment is considered acceptable under these policies. In this case the applicant has submitted a viability appraisal that seeks to demonstrate that the development would be unviable with a policy compliant affordable housing payment. The valuation report concludes that the residual land value is less than the benchmark value, thus producing no surplus for planning obligations. The valuation has been independently appraised and there is disagreement regarding the benchmark value. The Council's consultant considers that the benchmark value should be lower giving a surplus that would enable an off-site contribution to be made.
- 6.31 The values and costs used to support the valuation are not disputed, what is at issue is the benchmark value against which the ability to provide money for planning obligations is assessed. The applicant's valuation is based upon a notional nine unit housing scheme which would be below the affordable threshold. The assessment on behalf of the Council is based upon current use value with the addition of a premium. The viability assessment provides an analysis to demonstrate that the residual land value i.e. the value of the land after all the development costs have been deducted, including a 20% profit, from the projected sales income; would be less than the benchmark value. The outcome is that it would be about £54,000 less. The figures used in the valuation are accepted as being reasonable, what is currently disputed is the means of assessing the benchmark against which the residual land value is compared. The current use benchmark value provides a surplus of £1.5 million for S106 contributions. Making an allowance for the infrastructure tariff and the mayoral CIL there is scope for a significant contribution.
- 6.32 Since the viability review undertaken on behalf of the Council the applicant, whilst maintaining his position on the viability assessment, has offered a contribution of £312,000. Based upon recent tender information build costs are in the region of £2,000 per square metre. The affordable housing requirement in the Borough is mainly for two and three-bed family houses. Applying the London Plan minimum space standards the sum offered would provide for about 1.5 dwellings, excluding land and other costs. Based on the advice that staff have received to date the contribution offered falls below what would be considered acceptable for the scale of development proposed. Staff are seeking further clarification on a number of issues, however, based upon the

current advice consider that the sum offered represents the best offer that can be negotiated and would, in principle meet development plan affordable housing policies. LDF Policy DC6 seeks the maximum reasonable amount of contribution taking account of viability amongst a range of factors. This is supported by Policy 3.12 of the London Plan states that the maximum reasonable amount of affordable housing should be sought when negotiating on individual schemes; however, negotiations should also take into account individual site circumstances, including viability.

- 6.33 The guidance in the NPPF and National Planning Practice Guidance is that to ensure viability the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer. Viability will vary with different housing types. For older people's housing, the scheme format and projected sales rates may be a factor in assessing viability.
- 6.34 The NPPF states that where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations. This is particularly relevant for affordable housing contributions which are often the largest single item sought on housing developments. These contributions should not be sought without regard to individual scheme viability. The NPPG sets out guidance on how viability should be assessed. The land value should reflect policy requirements and provide a competitive return to willing developers and landowners. The assessment should also reflect comparable market-based evidence. Such evidence is included in the viability assessment which concludes that the land value assessed meets the criteria above.
- 6.35 In this case it will be a matter of judgment for members whether the sum offered is sufficient to meet policy requirements. Staff will provide an update at the meeting to assist. Should members consider that the contribution is not sufficient then the development would be unacceptable as the proposals would not meet the objectives of LDF Polices CP2 and DC6 and Policy 3.11 of the London Plan.

Section 106 Planning Obligations

- 6.36 The dwellings would result in additional local infrastructure demand such that a financial contribution is needed in accordance with Policy DC72 and the SPD on Planning Obligations. There would be a net addition of 22 units and at £6,000 per new dwelling the charge would be £132,000 which would need to be secured through a S106 Planning Obligation.
7. Mayor's Community Infrastructure Levy
- 7.1 The proposed development is liable for the Mayor's Community Infrastructure

Levy (CIL) in accordance with London Plan Policy 8.3. The applicable fee is charged at £20 per square metre based on an internal gross floor area of 2,740 square metres. There is no existing floorspace to be taken into account in the assessment. In this case the CIL contribution would be of £54,800 subject to indexation.

8 Conclusions

- 8.1 The proposed residential development on the site is considered acceptable in principle and would help to meet housing need within Havering. While the LDF does not include any policies that specifically relate to age restricted tenure, the London Plan policy 3.8 seeks to ensure that in planning decisions account is taken of the changing age structure of London's population, in particular the varied needs of older residents.
- 8.2 The scale and bulk of the proposed development is considered to be visually prominent in the streetscene, but as a matter of judgement staff consider that the design of the building does break up the bulk to an acceptable degree. Whilst there would be some adverse impact on the character and appearance of the area this is not considered to amount to a material objection to the proposal such as to justify refusal. There is judged to be no material harm to neighbouring residential amenity arising from the proposals and the application makes acceptable provision for landscaping and sustainability. The proposal is considered to be acceptable in respect of parking and highways issues.
- 8.3 A financial contribution has been offered towards affordable housing of £312,000 which would need to be secured through a S106 legal agreement. Staff are seeking further clarification on a number of issues, however, based upon the current advice staff consider that the sum offered represents a reasonable amount that would meet development plan affordable housing policies. It will be a matter of judgment for members whether the sum offered is sufficient to meet policy requirements.
- 8.4 There would also be a contribution to meet infrastructure costs associated with the development in accordance with the Planning Obligations SPD. This would be secured through a S106 legal agreement. The proposal is therefore judged to be acceptable, subject to the obligation and conditions, and it is recommended that planning permission is granted accordingly.

IMPLICATIONS AND RISKS

Financial implications and risks: None

Legal implications and risks: Legal resources will be required to prepare and complete the legal agreement.

Human Resources implications and risks: None

Equalities implications and risks: The Council's planning policies are implemented with regard to equality and diversity.

BACKGROUND PAPERS

1. Planning application from and plans received 11/09/2014