



# REGULATORY SERVICES COMMITTEE

14 July 2016

# REPORT

**Subject Heading:**

P1692.15 - Land Rear of 2a Sowrey Avenue, Rainham

Variation of Condition 6 of P0198.15 - to create a room at first floor level. (Received 16/11/15 and amended plans received on 04/01/15)

**Ward:**

Elm Park

**Lead Officer:**

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Planning Manager

**Report Author and contact details:**

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**Policy context:**

Local Development Framework  
The London Plan  
National Planning Policy Framework

**Financial summary:**

None

**The subject matter of this report deals with the following Council Objectives**

- Havering will be clean and its environment will be cared for [ ]
- People will be safe, in their homes and in the community [X]
- Residents will be proud to live in Havering [X]

## SUMMARY

This application was originally approved for the erection of 1 No. two-bed bungalow. The current proposal relates to the variation of Condition 6 of P0198.15 in order to create a room within the loft area. The proposal also includes a slight increase in the ridge height and the addition of 2 no. rooflights.

The application is recommended for approval subject to conditions and the applicant entering into Deed of Variation.

## RECOMMENDATIONS

That the proposal is unacceptable as it stands but would be acceptable subject to the applicant entering 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 11 June 2015 in respect of planning permission P0198.15 by varying the definition of Planning Permission which shall mean either planning permission P0198.15 as originally granted or planning permission P1692.15.

Save for the variation set out above and necessary consequential amendments the Section 106 agreement dated 11 June 2015 and all recitals, terms, covenants and obligations in the said Section 106 agreement dated 11 June 2015 will remain unchanged.

The applicant would also be required to pay the Council's reasonable legal costs in association with the preparation of a Deed of Variation, prior to completion of the deed, irrespective of whether the deed is completed.

That the Head of Regulatory Services be authorised that upon the completion of the Deed of Variation that planning permission be granted subject to the following conditions:

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 Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. In Accordance with Plans

The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans detailed on page 1 of the decision notice approved by the Local Planning Authority.

**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.

### 3. Parking Provision

Before the building(s) hereby permitted is first occupied, the area set aside for car parking shall be laid out and surfaced to the satisfaction of the Local Planning Authority and retained permanently thereafter for the accommodation of vehicles visiting the site 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 that the development accords with the Development Control Policies Development Plan Document Policy DC33.

### 4. External Materials

Before any of the development hereby permitted is commenced, written specification of external walls and roof materials to be used in the construction of the building(s) shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be constructed with the approved materials.

**Reason:** Insufficient information has been supplied with the application to judge the appropriateness of the materials to be used. Submission of a written specification prior to commencement will ensure that the appearance of the proposed development will harmonise with the character of the surrounding area and comply with Policy DC61 of the Development Control Policies Development Plan Document.

### 5. Landscaping

No works shall take place in relation to any of the development hereby approved 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:** Insufficient information has been supplied with the application to judge the appropriateness of the hard and soft landscaping proposed. Submission of a scheme prior to commencement will ensure that the development accords with the Development Control Policies Development Plan Document Policy DC61. It will also ensure accordance with Section 197 of the Town and Country Planning Act 1990.

#### 6. Boundary treatment

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

**Reason:** Insufficient information has been supplied with the application to judge the appropriateness of any boundary treatment. Submission of this detail prior to commencement will protect the visual amenities of the development, prevent undue overlooking of adjoining property and ensure that the development accords with the Development Control Policies Development Plan Document Policy DC61.

#### 7. Removal of permitted development rights

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, no extensions, roof extensions, roof alterations or outbuildings, aside from outbuildings less than 10 cubic metres, shall take place unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

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

#### 8. Wheel Washing

No works shall take place in relation to any of the development hereby approved until wheel scrubbing/wash down facilities to prevent mud being deposited onto the public highway during construction works is provided on site in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be retained thereafter and used at relevant entrances to the site throughout the duration of construction works.

The submitted scheme will provide the following details:

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, including their 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 washed 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.

g) A description of how any material tracked into the public highway will be removed.

Should material be deposited in the public highway, then all operations at the site shall cease until such time as the material has been removed in accordance with the approved details.

**Reason:** Insufficient information has been supplied with the application in relation to wheel washing facilities. Submission of details prior to commencement will ensure that the facilities provided 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. It will also ensure that the development accords with the Development Control Policies Development Plan Document Policies DC32 and DC61.

## 9. Refuse and Recycling

No building shall be occupied or use commenced until refuse and recycling facilities are provided in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority. The refuse and recycling facilities shall be permanently retained thereafter.

**Reason:** Insufficient information has been supplied with the application to judge how refuse and recycling will be managed on site. Submission of this detail prior to occupation in the case of new building works or prior to the use commencing in the case of changes of use will protect the amenity of occupiers of the development and also the locality generally and ensure that the development accords with the Development Control Policies Development Plan Document Policy DC61.

## 10. Cycle Storage

No building shall be occupied or use commenced until cycle storage is provided in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be permanently retained thereafter.

**Reason:** Insufficient information has been supplied with the application to demonstrate what facilities will be available for cycle parking. Submission of this detail prior to occupation in the case of new building works or prior to the use commencing in the case of changes of use is in the interests of providing a wide range of facilities for non-motor car residents and sustainability.

#### 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; 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. Construction Methodology

No works shall take place in relation to any of the development hereby approved until a Construction Method Statement to control the adverse impact of the development on the amenity of the public and nearby occupiers is submitted to and approved in writing by the Local Planning Authority. The Construction Method statement shall include details of:

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

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

**Reason:** Insufficient information has been supplied with the application in relation to the proposed construction methodology. Submission of details prior to commencement will ensure that the method of construction protects residential

amenity. It will also ensure that the development accords the Development Control Policies Development Plan Document Policy DC61.11.

## **INFORMATIVES**

1. 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. Statement Required by Article 35 (2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015: 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.
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 £2,080 (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 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.

<b>REPORT DETAIL</b>
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### **1. Site Description**

- 1.1 The site was formerly occupied by the Welcome Hand Public House and was subsequently developed into residential units. The subject site is situated to the rear of this development and in particular 2A Sowrey Avenue

with access from Park Mews. The site measures approximately 220 square metres and is surrounded by residential properties.

## **2. Description of Proposal**

- 2.1 The Section 73 application is for a minor material amendment to consent P0198.15 dated 12 June 2015 to allow loft accommodation, a slight increase in the roof height from 5.45m to 6m and the addition of 2 no. roof lights to the southern roof slope. The roof of the front projection has changed from a gable ended design to a hipped design.
- 2.2 The roof lights would measure 0.65m in height and 0.8m in width and will be situated in excess of 1.7m in height from finished floor level. The additional space created would be used for a bedroom.

## **3. Relevant History**

- 3.1 P0198.15 - Erection of a new 2 bedroom bungalow. – Approved with agreement

## **4. Consultations/Representations**

- 4.1 Neighbour notification letters were sent to 37 properties and 1 letter of objection was received which states that the applicant has no rights to use the existing access road. The use of the existing access road is not a material planning consideration and is an issue that needs to be resolved between the applicant and the owner of the access road.
- 4.2 The Highways Authority and Environmental Health has raised no objection to the proposal.

## **5. Relevant Policies**

- 5.1 Policies CP1 (Housing Supply), CP2 (Sustainable Communities), CP8 (Community Needs), CP17 (Design), DC2 (Housing Mix and Density), DC11 (Non-designated Sites), DC32 (The Road Network) DC33 (Car Parking), DC34 (Walking), DC35 (Cycling), DC36 (Servicing), DC55 (Noise), DC61 (Urban Design), DC63 (Delivering Safer Places) and DC72 (Planning Obligations) of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document are considered to be relevant.
- 5.2 Other relevant documents include the Residential Design SPD, and the Planning Obligation SPD (Technical Appendices)
- 5.3 Policies 3.3 (increasing housing supply), 3.4 (optimising housing potential), 3.5 (quality and design of housing developments), 3.8 (housing choice), 3.9 (mixed and balanced communities), , 6.1 (strategic transport approach), 6.3 (assessing effect on transport capacity), 6.9 (cycling), 6.10 (walking), 6.13



(parking), 7.3 (designing out crime), 7.4 (local character), 7.6 (architecture), 8.2 (planning obligations) of the London Plan, are material considerations.

- 5.4 The National Planning Policy Framework, specifically Sections 4 (Promoting sustainable transport), 6 (Delivering a wide choice of high quality homes), 7 (Requiring good design) and 8 (Promoting healthy communities) are relevant to these proposals.

## **6. Staff Comments**

- 6.1 The only external changes to the previously approved scheme would be the addition of roof lights to the rear elevation, a slight increase in the roof height from 5.45m to 6m and a hipped roof design to the front projection. The changes proposed are minor and not are considered to have a harmful visual impact on the surrounding area.

- 6.2 Staff do not consider the proposal to result in an unacceptable impact on neighbouring amenity as the proposed roof lights would be situated in excess of 1.7m above finished floor level.

- 6.3 The proposal would provide a residential unit with a floor area of 78m<sup>2</sup> which would meet the minimum standard identified by London Plan Policy 3.5 as per the proposed number of rooms and number of occupants they are intended to serve.

- 6.2 All other aspects have been previously determined as acceptable and would not be impacted by the proposed revisions.

### *6.4 Mayoral Community Infrastructure Levy*

- 6.4.1 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 based on an internal gross floor area of 104m<sup>2</sup> which equates to a Mayoral CIL payment of £2080.

### *6.5 Infrastructure Impact of Development*

- 6.5.1 Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regs) states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- (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.

- 6.5.2 Policy DC72 of the Council's LDF states that in order to comply with the principles as set out in several of the Policies in the Plan, contributions may be sought and secured through a Planning Obligation. Policy DC29 states that the Council will seek payments from developers required to meet the educational need generated by the residential development. Policy 8.2 of

the Further Alterations to the London Plan states that development proposals should address strategic as well as local priorities in planning obligations.

- 6.5.3 In 2013, the Council adopted its Planning Obligations Supplementary Planning Document which sought to apply a tariff style contribution to all development that resulted in additional residential dwellings, with the contributions being pooled for use on identified infrastructure.
- 6.5.4 There has been a recent change to the effect of the CIL Regs in that from 6th April 2015, Regulation 123 of the CIL Regs states that no more than 5 obligations can be used to fund particular infrastructure projects or infrastructure types. As such, the SPD, in terms of pooling contributions, is now out of date, although the underlying evidence base is still relevant and up to date for the purposes of calculating the revised S106 contributions.
- 6.5.5 The evidence background to the SPD, contained in the technical appendices is still considered relevant. The evidence clearly show the impact of new residential development upon infrastructure - at 2013, this was that each additional dwelling in the Borough has a need for at least £20,444 of infrastructure. Therefore, it is considered that the impact on infrastructure as a result of the proposed development would be significant and without suitable mitigation would be contrary to Policy DC72 of the LDF and Policy 8.2 of the London Plan.
- 6.5.6 Furthermore, evidence clearly shows a shortage of school places in the Borough - (London Borough of Havering Draft Commissioning Plan for Education Provision 2015/16-2019/20). The Commissioning report identifies that there is no spare capacity to accommodate demand for secondary, primary and early years school places generated by new development. The cost of mitigating new development in respect to all education provision is £8,672 (2013 figure from Technical Appendix to SPD). On that basis, it is necessary to continue to require contributions to mitigate the impact of additional dwellings in the Borough, in accordance with Policy DC29 of the LDF.
- 6.5.7 Previously, in accordance with the SPD, a contribution of £6000 per dwelling was sought, based on a viability testing of the £20,444 infrastructure impact. It is considered that, in this case, £6000 towards education projects required as a result of increased demand for school places is reasonable when compared to the need arising as a result of the development.
- 6.5.8 It would therefore be necessary to require a contribution to be used for educational purposes. Separate monitoring of contributions would take place to ensure that no more than 5 contributions are pooled for individual projects, in accordance with CIL legislation. It is considered that a contribution equating to £6,000 for educational purposes would be appropriate. The described Deed of Variation of the previously signed legal agreement would secure payment of these monies.

## **7. Conclusion**

- 7.1 In conclusion, the proposed changes to condition 6, as stated earlier in this report, in order to provide loft accommodation is considered to be acceptable. It is recommended that planning permission be granted, subject to the completion of the Deed of Variation.

### **IMPLICATIONS AND RISKS**

#### **Financial implications and risks:**

Financial contributions are required through a legal agreement.

#### **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**

Application form, drawings and supporting statements received on 16/11/15 and amended plans received on 04/01/16.