



Application Reference:	P0187.17
Location:	Land to the side of 30c South Hall Drive
Ward:	Rainham & Wennington
Description:	Construction of a 2 storey (with third floor in loft) building with ground floor entrance and car parking and first floor accommodation of 3 x 1 bed and 1 x 2 bed apartments, with associated car parking and amenity
Case Officer:	Gary Rice, Interim Planning Manager
Reason for Report to Committee:	The Assistant Director of Planning considers committee consideration to be necessary due to a material change in circumstances

1 BACKGROUND

- 1.1 This application was presented to the Regulatory Services Committee on 27 April 2017 following a call-in request made by Councillor Jeffrey Tucker. The committee overturned the officer recommendation to refuse permission and resolved to grant planning permission subject to conditions and the completion of a Section 106 agreement for an education contribution to be completed within 6 months of the date of the resolution (or on or about 27 October 2017).
- 1.2 During the time that has now passed, it is considered that there have been material changes in circumstances in regard the development plan including the emerging New London Plan and local plan; as well as other material considerations including the emerging Havering CIL, recent changes to the Mayoral CIL charging schedule (MCIL2), new legislation regarding pre-commencement conditions, and changes to central government guidance (NPPF, February 2019).

1.3 As such and in light of these changes in circumstances, the Assistant Director of Planning considers that Planning Committee consideration is necessary. It is open to the committee as decision takers to look at the proposed development afresh, whilst having due regard to the previous recommendation and resolution, to weigh up the changes in circumstances, accordance with the development plan, and other material considerations as set out below in reaching a decision.

- Regulatory Services Committee Report dated 27 April 2017 (recommending refusal), Committee Resolution to grant full planning permission (overturn of officer recommendation) and Committee Meeting minutes;
- Changes to the NPPF (February 2019) in regard to decision taking;
- Changes to legislation (1 October 2018) in regard to pre-commencement conditions;
- Changes to the Mayoral CIL charging schedule as of 1 April 2019;
- The advanced stage of the New London Plan and Local Plan policies; and
- The emerging Havering CIL and charging schedule.

1.4 This report setting out material changes in circumstances summarised above and the current policy context is now brought before Members for consideration. A copy of the previous committee report is appended to this report along with the minutes of 27 April 2017, as other material considerations.

2 SUMMARY OF KEY REASONS FOR RECOMMENDATION

2.1 The application was previously considered by the members of the Regulatory Services Committee, who overturned the officer recommendation and resolved to grant full planning permission (10-1-0) subject to conditions and the applicant entering into a section 106 legal agreement securing an education contribution amounting to £24,000 within 6 months. The applicant is now prepared to enter into a legal agreement and satisfy the obligation; however, due to the passage of time changes to circumstances that are considered material to the proposed development have arisen. Officers have considered the weight of these changes in circumstances relative to the earlier committee decision and have attributed significant weight to the resolution to grant full planning permission. Therefore, and very much on balance, the following recommendation is made.

3 RECOMMENDATION

3.1 That the Committee resolve to GRANT planning permission subject to:

- The prior completion of a legal agreement to secure the following planning obligations:
 1. An Education contribution of £24,000 (4 dwellings x £6,000) subject to indexation.
 2. Any other planning obligation(s) considered necessary by the Assistant Director of Planning.

3.2 That the Assistant Director of Planning is delegated authority to negotiate the legal agreement indicated above.

3.3 That the Assistant Director of Planning is delegated authority to issue the planning permission and impose conditions to secure the following matters:

Conditions

1. Time limit -The development to which this permission relates must be commenced not later than three years from the date of this permission.
2. Accordance with plans: The development must not deviate in layout, scale or appearance from the approved plans.
3. Surface Water Drainage (Pre-Commencement): No works shall take place in relation to any of the development hereby approved until details of surface water drainage works are submitted to and approved in writing by the Local Planning Authority. Surface water drainage shall be provided in accordance with the approved details.
4. Contaminated land (Per-Commencement): No works shall take place in relation to any of the development hereby approved (except works required to secure compliance with this condition) until the following Contaminated Land reports (as applicable) are submitted to and approved in writing by the Local Planning Authority:
 - a) A Phase I (Desktop Study) Report documenting the history of this 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 site 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 (Risk Management Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. The report will comprise two parts:

Part A - Remediation Scheme which will be fully implemented before it is first occupied. Any variation to the scheme shall be agreed in writing to the Local Planning Authority in advance of works being undertaken. The Remediation Scheme is to include consideration and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority for written approval.

Part B - Following completion of the remediation works a 'Validation Report' must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.

a) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals, then revised contamination proposals shall be submitted to the LPA; and

b) If during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

5. Garages - restriction of use: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 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.
6. Materials as per application form: The proposed development hereby approved shall be constructed in accordance with the materials detailed under Section INSERT NUMBER of the application form unless otherwise agreed in writing by the Local Planning Authority.
7. Refuse and recycling: No building shall be occupied or use commenced until refuse and recycling facilities are provided in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority. The refuse and recycling facilities shall be permanently retained thereafter.
8. Cycle storage: None of the dwellings hereby permitted shall be occupied or use commenced until cycle storage is provided in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be permanently retained thereafter.

Informatives

1. Approval and Mayoral CIL: The proposal is liable for the Mayor of London Community Infrastructure Levy (MCIL2). Based upon the information supplied with the application, the CIL payable would be £6,750 (this figure may go up or down, 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.
2. Planning obligations: The planning obligations recommended in this report have been subject to the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the obligations are considered to have satisfied the following criteria:-
 - (a) Necessary to make the development acceptable in planning terms;
 - (b) Directly related to the development; and
 - (c) Fairly and reasonably related in scale and kind to the development.
3. Flood Resilience: For any development where a flood risk is identified, the Council as the Lead Local Flood Authority want to see developers consider and implement flood resilience/resistance measures into the buildings themselves. This is not to stop development but to ensure the protection for future residents is maintained and enhanced.

The following measures are strongly recommended, although this list is not exhaustive:-

- Raising the level of the building by at least 300mm above local levels;
 - Waterproof membrane in the ground floor;
 - Waterproof plaster and waterproofing to ground floor;
 - Electrics from the upstairs down and sockets high up off the ground floor;
 - Non return valves on the sewerage pipes;
 - Emergency escape plan for each individual property;
 - Air brick covers; and
 - Movable flood barriers for entrances
4. Havering CIL: Should the applicant fail to enter into a legal agreement securing the education contribution prior to the Havering CIL charging schedule coming into effective (tentatively 1 September 2019), the development hereby approved would become liable for the Havering Community Infrastructure Levy (HCIL). Based upon the information supplied with the application, the CIL payable would be £13,500 (this figure may go up or down, 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.

- 3.4 That, if by 19 September 2019 the legal agreement has not been completed, the Assistant Director of Planning is delegated authority to refuse planning permission.

4 PROPOSAL AND LOCATION DETAILS

Proposal

- 4.1 The proposal is for the construction of a two storey building with ground floor entrance and undercroft car parking. There would be three No. 1-bedroom apartments on the first floor and a fourth, 2-bedroom unit (plus study) in the roofspace. A two storey side extension is proposed to the north-western side of the development to allow staircase access to the unit in the loft.

NB - Please refer to the 27th April 2017 committee report for additional details.

Site and Surroundings

- 4.2 The application site comprises a long, tapering piece of land which is currently occupied by 2 no. garages and various outbuilding structures. The plot depth varies from the southeast to the northwest and measures 20.7m at its widest and 12.35m at its narrow end. It measures 34m long. The site is situated to the side of No. 30c South Hall Drive, which is an end-of-terrace property and to the rear of the properties at No's. 28 - 24 South Hall Drive. The surrounding area is residential in character.
- 4.3 The railway line runs along the other side of the plot. The site is located in Flood Zones 2 and 3. The site is also located within the middle zone of the Horndon to Barking gas pipeline and in the outer zone of the Romford/Baker Street gas pipeline, which is situated to the west of the application site. Access to the plot is via an unmade access road to the rear of No's. 24-28 South Hall Drive.

Planning History

- 4.4 Please refer to the committee report dated 27 April 2017 (Appendix A) for information regarding the planning history. As noted above, the application was considered by the Regulatory Services Committee following a call-in by Councillor Jeffrey Tucker for the following reason:

- considers the application to be of good quality with adequate parking
- an attractive modern building with a neat and tidy open green space
- needed for the many young members of the community to get onto the housing ladder

As set out in the minutes of the minutes (appendix B) , members of the committee resolved to grant full planning permission subject to conditions and the applicant entering into a legal agreement within 6 months, which has not been progressed but the applicant is now in a position to proceed and agree to the planning obligations.

5 CONSULTATION / REPRESENTATIONS

5.1 Neighbour notification letters were sent to 19 properties and 4 letters of objection were received. The comments can be summarised as follows:

- Overdevelopment
- Not enough on-site parking provided
- Noise and disturbance as a result of increased traffic movement

5.2 These matters have been set out in the previous committee report.

6 MATERIAL PLANNING CONSIDERATIONS

6.1 The main planning issues raised by the application that the committee must consider are:

- The weight to attribute to the member resolution dated 27 April 2017 to grant permission subject to conditions and S106 agreement (within 6 months)
- Given the changes in circumstances, does the proposed development largely accord with the development plan

Members' previous resolution to grant permission

6.2 The application was considered Regulatory Services Committee on 27 April 2017 following a call-in request made by Councillor Jeffrey Tucker. The committee report recommended refusal for the following three reasons:

1. Reason for refusal - Streetscene

The proposed two storey side extension would, by reason of its incongruous relationship to the main building, appear out of character and harmful to the appearance of the surrounding area contrary to Policy DC61 of the LDF Core Strategy and Development Control Policies DPD.

2. Reason for refusal - Amenity Space

The layout, size and position of the amenity space for the new development would be unacceptably cramped and of poor quality, materially harmful to the amenity of future occupiers and contrary to Policy DC61 of the LDF Development Control Policies DPD and the Residential Design SPD.

3. Reason for Refusal - Planning Obligation

In the absence of a legal agreement to secure contributions towards the demand for school places arising from the development, the proposal fails to satisfactorily mitigate the infrastructure impact of the development, contrary to the provisions of Policies DC29 and DC72 of the Development Control Policies DPD and Policy 8.2 of the London Plan.

6.3 The members overturned the officer recommendation and resolved to grant full planning permission (vote recorded: 10 for/1 against /0 abstaining) on the basis that the proposal would provide much needed housing of good quality with adequate parking provision; and that on balance these benefits outweighed the limited harm that was identified in the report. Officers have attributed significant weight to this weighing up of matters by the decision takers; however, it is open to members to consider the proposed development afresh and in light of the changes in circumstances set out below.

Changes in circumstances

6.4 Since 27 April 2017 there have been the following changes in circumstances that are considered relevant to the determination of this application:

- New London Plan, May 2019
- Emerging Havering Local Plan (submission version with modifications, March 2019)
- Havering CIL
- Mayoral CIL (MCIL2) Schedule, 1 April 2019
- NPPF 2019
- Legislation in regard to Pre-Commencement Conditions

Draft New London Plan

6.5 The Examination in Public on the Draft New London Plan concluded on 24 May and the Mayor is now preparing a consolidated version for publication.

Havering Local Plan

6.6 The new Havering Local Plan is currently undergoing its examination in public and a modifications version was published in March 2019. Although the new local plan is increasing in weight, it is not yet at a stage where it would be a material consideration in determining planning applications. However, it is useful in setting out the direction of travel in regard to local plan policy.

Havering CIL & Mayoral CIL (MCIL2)

6.7 Following its submission for Examination in early 2019 and the subsequent public consultation on modifications recommended by the Examiner, the Council has now received the report from the Examiner who has the Havering Community Infrastructure Levy subject to his recommended modifications. The Council is

planning to adopt the Havering Community Infrastructure Levy in July 2019 and, subject to necessary Member approval, it will become effective on **1 September 2019** (subject to change).

6.8 The preliminary draft charging schedule sets the levy for open market housing south of the A1306 at £50 per square metre of chargeable area. Based on the CIL information that accompanies the application, the potential liability would be £13,500, subject to indexation, should the Havering CIL come into force. Once in force, the requirement to secure an education contribution of £24,000 for the proposed development via a section 106 agreement falls away.

6.9 The new Mayoral CIL charging schedule (MCIL2) came into effect on 1 April 2019, which increased the rate for new residential development in Havering from £20 to £25 per square metre of chargeable area. Accordingly, the MCIL liability for the proposed development has increased from £5,400 to £6,750 subject to indexation.

NPPF 2019

6.10 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these should be applied. It advises that the NPPF is a material consideration in planning decisions. The following sections of the NPPF are considered particularly relevant in regard to the proposed development:

- 2. Achieving sustainable development
- 4. Decision-making
- 12. Achieving well-designed places

Achieving sustainable development

6.11 The NPPF set out that there are three overarching objectives (interdependent) that should be pursued in mutually supportive ways: 1) an economic objective, 2) a social objective, and 3) an environmental objective. However, the guidance goes on to say that these objectives '*are not criteria against which every decision can or should be judged*' but that decisions '*should take local circumstances into account, to reflect the character, needs and opportunities of each area.*' At the heart of this guidance is the presumption in favour of sustainable development, which advises that for decision-taking this means '*approving development proposals that accord with an up-to-date development plan without delay.*'

Decision-making

6.12 The NPPF advises that '*local planning authorities should approach decisions on proposed development in a positive and creative way*' and '*decision-makers at every level should seek to approve applications for sustainable development where possible.*'

Achieving well-designed places

6.13 The NPPF advises in paragraph 124 that ‘good design is a key aspect of sustainable development’ and in paragraph 127 that ‘decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.’*

Pre-commencement Conditions (Changes to Legislation)

6.14 As of 1 October 2018, local planning authorities must first provide written notice to the applicant as to the terms and reasons for any pre-commencement conditions that it intends to impose allowing at least 10 working days for the applicant to agree or make written comments. The Council duly notified the applicant’s agent on 30 May 2019 of its intention to impose two pre-commencement conditions (Surface Water Drainage and Contaminated land) and received written acceptance of these conditions as set out in the above RECOMMENDATION.

Financial and Other Mitigation

6.15 The proposal would attract the following section 106 contributions to mitigate the impact of the development:

- £24,000 towards education (£6000 x 4 dwellings) subject to indexation and **prior** to Havering CIL coming into force.

6.16 The proposal would attract the following Community Infrastructure Levy contributions to mitigate the impact of the development:

- £13,500 LB Havering CIL subject to indexation and HCIL coming into force
- £6,750 Mayoral CIL (MCIL2) subject to indexation

Conclusions

- 6.18 The main issues for consideration are: the accordance of the proposed scheme with the development plan; the design of the scheme in regard to its impact on local character, appearance and quality of accommodation; the previous member resolution to grant full planning permission; and the changes in circumstances including the NPPF 2019, Mayoral CIL and the emerging Havering CIL. The scheme is considered, on balance and after weighing up the above considerations including the benefits of the scheme to deliver much needed housing and attributing significant weight to the previous resolution to grant permission, to be acceptable.
- 61.9 All other relevant policies, changes in circumstances and material considerations have been taken into account. Planning permission should be granted for the reasons set out above. The details of the decision are set out in the RECOMMENDATION.