

**REGULATORY SERVICES  
COMMITTEE  
11 January 2018**

**Subject Heading:**

**P1603.17**

Lexington Way Garage Block, Lexington Way, Upminster

Removal of condition 19 (access restriction) of planning permission P1419.15

**Ward:**

Cranham

**SLT Lead:**

Steve Moore  
Director of Neighbourhoods

**Report Author and contact details:**

Adèle Hughes  
Senior Planner  
adele.hughes@havering.gov.uk  
01708 432727

**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]  
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## SUMMARY

This is a variation of condition application under section 73(2) of the Town and Country Planning Act 1990, which seeks permission for the removal of condition 19 (access restriction) of planning permission P1419.15. This application is considered on the material planning considerations which are independent to the Council's interest as landowner of the site. The proposal is considered acceptable and as such it is recommended that planning permission is granted subject to conditions and a variation of the legal agreement being completed.

## RECOMMENDATIONS

That the proposal is unacceptable as it stands but would be acceptable subject to the applicant, by 11<sup>th</sup> May 2018, entering into a Deed of Variation under Section 106A of the Town and Country Planning Act 1990 (as amended) to vary the unilateral undertaking completed on 31 March 2016 in respect of planning permission P1419.15 by varying the definition of Planning Permission which shall mean planning permission P1419.15 as originally granted or P1603.17.

Save for the variation set out above and necessary consequential amendments the unilateral undertaking dated 31 March 2016 and all recitals, terms, covenants and obligations in the said unilateral undertaking dated 31 March 2016 will remain unchanged.

In the event that the Deed of Variation is not completed by such date then the application shall be refused.

The Developer/Owner shall furthermore pay the Council's reasonable legal costs in association with the preparation of the agreement, irrespective of whether the unilateral undertaking is completed.

That the Assistant Director of Development be authorised to arrange for the completion of a unilateral undertaking to secure the above and upon completion of that unilateral undertaking, grant planning permission subject to the conditions set out below:

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

1. *Accordance with plans* - The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans submitted as part of P1419.15 together with the current proposal P1603.17.

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.

2. *Car parking* - No dwelling unit shall be occupied until the car/vehicle parking areas shown on drawing 84463/110 Rev C for application P1419.15 for the 12 new dwellings hereby approved have been completed, and thereafter, the areas shall be kept free of obstruction and permanently made available for the parking of vehicles associated with the development and shall not be used for any other purpose.

Reason: To ensure that there are adequate parking facilities to serve the development in the interest of highway safety and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC33.

3. *Materials* - The development hereby permitted shall be constructed with external materials as previously approved under application Q0237.16, N0097.17 & Q0261.17.

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

4. *Landscaping* - The development hereby permitted shall be landscaped in accordance with the details as previously approved under Q0093.17. All planting, seeding or turfing within the scheme in accordance with drawing numbers: 16-378 G002, 1870 01 A and 1870 02 A 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: To enhance the visual amenities of the development and in order that the proposal complies with Policies DC60 and DC61 and the SPD on Landscaping.

5. *Refuse and recycling* - Prior to the first occupation of the dwellings hereby permitted, the proposed refuse and recycling stores shall be provided in accordance with the details as previously approved under application Q0017.17 and be permanently retained thereafter.

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

6. *Cycle storage* - Prior to the first occupation of the dwellings hereby permitted, cycle storage shall be provided in accordance with the details as previously approved under application Q0017.17 and be permanently retained thereafter.

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

7. *Boundary treatment* - Prior to the first occupation of the dwellings hereby permitted, boundary treatment shall be provided in accordance with the details as previously approved under application Q0017.17 and be permanently retained thereafter in accordance with the approved plans.

Reason: To 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.

8. *Secured by Design* - The development hereby permitted shall be implemented in accordance with principles and practices of the Secured by Design Scheme as previously approved under application Q0187.16.

Reason: In the interest of creating safer, sustainable communities, reflecting guidance set out in the National Planning Policy Framework, Policy 7.3 of the London Plan, and Policies CP17 Design and DC63 Delivering Safer Places of the LBH LDF.

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. *Wheel washing* - The development hereby permitted shall be implemented in accordance with the wheel washing details as previously approved under application Q0185.16. The approved facilities shall be permanently retained and used at relevant entrances to the site throughout the course of construction works.

Reason: In order to prevent materials from the site being deposited on the adjoining public highway, in the interests of highway safety and the amenity of the surrounding area.

11. *Construction method statement* - The development hereby permitted shall be implemented in accordance with the construction method statement as previously approved under application Q0185.16.

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

12. *Pedestrian Visibility Splay* - The proposals should provide a 2.1 by 2.1 metre pedestrian visibility splay on either side of each of the proposed access points or crossovers to the dwellings, set back to the boundary of the public footway as previously approved under application Q0093.17. 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.

13. *Renewable energy* - A renewable energy system for the development hereby permitted shall be installed in accordance with the details as previously approved under application Q0156.17.

Reason: In the interests of energy efficiency and sustainability in accordance with Policy DC50 of the LDF Development Control Policies Development Plan Document and Policy 5.2 of the London Plan.

14. *Removal of permitted development rights* - Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 Article 3, Schedule 2, Part 1 (or any order revoking and re-enacting that Order with or without modification), no development shall take place under Classes A, B, C or E, 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.

15. *Accessibility* - The ten new dwellings hereby approved to be constructed on the former garage block part of the site 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.

16. *External lighting* - All external lighting to the development hereby permitted shall be provided in accordance with the details as previously approved under Q0093.17 and retained thereafter to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and amenity. Also in order that the development accords with Policies DC32 and DC61 of the LDF Development Control Policies Development Plan Document.

17. *No additional flank windows* - Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no window or other opening (other than those shown on the submitted and approved plan) shall be formed in the flank wall(s) of the building(s) hereby permitted unless specific permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

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

18. *Obscure glazing* - The proposed window on the northern flank elevation of the first floor flat shown on drawing 84463/201 Rev A as previously approved under application P1419.15 shall be permanently glazed with obscure glass and with the exception of top hung fanlight(s) shall remain permanently fixed shut and thereafter be maintained.

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

19. *Car parking area* - The parking layout shown on drawing 16-378 G001 Rev G and the external finishes for the area shown on drawing 16-378-G002 shall be provided in accordance with the details as previously approved under Q0246.16 and retained thereafter to the satisfaction of the Local Planning Authority. The development hereby permitted shall be landscaped in accordance with the details as previously approved under Q0093.17. All planting, seeding or turfing within the scheme in accordance with drawing numbers: 16-378 G002, 1870 01 A and 1870 02 A 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: To enhance the visual amenities of the development and in order that the proposal complies with Policies DC60 and DC61 and the SPD on Landscaping. It will also ensure accordance with Section 197 of the Town and Country Planning Act 1990.

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

4. 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>

## REPORT DETAIL

### 1. Site Description

- 1.1 The application site comprises of 10 dwelling houses and 2 no. flats, which are located on a rectangular plot that lies behind the main residential frontage of Lexington Way and Roseberry Gardens. There is a surfaced road around the edge of this plot that provides access to private garages to the rear of the frontage dwellings.
- 1.2 The area is residential in character comprising mainly two-storey units, including maisonettes, but with some three storey flats to the south. There is a large informal grassed recreational area with a playground on the south side of Lexington Way.

### 2. Description of Proposal

- 2.1. Planning permission is sought for the removal of condition 19 (access restriction) of planning permission P1419.15, which states that: "Notwithstanding the details shown on drawing 84463/110 Rev C none of

the ten dwellings to be constructed on the former garage block part of the site shall be occupied until an access restriction to prevent motor vehicles, including motorcycles, from travelling east/west along the northern and southern perimeter roadways has been erected in accordance with details, including location, that have previously been submitted to and agreed in writing by the local planning authority.

Reason: Insufficient information has been supplied with the application to assess whether the proposed restriction is of the right form and location so as to prevent unauthorised access through the site, whilst at the same time maintaining access to existing garages. A restriction is required to protect the amenities of both existing and future residents in accordance with the Development Control Policies Development Plan Document Policy DC61”.

### **3. Relevant History**

- 3.1 N0097.17 - Minor amendment from P1419.15. Substitution of brick slips with tile hanging on the gable end of units 1 & 2 – To be determined.

N0074.17 - Non-material amendment to planning permission P1419.15, comprising: Substitution of external front porch canopy with individual canopies to each dwelling- Approved no conditions.

N0016.17 - Non-material amendment for changes to design of new dwellings comprising: removal of chimney stacks and raising some window sill heights – Approved no conditions.

P1419.15 - Demolition of existing garage court, to be replaced with 10 new dwellinghouses and 2no. flats with associated hard and soft landscaping and car parking – Approval with agreement.

### **4. Consultations/Representations**

- 4.1 The application has been advertised through site and newspaper notices and neighbour notification letters were sent to 97 properties. No letters of representation were received.

- 4.2 Highway Authority - No objection.

### **5. Relevant Policies**

- 5.1 Policies DC32 (The Road Network); DC33 (Car Parking); DC34 (Walking); DC35 (Cycling); DC36 (Servicing); DC61 (Urban Design) and DC62 (Access) of the Local Development Framework (LDF) Core Strategy and Development Control Policies Development Plan Document (DPD).

- 5.2 Policies 6.9 (cycling), 6.10 (walking) and 6.13 (parking), of the London Plan.

- 5.3 The provisions of the National Planning Policy Framework and the National Planning Policy Guidance are also material considerations.



## **6. Staff Comments**

- 6.1 The main access to the application site is from Lexington Way. Planning application P1419.15 involved widening this existing access closest to the highway, to provide a double vehicle width. At the north end of the site, the access remains a single vehicle width and this has been retained to allow access to the existing garages in the rear of properties in Roseberry Gardens. Condition 19 of P1419.15 sought to impose an access restriction to prevent motor vehicles, including motorcycles, from travelling east/west along the northern and southern roadways within the site. The reason for condition 19 was to prevent unauthorised access through the site, whilst at the same time maintaining access to existing garages.
- 6.2 The Council's Homes & Housing Department has provided the following information: The Council will not be able to manage or continually secure the traffic restriction along the roadway, as there will be no warden in attendance. It is unreasonable for this condition to be imposed as there would be cost implications to employ a warden to maintain and enforce this restriction. The restriction, how it could be managed going forward and the method of access were carefully reviewed. Consideration was given to the following access options: key, fob, coded access and a Warden. The distribution of any booking system or code would involve in excess of 50 new and existing residents in both Roseberry Gardens and Lexington Way. There are limitations in terms of the loss, replacement and unauthorised issuing and distribution of keys, fobs and codes in connection with an access restriction. There are various financial implications including the initial installation and future maintenance costs of an access restriction as well as budget and security controls and service charges. Other constraints are how the access restriction would be managed and enforced during and outside of normal working hours. Taking into account all of the above factors, the Homes and Housing Department do not consider it to be reasonable, practical, serviceable or financially viable to implement the access restriction and therefore, this application seeks the removal of condition 19 of planning permission P1419.15. It is Staff's view that condition 19 should be removed, as the number of vehicular movements for the 10 no. houses and 2 no. flats (approved under application P1419.15) and the existing garages of neighbouring properties in Roseberry Gardens are minimal and some level of vehicular movement along these access routes has existed historically.

## **7. Affordable Housing**

- 7.1 All of the twelve units would initially be affordable and could well remain so for a number of years. Two of the units (17%) would meet the terms of the policy and the remainder would be affordable for an unspecified period. Staff have been advised that a significant proportion of any capital receipt would be recycled into further affordable housing schemes. This would be in accordance with the wider Council objectives for affordable housing. The affordable housing provision would not change as part of this application. A

Deed of Variation is necessary to ensure that these obligations agreed through the original unilateral undertaking dated 31 March 2016 are linked to this planning application.

## **8. Infrastructure Impact of Development**

- 8.1 The proposal involved a net addition of 6 units and a charge of £72,000 was secured and this wouldn't change as part of this application. A Deed of Variation is necessary to ensure that these obligations agreed through the original unilateral undertaking dated 31 March 2016 are linked to this planning application.

## **9. Conclusion**

- 9.1 In conclusion, the removal of condition 19 (access restriction) of planning permission P1419.15 as outlined in this report is considered to be acceptable. It is therefore recommended that planning permission be granted, subject to the completion of a Deed of Variation.

# **IMPLICATIONS AND RISKS**

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

Financial contributions are required through a legal agreement.

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

This application is considered on the material planning considerations which are independent to the Council's interest as landowner of the site. Legal resources would be required to prepare and complete the required unilateral undertaking. The undertaking 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. The residential development is exclusively for affordable housing, thus contributing to the provision of mixed and balanced communities and the Borough's housing needs.

