



# REGULATORY SERVICES COMMITTEE

26 April 2018

# REPORT

**Subject Heading:**

**P1591.17**

119 Marlborough Road

Outline planning permission to erect two-storey block comprising of four self-contained units with associated parking, refuse storage, landscaping and amenity spaces

(Application received 22-09-2017)

**SLT Lead:**

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**Policy context:**

Local Development Framework  
The London Plan  
National Planning Policy Framework

**Financial summary:**

None

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

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

## SUMMARY

The proposals seek outline planning permission with some matters reserved for the construction of a two storey block comprising of four self-contained units with associated parking, refuse storage, landscaping and amenity spaces.

The application site has been the subject of several planning applications which have sought to redevelop the site for residential purposes. The development proposed was considered by members at the Regulatory Services Committee held on 21 December 2017, where Members resolved to grant permission subject to the completion of a Section 106 agreement to secure a contribution towards education infrastructure amounting to £24,000 (£6,000 per new unit).

The application is brought back to Committee in line with the Council's recent position on the contribution towards education infrastructure and members will note a reduction in financial contribution from £24,000 to £12,000 is proposed. Given the limited child yield arising from 1 bed units and in view of other comparable planning decisions made, it is considered unreasonable to seek this contribution, especially where 1 bed units are limited in size and genuinely for small households (single person or a couple). In this case, two of the four units proposed are one bed in size so the total contribution sought in this case towards education provision would now equate to £12,000. Members are asked to agree to this revised planning obligation. The proposals are the same as those presented to the Committee in December last year.

Having regard to the planning history associated with the site and the fall back position of the applicant, the proposals are continued to be considered by officers to be acceptable in planning terms and it is recommended that planning permission is granted subject to conditions and the applicant entering into a Section 106 Agreement for the reduced contribution.

## RECOMMENDATIONS

That it be noted that proposed development is liable for the Mayors Community Infrastructure Levy (CIL) in accordance with London Plan Policy 8.3. The applicable fee is based on 874 square metres of new gross internal floor space. The proposal would therefore give rise to the requirement of £5440 Mayoral CIL payment (subject to indexation).

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:

- A financial contribution of £12,000 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, if by 24 August 2018, the legal agreement has not been completed; the Planning Manager has delegated authority to refuse planning permission.

That the Planning Manager be authorised to enter into a legal agreement to secure the above and upon completion of that agreement, grant planning permission subject to the conditions set out below:

### **1. Time Limit**

The development to which this permission relates must be commenced not later than three years from the date of this permission.

**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

### **2. Reserved Matters**

Details of the landscaping, (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. Reserved Matters**

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. Materials**

Before any development above ground level takes place, samples of all materials to be used in the external construction of the building(s) 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.

### **4. 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.

### **5. Site Levels**

No development shall take place until details of existing and proposed site, road and building levels related to Ordnance Datum, or an identifiable temporary datum, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

**Reason:** To ensure that the development accords with the approved plans and with Development Control Policies Development Plan Document Policy DC61.

### **6. Landscaping**

No development above ground level shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping, which shall include indications of all existing trees and shrubs on the site, and details of any to be retained, together with measures for the protection in the course of development. All planting, seeding or turfing comprised within the scheme shall be carried out in the first planting season following completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local Planning Authority.

**Reason:** Insufficient information has been supplied with the application to judge the appropriateness of the hard and soft landscaping proposed. Submission of a scheme prior to commencement will ensure that the development accords with the Development Control Policies Development Plan Document Policy DC61. It will also ensure accordance with Section 197 of the Town and Country Planning Act 1990

## **7. 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 and retained permanently thereafter to the satisfaction of the Local Planning Authority.

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

## **8. Parking Provision**

No dwelling in the development hereby approved shall be first occupied until the area set aside for car parking has been laid out and surfaced to the satisfaction of the Local Planning Authority and 6 vehicle parking spaces and storage for 4 bicycles have been made available for residents of the dwellings. The vehicle parking and cycle storage spaces shall be retained permanently thereafter for the parking of vehicles/cycles 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. Refuse and Recycling**

Prior to the first occupation of the development hereby permitted, refuse and recycling facilities shall be provided in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority. The refuse and recycling facilities shall be permanently retained thereafter.

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

## 10. Construction Methodology

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

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

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

**Reason:** Insufficient information has been supplied with the application in relation to the proposed construction methodology. Submission of details prior to commencement will ensure that the method of construction protects residential amenity. It will also ensure that the development accords the Development Control Policies Development Plan Document Policy DC61.

## 11. Hours of Construction

No construction works or deliveries into the site shall take place other than between the hours of 08:00 to 18:00 on Monday to Friday and 08:00 to 13:00 hours on Saturdays unless agreed in writing with the Local Planning Authority. No construction works or deliveries shall take place on Sundays, Bank or Public Holidays unless otherwise agreed in writing by the local planning authority.

**Reason:** To minimise the impact of the development on the surrounding area in the interests of amenity.

## 12. Vehicle Cleansing

Before the development hereby permitted is first commenced, vehicle cleansing facilities to prevent mud being deposited onto the public highway during construction works shall be provided on site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The

approved facilities shall be retained thereafter 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.

### **13. Contaminated Land 1**

Prior to the commencement of any works pursuant to this permission the developer shall submit for the written approval of the Local Planning Authority;

- a) A Phase I (Desktop Study) Report documenting the history of the site, its surrounding area and the likelihood of contaminant/s, their type and extent incorporating a Site Conceptual Model.
- b) A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the sites ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.

c) A Phase III (Remediation Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to all receptors must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and procedure for dealing with previously unidentified any contamination. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

d) Following completion of measures identified in the approved remediation scheme mentioned in 1(c) above, a "Verification Report" that demonstrates the effectiveness of the remediation carried out, any requirement for longer-term monitoring of contaminant linkages, maintenance and arrangements for contingency action, must be produced, and is subject to the approval in writing of the Local Planning Authority.

**Reason:** Insufficient information has been supplied with the application to judge the risk arising from contamination. Submission of an assessment prior to commencement will ensure the safety of the occupants of the development hereby permitted and the public generally. It will also ensure that the development accords with Development Control Policies Development Plan Document Policies DC54 and DC61

#### **14. Contaminated Land 2**

a) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the local planning authority. The remediation strategy shall be implemented as approved.

b) Following completion of the remediation works as mentioned in (a) above, a 'Verification Report' must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.

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

#### **15. 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.



## **16. 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.

## **17. Noise**

Before any development is commenced, a scheme for protecting the proposed dwellings from noise from the industrial units to the rear of 119 Marlborough Road shall be submitted to and approved by the Local Planning Authority. Any works which form part of the scheme shall be completed before any of the permitted dwellings are occupied.

**Reason:** Insufficient information has been supplied with the application to judge the adequacy of insulation of the proposed dwellings from industrial noise. Submission of this detail prior to commencement of the development will protect the amenity of future residents.

## **18. Obscure Glazing**

The proposed ground, first and second floor windows serving bathrooms, en-suite rooms and WCs shall be permanently glazed with obscure glass.

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

## **19. Flank Windows**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, no window or other opening (other than those shown on the submitted and approved plans) shall be inserted in the elevation facing No. 123 Marlborough Road.

**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.

## **20. Balconies**

The flat roof areas with the exception of the first floor balcony for flat 4 shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the Local Planning Authority.

**Reason:** In the interests of the amenity of the occupiers of neighbouring dwelling, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

## **INFORMATIVES**

### **1. 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.

### **2. Approval No negotiation required**

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. Mayoral CIL**

The proposal is liable for the Mayor of London Community Infrastructure Levy (CIL). Based upon the information supplied with the application, the CIL payable would be £5440 (subject to indexation). CIL is payable within 60 days of commencement of development. A Liability Notice will be sent to the applicant (or anyone else who has assumed liability) shortly and you are required to notify the Council of the commencement of the development before works begin. Further details with regard to CIL are available from the Council's website.

### **4. 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 01708434343 to make the necessary arrangements.

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

### **5. Surface Water Drainage**

With regards to surface water drainage it is the responsibility of the developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water.

Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777.

## **6. 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>

## **7. Discharge of Conditions**

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 £116 per request or £34 where the related permission was for extending or altering a dwellinghouse is needed.

# REPORT DETAIL

## **1. Site Description**

- 1.1 The application site is located to the south of Marlborough Road and formerly contained a 2 storey A2 office building, which has now been demolished and the site cleared. To the rear, the site adjoins Calgary Court (a 3 storey block of 14 flats) completed in early 2007, and to the west a 2 storey terraced house. To the east is the access road to Calgary Court and beyond that 2 storey dwellings.
- 1.2 The site has a separate vehicular access road to the west which also provides access to a garage to the rear of No.123 Marlborough Road. There is a double yellow line to this side of Marlborough Road at this point (covering the Calgary Court entrance and also the driveway to the west) which prevents parking at any time.
- 1.3 The surrounding area is characterised by predominantly two-storey semi-detached and terraced properties, with some 2-3 storey blocks of flats. There is no uniform design of buildings in this street.

## **2. Description of Proposal**

- 2.1 The proposal is to erect a 2 storey block of 4 flats along with 6 parking spaces, cycle and refuse storage areas, landscaping and amenity spaces and to alter the vehicular access onto Marlborough Road. The application is for outline permission but with landscaping the only reserved matter.
- 2.2 The scheme involves provision of two, two bedroom flats and two 1 bedroom flats. The larger of the two bedroom units partly occupies the roof space. A total of four parking spaces are provided to the rear of the block.

## **3. History**

- 3.1 This application is the latest in a series of broadly similar proposals on this site dating back to 2006. Most applications were either withdrawn or refused. However an appeal found in favour of the development proposals, for a four bedroom scheme similar in design to the current proposals in 2014.
- 3.2 The allowed scheme proved difficult to implement, as it would have required amendments to the ground leases of the owners of the apartments in Calgary Court as there would have been changes to the location of existing parking spaces serving those units. The applicant concludes that whilst this was capable of implementation, that the lease modifications would have been a time consuming and costly process.
- 3.3 Therefore, an application was made in 2016 to modify conditions 2 and 11 of the scheme allowed on appeal, to reduce the number of parking spaces from six in total, to four. This would mean that the development could have been undertaken without the aforementioned alterations to the leases of those owners of premises within Calgary Court. The Local Planning Authority on the advice of the Highway Authority and with a conflict identified with Policy DC33 of the LDF Core Strategy resolved to refuse permission to vary conditions 2 and 11 of application P0259.14 (P1336.16).
- 3.4 An appeal was made against this decision and was subsequently allowed. The appeal decision effectively allowed a reduction in parking for the scheme to four spaces in total). In reaching this view, the appeal inspector placed weight on the applicant utilising a right of way alongside the western boundary to access one vehicle space, with the remaining three accessible by the site's eastern side. This application effectively resulted in a new permission being issued, with the stipulation that works were to commence by 31<sup>st</sup> December 2017.
- 3.5 It is worth noting that in the interim, whilst the appeal for the variation of conditions 2 and 11 of P0259.14 was being considered, the applicant sought consent for a smaller scale development which members considered at Regulatory Services Committee and resolved to grant planning permission. This scheme retained a total of six parking spaces, however altered the position and scale of the building and accordingly the internal arrangement

of each unit. Whilst this application was successful, the applicant chose to withdraw the application prior to a formal decision being issued due to application P0259.14 being allowed on appeal.

3.6 The planning history of the site is set out chronologically below:

P0091.18 - Erect Two-Storey Block of Four Flats (with Roof Accommodation), Lay Out Parking, Refuse Storage, Landscaping and Amenity Spaces (Amended Proposal) - Refused

P0086.17: Erect Two-Storey Block of Four Flats (with Roof Accommodation), Lay Out Parking, Refuse Storage, Landscaping and Amenity Spaces and Alter Vehicular Access onto Marlborough Road - withdrawn

P1336.16: Variation of conditions 2 and 11 of permission P0259.14 to allow 1 parking space for each flat - refused 11 October 2016 but allowed on appeal June 2017

P0967.16: Demolition of existing building and construction of new building to provide 2No.x 1 bedroom and 2 No. x 2 bedroom units - invalid application

P0574.16: Demolition of existing building and construction of new building to provide 2No. x 1 bedroom and 2 No .x 2 bedroom units - withdrawn;

P0259.14: Change of Use from A2 to residential, demolition of disused commercial premises and erection of 2 No 1 bedroom flats and 2 No 2 bedroom flats with associated amenity space, car parking, access, landscaping and refuse storage - refused 1 May 2014 but allowed on appeal December 2014;

P0969.10: Change of use from A2 to residential, and the demolition of the existing disused commercial premises and erection of 2 no. 1 bed flats and 2 no. 2 bed flats with associated amenity space, car parking, access, landscaping and refuse storage - refused 23 August 2013;

P0291.07: To demolish existing building and erect a 2 storey 4x1 bed flats for residential use - withdrawn;

P0264.06: To demolish existing house and erect a two storey 4 x 1 bed flats for residential use - refused 21 December 2006;

P1603.05: The demolition of the existing warehouse and erect a block of flats containing 14 No. 2 beds with parking and amenity for residential use - approved 29 November 2005;

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

- 4.1 Neighbour notification letters were sent to 65 neighbouring occupiers. One letter of representation was received which expressed a concern over access to the site and increased competition for spaces/highway safety. The highways impacts of the development will be fully assessed within the body of this report.
- 4.2 Highway Authority - No objections, subject to conditions relating to vehicle cleansing.
- 4.3 Environmental Health - No objections, subject to conditions relating to land contamination.
- 4.4 Fire Brigade (Access) - No Objection
- 4.5 Fire Brigade (Hydrants) - No Objection

#### **5. Relevant Policy**

- 5.1 Policies CP01 (Housing Supply), CP17 (Design), DC03 (Housing Design and Layout), DC32 (The Road Network), DC29 (Educational Premises), DC33 (Car Parking) DC34 (Walking), DC35 (Cycling), DC61 (Urban Design) and DC63 (Delivering Safer Places), DC72 (Planning Obligations) of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document are considered to be relevant.
- 5.2 In addition the Residential Extensions and Alterations SPD ,the Residential Design SPD and the Planning Obligations SPD (Technical Appendices) are considered to be relevant.
- 5.3 Policies 5.3 (sustainable design and construction), 6.9 (cycling), 6.10 (walking), 7.3 (designing out crime) 7.4 (local character), 7.6 (Architecture), 8.2 (Planning Obligations) and 8.3 (Mayoral CIL) of the London Plan, are material considerations.
- 5.4 The National Planning Policy Framework, specifically Section 7 (Requiring good design).

#### **6. Mayoral CIL implications**

- 6.1 The proposed development will result in the formation of 272m<sup>2</sup> of new floor space.
- 6.2 The proposal is therefore liable for Mayoral CIL which translates to a total charge of £5440 based on the calculation of £20.00 per square metre (subject to indexation).

## **7. Staff Comments**

- 7.1 The issues to be considered are the principle of the development, its impact in the street scene and on the amenities of occupiers of adjoining/nearby properties and highway/parking/servicing issues.

## **8. Principle of Development**

- 8.1 The NPPF and Policy CP1 support the increase in the supply of housing in existing urban areas where development is sustainable. The proposal is therefore acceptable in land use terms.

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

- 9.1 Policy DC2 of the LDF provides guidance in relation to the dwelling mix within residential developments. Policy DC61 states that planning permission will not be granted for proposals that would significantly diminish local and residential amenity.
- 9.2 Policy 3.5 of the London Plan advises that housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment. To this end the policy requires that new residential development conform to minimum internal space standards. There are set requirements for gross internal floor areas of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and minimum floor to ceiling heights.
- 9.3 Given the internal arrangement shown on the layout plans provided, staff have applied the standards required for two bedroom, four person and one bedroom, two person flatted accommodation. Staff conclude that based on the bedroom size and mix that each of the units would exceed the gross internal floor area set out. In addition to a satisfactory gross internal floor area, the proposed flatted units would benefit from sufficient headroom and bedroom size/mix. It is the opinion of staff that the proposed units would comply with all other standards that must be applied. It can therefore be concluded that an internal arrangement capable of providing a standard of living acceptable for future occupiers and which would meet the aims and expectations of the London Plan is demonstrated.
- 9.4 The Residential Design SPD states that private amenity space should be provided in single, usable, enclosed blocks which benefit from both natural sunlight and shading. In considering the earlier application, P0259.14, case officers determined that the living space and amenity areas provided were adequate. Similarly in considering the appeal, the inspector also reached this conclusion.
- 9.5 The external areas shown would comply with the guidance set out by the Residential Design SPD. It is therefore reasonable to conclude that an adequate and functional space would be provided for each unit.

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

- 10.1 Whilst the site has been the subject of several previous applications, the current proposals in terms of the arrangement of built form are directly comparable to application P0259.14. Whilst the policy basis for that particular decision has not changed in the time period that has elapsed, it is worth noting that a subsequent appeal decision issued July 31<sup>st</sup> 2017 to alter the parking standards considered the impacts of the development in design terms also and referenced the comments of the original appeal inspector.
- 10.2 In allowing the appeal, the Inspector concluded that whilst “the proposed building would be wider at the front than the existing building, filling the site frontage facing Marlborough Road” that “compared to the blocks of housing either side, it would not appear excessively wide or out of keeping with the street-scene”.
- 10.3 Where staff had expressed concern over the position of balconies to the site frontage appearing out of scale and character with the surrounding local character, the appeal inspector took an opposing view and stated that the “recessed balconies would be a new design feature in the street, but in the context of an area with some design variations” would not appear overly prominent or out of place.
- 10.4 Whilst the comments of the appeal inspector in relation to P0259.14 are the basis for the position of staff in respect of the current development, it must also be recognised that the appeal inspector in considering the revised parking layout/standard under application P1336.16) effectively issued a new planning permission. In allowing this appeal the inspector made the following comments:

“The PPG advises that to assist with clarity, decision notices for the grant of planning permission under section 73 of the Act should also repeat the relevant conditions from the original permission, unless they have already been discharged. I have not been presented with any information regarding whether any of the conditions have been discharged. Therefore, for the avoidance of doubt I have imposed all the conditions from the original permission (apart from the replaced conditions 2 and 11) and, if any have already been satisfactorily discharged, this is matter which can be addressed by the parties.

The configuration, design and appearance of the development is shown on the drawings submitted with this application as being almost identical to that on the drawings specified in the original planning permission, with the exception of the position of a roof light. This difference does not have a material effect on the acceptability of the scheme and has not been raised by any parties nor has it been suggested that the drawings are not acceptable in any respect other than the Council’s objections. I have therefore specified the drawings submitted with this proposal in Condition 2 as this gives certainty. For the reason set out in the Procedural Matters section above I have also included the original location plan.”



10.5 Accordingly due to the identical nature of the built form sought and with no alterations in the policy basis for that conclusion, there would not appear sufficient grounds to substantiate a refusal on the visual impacts/design of the proposals.

## **11. Impact on Amenity**

11.1 The Residential Design SPD states that new development should be sited and designed such that there is no detriment to existing residential amenity through overlooking and/or privacy loss and dominance or overshadowing. Policy DC61 reinforces these requirements by stating that planning permission will not be granted where the proposal results in unacceptable overshadowing, loss of sunlight/ daylight, overlooking or loss of privacy to existing properties.

11.2 In allowing the appeals, the inspector did not consider the impacts of the development to be substantial enough to form grounds for refusal. Subsequently this position was upheld in the most recent appeal decision, which whilst focused on the alterations to the off-street parking, referenced those earlier comments and accepted the visual impacts of the proposals.

11.3 Having had regard to the identical nature of the current proposals, and as the previous appeal decisions are material considerations, it is not considered that the proposals would unduly harm the amenity of existing/future neighbouring occupiers and that this does not constitute material grounds for refusal.

## **12. Highway/Parking**

12.1 Policy DC33 seeks to ensure all new developments make adequate provision for car parking.

12.2 The public transport accessibility level rating for the site is 1B which equates to a poor access to public transport. s. The LDF would require 1.5-2 spaces per dwelling, a stance that was adopted in the past and maintained over subsequent applications.

12.3 It is recognised that there is a disparity between Local Authority Guidance and the London Plan, which would for the same development, suggest that less than one space per dwelling would be acceptable. As such, the proposed development is judged to be in accordance with the London Plan.

12.4 Although application P1336.16 was refused on the basis that four parking spaces for the development would not be sufficient, the appeal inspector found the parking provision and arrangements to be acceptable.

12.6 Given the timing of that decision, it is considered that the views of the appeal inspector are of relevance as the most recent permission is still extant and capable of implementation. It was not considered that the

reduction in parking spaces would have modified the development in such a way so as to make it substantially different from that which was granted planning permission, under application P0259.14. In reaching this view the appeal inspector considered the consequential effects of varying the approved plans and the impacts of providing fewer car parking spaces. It was not adjudged to be significant enough to materially alter the development. It was noted that the situation, footprint, design and appearance of the development would remain unchanged.

- 12.7 The inspector considered that “given the size of the development and the configuration of the flats within it, it is possible that occupiers may have access to more than one car and their visitors may well arrive in cars”.
- 12.8 However, the view was taken that “given that the proposal would provide only two fewer than the approved provision of six spaces, any additional parking” was likely to be “limited in quantity”. In addition it was not felt that any substantive evidence had been provided to suggest that additional on-street parking that could arise would necessarily lead to specific harmful effects on highway safety, including in the vicinity of the access to Calgary Court. The Inspector also noted that both London Plan and LDF policies are maximum standards rather than a requirement for a minimum level of parking.
- 12.9 The appeal decision is a material consideration and the development allowed on appeal is extant and capable of being implemented. Therefore, given there has been no material change in site circumstances or planning policies since the recent appeal decision, it is considered there are no material grounds to object to the proposal on parking or highway related matters. It should also be noted that the Highway Authority have raised no objection to the proposals.

### **13. Section 106**

- 13.1 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.
- 13.2 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.

- 13.3 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.
- 13.4 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.
- 13.5 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.
- 13.6 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.
- 13.7 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.
- 13.8 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.
- 13.9 Given the limited child yield arising from 1 bed units, it is considered unreasonable to seek this contribution where these are proposed, especially where the 1 bed units are limited in size and genuinely for small households (single person or a couple). In this case, two of the units are 1 bed in size

so the total contribution sought in this case towards education provision is £12,000.

## **14. Conclusion**

14.1 The application site benefits from two appeal decisions, the most recent of which granted consent effectively for the development sought under this new application. The applicant seeks a consolidated outline permission with a view to a future reserved matters submission.

14.2 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 and planning history associated with the site, it is recommended that outline permission be granted, subject to prior completion of a S106 legal agreement and planning 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.