



# REGULATORY SERVICES COMMITTEE

24 August 2017

# REPORT

**Subject Heading:**

**P1673.16**

13 Burntwood Avenue, Hornchurch

Demolition of existing care home and the erection of 5 dwellings and an access road (Outline Application)

(Application received 21-11-2016)

**SLT Lead:**

Steve Moore - Director of Neighbourhoods

**Report Author and contact details:**

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**Ward:**

Emerson Park

**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**

Communities making Havering  
Places making Havering  
Opportunities making Havering  
Connections making Havering

[X]  
[X]  
[X]  
[X]

## SUMMARY

This report concerns an outline planning application for the demolition of the existing care home and the erection of 5 new dwellings and an access road. A Section 106 Legal Agreement is required to secure a financial contribution in accordance with the Planning Obligations Supplementary Planning Document. Staff consider that the proposal would accord with the residential, environmental and highways policies contained in the Local Development Framework Core Strategy and Development Control Policies Development Plan Document. It is recommended that planning permission be granted subject to conditions and the completion of a Section 106 Legal Agreement.

## RECOMMENDATIONS

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. As scale is a reserved matter, there are no definitive gross internal floor areas for the dwellings, so the applicable fee is not known.

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 obligations by 29<sup>th</sup> December 2017 and in the event that the Section 106 agreement is not completed by such date the item shall be returned to the committee for reconsideration:

- A financial contribution of £30,000 to be used for educational purposes.
- All contribution sums shall include interest to the due date of expenditure and all contribution sums to be subject to indexation from the date of completion of the Section 106 agreement to the date of receipt by the Council.
- The Developer/Owner to pay the Council's reasonable legal costs associated with the Legal Agreement prior to the completion of the agreement irrespective of whether the agreement is completed.
- Payment of the appropriate planning obligations monitoring fee prior to the completion of the agreement.

That the Assistant Director of Development 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. Outline – Reserved matters to be submitted**

Details of the appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

**Reason:** This is outline permission only and these matters have been reserved for the subsequent approval of the Local Planning Authority.

### **2. Time limit for details**

Application/s for approval of the reserved matters shall be submitted to the Local Planning Authority within three years from the date of this permission.

**Reason:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004)

### **3. Time limit for commencement**

The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matter to be approved.

**Reason:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

### **4. Materials**

No above ground works shall take place in relation to any of the development hereby approved until samples of all materials to be used in the external construction of the building(s) and hard landscaped areas are 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 samples 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. Accordance with Plans**

The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, particulars and specifications (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.

## **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 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 the completion of the development hereby permitted, cycle storage of a type and in a location previously submitted to and approved in writing by the Local Planning Authority shall be provided and 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.

## **8. Car parking**

Before the residential units hereby permitted are 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.

## **9. 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.

## **10. Construction methodology**

Before development is commenced, a scheme shall be submitted to and approved in writing by the Local Planning Authority making provision for a Construction Method Statement to control the adverse impact of the development on the amenity of the public and nearby occupiers. The Construction Method statement shall include details of:

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

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

**Reason:** 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. Boundary Treatment**

No development above ground level shall take place until details of all proposed walls, fences and boundary treatment are 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 prior to the first occupation of the development for residential purposes and shall be permanently retained and maintained 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.

## **12. External lighting**

No above ground development shall take place until a scheme for a bat sensitive lighting scheme has been submitted to and approved in writing by the Local Planning Authority. All external lighting within the application site shall be installed in accordance with British Standards Institute (BSI) BS5489 and BS EN 13201. These standards identify further measures for reducing lighting spill, glare and overall pollution. Further guidance in respect of low impact lighting is provided in 'Guidance Notes for the Reduction of Obtrusive Light' produced by The Institute of Lighting Engineers (ILE). The approved details shall be implemented in full prior commencement of the development hereby approved and permanently maintained in accordance with the approved details.

**Reason:** Insufficient information has been supplied with the application to judge the impact arising from any external lighting required in connection with the building or use. 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 residential amenity, protected species and ensure that the development accords with the Development Control Policies Development Plan Document Policies DC58, DC61 and DC63.

## **13. Surfacing materials**

Before any above ground development is commenced, surfacing materials for the access road shall be submitted to and approved in writing by the Local Planning Authority and thereafter the access road shall be constructed with the approved materials. Once constructed, the access road shall be kept permanently free of any obstruction (with the exception of the car parking spaces shown on the approved plans) to prevent uses of the access road for anything but access.

**Reason:** Insufficient information has been supplied with the application to judge the appropriateness of the surfacing materials. Submission of this detail prior to commencement will ensure that the development accords with the Development Control Policies Development Plan Document Policy DC61.

## **14. Alterations to the Public Highway**

The necessary agreement, notice or licence to enable the proposed alterations to the Public Highway shall be entered into and completed prior to the commencement of the development and the highway works completed prior to first occupation of the development.

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

## **15. Car parking**

The proposal should provide 2 parking spaces per dwelling, to be retained thereafter.

**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.

## **16. Pedestrian Visibility Splay**

The proposals should provide a 2.1 by 2.1 metre pedestrian visibility splay on either side of the proposed access onto Burntwood Avenue, set back to the boundary of the public footway. There should be no 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.

## **17. Servicing**

No above ground development shall take place until details have been submitted to and approved in writing by the Local Planning Authority of access road widths, turning area dimensions and swept path analysis to demonstrate that the proposed dwellings to the rear of the site can be adequately serviced and that service vehicles can exit the site in forward gear. The development shall be carried out in accordance with the approved

**Reason:** Insufficient information has been supplied with the application to demonstrate the width of the access road, the dimensions of the turning area and details of a swept path analysis. 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 highway safety, and in order that the development accords with the Development Control Policies Development Plan Document Policies DC32 and DC36.

## **18. Wheel washing**

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 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:** 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.

## **19. Precautionary bat survey**

An internal survey of the building(s) including the roof areas for bats must be undertaken by a licensed bat worker prior to any demolition works and between May and September. Evidence that the survey has been undertaken in the form of an ecological report including any recommendations shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of demolition of the existing buildings on the site. The proposed development shall be implemented in accordance with the approved ecological report, including any recommendations. If at any time during the works, presence of bats is suspected or identified, works in that area shall cease immediately and an ecologist contacted to enable further appropriate action to be implemented.

**Reason:** Insufficient information has been supplied with the application in relation to ecology and bats. Submission of details prior to commencement will ensure that the proposed development will not be harmful to bats. It will also ensure that the development accords with the Habitats Regulations and the Wildlife & Countryside Act 1981 (as amended), Chapter 11 of the NPPF and Policies DC58 & DC59 of the LDF.



## **20. Timing of demolition/vegetation clearance (breeding birds)**

Demolition and/or removal of trees, hedgerows, shrubs or tall herbaceous vegetation shall be undertaken between October and February inclusive. If this is not possible then a suitably qualified ecologist shall check the areas concerned immediately prior to demolition and/or vegetation clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present then the demolition and/or vegetation shall not be removed until the fledglings have left the nest.

**Reason:** All wild birds, their nests and young are protected during the nesting period under The Wildlife and Countryside Act 1981 (as amended), Chapter 11 of the NPPF and Policies DC58 & DC59 of the LDF.

## **20. Extended Phase 1 Habitat Survey**

The proposed development shall be implemented in accordance with the Extended Phase 1 Habitat Survey (Preliminary Ecological Assessment) dated June 2013 which shall include the following on site measures:

- Installing 10 bird boxes and 10 bat boxes;
- Retaining and protecting boundary trees as part of the development proposals and enhancing with additional planting; and
- Additional ecological enhancements are included as part of the landscaping scheme as included in Annexe 5 of the Preliminary Ecological Assessment.

**Reason:** In order to protect the conservation status of bats in compliance with the Habitats Regulations and the Wildlife and Countryside Act 1981 (as amended), Chapter 11 of the NPPF and Policies DC58 and DC59 of the LDF.

## **21. Preserved trees**

No demolition or works shall take place in relation to any of the development hereby approved until a scheme for the protection of the trees protected by a tree preservation order and any other trees to be retained on the site has been submitted to and agreed in writing by the Local Planning Authority. Such a scheme shall contain details of the erection and maintenance of fences or walls around the trees, details of underground measures to protect roots, the control of areas around the trees and any other measures necessary for the protection of the trees. Such agreed measures shall be implemented before development commences and kept in place until the approved development is completed.

**Reason:** Insufficient information has been supplied with the application to demonstrate how the preserved trees on site will be adequately protected during construction. Submission of details prior to commencement will ensure that the measures to be employed are robust.

## **22. Site levels**

Prior to the commencement of the development, a drawing showing the proposed site levels of the application site and the finished floor levels of the proposed dwellings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

**Reason:** Insufficient information has been supplied with the application to judge the proposed site levels of the proposed development. 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.

### **23. Sprinkler system**

Prior to the first occupation of the development, details of a domestic sprinkler system to be installed in the approved dwellings, shall be submitted to and approved in writing by the Local Planning Authority. The approved sprinkler system shall be installed prior to the first occupation of the development and retained as such for the life of the development.

**Reason:** In the interests of fire safety and amenity, in accordance with the LDF Development Control Policies Development Plan Document Policy DC61.

### **24. Garage - restriction of use**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 the garage(s)/carport(s) hereby permitted shall be made permanently available for the parking of private motor vehicles and not for any other purpose including living accommodation or any trade or business.

**Reason:** To provide satisfactory off-street parking at the site, and that the development accords with the Development Control Policies Development Plan Document Policy DC61.

### **25. Access**

The dwellings hereby approved shall be constructed to comply with Part M4(2) of the Building Regulations - Accessible and Adaptable Dwellings.

**Reason:** In order to comply with Policy DC7 of the Local Development Framework and Policy 3.8 of the London Plan.

### **26. Water Efficiency**

All dwellings hereby approved shall comply with Regulation 36 (2)(b) and Part G2 of the Building Regulations - Water Efficiency.

**Reason:** In order to comply with Policy 5.15 of the London Plan.

## **INFORMATIVES**

### **1. Approval following revision**

Statement Required by Article 35 (2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015: In accordance with para 186-187 of the National Planning Policy Framework 2012, improvements required to make the proposal acceptable were negotiated with Mr Govier via email on 26<sup>th</sup> June. The revisions involved altering the site layout, removing the detached garage and single storey rear extension to the dwelling in plot 4, reducing the amount of hardstanding/driveway and the shading of the trees on the plan was made lighter to clearly show the width and siting of the access road on the site. Other changes included showing the front building line of the neighbouring property at No. 3 Tall Trees Close on the plan and showing the footprint of the granny annexe and an outbuilding in the rear garden of No. 11 Burntwood Avenue on the plan. The amendments were subsequently submitted on 20<sup>th</sup> July 2017.

### **2. Planning Obligation**

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. Fee**

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.

### **4. Changes to the Public Highway**

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 new or amended access as 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. The applicant must contact Engineering Services on 01708 433751 to discuss the scheme and commence the relevant highway approvals process. please note that unauthorised work on the highway is an offence.

### **5. Highway Legislation**

The developer (including their representatives and contractors) is advised that planning consent does not discharge the requirements of 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 of any nature) required during the construction of the development.

Please note that unauthorised works on the highway is an offence.

## **6. Temporary use of the public highway**

The developer 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. If the developer requires scaffolding, hoarding or mobile cranes to be used on the highway, a license is required and Streetcare should be contacted on 01708 434343 to make the necessary arrangements.

Please note that unauthorised works on the highway is an offence.

## **7. Street name/numbering**

Before occupation of the residential/ commercial unit(s) hereby approved, it is a requirement to have the property/properties officially Street Named and Numbered by our Street Naming and Numbering Team. Official Street Naming and Numbering will ensure that that Council has record of the property/properties so that future occupants can access our services. Registration will also ensure that emergency services, Land Registry and the Royal Mail have accurate address details. Proof of having officially gone through the Street Naming and Numbering process may also be required for the connection of utilities. For further details on how to apply for registration see:

<https://www.havering.gov.uk/Pages/Services/Street-names-and-numbering.aspx>

## **8. Fire hydrant**

Fire Brigade requests the installation of a new private fire hydrant to offer fire cover for the new development. The reference for the new hydrant is P126933. The hydrant should be sited within the footpath, one metre clear of all obstructions, with the outlets no more than 300mm below ground level. This hydrant should conform to BS:750 and be indicated with a hydrant indicator plate conforming to BS:3251.

# **REPORT DETAIL**

## **1. Site Description**

1.1 The application site comprises of a former care home entitled Saint Mary's Convent, which is located on the northern side of Burntwood Road, Emerson Park. There are residential properties surrounding the site. There

is a Tree Preservation Order - TPO 8-71, which applies to the site. The application site lies within Sector 6 of the Emerson Park Policy Area.

## **2. Description of Proposal**

- 2.1 The application is for demolition of the existing care home and the erection of five dwellings and an access road. The development consists of three detached dwellings located on a north to south axis in the northern part of the site and two detached dwellings that would front onto Burntwood Road on the southern part of the site. The access road would be located adjacent to the western boundary of the site. The application is for outline permission seeking approval for access and layout. Appearance, landscaping and scale are reserved matters.

## **3. History**

P0809.14 - Demolition of the existing care home and the erection of 4 dwellings and an access road (outline application) - Refused. Allowed on appeal on 19 August 2015

P1330.13 - Demolition of the existing care home and the erection of 4 dwellings and an access road (outline application) - Refused.

## **4. Consultation/Representations**

- 4.1 Neighbour notification letters were sent to 15 neighbouring occupiers. Eight letters of objection was received (including two from the Emerson Park & Ardleigh Green Residents' Association), with detailed comments that have been summarised as follows:

- The addition of a third dwelling to the rear of the site would result in smaller rear plot sizes and the houses would be more cluttered and situated closer to the boundary, which would be considerably smaller than the rest of the houses on the north side of Burntwood Avenue.
- Lack of parking.
- The application must be judged on the characteristics of the north side of Burntwood Avenue, as these are generally much larger than those on the south side.
- This application is very similar to the previous application, P1330.13, which was refused and subsequently approved on appeal with the main difference being the introduction of a third dwelling to the rear of the site and different orientation of the dwellings to the rear.
- Increase in density.
- The proposal would clearly affect the character of this part of Emerson Park, which is characterised by large open plots.
- Would result in a cramped appearance at the rear of the site, which would be out of keeping with the surrounding area.
- Reference was made to paragraph 53 of the NPPF, which states that the local planning authority should consider the case for setting out

policies to resist inappropriate development of residential gardens. This scheme would cause harm to the local area.

- Overdevelopment.
- It is alleged that the Design and Access Statement fails to consider the impact of this development on properties in Tall Trees Close and Porchester Close.
- The impact of the access road on neighbouring amenity with traffic and service vehicles, noise, disturbance, pollution and artificial light pollution.
- The impact of the proposal on the trees in the site.
- Impact on the character of the street.
- This is a back garden development and cannot be acceptable in principle.
- The proposal is contrary to paragraph 53 of the NPPF and the Emerson Park Policy Area SPD.
- Loss of amenity including loss of privacy.
- Flooding.
- Overlooking including level differences.
- Overcrowding.
- The access road is too narrow and does not have pedestrian access.
- The gardens for the proposed houses would be much smaller than those in the surrounding area and would set an undesirable precedent.
- Turning area, access and highway safety.
- Inadequate access arrangements for fire brigade services.
- Noise, disruption and inconvenience during construction.
- Would set an undesirable precedent.
- The layout, density and servicing arrangement would be out of keeping with the local area and have an unacceptable impact on neighbours' residential amenity.
- The depth of the private rear gardens, particularly for plot 5, would be much reduced and out of character with the depth of existing local gardens generally.
- The proximity of the proposed dwellings to neighbouring properties.
- The new dwellings would appear dominant, overbearing and intrusive harmful to neighbouring amenity.
- The width of the access road and it does not have any passing bays.
- Queried if residents would be given an opportunity to comment on the revised plan prior to the application going to committee.

4.2 In response to the above, although the Inspector for P0809.14 appreciated the concern that approval of this proposal could be used in support of such similar schemes, the Inspector considered that in this case, the characteristics of the site are unlikely to be replicated elsewhere and concluded the development to be acceptable and saw no reason why it would lead to harmful developments on other sites in the area. Details of landscaping and boundary treatment can be secured by condition if minded to grant planning permission. The Inspector for P0809.14 advised that given the nature of the proposal and Burntwood Avenue, they did not consider the proposal would prejudice highway safety. The appeal decision for P0809.16

stated that the site is not in a flood risk zone and there is no evidence that the proposal would increase the risk of flooding in the area. Furthermore, it is inevitable that the demolition and construction phase of the development may result in some noise and disturbance, however, this does not justify the dismissal of the appeal. Noise, disturbance and wheel washing during construction can be addressed by appropriate planning conditions. Neighbours were re-consulted regarding the revised plan on 26<sup>th</sup> July for a period of 10 days, which expired on 7<sup>th</sup> August. The remaining issues will be addressed in the following sections of this report.

- 4.3 Fire Brigade requests the installation of a new private fire hydrant to offer fire cover for the new development. The reference for the new hydrant is P126933. The hydrant should be sited within the footpath, one metre clear of all obstructions, with the outlets no more than 300mm below ground level. This hydrant should conform to BS:750 and be indicated with a hydrant indicator plate conforming to BS:3251.
- 4.4 London Fire & Emergency Planning Authority - Access to plots 1 and 2 is considered satisfactory, however access to the remaining plots does not appear to comply with B5 of Approved Document B Volume 1 of the Building Regulations, as the access road is too narrow and the dead end is in excess of 20m with no turning head.
- 4.5 Highway Authority - No objection in principle, but the level of detail provided does not allow us to properly assess access (including visibility splays). Servicing for the dwellings at the rear is likely to be difficult for anything larger than a light van and so is likely to be unacceptable from a waste collection point of view. It is recommended that the detail be reserved or the applicant is requested to provide it now.
- 4.6 Environmental Health - No objections in terms of noise.
- 4.7 Historic England - The proposal is unlikely to have a significant effect on heritage assets of archaeological interest.
- 4.8 StreetCare Department - No provisions for waste storage. Houses 1 and 2 will be able to receive kerbside collection but access to the site looks much too small for the RCV. Dwellings 3, 4 and 5 will need to be provided with a communal collection space, no more than 30m from the main road entrance.
- 4.9 Essex & Suffolk Water - Our existing apparatus does not appear to be affected by the proposed development. We have no objection to this development subject to compliance with our requirements, consent is given to the development on the condition that a water connection is made onto our company network for the new dwellings for revenue purposes.

## **5. Relevant Policy**

- 5.1 Policies CP1 (Housing Supply), CP2 (Sustainable Communities), CP8 (Community Needs), CP17 (Design), DC2 (Housing Mix and Density), DC3

(Housing Design and Layout), DC11 (Non-designated sites), DC29 (Educational premises), DC32 (The road network), DC33 (Car Parking), DC34 (Walking), DC35 (Cycling), DC36 (Servicing), DC40 (Waste recycling), DC53 (Contaminated land), DC55 (Noise), DC58 (Biodiversity and Geodiversity), DC61 (Urban Design), DC62 (Access), DC63 (Delivering Safer Places), DC69 (Other areas of special townscape or landscape character) and DC72 (Planning Obligations) of the LDF Core Strategy and Development Control Policies Development Plan Document are considered material together with the Design for Living Supplementary Planning Document, the Landscaping Supplementary Planning Document, the Planning Obligations Supplementary Planning Document and the Emerson Park Policy Area Supplementary Planning Document.

- 5.2 Policies 3.3 (increasing housing supply), 3.4 (optimising housing potential), 3.5 (quality and design of housing developments), 6.13 (parking), 7.1 (building London's neighbourhoods and communities), 7.13 (safety, security and resilience to emergency), 7.4 (local character) and 8.3 (Community infrastructure levy) of the London Plan are relevant. Chapters 6 (Delivering a wide choice of high quality homes) and 7 (Requiring good design) of the National Planning Policy Framework are relevant.

## **6. Mayoral CIL implications**

- 6.1 It is noted that the development proposed is liable for the Mayor's Community Infrastructure Levy (CIL) in accordance with London Plan Policy 8.3. As scale is a reserved matter, there are no definitive gross internal floor areas for the dwellings, so the applicable fee is not known.

## **7. Staff Comments**

- 7.1 This proposal follows a previous application P0809.14 for the demolition of the existing care home and the erection of 4 dwellings and an access road (outline application), which was brought to the 21<sup>st</sup> August 2014 Regulatory Services Committee. Although the application was recommended for approval, Members resolved to refuse planning permission for the following reasons:

1) The proposed development, by reason of the plot layout and the extent of built form introduced into the existing open garden layout, combined with the limited plot width of the frontage unit adjacent to the access road, would give rise to a development that is out of keeping with and harmful to the spacious character of the Emerson Park area and the wider streetscene, contrary to the provisions of the Emerson Park SPD and the provisions of Policies DC69 and DC61 of the LDF Core Strategy and Development Control Policies DPD.

2) The proposal, by reason of the location of the access road in close proximity to the boundary with no.11 Burntwood Avenue, would give rise to levels of noise and disturbance from vehicular activity that would be detrimental to the amenity of adjoining occupiers, contrary to Policy DC61 of the LDF Core Strategy and Development Control Policies DPD.



3) 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.

7.2 Application P0809.14 was subsequently allowed on appeal. The Inspector concluded that the proposal would retain the spacious and well landscaped character and appearance of Emerson Park. The Inspector determined that the proposed driveway would not create an unreasonable level of noise or disturbance and the development would not harm the outlook, light or privacy of the occupants of nearby properties. The Inspector concluded that the requirement for contributions towards infrastructure would be necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.

7.3 The current application differs from the refused scheme in that the number of dwellings has increased from four to five with a different site layout and footprint.

7.4 In the Design and Access Statement, the agent has advised that the proposal has undergone changes to reflect the fact that the properties granted under the existing 2015 consent have not been attractive in the market and a purchaser and developer has not been found.

7.5 Following negotiations with the agent, the plans were revised as follows:

Plots 1 & 2

- The plot depth has been reduced by between 2.1 and 2.3m.
- The siting and access of buildings remains unchanged.

Plot 3

- The plot has been widened by 2m.
- The garage has been setback alongside the house and clear from the boundary (by approximately 3m).
- Building size, building line and access remain unchanged

Plot 4

- Removal of the detached garage
- Removal of the single storey rear extension.
- The building line is further forward (approx. 3.7m) to match plot 3.

Plot 5

- Slight setting forward of property (0.7m)
- Reduction in the amount of hardstanding/driveway

7.6 The main issues in this case are the principle of development, density and site layout, design/impact on streetscene, impact on amenity,

highway/parking issues, other issues and legal agreements. The previous appeal decision for P0809.14 is considered to be a material consideration.

## **8. Principle of Development**

- 8.1 Policy CP1 indicates that outside town centres and the Green Belt, priority will be made on all non-specifically designated land for housing. The application site is previously developed land. It is within a predominately residential area and is considered to be suitable in principle for residential development, subject to the detailed design of the proposals. There is no objection in principle to the demolition of St Mary's Convent, which has been vacant since December 2012. The proposal is therefore acceptable in principle and in accordance with Policy CP1 and Policy 3.3 of the London Plan and National Planning Policy Framework which seeks to increase London's housing supply. The appeal decision for P0809.14 took into account that the Emerson Park SPD and the NPPF do not forbid backland development but do require any development retains the character and appearance of the area. The Inspector concluded that the appeal proposal would satisfy the criteria set out in the Emerson Park SPD which seeks to ensure new development retains the character of the area and for the reasons set out above, did not consider it represents an unacceptable form of backland development.

## **9. Density/Site layout**

- 9.1 In respect of amenity space the Supplementary Planning Document (SPD) for Residential Design does not prescribe fixed standards for private amenity space or garden depths unlike previous guidance. Instead the SPD places emphasis on new developments providing well designed quality spaces that are usable. In terms of amenity space provision, the rear garden areas of the dwellings have private amenity space ranging between a minimum of approximately 406 to a maximum of 668 square metres. Staff are of the view that the proposed garden areas are acceptable in terms of area and would provide future occupiers with a useable external space for day to day activities such as outdoor dining, clothes drying and relaxation.
- 9.2 The remaining area within the development is largely hard surfacing and consists of the access road and parking provision. It is considered that the layout of the site is acceptable.
- 9.3 The site is located within Sector 6 of the Emerson Park Policy Area. The Emerson Park Policy Area SPD states that new dwellings in this sector will be limited to infill development of existing frontages at plot sizes equivalent to immediately surrounding properties. Redevelopment will not be permitted where it will materially increase the existing density of the immediately surrounding area. Proposals will be of detached, single family, large and architecturally varied dwellings and provide a minimum plot width of 23m which should be achieved at both the road frontage and building line.

- 9.4 Based on the site layout plan, the proposed dwellings would be detached, large architecturally varied dwellings which adhere to the Emerson Park Policy Area SPD. The dwelling fronting Burntwood Avenue on Plot 1 would have a plot width of approximately 19 metres at the road frontage, although seen in conjunction with the access road to the side of the site it appears closer to 28m, and is 23 metres at the building line. It is considered that the plot width of this dwelling would not be materially harmful to the open and spacious character of Emerson Park, as the access road and landscaped area would provide a separation distance of approximately 9 metres from the western boundary of the site, which would not result in material harm to the character and appearance of the surrounding area. Also, the plot width of 23 metres at the building line for this dwelling adheres to the Emerson Park Policy Area SPD and would ensure a sufficient degree of spaciousness in the site. It is noted that plot widths at the road frontage for neighbouring dwellings in the immediate vicinity of the application site vary in width from 19 to 40 metres and that there is not a consistent minimum plot width in this part of Burntwood Avenue.
- 9.5 The dwelling fronting Burntwood Avenue to the east of the site in plot 2 would have a plot width of 24 metres at the road frontage and 23 metres at the building line, which complies with the Emerson Park Policy Area SPD.
- 9.6 The three dwellings to the north of the site in plots 3, 4 and 5 would have a minimum plot width of approximately 25, 23 and 24 metres respectively, which adheres to the Emerson Park Policy Area SPD.
- 9.7 In this case, existing local character is drawn largely from large detached two storey dwellings. It is noted that the dwellings on the northern side of Burntwood Avenue have a plot depth of approximately 70 metres. The dwellings on the southern side of Burntwood Avenue opposite the application site (No.'s 10-16) have a plot depth of between approximately 51 and 62 metres. The proposed dwellings fronting Burntwood Avenue in plots 1 & 2 have a plot depth of approximately 60 metres which is comparable with the neighbouring dwellings in the vicinity of the site and is considered to be acceptable and in keeping with local character.
- 9.8 The dwelling on plot 3 to the north of the site is located at 90 degrees to the dwellings to the south. The dwellings on plots 3, 4 and 5 have a plot depth of between approximately 42 and 45 metres. It is considered that the plot depth of these three dwellings is acceptable as they are located in the context of the properties in Porchester Close and Tall Trees Close that adjoin to the rear of the site, which have plot depths of approximately 40 and 55 metres.
- 9.9 The dwellings on plots 1 and 2 would have a minimum and maximum separation distance of 2 and 4 metres respectively at ground and first floor from the common party boundaries, which adheres to the Emerson Park Policy Area SPD. Staff consider that these distances are acceptable, as there would be a gap of 4 metres between the flank walls of the dwellings in

plots 1 and 2, which would maintain the open and spacious character of Emerson Park.

- 9.10 The dwelling in plot 3 would have a separation distance of 2 metres at ground and first floor from the common party boundaries, which adheres to the Emerson Park Policy Area SPD. The dwelling in plot 4 would have a minimum separation distance of 2 metres at ground and first floor from the common party boundaries, which adheres to the Emerson Park Policy Area SPD. The dwelling in plot 5 would have a minimum separation distance of 2 and 4 metres at ground and first floor from the common party boundaries, which adheres to the Emerson Park Policy Area SPD.
- 9.11 It is noted that the Committee resolved to refuse the previous application, P0809.14, on the grounds that the proposed development, by reason of the plot layout and the extent of built form introduced into the existing open garden layout, combined with the limited plot width of the frontage unit adjacent to the access road, would give rise to a development that is out of keeping with and harmful to the spacious character of the Emerson Park area and the wider streetscene, contrary to the provisions of the Emerson Park SPD and the provisions of Policies DC69 and DC61 of the LDF Core Strategy and Development Control Policies DPD.
- 9.12 In summary, the appeal decision for P0809.14 stated that the plot widths and depths of the dwellings were in excess of the minimum required by the Emerson Park SPD, which reflects existing development in the area. Due to the size of the appeal site the addition of two dwellings to the rear of the site would not result in a density of development that would be uncharacteristic of the existing area and the proposal therefore would satisfy the criteria set out in the Emerson Park SPD. The Inspector considered that the layout clearly indicated that the dwellings could be located on the site so the minimum requirements relating to the proximity of both ground and first floor level to any common party boundary could be achieved and a landscaping scheme would ensure the well landscaped appearance of the area is maintained. The Inspector noted that there are already a number of dwellings to the rear of the properties fronting Burntwood Avenue, Elm Drive and Brooklands Avenue and whilst some can be seen from the road they do not detract from the appearance or character of the area. Although there might be some limited views of the two rear dwellings from Burntwood Avenue and the surrounding area, the Inspector did not consider that this made the proposal unacceptable.
- 9.13 Given that this proposal increases the number of dwellings on the site from four to five, Members may therefore retain the view that this proposal constitutes harmful overdevelopment of the site. However, Staff consider that the current proposal is acceptable as it complies with Council policy and the site layout is considered comparable to other properties in the vicinity of the application site. Taking into account the appeal decision for P0809.14, Staff consider that increasing the number of dwellings from four to five on the site would be within the realms of acceptability. The proposal is therefore

judged to be in keeping with local character and to accord with the Emerson Park SPD.

## **10. Design/Impact on Street/Garden Scene**

- 10.1 The application would involve the demolition of St. Mary's Convent. While the building appears to be in a structurally sound condition, it is not of any particular architectural or historic merit and no in principle objection is therefore raised to its demolition.
- 10.2 Landscaping is a reserved matter. A tree survey has been submitted with this application and the plans show the trees to be retained. It is considered that the proposal can achieve an acceptable level of landscaping given the proposed layout. Conditions are proposed requiring details of landscaping and for tree protection measures.
- 10.3 Scale is a reserved matter. In the Design and Access Statement, the agent has indicated that the proposed dwellings will be two to two and a half storeys in height, matching the scale of buildings, old and new in the locality. It is considered that the footprint and siting of the dwellings and garages are acceptable.
- 10.4 Appearance is a reserved matter. In the Design and Access Statement, the agent has indicated that the proposed buildings will be of traditional design and using a traditional palette of material, reflecting the character of the area. It is deemed possible to construct dwellings that would be appropriate and would meet the requirements of the Emerson Park SPD in respect of individual design.

## **11. Impact on Amenity**

- 11.1 No. 15 Burntwood Avenue has two ground floor flank windows adjacent to the eastern boundary of the site. One serves a garage and is not a habitable room and the other serves a W.C. It is considered that the proposed dwelling in plot 2 adjacent to the eastern boundary of site would not result in a significant loss of amenity to No. 15 Burntwood Avenue, as it would be located approximately 4 metres from this common boundary. It is noted that No. 15 Burntwood Avenue has a substantial single storey rear projection comprising of a swimming pool enclosure and its double garage is located adjacent to the eastern boundary of the site, which will help to mitigate the impact of the proposal and Staff consider that this relationship is acceptable.
- 11.2 It is considered that the proposal would not result in a significant loss of amenity to No. 11 Burntwood Avenue, as there would be a flank to flank distance of approximately 16 metres between the western flank of the proposed dwelling located adjacent to the access road in plot 1 and the eastern flank of 11 Burntwood Avenue. Planning permission was granted for double storey side and single storey rear extensions, alterations to the existing roof and a new swimming pool enclosure under application P0230.16, which is currently being constructed. The eastern flank wall of the

proposed two storey side extension to No. 11 Burntwood Avenue is set in between approximately 8 and 9 metres from this common boundary, which would help to mitigate the impact of the proposed development. The two storey side extension to No. 11 Burntwood Avenue has three ground floor flank windows, which will serve a lounge and are all secondary light sources with a window and patio doors on the front and rear elevations of the dwelling respectively. The two storey side extension to No. 11 Burntwood Avenue has three first floor flank windows, which serve a bedroom and lounge area (with a partition wall in between) and are secondary light sources with a window and patio doors leading onto a balcony/terrace on the front and rear elevation of the dwelling respectively. No. 11 Burntwood Avenue has a side dormer window on the eastern flank of the dwelling, which serves the loft space and is a secondary light source as there are front, side and rear dormer windows.

- 11.3 It is noted that planning permission was granted for the retention of an outbuilding to the rear of 11 Burntwood Avenue (application P0137.15). Planning permission was also granted for a granny annexe to the rear of No. 11 Burntwood Avenue (application P0765.13), which has been implemented. It is considered that the proposal would not result in a significant loss of amenity to the granny annexe and outbuilding, as they do not have any windows (except roof lights) on their eastern flank walls. There is a timber paling fence along the eastern boundary of No. 11 Burntwood Avenue, which provides some screening.
- 11.4 It is considered that the proposal would not result in a significant loss of amenity to No. 3 Tall Trees Close, as there is a separation distance of approximately 41 and 47 metres between the two storey rear façade of this neighbouring property and the front elevation of the proposed dwellings in Plots 4 and 5 respectively. Staff consider that the detached garage in plot 5 would not adversely impact on No. 3 Tall Trees Close, as there would be a rear to western flank separation distance of between approximately 24 and 29 metres and its footprint appears to be relatively modest in size, which would help to mitigate its impact.
- 11.5 It is considered that the proposal would not result in a significant loss of amenity to No. 4 Porchester Close, as there would be a minimum and maximum separation distance of approximately 4 and 13 metres between the northern flank of the single storey side/rear extension and the recessed front projection of the dwelling in Plot 5 and the southern boundary of this neighbouring property, which would help to mitigate its impact. There are some mature trees adjacent to the southern boundary of No. 4 Porchester Close, which would provide some screening. Given these separation distances, Staff consider that this relationship is acceptable.
- 11.6 It is considered that the proposal would not result in a significant loss of amenity to No. 22 Woodlands Avenue, as there would be a separation distance of between approximately 57 and 64 metres between the rear façade of this neighbouring property and the northern boundary of the application site. There are some mature trees adjacent to the southern

boundary of No. 22 Woodlands Avenue, which would provide some screening. Given these separation distances, Staff consider that this relationship is acceptable.

- 11.7 It is considered that the proposal would not result in a significant loss of amenity to No. 6 Porchester Close, as there would be a minimum and maximum separation distance of approximately 24 and 29.7 metres between the rear façade of the single storey side/rear extension and the dwelling respectively in Plot 5 and the western flank wall of this neighbouring property (not including its detached garage). There would be a separation distance of approximately 37 metres between the rear façade of the dwelling in plot 4 and the western flank wall of No. 6 Porchester Close (not including its detached garage). Given these separation distances, Staff consider that this relationship is acceptable. In addition, there is mature landscaping on the eastern boundary of the site, which would provide some screening of the dwellings in Plots 4 and 5.
- 11.8 Overall, no harmful levels of overshadowing or overlooking are considered to occur as a result of the proposed dwellings. The appeal decision for P0809.14 stated that “whilst the upper part of two storey buildings would be visible from some neighbouring land, this would not be dissimilar to the outlook found in many built up areas. Indeed many of the nearby properties and outbuildings on adjoining sites can be seen from the appeal site. However, there would be some screening provided by existing vegetation and any additional landscaping would help to limit the views of the proposed properties”. For application P0809.14, the Inspector concluded that the development would not harm the outlook, light or the privacy of the occupants of nearby properties.
- 11.9 From a noise and disturbance perspective, the siting of the access drive enables the provision of a landscaped buffer strip adjacent to the western boundary of the site. This will help to absorb any noise and light spillage resulting from vehicles using the drive and turning head. The provision of appropriate fencing together with a landscaping scheme would also afford reasonable protection to those who live adjacent to the site from the more active use of the site. The Inspector for P0809.14 was of the view that the development would give rise to a limited number of vehicular movements and did not consider that this would result in an unacceptable level of noise and disturbance to the occupants of nearby properties, including No. 11 Burntwood Avenue and the outbuildings in its rear garden.
- 11.10 Although the number of dwellings on the site has increased from four to five, Staff consider that the use of the access road would not result in undue noise and disturbance. When considering the merits of this application, it is considered that the proposal would not give rise to high levels of noise and general disturbance in comparison with the former use of the site as a care home.
- 11.11 It is considered that the layout and access of the proposed development 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.

## **12. Highway/Parking**

- 12.1 Policy DC33 in respect of car parking refers to the density matrix in Policy DC2. Policy DC2 of the LDF indicates that in this part of the Borough parking provision for residential development should be a maximum of 2 spaces per unit. There are garages for the dwellings in Plots 3 and 5. The proposal would provide two parking spaces per dwelling, which is deemed to be acceptable.
- 12.2 The proposal includes the provision of a single width access road with a width of between approximately 3 and 6 metres, with a turning head at the northern end. The access road begins to taper approximately 45 metres from the existing site entrance, which would not impede traffic flow for vehicles entering and exiting the site. The Highway Authority has no objection in principle to the arrangements shown. The agent has advised that the access would not be intended for use by refuse vehicles, so it is envisaged that a communal refuse and recycling store would be provided towards the front of the site and details of this would be secured by condition.
- 12.3 Details of cycle storage can be secured by condition if minded to grant planning permission.
- 12.4 The London Fire and Emergency Planning Authority has commented that access to plots 1 and 2 is considered satisfactory, however access to the remaining plots does not appear to comply with B5 of Approved Document B Volume 1 of the Building Regulations, as the access road is too narrow and the dead end is in excess of 20m with no turning head. The Fire Brigade requests the installation of a new private fire hydrant to offer fire cover for the new development. The Council's Building Control Department was consulted and advised that a domestic sprinkler system could be installed in the dwellings, which would be acceptable.
- 12.5 For application, P0809.14, the Inspector did not consider the proposal would prejudice highway safety.
- 12.6 In light of the above, the proposal is considered to satisfy the requirements of Policy DC2 and DC33 and would not result in any highway or parking issues.

## **13. Other Issues**

- 13.1 Policy DC58 states that biodiversity and geodiversity will be protected and enhanced throughout the borough by not granting planning permissions which would adversely affect priority species/habitats identified either in the



London or Havering Biodiversity Action Plans unless the economic or social benefits of the proposals clearly outweigh the nature conservation importance of the site and only then if adequate mitigation measures to secure the protection of the species/habitat can be provided and no alternative site is available

- 13.2 Ecological and tree surveys were submitted. It is concluded that bats are not considered to be currently roosting within any of the buildings on site. The Council's Regeneration Officer has no objection to the proposal and has recommended two conditions if minded to grant planning permission - one regarding an internal survey of the building for bats before any work takes place and one regarding the timing of demolition/vegetation clearance in respect of breeding birds.
- 13.3 The Council's Tree Officer has no objection to the proposal. There are a large number of trees on the site, many of which are the subject of tree preservation order 8/71. The most important trees are the 5 large trees at front of the site, (2 Horse Chestnuts, a beech an oak and a scots pine). These are protected by the above order and are shown as retained on the proposed scheme. Some trees are in poor condition and in need of remedial tree surgery. Even though trees to the rear of the site have no public amenity value, as many trees as possible (both TPO's and non-TPO'd) should be retained throughout the site to help screen any new development to benefit local amenity and wildlife. It is suggested that existing trees are enhanced by new plantings so as to benefit long term tree cover. This should be capable of being addressed at the reserved matters stage. If minded to grant planning permission, a condition will be placed regarding the protection of the preserved trees.
- 13.4 It is considered that the proposal would not adversely affect neighbouring properties in terms of flooding, as the site is not located in a Flood Risk Zone. The appeal decision for P0809.14 stated that the site is not in a flood risk zone and there is no evidence that the proposal would increase the risk of flooding in the area.

#### **14. Contamination**

- 14.1 For application P0809.14, the Council's Environmental Health Department advised that a condition was required in respect of contamination. The appeal decision for P0809.14 stated that as the site has previously been used as a care home and there is no evidence that the existing soil on the site has been contaminated or that substantial amounts of soil would be imported as part the development, a contamination condition is unnecessary and unreasonable. In any event, the Council's Environmental Health Department has advised that due to a change in their approach, there are no conditions in respect of contamination for this proposal.

## **15. Section 106**

- 15.1 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.
- 15.2 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.
- 15.3 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.
- 15.4 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.
- 15.5 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.
- 15.6 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.

- 15.7 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.
- 15.8 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 £6000 per new residential unit for educational purposes would be appropriate.
- 15.9 On the basis that five additional residential units are proposed, a financial contribution of £30,000 would be expected.

## **16. Conclusion**

- 16.1 Having had regard to the LDF Core Strategy and Development Control Policies Development Plan Document, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposal would not harm the form and character of the surrounding area, the residential amenity of the occupants of neighbouring properties or result in any highway issues subject to the monitoring of safeguarding conditions.

## **IMPLICATIONS AND RISKS**

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

None

### **Legal implications and risks:**

Legal resources would be required to prepare and complete the required Section 106 legal agreement. The s106 contribution is required to mitigate the harm of the development, ensure appropriate mitigation measures and comply with the Council's planning policies. Staff are satisfied that the contribution and obligations suggested are compliant with the statutory tests set out in the CIL Regulations relating to planning obligations.

### **Human Resources implications and risks:**

None

**Equalities implications and risks:**

The Council's planning policies are implemented with regard to equality and diversity.