



# REGULATORY SERVICES COMMITTEE

12 March 2015

# REPORT

**Subject Heading:**

P0101.15 – Land to the rear of Tesco Express, Oaklands Avenue, Romford – Variation to Condition 2 of P0813.14 (appeal reference APP/B5480/A/14/2223922) to cater for alterations to external openings, including changes to dormer windows and insertion of an additional flank window (received 28/01/15)

**Ward:**

Romford Town  
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**Report Author and contact details:**

**Policy context:**

Local Development Framework  
The London Plan  
National Planning Policy Framework

**Financial summary:**

None

## **SUMMARY**

The scheme under P0813.14 was for the erection of 9 no. 2 bedroom flats with associated amenity space, car park, landscaping, cycle parking and refuse storage. This application was allowed under appeal, reference APP/B5480/A/14/2223822, dated 11/12/2014.

The subject application is to vary some of the external openings of the approved scheme, including insertion of new openings and changes to dormer sizes.

Staff consider the proposal to be acceptable as it would be within the scope of the approved scheme under P0813.14.

The subject application is brought to committee as a variation to the Section 106 Agreement dated 16 September 2014 under P0813.14 is required.

## **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 is based on an internal gross floor area of 677.19m<sup>2</sup> and amounts to £13,540.

It is recommended that the Head of Regulatory Services be authorised to enter into a Deed of Variation under section 106A of the Town and Country Planning Act 1990 (as amended), to vary the legal agreement completed on 16 September 2014 in respect of planning permission P0813.14 to change the definition of Proposed Development to include either planning permission P0813.14 or planning permission P0101.15.

The Developer and/or Owner to bear the Council legal costs in respect of the preparation of the legal agreement Deed of Variation irrespective of whether or not the matter is completed.

Save for the variation to the definition of Proposed Development set out above and any necessary consequential amendments to the legal agreement dated 16 September 2014 all recitals, terms, covenants and obligations in the said agreement shall remain unchanged.

2. 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. The development hereby permitted shall begin not later than three years from the date of this decision.

**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. The development hereby permitted shall be carried out in accordance with the approved plans on Drawing Nos:14/01/01, 14/01/02 Revision C and 14/01/03 Revision C.

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

3. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

**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.

4. Prior to the first occupation of the development hereby permitted, provision shall be made for nine No. off-street car parking spaces within the site as show on Drawing No. 14/01/02 Revision C. Thereafter this provision shall be retained and shall not be used for any other purpose.

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

5. 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 their 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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking, re-enacting or modifying that Order), no window or other opening (other than those expressly authorised by this permission), shall be formed in the flank walls of the building hereby permitted.

**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. Prior to completion of the development hereby permitted, details of cycle storage shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the cycle storage shall be 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. No construction works or deliveries to the site related to the construction of the development hereby permitted shall take place other than between 0800 hours and 1800 hours Monday to Friday, and between 0800 hours and 1300 hours on Saturdays.

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

9. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Construction Method Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) parking of vehicles of site personnel and visitors;
- b) storage of plant and materials;
- c) dust management controls;
- d) measures to control the impact of noise and vibration;
- e) siting and design of temporary buildings;
- f) a scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies; and

g) a scheme for the disposal of waste arising from the construction programme.

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

10. Prior to the commencement of the development hereby permitted a full and detailed application for the Secured by Design award scheme setting out how the principles and practices of the Secured by Design Scheme are to be incorporated shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

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

11. 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.

12. 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.

13. Prior to the first occupation of the development hereby permitted, a scheme for lighting within the development shall be submitted to and approved in writing by the local planning authority. The lighting shall be provided prior to the first occupation of the development and shall be carried out in accordance with the approved details and permanently 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

14. Prior to the first occupation of the development hereby permitted, the proposed flank windows in the north-western flank elevation at first floor level serving a bathroom and en-suite shall be permanently glazed with obscure glass and with the exception of top hung fanlights shall remain permanently fixed shut.

**Reason:** 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.

15. No development shall take place until details showing that the flats hereby permitted will be compliant with Lifetime Homes Standards have been submitted to and approved in writing by the local planning authority. The development shall thereafter be undertaken in accordance with the approved details and be retained as such.

**Reason:** In the interests of the amenities of future residents and visitors and to ensure that the residential development meets the needs of all potential occupiers.

16. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology, which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

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

17. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

**Reason:** To ensure that any previously unidentified contamination found at the site is investigated and satisfactorily addressed in order to protect those engaged in construction and occupation of the development from potential contamination.

## INFORMATIVES

1. Following a change in government legislation a fee is required when submitting details pursuant to the discharge of conditions. In order to comply with the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, which came into force from 22.11.2012, a fee of £97 per request or £28 where the related permission was for extending or altering a dwellinghouse, is needed.

2. Planning Obligations

The planning obligations recommended in this report 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.

3. 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 £13,543.80 (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.
4. The applicant is advised 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. 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 and Engineering on 01708 433750 to commence the Submission / Licence Approval process.
5. The developer, their representatives and contractors are advised that planning permission does not discharge the requirements under the New Roads and Street Works Act 1991 and the Traffic Management Act 2004. Formal notifications and approval will be needed for any highway works (including temporary works) required during the construction of the development.
6. The applicant is advised that if 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.

7. With regards to surface water drainage it is the responsibility of the developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777.
8. In aiming to satisfy condition 10 the applicant should seek the advice of the Police Designing Out Crime Officers (DOCOs). The services of the Police DOCOs are available free of charge and can be contacted via docomailbox.ne@met.police.uk or 0208 217 3813. It is the policy of the local planning authority to consult with the DOCOs in the discharging of community safety condition(s).
9. 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.

## REPORT DETAIL

### 1. **Site Description**

- 1.1 The application site comprises of land adjoining the Esso service station and Tesco Express on the corner of the junction between Oaklands Avenue and Main Road. The site is L-shaped with an area of 0.104ha and is located to the north east of the Romford Town Centre boundaries. The site is currently vacant and has previously been in commercial use.
- 1.2 Oaklands Avenue is characterised by large two storey detached dwellings set within spacious gardens. The locality to the north and west is characterised by predominantly residential properties, a mix of commercial, public and community uses to the south, including a Police Station and Magistrates Court with the County Court on the opposite corner to the east.
- 1.3 The site falls within the Romford Area Action Plan and does not form part of any other pertinent policy designated areas as identified in the Local Development Framework Proposals Map.



## **2. Description of Proposal**

- 2.1 The application seeks permission to vary Condition 2 of planning application P0813.14 which states –

*'2) The development hereby permitted shall be carried out in accordance with the approved plans on Drawing Nos:14/01/01, 14/01/02 Revision B and 14/01/03 Revision B.'*

To –

*'2) The development hereby permitted shall be carried out in accordance with the approved plans on Drawing Nos:14/01/01, 14/01/02 Revision C and 14/01/03 Revision C.'*

- 2.2 The purpose of the proposed variation is to cater for changes to the external openings from the previously approved scheme. The changes are clearly depicted on Drawing No.14/01/03, Revision C. The changes are summarised below:

\*Front Elevation – Enlargement of four windows, and addition of one roof light.

\*North-Western Elevation – Addition of two roof lights, reposition of two doors, removal of one window, and reduction in size of two windows.

\*South-Eastern Elevation – Addition of one roof light, realignment of three windows, addition of one window, and enlargement of roof dormers.

\*Rear Elevation – Enlargement of four windows, reduction in size of one window, and enlargement of one roof dormer.

- 2.3 There are no changes to the footprint, height, layout, density, or massing of the building (with exception to the enlarged dormers). There are also no proposed changes to the car parking and landscaping layouts.

- 2.4 It is noted that the applicant has not applied to vary Condition 4 of P0813.14, which also need amending as it specified the drawing number of one of the plans to be replaced by the subject proposal. This has been changed and is reflected under 'Recommendations' above.

## **3. History**

- 3.1. P0277.09 - Erection of 2 no. 4 bed dwellings and 9 no. self-contained flats - Refused and appeal dismissed.
- 3.2 P0179.10 - Erection of two No. four bed dwellings and six No. two bed self-contained flats – Refused and granted on Appeal

- 3.3 N0042.12 – Minor amendment to P0179.10 – Approved
- 3.4 P0813.14 – Erection of 9 no. 2 bedroom flats with associated amenity space, car park, landscaping, cycle parking and refuse storage – Refused. Appeal allowed 11/12/14
- 3.5 P1534.14 – Erection of 9 No. 2 bedroom flats with associated amenity space, car parking, landscaping, cycle parking and refuse storage – Refused (Committee turnaround, Officers originally recommended approval).

#### **4. Consultation/Representations**

- 4.1 Notification letters were sent to 54 neighbouring properties and no representations were received as part of the public consultation process.
- 4.2 The Highway Authority has raised no objections to the proposal.
- 4.3 Thames Water has no comments.

#### **5. Relevant Policies**

- 5.1 Policies CP1 (Housing Supply), CP17 (Design), DC3 (Housing Design and Layout), DC33 (Car parking), DC35 (Cycling), DC55 (Noise), DC61 (Urban Design), DC63 (Crime) and DC72 (Planning Obligations) of the Local Development Framework Core Strategy and Development Control Policies Development Plan Documents are considered to be relevant. Policies ROM14 (Housing Supply), ROM15 (Family Accommodation) and ROM20 (Urban Design) of the Romford Area Action Plan and the Residential Extensions and Alterations Supplementary Planning Document (SPD), Planning Obligations SPD and the Residential Design SPD are also relevant.
- 5.2 Policies 3.3 (Increasing Housing Supply), 3.4 (Optimising Housing Potential), 3.5 (Quality and Design of Housing Developments), 3.8 (Housing Choice), 6.9 (Cycling), 6.10 (Walking), 6.13 (Parking), 7.1 (Building London's Neighbourhoods and Communities), 7.2 (Inclusive Design), 7.3 (Designing out Crime), 7.4 (Local Character), 7.5 (Public Realm), 7.6 (Architecture) of the London Plan (2011).
- 5.3 National Planning Policy Framework (NPPF) Section 6 "Delivering a wide Choice of Homes", and Section 7 "Requiring Good Design".

#### **6. Staff comments**

- 6.1 The main issues to be considered by Members in this case are the principle of development, design/street scene issues, and amenity implications.

## 6.2 *Background*

6.2.1 The previous application under P0813.14 was refused planning permission for the following reasons:

- The proposed development would, by reason of its height, bulk and mass, appear as an unacceptably dominant and visually intrusive feature in the streetscene harmful to the appearance of the surrounding area contrary to Policy DC61 of the LDF Core Strategy and Development Control Policies DPD and the Residential Design Supplementary Planning Document.
- The proposed development, in particular the flatted section closest to 1 Oaklands Avenue, would be out of keeping with and harmful to the predominant single residential dwelling character of this part of Oaklands Avenue, contrary to Policy DC61 of the LDF Core Strategy and Development Control Policies DPD and the Residential Design Supplementary Planning Document.
- In the absence of a mechanism to secure a planning obligation towards the infrastructure costs of new development the proposal is contrary to the provisions of the Havering Planning Obligations Supplementary Planning Document and Policy DC72 of the LDF Core Strategy and Development Control Policies DPD.

6.2.2 Members will however note that the development refused under application reference P0813.14 was allowed on appeal.

6.2.3 The approved scheme under P0813.14 required an infrastructure contribution of £54,000, and the applicant has agreed to this payment by signing a S106 agreement on 16 September 2014. This contribution has not been paid. On this basis, if the subject variation is approved, this agreement would need to be amended to incorporate the details of the subject application.

## 6.3 *Principle of Development*

6.3.1 The subject proposal is a variation to the external openings of the proposed scheme only, and does not affect the density, layout, or massing of the scheme (with exception to the enlargement of dormers). On this basis, only the effects associated with the proposed changes would be assessed as the basis of the underlying scheme is already considered to be acceptable through appeal decision APP/B5480/A/14/2223922.

## 6.4 *Impact on Local Character and Street Scene*

6.4.1 Policy DC61 of the LDF Development Plan Document seeks to ensure that new developments are satisfactorily located and are of a high standard of design and layout. Furthermore, the appearance of new developments

should be compatible with the character of the surrounding area, and should not prejudice the environment of the occupiers and adjacent properties. Policy DC61 of the DPD states that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area.

- 6.4.2 The proposed changes to the building are considered to be acceptable as they are minor changes in the greater scheme and would remain consistent with the cosmetic appearance of the building.
- 6.4.3 The proposed changes on the front elevation are acceptable as all fenestration would still be vertically and horizontally aligned, and present proportional increases to those previously approved, and would retain the character of the building.
- 6.4.4 The proposed changes to the north-western elevation are also acceptable as the openings are located in a similar location as the previously approved scheme, with a comparable layout. The openings are largely aligned both vertically and horizontally to give the building a methodical appearance.
- 6.4.5 The proposed changes to the south-eastern elevation are acceptable as they are well laid out, by being vertically and horizontally aligned. The additional window at first floor level is acceptable as it is identical in appearance to other windows on the same elevation. The proposed increase in dormer size is acceptable as it is minor in scale and would leave sufficient roof verges to avoid giving the building a top heavy appearance. The roof of the dormer aligns with the roof of the lobby to give the building a balanced appearance.
- 6.4.6 The proposed changes to the rear elevation are acceptable as the increase in window sizes is proportional to those on the previously approved scheme. The enlarged dormer is also acceptable as it would be of an acceptable size, and would align with the top of the lobby without giving the building a top heavy appearance. The relocation of the ground floor lobby door is logical as it would have a better vertical alignment with the glazing on the upper levels.
- 6.4.7 Overall, the proposal is considered to be acceptable in terms of its design, scale, character and visual impact within this part of the street scene and therefore consistent with the aims and objectives of Policy DC61 of the LDF Development Control Policies Development Plan Document.

## 6.5 *Impact on Amenity*

- 6.5.1 Policy DC61 considers that new developments should not materially reduce the degree of privacy enjoyed by the occupants of adjoining properties or have an unreasonably adverse effect on sunlight and daylight to adjoining properties.

- 6.5.2 The proposed development is only bordered by residential properties to the northwest with the nearest residential property situated approximately 5.5m away. The subject proposal would remove one window at ground floor level compared to the previously approved scheme, with the windows reduced in size. This is acceptable as it would improve the relationship between the subject development and the neighbouring property in terms of opportunities for overlooking. The proposed roof lights would not have a material impact in terms of overlooking as they are high level. A condition is recommended to be imposed to have the first floor windows on this elevation to be obscure glazed and fixed shut with the exception of the top hung fanlight. This is sufficient to prevent material overlooking.
- 6.5.3 The proposed variation would otherwise have no material impact on the residential amenity of neighbouring occupiers in terms of sunlight/daylight access, and overlooking. The front, south-eastern, and rear elevations do not face any residential properties and the proposed changes to openings would be no closer to their respective boundaries than those on the previously approved scheme. The proposed changes to the dormers would not have an additional shadowing or dominating impact on neighbouring properties as they are well-contained within the host building's roofscape.
- 6.5.4 It is therefore considered that the proposed variation would be acceptable with no material harmful impact on the amenities of neighbouring properties. The development is therefore considered to comply with the aims and objectives of Policies CP17 and DC61 of the LDF Development Control Policies DPD in respect of its impact on neighbouring amenity.

## 6.6 *Planning Obligations*

- 6.6.1 In accordance with the Planning Obligations Supplementary Planning Document a financial contribution of £54,000 to be used towards infrastructure costs arising from the new development is required. This should be secured through a S106 Agreement.
- 6.6.2 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"*.

- 6.6.3 The proposal is liable to a contribution of £54,000 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.
- 6.6.4 It is noted that the applicant has already signed a S106 Agreement for this amount under the previously approved scheme (P0813.14). However, this is required to be amended if the subject variation (P0101.15) is approved, to incorporate the subject variation into the existing S106 Agreement.

## **7. Conclusion**

- 7.1 It is considered that the proposed variation is acceptable as it would be within the scope of the previously approved scheme P0813.14. The proposed changes would result in an acceptable development within the street scene, and it is not considered that the proposal would give rise to any overlooking or invasion of privacy and would further, due to its orientation in relation to other neighbouring properties, not result in any overshadowing.
- 7.2 Overall, Staff consider the development to comply with Policy DC61 and the provisions of the LDF Development Plan Document. Approval is recommended accordingly.

## **IMPLICATIONS AND RISKS**

### **Financial Implications and risks:**

Financial contributions are required through a legal agreement through a variation to the original S106 Agreement under P0813.14, dated 16 September 2014.

### **Legal Implications and risks:**

Legal resources will be required to prepare and complete the legal agreement. There is a risk that the weight accorded to the Development Plan Policy and Supplementary Planning Document on Planning Obligations may be challenged at appeal or through judicial challenge.

**Human Resource Implications:**

None

**Equalities and Social Inclusion Implications:**

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

**BACKGROUND PAPERS**

1. Application forms and plans received 28/01/2015.