



# Havering

L O N D O N B O R O U G H

## REGULATORY SERVICES COMMITTEE AGENDA

**7.30 pm**

**Thursday  
19 June 2014**

**Havering Town Hall,  
Main Road, Romford**

Members 11: Quorum 4

**COUNCILLORS:**

**Conservative  
(5)**

**Residents'  
(4)**

**UKIP  
(1)**

**Independent  
Residents  
(1)**

Robby Misir (Chairman)  
Ray Best  
Philippa Crowder  
Steven Kelly  
Michael White

Ron Ower (Vice-  
Chair)  
Nic Dodin  
Linda Hawthorn  
Stephanie Nunn

Phil Martin

Graham Williamson

**For information about the meeting please contact:  
Richard Cursons 01708 432430  
richard.cursons@onesource.co.uk**

## **AGENDA ITEMS**

### **1 CHAIRMAN'S ANNOUNCEMENTS**

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

The Chairman will announce the following:

These are the arrangements in case of fire or other events that might require the meeting room or building's evacuation. (Double doors at the entrance to the Council Chamber and door on the right hand corner (marked as an exit).

Proceed down main staircase, out the main entrance, turn left along front of building to side car park, turn left and proceed to the "Fire Assembly Point" at the corner of the rear car park. Await further instructions.

I would like to remind members of the public that Councillors have to make decisions on planning applications strictly in accordance with planning principles.

I would also like to remind members of the public that the decisions may not always be popular, but they should respect the need for Councillors to take decisions that will stand up to external scrutiny or accountability.

### **2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS**

(if any) - receive.

### **3 COMMITTEE MEMBERSHIP**

To note the membership of the Committee

### **4 DISCLOSURE OF PECUNIARY INTERESTS**

Members are invited to disclose any pecuniary interest in any of the items on the agenda at this point of the meeting.

*Members may still disclose any pecuniary interest in an item at any time prior to the consideration of the matter.*

### **5 MINUTES (Pages 1 - 12)**

To approve as a correct record the minutes of the meeting of the Committee held on 8 May 2014 and to authorise the Chairman to sign them.

- 6 **PLANNING APPLICATIONS - SEE INDEX AND REPORTS** (Pages 13 - 50)
- 7 **P0455.14 - MARDYKE FARM, RAINHAM** (Pages 51 - 72)
- 8 **P0856.13 - LAND OFF DUDLEY ROAD, HAROLD HILL ROMFORD** (Pages 73 - 90)
- 9 **PURCHASE NOTICE - AVON ROAD, UPMINSTER** (Pages 91 - 102)
- 10 **URGENT BUSINESS**

To consider any other item in respect of which the Chairman is of the opinion, by reason of special circumstances which will be specified in the minutes, that the item should be considered at the meeting as a matter of urgency

**Andrew Beesley  
Committee Administration  
Manager**

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**MINUTES OF A MEETING OF THE  
REGULATORY SERVICES COMMITTEE  
Havering Town Hall, Main Road, Romford  
8 May 2014 (7.30 - 9.20 pm)**

**Present:**

<b>COUNCILLORS:</b>	10
<b>Conservative Group</b>	Barry Oddy (in the Chair) Rebecca Bennett, Jeffrey Brace, Roger Evans and Lesley Kelly
<b>Residents' Group</b>	Linda Hawthorn and Ron Ower
<b>Labour Group</b>	Paul McGeary
<b>Independent Residents Group</b>	+Michael Deon Burton
<b>UKIP</b>	Fred Osborne

Apologies were received for the absence of Councillors Barry Tebbutt and David Durant.

+Substitute members: Councillor Michael Deon Burton (for David Durant)

Councillor Barbara Matthews was also present for part of the meeting.

25 members of the public and a representative of the Press were present.

Unless otherwise indicated all decisions were agreed with no vote against.

Through the Chairman, announcements were made regarding emergency evacuation arrangements and the decision making process followed by the Committee.

## **289 DISCLOSURE OF PECUNIARY INTERESTS**

Councillor Lesley Kelly declared a prejudicial interest in application P1644.11. Councillor Kelly advised that as the Cabinet member for Housing and Public Protection she held a prejudicial interest in the application. Councillor Kelly left the room prior to the discussion of the item and took no part in the voting.

290 **MINUTES**

The minutes of the meetings held on 3 April and 24 April 2014 were agreed as a correct record and signed by the Chairman.

291 **P0585.13 - ST MARY'S & ST PETERS CHURCH, WENNINGTON ROAD, RAINHAM**

The proposal before Members was to demolish the existing buildings and erect a single-storey building to be used as a church hall with a small stage area, storage space, an office and toilet and kitchen/bar facilities. It was intended that the building would be used to meet the needs of the Church and the local community and it was envisaged that the building would be used for youth clubs, social events, lunches for senior citizens, mother and toddler groups, children's groups including cubs, scouts, girl guides, parties, wedding receptions, art and sport clubs/groups, religious group meetings.

In accordance with the public speaking arrangements the Committee was addressed by an objector with a response by the applicant.

The objector commented that there had been thirty six letters of objection to the proposal from local residents. The objector also commented that: the existing building could be used as a church hall and that the application represented a modest increase in floor space; there were limitations on access and egress to and from the site. The objector also commented that the proposed floor area, quoted in the report, had been miscalculated and that the proposed building would in fact be 60% larger than the existing building.

In response the applicant commented that the Church had noted the concerns from neighbouring properties and that the proposal had been fully scrutinised by officers who had, following consideration, recommended that planning permission be granted. The applicant also commented that the new hall would be an excellent facility for the community that would be run by the Church. The applicant also confirmed that the proposal was to be funded by a private owner on behalf of the community. The applicant also confirmed that the Church was omitting the bar area from the application proposed.

During the debate Members discussed the current and proposed parking provision at the site raising concerns that the application may provide an insufficient level of parking leading to overspill parking in nearby side roads.

Members also sought clarification on the number of users that the hall could accommodate should planning permission be granted.

Members also considered the effect of increased noise and vehicle movements on the residential amenity of occupiers of neighbouring

properties and the possible loss of a tree in the car park that was preserved by means of a Tree Protection Order.

The report recommended that planning permission be granted, however following a motion to refuse planning permission which was carried by 5 votes to 4 with 1 abstention. It was **RESOLVED** that planning permission be refused on the grounds:

- Harm to immediate neighbours' residential amenity caused by noise and disturbance including external user and vehicular activity plus the impact of functions held within the building and the possible impact on neighbours' reasonable use of their rear gardens.
- Harm to broader residential amenity caused by overspill car parking into Wennington Road because of shortfall of on-site parking in relation to likely hall capacity.
- Green Belt harm due to bulky and intrusive building.
- Loss of Tree Presentation Order.
- Prejudices pedestrian safety due to site access sightline deficiencies.

The vote for the resolution to refuse planning permission was carried by 5 votes to 4 with 1 abstention.

Councillors Hawthorn, Ower, McGeary, Osborne and Burton voted for the resolution to refuse planning permission.

Councillors Oddy, Bennett, Evans and Kelly voted against the resolution to refuse planning permission.

Councillor Brace abstained from voting.

292 **P0256.14 - 57 SUTTONS LANE, HORNCHURCH**

The proposal before Members sought permission for the Change of Use from A1 (Retail) to a Mini Cab Office, the applicant stated that the office would open 24 hours 7 days a week for telephone bookings, and a system was to be installed to be operated via the internet, such system would not require the drivers to stay at the premises. It was proposed to open to the public from 7am until 11pm each day. The application site had a yard to the rear of the property which adjoined on to Winifred Avenue where there was dedicated parking space for users of the premises. There would be 2 full-time staff and 3 part-time staff working at the premises.

Members noted that the application had been called in by Councillor Ray Morgan on the grounds of parking, and the potential noise it could have on the neighbouring residential area.

Officers advised that they were seeking two further conditions:

- No drivers calling at the premises between the hours of 23.00 and 07.00 each day
- No washing or servicing of vehicles to take place at the premises

Members were also advised that the term Sui Generis was to be removed from the proposed application.

In accordance with the public speaking arrangements the Committee was addressed by an objector without a response from the applicant.

The objector commented that of the 61 neighbouring properties consulted during the public consultation 42 objections had been received. The area lacked sufficient levels of parking and suffered from illegal parking. This resulted in a number of road traffic accidents in the vicinity of the application site. The objector noted that there was an existing children's nursery situated opposite the application site and two schools within a short walk of the site. The objector commented that the proposed change of use would exacerbate existing highways problems and lead to an increase in the levels of noise and litter in the area.

With its agreement Councillor Barbara Matthews addressed the Committee.

Councillor Matthews commented that she agreed with the objectors comments and that the noise of vehicles using the premises would be detrimental to the amenity of the area. Councillor Matthews raised concerns over the access way into the rear yard of the application site which runs adjacent to the flank wall of a neighbouring property. Councillor Matthews commented that the proposed use of the premises would require a minimum of 20 cars to remain viable and was not suitable for the area she asked that Members refuse the proposal.

During the debate members considered other mini cab offices within the Hornchurch area and considered possible conditions that could be applied to the proposal to limit the effect on neighbouring properties. Members also discussed the possible impact that the business operation could have on amenity in the local area.

A member commented that vehicles would be regularly stopping at the premises in order to pick up fares or make use of bathroom facilities. The member suggested that drivers would remain in the vicinity of the premises while waiting for fares. Members noted the effect of noise on the residential amenity of neighbouring properties.

The report recommended that conditional planning permission be granted, however following a motion to refuse it was **RESOLVED** that planning permission be refused on the grounds that:

- The proposed use of the premises would be inappropriate due to its close proximity to residential properties and its position in a predominantly residential side street.



- Harm to residential amenity caused by noise and general disturbance associated with customers attending the premises, including noise and disturbance at anti-social hours.
- Harm to residential amenity caused by the general activity associated with the operation of the mini-cabs in the rear yard, use of the access road and likelihood drivers would use the side residential road, including use at anti-social hours, to park to return takings, use facilities etc with attendant vehicular noise including radios, door slamming etc.
- That the above harmful impacts could not practically be mitigated through the use of planning conditions.

293 **P1053.13 - LAND OFF HARLOW GARDENS, ROMFORD**

The application related to Council owned undeveloped land. The application proposed the erection of three 2 bedroom chalet bungalows and two 2 bedroom bungalows.

Members were advised that a late letter had been received detailing the land levels on the site and raising concerns over overlooking.

Officers also advised that condition 6.9 in the report should be amended to read that two trees were to be removed from the site one of which was the subject of a Tree Preservation Order. Members were informed that, following investigation by the Council's Tree Officer, the TPO tree had been subject to major decay and that its removal was not deemed to be a reason for refusal of the application.

In accordance with the public speaking arrangements the Committee was addressed by an objector with a written response from the applicant.

The objector commented that the proposed site was the only open green space in the area and was well used. . The objector also commented that no consultation had taken place with local residents regarding the proposed development. The objector also commented that if the development was to proceed then the existing properties would be the subject of overlooking from the new build due to the sloping nature of the land on the site. Concerns were also raised regarding the narrowness of the proposed access road and provision of parking possibly being detrimental to existing residents. The objector also commented on the loss of the protected tree.

The applicant's written response concluded that the scheme was a sensible solution and constituted an acceptable form of development that respected the intrinsic scale of the surrounding area whilst providing much needed housing within the borough.

Following a brief debate during which members raised concerns over the site levels it was **RESOLVED** that consideration of the scheme be deferred to allow Committee members the opportunity to carry out a site visit.

The vote for the resolution to defer the consideration of the proposal was carried by 9 votes to 1.

Councillor Brace voted against the resolution to defer consideration of the proposal.

294 **P1644.11 - ONGAR WAY AND RAINHAM ROAD, SOUTH HORNCHURCH**

The application before Members was for the redevelopment of a site to create 12 units, comprising a mix of one, two, three and four bedroom houses and bungalows. The application site comprised of land in the ownership of the Council.

Officers advised that paragraph 6.3.2 of the report should be amended to read that all units in the proposed development would meet Policy 3.8 of the Mayor's London Plan.

In accordance with the public speaking arrangements the Committee was addressed by an objector with a response by the applicant.

The objector raised concerns over the density and quality of the proposed development commenting that the design of the development now proposed departed from a previous design that had been agreed with local residents. The objector raised concerns over the relationship of the development site with an adjacent village green.

In reply the applicant commented that a previous scheme for the site had been approved by the Committee subject to completion of a Section 106 agreement. The applicant commented that the scheme made a number of concessions including the provision of parking for existing residents and lifetime homes and shared ownership possibilities.

During a brief debate members sought clarification on the extent of the existing Village Green and the impact of the proposed development on the Village Green.

The Committee noted that the proposed development attracted a Mayoral CIL contribution of £19,976 and it was **RESOLVED** that planning permission be granted subject to the conditions as set out in the report.

The vote for the granting of planning permission was carried by 4 votes to 4 with 1 abstention. The Chairman exercised his casting vote for the resolution and planning permission was granted.

Councillors Oddy, Bennett, Brace and Evans voted for the resolution to grant planning permission.

Councillors Hawthorn, Ower, Osborne and Burton voted against the resolution to grant planning permission.

Councillor McGeary abstained from voting.

*As mentioned previously in these minutes Councillor Lesley Kelly declared a prejudicial interest in application P1644.11. Councillor Kelly advised that as the Cabinet member for Housing and Public Protection she held a prejudicial interest in the application. Councillor Kelly left the room prior to the discussion of the item and took no part in the voting.*

295 **P0888.13 - STONEBRIDGE FARM, WARWICK LANE, RAINHAM - PERMANENT PERMISSION TO RETAIN A MOBILE HOME FOR AGRICULTURAL USE RE P1437.09**

The Committee considered the report and without debate **RESOLVED** that permanent planning permission be granted subject to the conditions as set out in the report.

The vote for the granting of planning permission was carried by 9 votes to 1.

Councillor Brace voted against the resolution to grant planning permission.

296 **P0778.12 - LAND R/O 411-419 SOUTH END ROAD & 1-17 CORONATION DRIVE, ELM PARK**

The application related to a Council owned garage court. The application proposed the demolition of 15 garages and the erection of five two storey dwellings. The application was submitted in outline form with all matters such as access, appearance, layout and scale to be submitted at a later stage as a reserved matter submission.

The Committee considered the report noting that the proposed development was liable for a Mayoral CIL contribution which would be calculated at the reserve matters stage and without debate **RESOLVED** that the proposal was unacceptable as it stood but would be acceptable subject to the applicant entering into a Section 106 Legal Agreement under the Town and Country Planning Act 1990 (as amended), to secure the following:

- A financial contribution of £30,000 to be used towards infrastructure costs.
- 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.

- To pay the Council's reasonable legal costs in association with the preparation of a legal agreement, prior to completion of the agreement, irrespective of whether the legal agreement is completed.
- Payment of the appropriate planning obligation/s monitoring fee prior to completion of the agreement.

That staff be authorised to enter into a legal agreement to secure the above and upon completion of that agreement that the Committee delegate authority to the Head of Development and Building Control to grant planning permission subject to the conditions as set out in the report.

297 **P1388.13 - LAND AT HAYDOCK CLOSE, HORNCHURCH - ERECTION OF NINE FLATS (ONE 1 BEDROOM AND EIGHT 2 BEDROOM) WITH ASSOCIATED LANDSCAPING AND OFF STREET PARKING**

The Committee considered the report noting that the proposed development qualified for a Mayoral CIL contribution of £15,100 and without debate **RESOLVED** that the proposal was unacceptable as it stood but would be acceptable subject to the applicant entering into a Section 106 Legal Agreement under the Town and Country Planning Act 1990 (as amended), to secure the following:

- A financial contribution of £30,000 to be used towards infrastructure costs associated with the development and to be paid prior to commencement of the development in accordance with the Planning Obligations SPD.
- 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.
- To pay the Council's reasonable legal costs in association with the preparation of a legal agreement irrespective of whether the legal agreement is completed.
- Payment of the appropriate planning obligation/s monitoring fee prior to completion of the agreement.

That staff 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 as set out in the report.

298 **P0370.14 - UNITS 4A & 4B MARKET PLACE, ROMFORD - CHANGE OF USE OF UNITS 4A AND 4B (FIRST FLOOR LEVEL) FROM USE CLASS D1/B1 TO RESIDENTIAL UNITS (CLASS C3), INSERTION OF MEZZANINE FLOORS AND EXTERNAL ALTERATIONS AT FIRST FLOOR LEVEL AND GROUND FLOOR ENTRANCE**

The Committee considered the report noting that the proposed development qualified for a Mayoral CIL contribution of £14,180 and without debate **RESOLVED** that the proposal is unacceptable as it stood but would be acceptable subject to:

The applicant entering into a unilateral undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) and section 16 of the Greater London Council (General Powers) Act 1974, to secure the following:

- A financial contribution of £48,000 to be used towards infrastructure costs and paid prior to the commencement of development in accordance with the Planning Obligations Supplementary Planning Document.
- Save for the holders of blue badges that the future occupiers of the proposal will be prevented from purchasing permits for their own vehicles for any existing, revised or new permit controlled parking scheme
- 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 unilateral undertaking to the date of receipt by the Council.
- The Council's reasonable legal fees for preparation, review and completion of the undertaking shall be paid prior to completion of the undertaking
- The Council's planning obligation monitoring fees shall be paid.

That staff be authorised to grant planning permission subject to the prior completion of an effective unilateral undertaking and subject to the conditions as set out in the report.

299 **P0080.14 - HIGHVIEW 2 WARLEY ROAD, UPMINSTER**

The proposal before Members was for the conversion of an existing integral garage into a habitable room, construction of a new detached garage and the provision of a front dormer window with a hipped roof design. In order to reduce the volume of cumulative additions to the property the proposal included the demolition of the existing single storey swimming pool building in the rear garden.

The application was deferred at the Committee meeting on 3rd April 2014 in order for staff to explore scope for a legal agreement. The purpose of the legal agreement would be to require demolition of the swimming pool building and any subsequent buildings built as permitted development prior to implementation of proposal and the prevention of any further permitted development post implementation.

The report recommended that planning permission be refused, however following a motion to grant planning permission and without further debate it was **RESOLVED** to delegate to the Head of Regulatory Services to grant planning permission subject to prior completion of a legal agreement to secure the following:

Prior to the commencement of development pursuant to planning permission (reference P0080.14) (“the Planning Permission”)

- (a) the swimming pool and swimming pool building shall be removed from the land together with all machinery, apparatus, equipment and installations connected with the swimming pool use; and
- (b) the site of the former swimming pool shall be back filled with appropriate topsoil, soft landscaped and returned to garden use within the first planting season following removal of the swimming pool; and
- (c) all development carried out under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 Article 3, Schedule 2, Part 1, as amended by the Town and Country Planning (General Permitted development) (Amendment) (no. 2)(England) Order 2008,(or any order revoking and re-enacting that order with or without modification) (“the GPD Order 1995”) following the resolution to grant Planning Permission shall be removed from the land 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.  
to the satisfaction of the Local Planning Authority

Following commencement of development pursuant to the Planning Permission all rights under the GPD Order 1995 shall be removed from the land 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.

To pay the Council’s reasonable legal costs in association with the preparation of a legal agreement, prior to completion of the agreement, irrespective of whether the legal agreement is completed.

Payment of the appropriate planning obligation/s monitoring fee prior to completion of the agreement.

and subject to conditions delegated to the Head of Regulatory Services.

The reason for approval was that removal of the existing swimming pool building and control of any further permitted development structures through a legal agreement significantly improved the sites contribution to openness of the Green Belt and that the garage caused no physical harm to the Green Belt.

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**Chairman**

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## Regulatory Services Committee

19 June 2014

<b>Page No.</b>	<b>Application No.</b>	<b>Ward</b>	<b>Address</b>
1-7	P0744.13	Upminster	58-60 Station Road, Upminster
8-13	P0068.14	Elm Park	Stardust Dance Studio, St Nicolas Ave, Hornchurch
14-24	P0288.14	Upminster	Ashley Farm, Clay Tye Road, North Ockendon
25-30	P0478.14	Havering Park	28 Litten Close, Collier Row, Romford
31-35	P0492.14	Harold Wood	Ivy Lodge Equine Veterinary Clinic, Nags Head Lane, Upminster

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## REGULATORY SERVICES COMMITTEE

19th June 2014

<b>APPLICATION NO:</b>	<b>P0744.13</b>	
<b>WARD :</b>	Upminster	<b>Date Received:</b> 18th July 2013 <b>Expiry Date:</b> 12th September 2013
<b>ADDRESS:</b>	58-60 Station Road Upminster	
<b>PROPOSAL:</b>	The demolition of existing building and construction of new mixed use building with retail use on the ground floor with a cycle store and two bin stores and 7 residential flats on the upper floors.  Revised Plans received 01/04/2014	
<b>DRAWING NO(S):</b>	Site Location 2248 PL01 Proposed Ground-First floor plan 2248 PL03.1D Proposed Second-Third floor plan South Elevation Howard Road 2248 PL04D Streetview Station Road (West) 2248 PL06C Rear Elevations 2248 PL07B	
<b>RECOMMENDATION :</b>	It is recommended that <b>planning permission be REFUSED</b> for the reason(s) given at the end of the report given at the end of the report.	

### **CALL-IN**

The application has been called-in by former Councillor Barry Oddy on grounds of consistency and matters of judgement in respect of the impact the proposal would have on the street scene to the front and rear.

### **SITE DESCRIPTION**

The application site lies within the retail core of Upminster Town Centre. It comprises a three storey building at the end of a parade with mainly retail units on the ground floor and residential and some offices above. The building continues at three storeys around the corner into Howard Road. Along the Howard Road frontage toward the back of the site is a single storey white rendered building occupied by a D1 use beyond which are residential properties. There is access to the rear of the buildings from Howard Road and parking space for 8-10 cars. On-street parking along Howard Road adjacent to the single storey building is restricted to 2 hours, elsewhere it is restricted during morning peaks. On the north side of the site is a three storey rear extension to no. 62 Station Road which is in office use and which shares the same access.

The existing Station Road frontage is constructed in red brick with two bay windows at first floor level with a second storey window in the centre. This elevation has an ornamental parapet in the centre above the second storey window. There is also a parapet along the Howard Road frontage. The rear elevations are in yellow brick. The total site area is 0.045 hectares.

On the southern corner of Howard Road is a three/four storey building with A1 and A2 uses on the ground floor with offices above. On the opposite (western) side of Station Road on the corner with Branfill Road are two more recent mixed use developments (Marks and Spencer and Alder Court) which are both four storey with retail on the ground floor with flats above. On the other corner of Branfill Road is Roomes department store which is three storey. Most of the remainder of the retail frontage in Station Road is two or three storey.

## **REGULATORY SERVICES COMMITTEE**

**19th June 2014**

### **DESCRIPTION OF PROPOSAL**

This is a full application for the redevelopment of the site following demolition of the existing end of terrace building and the single storey building to the rear. The new building would provide increased retail floorspace and seven residential units.

The new building would be in two main sections in contrasting red and yellow bricks. The main section would be four storeys in red brick along the Station Road and part of the Howard Road frontages. The ground floor would comprise the main retail floorspace and would provide a retail frontage to both elevations. There would be five flats in the floors above.

The rear section would be three storey in yellow brick and would run along most of the remainder of the Howard Road frontage. A visual break would be provided between the two sections by use of a contrasting brick colour that reflects the rear facades of existing buildings and a set back of 0.6 metres from the site boundary. This rear section would reduce to single storey on the northern side, adjacent to the boundary with no. 62 Station Road. This would allow some of the flats a dual aspect. This part of the development would have retail on the ground floor with two flats above, one on each floor.

There would be seven flats altogether three each on the first and second floor and one on the third. Six of the flats would be two-bed with the third floor flat being three-bed. Four car parking spaces and a delivery bay would be provided to the rear taking access from Howard Road via the existing access point. The ground floor would comprise a single retail unit to replace the A1 and D1 units with the entrance from Station Road. The entrance to the flats would also be from Howard Road which would also provide access to secure cycle storage. Access to the bin storage area would also be from Howard Road. There would be a small landscaping strip along the Howard Road frontage. The third floor flat would have front and side balconies. One of the other flats on the first floor would also have a balcony overlooking Howard Road. There would be no other amenity space provision.

The new building would replicate detailing features from the existing building, particularly from the front elevation. The building would be constructed in a similar coloured brick and provide similar bay windows, but extended over the first and second floors. The ornamental parapet feature would be replicated in the centre. The fourth floor would be mainly set back behind the parapet and have a mansard style tiled roof.

The rear three storey element would also have a tiled mansard style roof along the three-storey Howard Road frontage with a flat roof over the single storey section. The proposed lift would extend to the third floor flat and would result in a raised element above the main three storey building on Howard Road.

### **RELEVANT HISTORY**

None

### **CONSULTATIONS/REPRESENTATIONS**

Metropolitan Police Crime Prevention Design Advisor - application appears to have considered crime prevention measures in the design of the development. Recommends conditions to address secured by design issues including lighting for car parking areas and security measures for the store.

London Fire Brigade - no additional fire hydrants required.

Public Protection - recommends conditions covering noise from commercial premises; sound

## **REGULATORY SERVICES COMMITTEE**

**19th June 2014**

insulation for flats, construction hours and contamination.

London Fire and Emergency Planning Authority - access to the ground floor considered satisfactory. Access should comply with relevant Building Regulations.

Streetcare (Highway Authority) - no objections. Site has a PTAL score of 5 indicating good access to transport facilities so 4 parking spaces acceptable. Identifies requirements for cycle storage, pedestrian visibility splays and use of the highway during construction.

57 neighbour consultation letters were sent out and four representations have been received. The principle of the development is welcomed as it would improve a run-down and overgrown rear yard, however, the following concerns are raised:

\* Would add to existing parking congestion. The western most part of Howard Road already suffers parking congestion and nuisance parking and the four spaces proposed would be inadequate for the scheme. Therefore, the scheme represents an over development of the site. The provision would also be inconsistent with other recent schemes.

\* The bin store on street side of building would exacerbate waste collection problems, including issues of litter and smells.

\* Late night opening would exacerbate existing problems of noise and smell, especially if a restaurant/takeaway use.

\*Hours of construction should be clearly defined.

\* There would be a loss of natural light to windows in adjoining properties, especially those to the rear of no.62 Station Road.

\*Access to rear of site is already inadequate and congested;

\*Application is silent on proposed opening hours;

\*New shop front should better reflect design features of the existing parade of shops.

### **RELEVANT POLICIES**

#### LDF

CP1 - Housing Supply

CP10 - Sustainable Transport

CP17 - Design

CP4 - Town Centres

CP9 - Reducing the need to travel

DC16 - Core and Fringe Frontages in District and Local Centres

DC2 - Housing Mix and Density

DC33 - Car Parking

DC34 - Walking

DC35 - Cycling

DC36 - Servicing

DC49 - Sustainable Design and Construction

DC50 - Renewable Energy

DC61 - Urban Design

DC62 - Access

DC63 - Delivering Safer Places

DC7 - Lifetime Homes and Mobility Housing

DC72 - Planning Obligations

#### OTHER

LONDON PLAN - 2.15 - Town Centres

LONDON PLAN - 3.3 - Increasing housing supply

## **REGULATORY SERVICES COMMITTEE**

**19th June 2014**

### **OTHER**

LONDON PLAN - 3.4 - Optimising housing potential  
LONDON PLAN - 3.5 - Quality and design of housing developments  
LONDON PLAN - 4.7 - Retail and town centre development  
LONDON PLAN - 6.10 - Walking  
LONDON PLAN - 6.13 - Parking  
LONDON PLAN - 6.9 - Cycling  
LONDON PLAN - 7.3 - Designing out crime  
LONDON PLAN - 7.4 - Local character  
LONDON PLAN - 8.3 - Community infrastructure Levy  
NPPF - National Planning Policy Framework

### **MAYORAL CIL IMPLICATIONS**

All new floorspace is liable for Mayoral CIL, but in assessing the liability account is taken of existing usable floorspace that has been lawfully used for at least six months within the last three years. The existing floorspace amounts to 459 sqm and is in lawful use as a shop with offices above and as a beauty clinic. The new build following demolition would amount to 852 sqm giving a net increase of 393 sqm. The CIL rate is £20 per sqm giving a CIL liability of £7860.

### **STAFF COMMENTS**

The site lies within Upminster Town Centre where the redevelopment of land for mixed use would normally be considered acceptable. The main issues for consideration are the layout and form of development, the impact on the character and appearance of the streetscene, impact on amenity, highway and car parking issues.

### **PRINCIPLE OF DEVELOPMENT**

The application site lies within an existing town centre within the defined retail core where the redevelopment of a site for retail and residential purposes would be acceptable in principle in accordance with Policy CP1 of the LDF Core Strategy and Development Control Policies DPD and the guidance in the National Planning Policy Framework (NPPF).

The site is in a sustainable location with very good access to public transport given the proximity of Upminster station and local bus services that pass along Station Road. The site is very close to local amenities, including shops, schools, library and public parks. Therefore, subject to an acceptable impact on the character and appearance of the area, the streetscene and the amenities of adjoining occupiers the development can be considered acceptable.

### **DENSITY/SITE LAYOUT**

The density of the residential element would be 155 units per hectare or 490 habitable rooms per hectare. The London Plan Housing SPG and LDF Policy DC2 set out densities for new residential development. The densities proposed would be in accordance with the policy and guidance. Therefore, for a town centre development the density proposed is considered acceptable. The SPG also sets minimum floorspace standards for all housing types. The proposed units would meet these standards. However, whilst meeting these layout parameters indicates that the development would be broadly acceptable account also needs to be taken of the character of the local area and whether the scale of the development is appropriate in terms of its appearance in the local context. Account also needs to be taken of any adverse impact on the amenity of nearby occupiers.

## **DESIGN/IMPACT ON STREET/GARDEN SCENE**

The application site is in a prominent corner position within Upminster Town Centre and the main building currently makes a positive contribution to the character and appearance of the area. The single storey building along Howard Road is considered to have a neutral effect on the streetscene. There is a contrast in scale between the buildings that make up the retail frontage and the mainly two storey dwellings behind the frontage. The single storey building marks a transition between the taller town centre buildings and those of residential scale to the east.

The buildings in Station Road have a mix of architectural styles, including more recent developments such as those on the west side of the road opposite the application site. The higher buildings also extend behind the main frontage into mainly residential streets, such as Howard Road and Branfill Road.

The National Planning Practice Guidance states that good quality design is an integral part of sustainable development. The guidance in the NPPF is that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. LDF Policy DC61 requires that new buildings complement or improve the character of the area and respect the scale, massing and height of the surrounding physical context. In this case staff consider that the scale of the proposal is excessive as it does not relate well to the character and appearance of the adjoining terrace. Whilst the Station Road frontage replicates a number of features of the current building the additional storey detracts from the overall appearance of the building. As a result the appearance of the new building would have an adverse visual impact on the character and appearance of this part of the town centre. The Howard Road elevations would be generally acceptable even with the overall increase in the bulk of the building as it would be similar to the situation elsewhere on the edge of the town centre. There would also be an adequate gap between the new building and the nearest houses. The top storey development, whilst not visible from the street close to the building frontages would be visible from further away, in particular from Howard Road and Branfill Road. The lift tower in particular would be a visually dominant and incongruous feature.

Overall staff consider as a matter of judgement that the proposed new building by reason of its height would be visually dominant in this corner location to the detriment of the character and appearance of the area. It would be out of scale with adjoining buildings and as a result be an incongruous feature in the streetscene.

## **IMPACT ON AMENITY**

The proposed development would have an adverse impact on adjoining properties mainly as a result of a loss of daylight and sunlight. This loss would arise through the additional two storeys along the Howard Road frontage in place of the existing single storey building. Most of the rooms affected are in commercial use but some to the rear of no.62 Station Road are in residential use.

Policy 61 of the LDF states that planning permission will not be granted where development results in an unacceptable overshadowing or loss of sunlight/daylight. There is no national guidance on loss of light, although 'rights to light' are set out in law. The submission details include a daylight and sunlight report based upon guidance issued by the Building Research Establishment (BRE) in 2011. The guidance states that in residential properties only habitable rooms should be assessed and in non-domestic buildings on rooms where there is an expectation of daylight. The assessment has had regard to the location of the annexe to the rear of no.62 which is close to the boundary of the development site. The assessment concluded that whilst there would be a loss of daylight and sunlight to existing windows, these either served non-habitable rooms, already had restricted light or were very close to the site boundary. The assessment concluded that the development would meet the terms of the guidance.

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However, the assessment does not specifically address the issue of impact on amenity. Nevertheless there would be no overshadowing of garden or external amenity areas and the additional impact on windows to existing residential properties, where natural light is already restricted is not considered to be significant. Overall staff consider that there would be no significant impact to the amenities of the occupiers of 62 and 62a Station Road or to houses to the east of the site in Howard Road which are further from the site.

Windows in the proposed development would look northward towards those of 62 Station Road. However, these serve non-habitable rooms or corridors and the windows only face those of offices or other non-residential accommodation. None of the Windows would overlook rear gardens or communal amenity areas.

There would be some loss of light to commercial premises, but the impact on amenity is not considered to be significant. Overall there would be some loss of light to adjoining properties but not to an extent that it would amount to an overriding objection. There would be no overlooking or interlocking issues arising.

### **HIGHWAY/PARKING**

The proposed redevelopment would increase the building footprint compared with the current buildings on site, thereby reducing the area available for car parking. The application details do not indicate whether the four spaces to be provided would be for future residents, the new retail unit or shared between the two. For the residential element both the London Plan SPG on housing and the density matrix in LDF Policy DC2 indicate that less than one space per unit would be acceptable given the high public transport accessibility level (PTAL) of 5. The maximum standard for a non-food shop would be between four and five spaces. This would provide parking mainly for staff. Upminster has other public parking areas for shoppers, including short-term on street parking. No objections are raised by the Highway Authority to the proposed parking provision. Given the accessibility of the site to local services and public transport staff consider that the site is in a sustainable location and the proposed level of car parking would be acceptable.

### **OTHER ISSUES**

Of the seven flats proposed only two would have some form of amenity area. LDF policies are not prescriptive in terms of the amount of amenity space that should be provided in residential developments. The amenity space that is provided should be usable and of sufficient quality. The balconies/terraces proposed would provide satisfactory usable amenity space appropriate in a town centre location. In town centres it may not always be possible to provide amenity areas for flatted development, especially given the relatively high densities achieved and the constraints posed by redevelopment sites. For this scheme additional amenity space could not be easily accommodated which would meet the criteria for usable space. There are public parks and open spaces reasonably close to the site and staff consider that the provision proposed is acceptable.

### **SECURED BY DESIGN**

LDF Policy DC 63 seeks to ensure that new developments are designed to discourage crime and adopt the principles and practices of the 'Secured by Design' award scheme. The comments of the Crime Prevention Design Advisor are that the proposed development has taken these into account and that subject to conditions to cover lighting and security measures the development would be acceptable.



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### SECTION 106

The dwellings would result in additional local infrastructure demand such that a financial contribution is needed in accordance with Policy DC72 and the SPD on Planning Obligations. There would be seven new units and at £6,000 per new dwelling the charge would be £42,000 which would need to be secured through a S106 Planning Obligation

### KEY ISSUES/CONCLUSIONS

The site lies with the retail core area of Upminster Town Centre where the redevelopment of the site for mixed use with retail on the ground floor is considered acceptable in principle. The main issues relate to the design and scale of the building and its impact on the character and appearance of the area. The site is in a prominent end of terrace street corner location and staff consider that, as a matter of judgement the proposed new building by reason of its height would be incongruous and visually dominant to the detriment of the character and appearance of the area. Refusal is recommended accordingly. Notwithstanding this should members judge that the scale of the development is acceptable and would not be visually dominant in the streetscene then there would be a case for granting planning permission subject to the prior completion of a S106 obligation to secure a financial contribution towards local infrastructure costs and appropriate conditions.

### RECOMMENDATION

It is recommended that **planning permission be REFUSED** for the reason(s) given at the end of the report

#### 1. REFUSAL - Non Standard

The proposed development would, by reason of its height and scale would appear as an unacceptably dominant and visually intrusive feature in the streetscene harmful to the character and appearance of the surrounding area contrary to Policy DC61 of the LDF Core Strategy and Development Control Policies DPD.

#### 2. Reason for Refusal - Planning Obligation

In the absence of a mechanism to secure a planning obligation towards the infrastructure costs of new development the proposal is contrary to the provisions of the Havering Planning Obligations Supplementary Planning Document and Policy DC72 of the LDF Core Strategy and Development Control Policies DPD.

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#### 1 Refusal and CIL (enter amount)

The proposal, if granted planning permission on appeal, would be liable for the Mayor of London Community Infrastructure Levy (CIL). Based upon the information supplied with the application, the CIL payable would be £7860. Further details with regard to CIL are available from the Council's website.

#### 2 Non Standard Informative 1

Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: Improvements were required to make the proposal acceptable and suitable amendments were suggested during the course of the application, in accordance with para 186-187 of the National Planning Policy Framework 2012. The applicant made revisions but these were not considered to adequately address all the concerns raised.

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<b>APPLICATION NO:</b>	<b>P0068.14</b>	
<b>WARD :</b>	Elm Park	<b>Date Received:</b> 17th January 2014 <b>Expiry Date:</b> 14th March 2014
<b>ADDRESS:</b>	Stardust Dance Studio St. Nicholas Avenue Hornchurch	
<b>PROPOSAL:</b>	Retaining existing ground floor dance hall and extending the building up to construct 4 no. self contained flats at first floor level Revised Plans received 23/04/2014	
<b>DRAWING NO(S):</b>	13.0032.X100 13-0032/EX01 13-0032/PL100 13-0032/EX03 Rev. A 13-0032/EX04 Rev. A 13-0032/PL16 Rev. C 13-0032/PL17 Rev. A 13-0032/PL18 Rev. A	
<b>RECOMMENDATION :</b>	It is recommended that <b>planning permission be REFUSED</b> for the reason(s) given at the end of the report given at the end of the report.	

### **CALL-IN**

This application was called in by former Councillor Barry Tebbutt as he wished to know why there needs to be a setback.

### **SITE DESCRIPTION**

The application site is located on the western side of St Nicholas Avenue opposite Elm Parade, Hornchurch within the built up area of Elm Park and is situated in an area within a main shopping street with typically small retail units on the ground floor and residential accommodation above.

The site is occupied by the former 'Elm Park' public house and also comprises the Stardust Dance Studio which is situated to the north of the former public house and is the subject of this application.

The subject building is single storey with a flat roof toward the front and increases to one and a half storey towards the rear.

### **DESCRIPTION OF PROPOSAL**

The application seeks full planning approval for the construction of a first floor extension to the existing building in order to enable the creation of 2 no. two-bedroom and 2 no. three-bedroom self-contained flats.

Each flat would be accessed via a shared stairwell and external landing area. The flats would consist of a kitchen/living room, bedrooms and a bathroom. Each unit would include a Juliette style balcony in the north facing flank facing Northwood Avenue.

### **RELEVANT HISTORY**

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- P0861.13 - Retaining existing ground floor dance hall and extending the building up to construct 4no. self contained flats with pitched roof over.  
Withdrawn 10-10-2013
- P0244.13 - Reconfiguration of existing first floor accommodation to form 3No. two bedroom self contained flats, with access corridor and doorset formed on ground floor for protected internal access.  
Apprv with 31-01-2014  
Agreement
- A0015.13 - 4 x Illuminated Fascia signs, 1 x Illuminated Hanging sign, 1 x ATM Surround and 1 x Wall Branding Sign  
Apprv with cons 08-05-2013
- P1488.12 - Installation of mechanical plant to the rear of property including 3no. free standing condensor units.  
Apprv with cons 30-01-2013
- D0213.12 - Certificate of lawfulness for vehicle delivery area at the front of the property.  
PP not required 10-01-2013
- P1355.12 - Removal of existing double doorset entrance opening for installation of new ATM cash machine within glazed screen surround, including security camera and light.  
Entrance ramp with handrail.  
Apprv with cons 10-01-2013
- P1357.12 - Existing double door to be replaced with automatic sliding doors.  
Apprv with cons 08-01-2013
- P1359.12 - Alteration to shop windows.  
Apprv with cons 08-01-2013

### **CONSULTATIONS/REPRESENTATIONS**

Neighbouring notifications were sent to 57 neighbouring properties. One letter of representation was received requesting additional information on the existing building situated between the Stardust Studio on the right and Sainsbury's on the left.

The Waste and Recycling Team did not raised an objection to the refuse arrangements however did request additional information relating to the access arrangements from the bin store to the road.

Environmental Health recommended refusal unless conditions for sound insulation, and restricted construction hours and deliveries can be attached and enforced.

### **RELEVANT POLICIES**

#### **LDF**

- CP1 - Housing Supply
- CP10 - Sustainable Transport
- CP17 - Design
- CP2 - Sustainable Communities
- CP9 - Reducing the need to travel
- DC2 - Housing Mix and Density
- DC3 - Housing Design and Layout

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### **LDF**

DC33 - Car Parking  
DC34 - Walking  
DC35 - Cycling  
DC36 - Servicing  
DC50 - Renewable Energy  
DC55 - Noise  
DC61 - Urban Design  
DC63 - Delivering Safer Places  
DC72 - Planning Obligations  
SPD11 - Planning Obligation SPD  
SPD9 - Residential Design SPD

### **OTHER**

LONDON PLAN - 3.3 - Increasing housing supply  
LONDON PLAN - 3.4 - Optimising housing potential  
LONDON PLAN - 3.5 - Quality and design of housing developments  
LONDON PLAN - 3.8 - Housing choice  
LONDON PLAN - 6.10 - Walking  
LONDON PLAN - 6.13 - Parking  
LONDON PLAN - 6.9 - Cycling  
LONDON PLAN - 7.1 - Building London's neighbourhoods and communities  
LONDON PLAN - 7.5 - Public realm  
LONDON PLAN - 8.3 - Community infrastructure Levy  
NPPF - National Planning Policy Framework

### **MAYORAL CIL IMPLICATIONS**

The proposed development is liable for the Mayor's Community Infrastructure Levy (CIL) in accordance with London Plan Policy 8.3. The applicable fee is based on an internal gross floor area of 299m<sup>2</sup> which equates to a Mayoral CIL payment of £5,980 (subject to indexation).

### **STAFF COMMENTS**

The main issues to be considered by Members in this case are the principle of development, amenity space, design/street scene issues, amenity implications, and parking and highways issues.

### **PRINCIPLE OF DEVELOPMENT**

Policy CP1 indicates that outside the Green Belt, priority will be made on all non-specifically designated land for housing. The proposal is for the addition of a first floor to an existing building to provide residential flats. The proposal is therefore acceptable in principle and in accordance with Policy CP1 and policy 3.3 of the London Plan which seeks to increase London's housing supply.

Policy 3.8 of the London Plan states that DPD policies should offer a range of housing choices, in terms of the mix of housing sizes and types, taking account of the housing requirements of different groups. Policy 3.5 states that Local Development Frameworks should incorporate minimum space standards. The Mayor has set these at 61m<sup>2</sup> for a 2-bed 3-person flat and 74 for a 3-bed 4-person flat. The proposed flats are in line with these minimum guidelines and considered acceptable.

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### **DENSITY/SITE LAYOUT**

The Council's Residential Design SPD in respect of amenity space recommends that every home should have access to suitable private and/or communal amenity space in the form of private gardens, communal gardens, courtyards, patios, balconies or roof terraces. In designing high quality amenity space, consideration should be given to privacy, outlook, sunlight, trees and planting, materials (including paving), lighting and boundary treatment. All dwellings should have access to amenity space that is not overlooked from the public realm and this space should provide adequate space for day to day uses.

The proposal would involve the addition of a first floor to accommodate 4 no. flats. The subject site has only limited space to the rear of the property. The space to the rear will be utilised by the adjacent retail unit at ground floor for parking, refuse storage and deliveries. It is therefore not possible to provide amenity space on site. It should however be noted that similar scenario's exist elsewhere in the borough in Town Centre locations, where there are flats situated above commercial premises with no amenity space provision. Staff do not consider the lack of amenity space to be unacceptable given the site constraints.

The residential density range for this site is 50 - 80 units per hectare. The proposal would result in a density of approximately 133 units per hectare. Although this is in excess of the recommended range consideration should be given to the unique site constraints and the mixed use of the current building.

### **DESIGN/IMPACT ON STREET/GARDEN SCENE**

The existing Stardust Dance Studio building is a simple single storey flat roof building typical of the 1930's period. Whilst the building is attached to adjacent former public house, it is read in design terms as a separate building. The former public house is a grand and imposing building with a central projecting gable feature and steep pitched roof. In contrast to the architecture of the existing dance studio building is very different with its design taking influence from the Art Deco style, which was in favour at the time of construction.

The application relates to the provision of a new first floor extension covering the entire footprint of the existing ground floor. The proposed design would provide the new first floor extension which would be surrounded by a parapet wall detail with a pitched roof behind. Officers are concerned that the proposed design will have a poor relationship with the adjacent building, given the proposed height of the parapet wall in excess of the eaves height of the former public house building resulting in a harmful impact to the streetscene and surrounding area. The poor relationship and visual impact on the streetscene will be further exacerbated by the prominent location of the subject site with clear views from both St. Nicholas Avenue and Northwood Avenue.

Officers have suggested that these concerns could be addressed by reducing the eaves height and aligning it with the adjacent building. However the applicant stated that this was not an option given the existing dance studio and the existing high ceiling height. It should be noted that a planning application has been submitted for changes to the shopfront of the existing dance studio in order to change the use to a shop(A1).

Officers also suggested setting back the proposed first floor in order to maintain the existing front elevation and relationship to the adjacent building when viewed from St. Nicholas Avenue as another possible solution. This would however result in a reduction in the amount of flats provided and was therefore not pursued by the applicant as a favourable solution.

Concerns are also raised regarding the proposed design of the flank elevation (eastern). Staff

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consider the extended building to be poorly proportioned with a roof form which is at odds with the existing building. It is also considered that the proposed fenestration relates poorly to the the existing flank elevation in terms of design, alignment and proportion resulting in an intrusive appearance, harmful to the streetscene and the character of the surrounding area.

### **IMPACT ON AMENITY**

Officers do not consider the addition of the first floor to result in an unacceptable impact on neighbouring amenity. The location of the proposed first floor extension is such that it would not have an adverse impact on nearby residential properties in Northwood Avenue. The proposal would be set approximately 10m from the nearest residential property at 14 Northwood Avenue and would therefore not be overbearing or result in loss of light. Although there would be 2 windows overlooking the rear garden of this property, Officers consider the separation distance, vegetation on the boundary and the fact that only the bottom part of the rear garden would be overlooked to sufficiently mitigate any harm that may occur.

Any impact in terms of noise associated with the dance studio would be sufficiently mitigated by providing sound insulation. Details of sound insulation could be requested by planning condition in the event of an approval.

### **HIGHWAY/PARKING**

No parking provision is made for the proposed residential development. Highways has not raised an objection.

Given the surrounding commercial area, good accessibility and that flatted development normally require less parking spaces, Staff consider the lack of parking spaces to be acceptable. However it is acknowledged that this issue will be a matter of judgement for Members.

The proposal does not include cycle storage provision. A condition will however be attached in the event of an approval to provide cycle storage.

### **OTHER ISSUES**

No details have been submitted regarding refuse storage. A condition will be added in the event of an approval to require details of refuse and recycling prior to the commencement of development on site.

### **SECTION 106**

In accordance with the Draft Planning Obligations Supplementary Planning Document a financial contribution of £6,000 per dwelling to be used towards infrastructure costs arising from the new development is required. This should be secured through a S106 Agreement for the amount of £24,000 in the event of an approval of planning permission.

### **KEY ISSUES/CONCLUSIONS**

In conclusion, residential development on the site is considered to be acceptable in principle and there would be no harmful impact on neighbouring amenity. Staff have considered the lack of parking provision and amenity space to be acceptable, however these issue will be a matter of judgement for Members. However, staff consider the proposed design to have a poor relationship to the existing and adjacent building to the detriment of the streetscene and surrounding area. The NPPF emphasises the need for good design, stating that it is indivisible from good planning, and as a matter of judgement staff find the design objections to be such that the proposal would not comply with the aims and objective of the policy and guidance. It is

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accordingly recommended that planning permission be refused.

**RECOMMENDATION**

It is recommended that **planning permission be REFUSED** for the reason(s) given at the end of the report

**1. Reason for refusal - Streetscene**

The proposed development would, by reason of its design and poor relationship to the existing and adjacent building, appear as a visually intrusive feature in the streetscene 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 - Planning Obligation**

In the absence of a mechanism to secure a planning obligation towards the infrastructure costs of new development the proposal is contrary to the provisions of the Havering Planning Obligations Supplementary Planning Document and Policy DC72 of the LDF Core Strategy and Development Control Policies DPD.

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<b>APPLICATION NO:</b>	<b>P0288.14</b>	
<b>WARD :</b>	Upminster	<b>Date Received:</b> 3rd March 2014 <b>Expiry Date:</b> 28th April 2014
<b>ADDRESS:</b>	Ashley Farm Clay Tye Road North Ockenden Essex	
<b>PROPOSAL:</b>	The demolition of existing stable block and removal of mobile home and construction of new replacement dwelling which will continue to serve the agricultural and rural businesses that operate on site. Associated parking, landscaping and residential curtilage.	
<b>DRAWING NO(S):</b>	1006/21.B	
<b>RECOMMENDATION :</b>	It is recommended that <b>planning permission be REFUSED</b> for the reason(s) given at the end of the report given at the end of the report.	

### **CALL-IN**

The application has been called-in by Councillor Jeffrey Tucker so that the committee can consider the issues involved and because of the time it has taken to determine the application and the apparent inconsistency of advice given by officers.

### **SITE DESCRIPTION**

The application site forms part of the land holding known as Ashley Farm which lies entirely within the Green Belt and the area of the Thames Chase Community Forest. The holding lies to the east of the M25 between Cranham and North Ockendon. The application site lies in the south west corner of the land holding close to the site access which is taken from Clay Tye Road. There are two groups of buildings on the land holding. Two used as stables close to the application site and a group of four larger buildings on the eastern boundary of the site within a compound. These buildings are used for cattle rearing and the storage and maintenance of plant and machinery. The open area within the compound is used for vehicle and plant storage. There is also an office building in the south east corner and a caravan/mobile home on the western side of the largest of the buildings. The site has three main uses: storage and maintenance of plant and machinery for sale; cattle rearing and grazing and horse breeding/stabling. On the western side of the site adjacent to Clay Tye Road is an area used for skip/container storage. The remainder of the holding which amounts to about 2.8 hectares is mainly grassland.

There are residential properties to the north and south of the site. The nearest being Lowlands which is 100m to the north and White Post Farm 160m away to the south. The site is close to Clay Tye Hill and is higher than the land to the north. The area is generally characterised by open agricultural fields, although there are areas of woodland to the west which are part of the Community Forest.

### **DESCRIPTION OF PROPOSAL**

It is proposed to demolish an existing stable building (former piggery), remove an existing mobile home and construct a single storey two-bed dwelling. The dwelling would have a floor area of 144sqm and be located within its own curtilage on the south western corner of the site, close to the site entrance. The dwelling would include a farm office with toilet facilities. The total plot area would be 0.66 hectares, including access, parking and rear amenity areas.



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The dwelling would have half-hipped tiled roof with brick walls. The ridge height would be about 5.9 metres at its maximum. Part of an area of existing hardstanding would be removed and returned to pasture. This area is currently used as an access and for skip/container storage. Access would be retained to the remaining stable building. A five metre planting strip along the road frontage is also proposed.

The existing caravan that would be removed has a footprint of 55sqm and the stables to be demolished a footprint of 109sqm.

An unsigned and undated unilateral undertaking under S106 of the Town and Country Planning Act 1990 has been submitted to provide for a contribution of £6,000 toward the provision of infrastructure in accordance with LDF Policy DC72.

### **RELEVANT HISTORY**

L/HAV/315/70 Buildings for storage & livestock: Approved

L/HAV/316/70 New farmhouse: Refused

L/HAV/420/71 Proposed new farmhouse: Refused

L/HAV/1365/76 Dwelling for farm owner: Refused

L/HAV/905/73 Pig units, shed and office - Refused

L/HAV/1365/74 Dwelling for farm owner - Refused

L/HAV/46/76 - a) Buildings for wood shed, calf houses, cow shed, grain milling and b) Building for farm implements, store, office and WC - Approved

P0328.13 - Construction of new dwelling in replacement of mobile home to support established agricultural unit and rural businesses on site.

Refuse 17-07-2013

### **CONSULTATIONS/REPRESENTATIONS**

Streetcare (Highway Authority) has no objections

Metropolitan Police Designing out Crime Office is unable to comment.

Four neighbour notification letters were sent out and no representations have been received.

### **RELEVANT POLICIES**

#### **LDF**

CP1 - Housing Supply

CP14 - Green Belt

CP17 - Design

DC2 - Housing Mix and Density

DC3 - Housing Design and Layout

DC35 - Cycling

DC40 - Waste Recycling

DC45 - Appropriate Development in the Green Belt

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### **LDF**

DC47 - Agriculture  
DC49 - Sustainable Design and Construction  
DC50 - Renewable Energy  
DC55 - Noise  
DC61 - Urban Design  
DC62 - Access  
DC7 - Lifetime Homes and Mobility Housing  
DC72 - Planning Obligations

### **OTHER**

LONDON PLAN - 3.5 - Quality and design of housing developments  
LONDON PLAN - 3.8 - Housing choice  
LONDON PLAN - 5.7 - Renewable energy  
LONDON PLAN - 6.10 - Walking  
LONDON PLAN - 6.9 - Cycling  
LONDON PLAN - 7.16 - Green Belt  
LONDON PLAN - 7.3 - Designing out crime  
LONDON PLAN - 8.3 - Community infrastructure Levy  
NPPF - National Planning Policy Framework

### **MAYORAL CIL IMPLICATIONS**

The proposal would result in the erection of a new dwelling with a floor area of 144 sqm. An existing building, currently used as stables with a floor area of 109 sqm is to be demolished giving a net increase of 35 sqm. In assessing the chargeable floor area account is taken of existing floorspace that has been lawfully used for at least 6 months within the last three years. The building in question does not have planning permission for a stables nor is there a lawful development certificate in place, however, it appears that the change of use took place in excess of 10 years ago. The caravan/mobile home does not count as existing floorspace for the assessment of CIL. However, the stables can be considered lawful for the purposes of the CIL assessment. All new residential development is liable for CIL and in this case the charge would be £700 at £20 per sqm.

### **BACKGROUND**

#### **PLANNING REFUSAL:**

This application follows an earlier refusal of a proposal for a single storey three-bed dwelling on the holding. That application was for a dwelling with larger footprint and on a larger plot and located further into the site. Whilst the mobile home was to be removed, the removal of the smaller of the stable blocks did not form part of the proposals. There is an appeal hearing against this refusal pending.

There were three reasons for refusal:

- 1) Due to its prominent position the new buildings would be harmful to the openness of the Green Belt and the appearance of the agricultural holding and countryside contrary to policy DC61.
- 2) There are no very special circumstances to warrant a departure from established Green Belt policy for a larger residential building for non-agricultural workers accommodation. This is contrary to Policy DC45 and the NPPF.

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3) There is no mechanism to secure a planning obligation for payment toward the infrastructure costs arising from the development in accordance with LDF Policy DC72.

The current application is submitted following pre-application discussions with the applicant.

### **EXISTING SITE USES:**

The holding has a history of planning applications for a new dwelling, all of which have been refused. Of the other buildings on site most have been authorised as agricultural buildings, mainly for the livestock business. However, there are a number of unauthorised buildings/uses on the site, which may be lawful due to the passage of time but for which no lawful development certificates have been applied for. There are three main uses of the site.

i) There is a horse breeding business that utilises two blocks of stables. One was converted from a former piggery and the other a much newer building erected between 2007 and 2012 as a replacement for other stable buildings. The older block would be demolished as part of the development proposals. There are no planning permissions for the stables but they may by now be lawful.

ii) An area to the front to the holding is use for skip/container storage. This use is unauthorised. The evidence from aerial photographs is that this area has been fenced off from the main grazing area. The area used has increased gradually since about 2002.

iii) A mobile home/caravan is located adjacent to the repair and maintenance workshops at the eastern end of the site. The aerial photographic evidence is that a caravan has been in this location for in excess of ten years, although the curtilage associated with it has been extended between 2007 and 2010. From the aerial photographic evidence it appears likely that there has been a change of use of land from agriculture to the siting of a single residential caravan/mobile home which may now be lawful. However, this can only be formally determined through an application for a lawful development certificate. The extension to the curtilage around the caravan is also unauthorised. As the change has taken place within the last 10 years it is unlawful.

iv) The application details make reference to the letting of premises at the site as a joinery and woodwork workshops, together with a commercial storage area. The use of the buildings for commercial use is also unauthorised.

v) The Plant and machinery repair and sale business is also unauthorised, but appears to have been on site for many years according to the aerial photographic evidence. No application has been made for a lawful development certificate, but it appears likely that the change of use may also be lawful.

### **PRINCIPLE OF DEVELOPMENT**

The main issues for consideration are: i) whether there is an essential need for a new dwelling in the countryside; ii) whether the development is acceptable in principle within the Green Belt, if not whether there are 'very special circumstances'; iii) the impact of the development on the character and openness of the Green Belt; iv) the impact on amenity of nearby residents and v) parking and highway issues.

### **ESSENTIAL NEED:**

The site lies within the countryside and the guidance at paragraph 55 of the National Planning Policy Framework (NPPF) is that isolated new homes in the countryside should be avoided

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unless there are very special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. The guidance does not refer to any acceptable uses where a need might arise. The sole criterion is that the need is essential. Previous government guidance referred specifically to agriculture and forestry, although did include other rural based enterprises. LDF policies DC61 and DC45 seek to protect the countryside from new development that would be harmful to its character and open nature.

Policy DC47 concerns new agricultural buildings and agricultural dwellings. For new dwellings the policy refers to the criteria in PPS7 as a means of assessment. Whilst the guidance in PPS7 has been replaced by the NPPF, there is no similar guidance to Annex A of PPS7 in the National Planning Policy Guidance (NPPG). The applicant has submitted financial details to support the case in relation to the agricultural use of the site, therefore, in the absence of any other set of criteria it is considered appropriate to use those of Annex A to assess this application.

### GREEN BELT ISSUES:

The guidance in the NPPF at paragraph 89 in respect of development in the Green Belt is that new buildings should be regarded as inappropriate development unless for specific exceptions. These include:

- \*buildings for agriculture and forestry;
- \*the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- \*the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; or
- \*limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

The approach to new development in the Green Belt is set out in the NPPF. Inappropriate development is, by definition harmful to the Green Belt and should not be approved except in 'very special circumstances'. When considering any application, local planning authorities should also ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The Green Belt restrictions are in addition to the essential need test in paragraph 55. A new dwelling that may be needed for an agricultural worker would be inappropriate development as it is not an agricultural building. Therefore, for the development to be acceptable 'very special circumstances' will also need to be demonstrated that outweigh the harm. If essential need is demonstrated this could amount to the 'very special circumstances' that might outweigh the harm to the Green Belt.

LDF Policy DC45 states that the Council will promote uses in the Green Belt that have a positive role in fulfilling Green Belt Objectives. Planning Permission for development in the Green Belt will only be granted if it is for specific purposes, including;

- Agriculture and forestry, outdoor recreation, nature conservation, cemeteries.

Planning permission for new buildings will only be granted where they are essential for any of these uses.

Whilst the application is considered to be a departure from policies DC45 and DC47, these

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policies have now been largely superseded by the guidance in the NPPF. Therefore, the main considerations are as set out in paragraphs 55 and 87-90 of the Framework.

Part of the application site includes an existing building which is to be demolished, so that part can be considered to have been previously developed. However, the new building would be significantly larger so would have a much greater impact on the openness of the Green Belt and would, therefore, be inappropriate development. The development is not considered to be the replacement of an existing building in the same use. The siting of a caravan is a use of land and is not comparable with a permanent dwelling. Staff consider, therefore, that the proposal would not meet any of the criteria in paragraph 89.

Policy DC45 also refers to the redevelopment of authorised industrial/commercial sites which is referred to in the application submission, however, the application site is not an authorised industrial or commercial site.

### **ASSESSMENT**

The site is in an isolated rural location and the applicant has sought to demonstrate an essential need for a rural worker to live at the site in connection with his three business activities on the land holding, in particular the cattle rearing element which is well established. Subject to this being demonstrated, this could amount to the very special circumstances necessary to outweigh the harm to the Green Belt. The new dwelling would also need to be of an appropriate scale and location so that it did not materially impact on the openness of the Green Belt.

The three business activities on the site are all owned by the applicant and the businesses are merged from an accounting point of view. The main business is plant repair and sales and the other two activities appear to provide additional income to support this, rather than being separate stand alone businesses in their own right. This is what the supporting details and financial information submitted with the application indicate.

There is an existing caravan/mobile home on the site which is occupied by the manager of the horse stud business. He also provides general security services for the site. The occupant plans to move from the site and alternative livestock management and security arrangements need to be made. The applicant has stated that has now sold his house in Rainham and proposes to move to the site where he would undertake tasks currently carried out by the occupant. When staff visited the site there were other employees on site working in both the stables and in the plant yard. No details are provided in the application statement of the exact number of employees and the tasks they perform.

The application details state that the occupant has lived at the site for more than 20 years in at least two different mobile homes within the same location. The current proposal is to replace the mobile home with a larger dwelling. This is stated as being necessary for the applicant's occupation. Statutory declarations by the applicant and the occupant have been submitted with the application. These state that the occupant moved into the caravan on a permanent basis in 1993. Other evidence in the form of utility bills have also been provided which purport to support the declarations. However, they are all in the name of the applicant either at the Ashley Farm address or his former residence at Lake Avenue, Rainham. There are no bills addressed to the occupant, nor is there a separate address for the caravan/mobile home. Notwithstanding this, on the basis of the declarations and the aerial photographic evidence, the use of land for the siting of a single caravan would appear to be lawful. Whilst the information submitted can be given some weight there has been no formal determination that the use is lawful through the submission of an application for a lawful development certificate (LDC). The applicant has been advised that the only way of formally confirming that the use of land for siting a caravan is lawful

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is through a LDC application. The applicant has acknowledged this but has chosen not to make such an application. Accordingly, whilst the proposed removal of the caravan is material, this does not carry as much weight as would be the case if its lawfulness had been formally demonstrated.

The first step to demonstrate the need for a new dwelling is to establish whether it is essential for a worker to live on the site. It is stated that the applicant would be living on site to manage the agricultural business. From the applicant's point of view this would be very desirable as he has sold his former home and needs someone on site after the pending departure of the occupant. However, from the evidence submitted it is not clear what activities the applicant would undertake in relation to his various business activities and those which would be carried out by other staff who live elsewhere. Much of the cattle rearing appears to be carried out at other sites in Essex.

The case for need is put forward on the basis of animal welfare issues and not the needs of the plant repair and sale business even though this is a major part of the activities on site. Staff consider that there would be no essential need for someone to live on the site in connection with the plant business. Similarly for stable uses, whilst there are welfare issues, there would not normally be an essential need for someone to live at the site. The scale of the equestrian activities would be reduced should the application be successful by the demolition of one of the stable blocks, thus reducing the need.

With regard to the cattle rearing these are purchased as calves when the price is reasonable and kept for up to 12 months before selling on. The cattle are put out to pasture between late March and October/November, depending on the weather. At other times they need to be housed. When not out to pasture it is stated that the cattle need to be fed twice daily. Cattle, especially the calves need to be monitored and the sheds cleaned and maintained. At the time of the site visit there were about 30 cattle in a shed on site. The keeping of cattle on site is stated to require two staff involving about 50 man hours per week between them. However, it is not clear whether the applicant would undertake any of these duties. Furthermore, these duties are not considered to necessitate someone living on site. Additional man hours would be required for the keeping of cattle at the other sites, including transportation between sites. Other operations, including hay and haylage production and cattle movement involves external contractors.

The Ashley Farm site in terms of grazing area is only a small part of the overall area utilised for grazing and hay production. The grazing area is approximately 2.8 hectares compared with the 80 hectares (200 acres) rented elsewhere in Essex. It is not clear from the details submitted how this land is used, but the accounts show that some rent is paid. This also demonstrates that the applicant's farming activities are spread over a wide area. Therefore, excepting for the winter months when the livestock would be inside at Ashley Farm, animal welfare would be administered over a number of different sites. The applicant and his father, who started the business, have apparently carried out the cattle side of affairs from addresses elsewhere including the former home in Rainham for in excess of 30 years. However, one of the reasons given for need is the increase in the size of the herd over recent years, although no specific figures have been submitted. The limited housing and grazing area at Ashley Farm would limit the number of cattle that could be kept there.

The submitted financial information for the cattle rearing business show that that has been a profit arising in 2011, 2012 and 2013. However, supplementary details state that the accounts do not include costs of insurance of buildings and land, outgoings such as drainage charges or repairs to buildings or yards. There is also no mention of the costs of machinery used on the

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land which is subsidised by the plant business. On the plus side there is no income shown from the sale of hay or straw not consumed by the cattle, although the area of pasture at Ashley Farm would not support all the cattle raised, so this is likely to arise from land rented elsewhere. There is no information on any salary currently paid to the two members of staff and the profit appears insufficient to pay the salaries of these workers. The cattle business does not currently generate sufficient profit to support the construction of a new dwelling, however, the plant and machinery sales business appears to have adequate funds to provide for this and the sale of the applicant's former home would also provide funds.

With regard to the horse breeding it is stated that occupant manages the stud business and that he works in the region of 54 hours per week. This justifies the need for one full-time employee to manage the stud business. Both the cattle and horses require regular care and checks throughout the year. It is stated that regular inspections are needed to check for disease and when there are sudden changes in the weather which can affect the animals' welfare. It is stated that the animals need to be inspected between two and four times a day. However, it is again not specified whether these duties would be carried out by the applicant or someone else he employs. As the occupant appears to be mainly involved in the stud business, it appears that other staff who live elsewhere currently carry out most of the duties in relation to the cattle rearing. Staff have been advised that this currently includes the applicant who would continue this role from the new dwelling.

The guidance in Annex A of PPS7 is that there must be a clearly established existing functional need that relates to a full time worker who is primarily employed in agriculture. The unit must be established for at least three years and have been profitable in at least one of them, be currently financially sound and have a clear prospect of remaining so. Whilst the business has shown a small profit it has not been demonstrated that the business is financially sound as it appears that all the costs have not been included in the assessment. The functional need must not be capable of being fulfilled by an existing dwelling on the site or in the area which is suitable and available. This again has not been adequately demonstrated. In addition other planning requirements must be satisfied, including impact on the countryside and Green Belt. Whilst the guidance in PPS7 is no longer current it still provides a means of assessing proposals under Policy DC47.

### **ALTERNATIVE ACCOMMODATION:**

No details have been provided in the application of the availability of alternative accommodation in the locality. Both South Ockendon and North Ockendon are close by and Rainham and Cranham are within easy driving distance. Staff have gathered details of accommodation for sale or rent in the locality for the purposes of the forthcoming planning appeal. These demonstrate that there is property in the vicinity that is available and is as close to the site as the applicant's previous house. Much of the property is much closer to the site. If the needs of the holding can be served from premises elsewhere then there is no case for an essential need for a dwelling on site. The applicant has argued (in his appeal submission) that the property in the area would not be affordable for an agricultural worker, however, as the new occupant would be the applicant who has other means, this is not considered to be the case.

### **GREEN BELT IMPLICATIONS**

#### **IMPACT ON OPENNESS:**

The application is for the replacement of an existing residential unit on site and the removal of an existing building such that the overall footprint occupied by the building and caravan would be reduced. The applicant has also argued that, on the basis there is a lawful use for the siting of a caravan, the existing size of the unit could be doubled and still fall within the statutory definition

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of a caravan. This, it is argued, demonstrates that the overall impact on openness would be broadly similar to that currently and less than what could be the case.

In assessing the impact on openness there are two main factors to be taken into account. First is the location of the new dwelling compared with the building and caravan to be removed and secondly their volume and their current impact on openness. It is also relevant to consider whether they are lawful.

The applicant has stated that the new dwelling would replace the existing lawful mobile home on site. The mobile home may be lawful but no formal application for a lawful development certificate (LDC) has been submitted. The aerial photographic evidence is that a single caravan has been located adjacent to the main building on site for in excess of 10 years so would be immune from any enforcement action. However, it has not been formally determined that the land has been used for the stationing of a residential caravan for at least 10 years. Staff consider that if a LDC was issued following an application it would only relate to a single unit, not the maximum size as defined in legislation as claimed by the applicant. It would also define the area of land involved which is smaller than the current fenced curtilage. In this context no evidence has been provided to demonstrate that the existing caravan is a building, rather than a use of land.

The proposed dwelling would be located close to the Clay Tye Road entrance to the site well separated from most of the other buildings on site. However, it would be close to the existing stable buildings and on part of the site of the stable structure that would be demolished. This stable is single storey with a flat roof. The proposed new dwelling would have a much greater volume and together with its prominent location would have a materially greater impact on the openness of the Green Belt.

The proposal is to replace the existing caravan which is located close to the main farm and plant maintenance buildings. However, the caravan has limited impact on openness giving its size and location, as a result even allowing for its removal (in addition to the stables) the proposed development would have a significantly greater overall impact on openness.

### **DESIGN/IMPACT ON STREET/GARDEN SCENE**

This application follows the refusal of a proposal for a larger dwelling in a bigger curtilage. The development was considered to be an incongruous and visually intrusive feature harmful to the openness of the Green Belt and the character and appearance of the area. As a result it was considered to be contrary to Policy DC61. The current application would have less impact and represents an improvement on the refused scheme. The impact could be reduced further by locating the dwelling much closer to the main cluster of buildings on site and by further reducing the curtilage which still appears excessive in relation to the size of the holding. The proposed curtilage is much larger than that of the caravan and the domestic paraphernalia associated with a new dwelling would also have a harmful impact that would detract from the rural character of the area. Whilst some domestic development within the curtilage, such as out-buildings, could be restricted by condition, not all activities within a residential curtilage could be so controlled.

However, given the changes made staff consider that as a matter of judgement the impact of the dwelling on the character and appearance of the area would be acceptable, subject to conditions to control any future development within the curtilage.

### **IMPACT ON AMENITY**

Policy DC61 requires that new developments should not materially reduce the degree of



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privacy enjoyed by the occupants of adjoining properties and should not have an unreasonably adverse effect on sunlight and daylight to adjoining properties. However, in this case there are no other residential properties in the vicinity of the application site and there would be no material impact arising from a new dwelling on the amenities of the nearest occupiers.

### **HIGHWAY/PARKING**

The proposal would provide a sufficient number of car parking spaces and turning areas for the scale of development proposed. The existing access arrangements on site are not to be altered and are considered acceptable.

### **SECTION 106**

The erection of a new dwelling would be subject to the Council's tariff under the Planning Obligations SPD. The proposal would give rise to a contribution of £6,000 toward infrastructure costs. This payment should be secured through a unilateral undertaking under S106 of the Town and Country Planning Act 1990. A draft, unsigned undertaking has been submitted with the application but would need to be completed in an acceptable form if it is decided that planning permission should be granted. Where permission is refused in the absence of a completed undertaking this would normally form an additional reason for refusal.

### **KEY ISSUES/CONCLUSIONS**

This application is for a new dwelling to serve the three business activities on the Ashley Farm site. The case of essential need is made mainly to support the cattle rearing business that is based on the holding and which occupies the majority of the site area. However, the cattle rearing business takes place on a number of sites throughout Essex and has been run by the applicant and his father from a base in Rainham for many years. Therefore, apart for the winter months the welfare of the cattle is undertaken at a number of sites over a wide area.

Whilst there is a degree of functional need in terms of Annex A of PPS7 it has not been demonstrated that the needs of the cattle rearing business can only be met by a dwelling on this site and that there is no suitable alternative accommodation in the locality. The supporting details state that the applicant and his father have reared cattle for 30 years based in other accommodation in the area, including an address in Rainham. The change in circumstances that are put forward in support of the application are not considered to adequately support the case.

Therefore, as a matter of judgement staff consider that the criteria in Policy DC47 (Annex A of PPS7) have not been satisfied and that the essential need for a new dwelling in the countryside has not been demonstrated. As a consequence 'very special circumstances' have not been demonstrated sufficient to offset the harm that would be caused to the Green Belt by reason of inappropriateness. The guidance in the NPPF is that local planning authorities should give substantial weight to any harm to the Green Belt. Should members give different weight to these factors and conclude that essential need has been demonstrated which offsets the harm to the Green Belt, then there would be a case for granting planning permission for a dwelling solely for an agricultural worker and not to support the other businesses on site.

With regard to the impact on the countryside generally staff consider that as a matter of judgement the impact of the dwelling on the character and appearance of the area would be acceptable, subject to conditions to control any future development within the curtilage, including extensions.

Having regard to the LDF Core Strategy and Development Control Policies Development Plan

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Document, the guidance in the National Planning Policy Framework and all other material planning considerations, including consultation responses, it is considered that it has not been demonstrated that there is an essential need for an agricultural worker to live on the site and as a result no 'very special circumstances' have been demonstrated that would outweigh the harm a new dwelling would cause to the openness of the Green Belt.

In the absence of a mechanism to secure a planning obligation toward the infrastructure costs of new development the proposal is contrary to the provisions of the Havering Planning Obligations Supplementary Planning Document and Policy DC72 of the LDF Core Strategy and Development Control Policies DPD.

The application is, therefore, contrary to the aims and objectives of Policies DC61, DC47 and DC45 of the LDF Core Strategy and Development Control Policies Development Plan Document and the guidance in the National Planning Policy Framework. Refusal is recommended accordingly.

### **RECOMMENDATION**

It is recommended that **planning permission be REFUSED** for the reason(s) given at the end of the report

#### **1. Refusal non standard Condition**

The site lies within an area identified in the Core Strategy and Development Control Policies Development Plan Document and Proposals Map as Metropolitan Green Belt. The proposal for a new dwelling to serve the existing businesses on site is considered to be inappropriate development that would have a materially adverse impact on the openness of the Green Belt. Such development should only be permitted where it is clearly demonstrated that there are 'very special circumstances' sufficient to outweigh the harm that would be caused to the Green Belt and any other harm that would arise. No 'very special circumstances' have been demonstrated in this case that are sufficient to outweigh this harm. As a consequence the proposal would be contrary to the guidance in the National Planning Policy Framework and Policies DC45 and DC47 of the Core Strategy and Development Control Policies Development Plan Document.

#### **2. Refusal non standard condition**

In the absence of a mechanism to secure a planning obligation toward the infrastructure costs of new development the proposal is contrary to the provisions of the Havering Planning Obligations Supplementary Planning Document and Policy DC72 of the LDF Core Strategy and Development Control Policies DPD.

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#### **1 Refusal - No negotiation**

Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: Consideration was given to seeking amendments, but given conflict with adopted planning policy, notification of intended refusal, rather than negotiation, was in this case appropriate in accordance with para 186-187 of the National Planning Policy Framework 2012.

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<b>APPLICATION NO:</b>	<b>P0478.14</b>	
<b>WARD :</b>	Havering Park	<b>Date Received:</b> 3rd April 2014 <b>Expiry Date:</b> 29th May 2014
<b>ADDRESS:</b>	28 Litten Close Collier Row Romford	
<b>PROPOSAL:</b>	Convert existing garage into pool complex with rear and side extensions  Additional plans P1-06 received 28-05-14	
<b>DRAWING NO(S):</b>	PL-06 PL-01 PL-02 PL-03 PL-04 PL-05	
<b>RECOMMENDATION :</b>	It is recommended that <b>planning permission be GRANTED</b> subject to the condition(s) given at the end of the report given at the end of the report.	

### **SITE DESCRIPTION**

The application site comprises of a 2-storey detached dwelling at 28 Litten Close which forms part of a newly developed housing estate off Lodge Lane, Collier Row. The site is surrounded by similarly designed two storey semi-detached houses. There is an existing garage providing two parking spaces and there is adequate provision on a hardstanding to the frontage for an additional two parking spaces. The site is predominately flat and there are no trees to be affected.

The site is within the Metropolitan Green Belt and the area surrounding the application site has an open feel and appearance. The dwelling is on the end of a row of detached properties and as such has similar dwellings to the east and open fields to the west.

### **DESCRIPTION OF PROPOSAL**

The proposal is to convert the existing garage into a pool complex with rear and side extensions.

The proposal would extend to the side elevation by 5.4 metres width and extend from the rear elevation by 6.2 metres depth, it would both adjoin and infill between the house and the existing garage which would be converted.

The materials used for the walls in this development would be in brick to match the existing property, the roof would be partially of a glazed pitched roof design, partially of flat roof felt construction with a dummy pitched roof to the front elevation.

### **RELEVANT HISTORY**

The previous application P1442.09 was withdrawn and prior to that application P0254.09 for a purpose built gym, games room and swimming pool outbuilding, was refused for the following reason;

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1. The proposed development would, by reason of its height, bulk and mass, appear as an unacceptably dominant and visually intrusive feature, harmful to the appearance of the surrounding area and this part of the Green Belt, contrary to Policy DC45 and DC61 of LDF Development Control Policies Development Plan Document.

2. The proposed development would, by reason of its excessive depth, height and position close to the boundaries of the site, be an intrusive and unneighbourly development, resulting in an undue sense of enclosure to the adjoining neighbour, having an adverse effect on the amenities of adjacent occupiers contrary to Policy DC45 and DC61 of LDF Development Control Policies Development Plan Document.

Within this refused application, the proposed building measured at a width of 5.5 metres, total depth of 14.25 metres, depth on the western side of 5.6 metres and the overall height structure to be 4 metres. Within the delegated officer's report it read;

' Although the outbuilding would not be visible from the streetscene, it is considered that the additions would appear bulky, adding substantial mass to the original property and therefore impact on this part of the Green Belt. Staff consider the new outbuilding to result in disproportionate additions over and above the existing dwelling and that the proposal would have a demonstrably harmful impact upon the openness of the Green Belt and as such, would constitute inappropriate development'.

'The proposal is further of such a size, height and bulk that it would be visible as seen from the neighbouring properties towards the east and north-east and as such is considered to be visually obtrusive within the rear garden environment and contributing further to an adverse impact on the open character of this part of the Green Belt'.

'Having regard to the above, it is considered that the proposal will have a great impact on the existing character of the site and surrounding area and Staff consider that material harm to the character and openness of the Green Belt will arise from this proposal'.

The current proposal is for an extension instead of an outbuilding as a more viable option to extend on the existing property within the Green Belt.

P0967.13 - Rear detached swimming pool enclosure  
Refuse 24-02-2014

P1442.09 - Gym and swimming pool outbuilding  
Withdrawn 04-12-2009

P1173.09 - Single storey side extension  
Apprv with cons 08-10-2009

D0039.09 - Certificate of Lawfulness for single storey side extension.  
PP is required 20-04-2009

P0254.09 - Purpose built gym, games room and swimming pool outbuilding  
Refuse 28-05-2009

### **CONSULTATIONS/REPRESENTATIONS**

Notification letters were sent to 13 neighbouring properties;

1 support- The proposal with its designed layout to consider other residents is commendable,

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and the design looks to balance the appearance.

1 comment - The applicant has kindly scaled back the proposal through revised plans.

Highways-No objections

### **RELEVANT POLICIES**

### **MAYORAL CIL IMPLICATIONS**

The application is for an area smaller than 100 square metres and is therefore not CIL liable.

### **STAFF COMMENTS**

The main considerations for this application relate to the implications for the Green Belt and the neighbouring residential amenity. Therefore the material considerations include the principle of new development within the Green Belt, whether the proposal is proportionate and appropriate to not cause any undue harm to the character and openness of the Green Belt, and the impact on the amenity of neighbouring properties.

### **GREEN BELT IMPLICATIONS**

The NPPF states;

Paragraph 88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Paragraph 89. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt;

- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

Policy DC45 of the LDF accepts the principle of residential extensions of existing dwellings will be allowed provided that the cubic capacity of the resultant building is not more than 50% greater than that of the original dwelling.

The residential development on the site is contrary to the above development plan policy, however as a matter of judgement, staff consider that the proposal is acceptable in principle as the extension is ancillary and appropriate to the main house and that the proposed design is considered suitable and would not impact upon the character and openness of the Green Belt.

The following is the cubic volume measurements of the application property.

Original house and garage - 644 cubic metre volume.

Single storey side/rear extension - 190 cubic metre volume.

Proposed extension - the garage= 162 cubic metre volume.

Total = 996 cubic metre volume.

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This would equate to a 55% increase on the original property. The proposal would not therefore comply with the above criteria of DC45. However, although proposal is in excess of what is normally permitted it is considered to not be unacceptable as most of it would not be readily visible from the street nor within sight from further viewpoints. Members should note that the proposal would marginally be over the 50%, but with no objections from the neighbours staff considered that the proposal would be in keeping with the character of this part of the Green Belt without impacting on the openness of it. The building would be viewed as the incorporation of the existing original garage and would effectively be an infill between the garage and the main house itself.

The property is situated at the end of a cul-de-sac in such a position that any views from the street would be obscured by the existing and neighbouring dwelling. Also the proposal is considered acceptable in terms of design and appearance and would relate satisfactorily to the existing dwelling and the surrounding area.

### **DESIGN/IMPACT ON STREET/GARDEN SCENE**

Policy DC61 and associated guidance seeks to ensure that all new developments are satisfactorily located and are of a high standard of design and layout. In this regard, it is important that the appearance of new developments is compatible with the character of the local street scene and the surrounding area.

The Residential Extension and Alteration SPD states that as a general rule, houses can be extended from the rear wall of the original dwelling by up to and up to 4 metres in depth for a semi detached or detached dwelling. This is to ensure the extension is subordinate to the original dwelling. Any greater depth required should be within an angle of 45 degrees, taken from the 4 metre dimension on the property boundary, in order to ensure a reasonable level of amenity is afforded to neighbouring properties.

The rear part of the extension would extend beyond the original wall by 6.2 metres which would be contrary to the above guidance. However, the extension is well contained and would finish flush with the rear wall of the existing garage which would effectively limit the impact on any neighbouring property or the wider garden scene.

The SPD also states that side extensions for detached houses should not be extended up to side boundaries since this would involve closing the characteristic spacing between dwellings and leave no access to the rear. In this instance, however the side extension includes access through which the rear of the property may be gained. Furthermore, clear access is also available to the opposite flank and as a single storey extension the space between buildings at first floor level is maintained.

The extension to the side elevation would extend close to the boundary in line with the existing garage flank wall. This is considered acceptable as it is set back from the front elevation by 4.8 metres and would be single storey in design. The single storey side elevation of the extension would not be widely seen from the street scene as it would be screened by No.26 which extends up to the side boundary.

Staff consider the extension would not result in disproportionate additions over and above the existing dwelling.

Having regard to the above, it is considered that the proposal would not have an adverse impact

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on the existing character of the site and surrounding area nor would there be any material harm to the character and openness of the Green Belt arising from the development.

### **IMPACT ON AMENITY**

Policy DC61 considers that new developments should not materially reduce the degree of privacy enjoyed by the occupants of adjoining properties and should not have an unreasonably adverse effect on sunlight and daylight to adjoining properties.

The only neighbour that might be affected would be No.26 Litten Close which is a mirror layout to the application site. Due to the nature of the single storey size, height, bulk of the proposed building, and that there are no side windows on the ground floor of No.26, the proposal would not have a detrimental impact on the visual amenities enjoyed by the neighbouring property and would not obstruct outlook or light for the occupants.

In relation to overlooking and loss of privacy issues, as mentioned above there are no side windows to the ground floor of the neighbour's side elevation, and there are no side facing windows proposed on the extension. As such, the proposal would not create harm to residential amenity of loss of privacy from overlooking.

Staff consider this neighbour will not suffer from any loss of amenity sufficient to warrant refusal of the application.

### **HIGHWAY/PARKING**

The proposal would remove the vehicle car parking within the double garage. However they benefit from a front driveway leading towards this garage which contains 2 off street parking spaces.

The proposed extension would not have any impact on parking or highway issues and it is considered that the current parking arrangement is sufficient.

### **KEY ISSUES/CONCLUSIONS**

The proposal would result in development to the property being more than the 50% normally permitted by Policy DC45, however staff consider the proposal would be acceptable as the extension would not appear disproportionate to the original dwelling, nor would it harm the character or the openness of the Green Belt.

Staff consider that the proposal is acceptable in principle as the extension is ancillary and appropriate to the main house and that the proposed design is considered suitable and would not impact upon the character and openness of the Green Belt.

Taking into consideration the circumstances outlined above it is recommended that planning permission be granted.

### **RECOMMENDATION**

It is recommended that **planning permission be GRANTED** subject to the condition(s) given at the end of the report

#### **1. S SC4 (Time limit) 3yrs**

The development to which this permission relates must be commenced not later than

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**2. S SC10 (Matching materials)**

All new external finishes shall be carried out in materials to match those of the existing building(s) to the satisfaction of the Local Planning Authority.

Reason:-

To safeguard the appearance of the premises and the character of the immediate area, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

**3. S SC32 (Accordance with plans)**

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

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.

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**INFORMATIVES**

**1 Approval - No negotiation required**

Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: 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.



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<b>APPLICATION NO:</b>	<b>P0492.14</b>	
<b>WARD :</b>	Harold Wood	<b>Date Received:</b> 9th April 2014 <b>Expiry Date:</b> 4th June 2014
<b>ADDRESS:</b>	Ivy Lodge Equine Veterinary Clinic Nags Head Lane Upminster	
<b>PROPOSAL:</b>	Retention of portacabin (Office), knock down building, store and stables	
<b>DRAWING NO(S):</b>	Existing block plan Plan and elevations of existing elevations Site location plan	
<b>RECOMMENDATION :</b>	It is recommended that <b>planning permission be GRANTED</b> subject to the condition(s) given at the end of the report given at the end of the report.	

### **SITE DESCRIPTION**

The application site lies outside of the urban area within the Green Belt. It also lies within the area of the Thames Chase Community Forest. The site forms part of the Ivy Lodge Veterinary Clinic which takes access from Nags Head Lane via a long track. The practice buildings comprise two steel sheet clad former agricultural buildings and a brick built entrance/foyer. There is a gravel surfaced car parking and turning area on the east side of the buildings. To the north is a stable building for horses either awaiting or recovering from treatment. To the west are two large barns that form part of Ivy Lodge Farm. To the east of the site are planted areas that form part of Thames Chase and to the south is a substantial hedge that separates the site from Ivy Lodge Farm.

The site is not visible from the public highway or from the public footpath that runs north-south to the west of the main buildings at Ivy Lodge Farm.

### **DESCRIPTION OF PROPOSAL**

The proposal is for the retention of four buildings for use connected with the equine part of the vet practice. The buildings have already been erected and comprise one single storey flat-roofed portable building and three single storey wooden clad buildings with pitched roofs. The buildings would have a combined floor area of about 129 sqm. The buildings would be used as an examination/knock down box, office, stables and as a store. The buildings have a total area of 53.6 sqm; 26.4 sqm; 22.8 sqm and 26.1 sqm respectively.

### **RELEVANT HISTORY**

P0364.87 - Conversion of existing agricultural barn to provide veterinary surgery - approved.

P1476.87 - Change of use of existing farm cottage to provide veterinary clinic and offices - approved.

P1966.87 - Parking area and roadway, appeal against non-determination dismissed.

P0145.97 - Extension & improvements to clinic with residential flat on first floor - approved.

P1168.92 - Ground floor rear extension with matching pitched roof to existing building to create

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additional floor area for Veterinary Clinic - approved.

P0373.99 - Two storey extension to barn to provide all veterinary care facilities - approved.

P0946.03 - Barn to provide stables, store and hay store - approved.

P0945.03 - Access road - approved.

P0002.13 - Retention of stables and hay barn and proposed hardstanding - approved.

### **CONSULTATIONS/REPRESENTATIONS**

Thames Water has no comments.

London Fire Brigade is happy for the works to go ahead.

Streetcare (Highway Authority) has no objections.

Neighbour letters were sent to 15 local occupiers, including Ivy Lodge Farm and Paternoster Cottage. No representations have been received.

### **RELEVANT POLICIES**

#### LDF

CP14 - Green Belt

CP17 - Design

DC45 - Appropriate Development in the Green Belt

DC61 - Urban Design

#### OTHER

LONDON PLAN - 7.16 - Green Belt

LONDON PLAN - 7.4 - Local character

LONDON PLAN - 8.3 - Community infrastructure Levy

NPPF - National Planning Policy Framework

### **MAYORAL CIL IMPLICATIONS**

The proposed development creates additional floorspace that is liable for CIL. However, the total internal floor space of the buildings is 119.5 sqm. The portable building would be retained permanently so the floorspace is relevant for the purposes of CIL. The amount of CIL chargeable is £2390.

### **PRINCIPLE OF DEVELOPMENT**

The application site lies within the Green Belt where new built development would normally be considered inappropriate development unless for specific purposes. These exceptions are set out in paragraph 89 of the National Planning Policy Framework. These include extensions to existing buildings, provided that these are not disproportionate over and above the size of the original building. Policy DC45 of the LDF Core Strategy and Development Control Policies DPD specifies similar exceptions, but has been largely superseded by the NPPF. The current application whilst not for an extension to the current surgery building, would be in close proximity and for use ancillary to the veterinary practice to extend the facilities available.

The vets practice has been established on the site since 1989 when it was accepted that the re-use of an existing agricultural building for this purpose was acceptable in terms of Green Belt

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policy. Further extensions to the building have been granted to allow the practice to expand. The equine side to the practice has been established over a number of years, including facilities in Newmarket.

More recently most of the equine work has been moved to the Nags Head Lane site. To support this planning permission was granted in 2013 for stables and hay barn on adjacent land. This development was considered to be 'inappropriate development', but account was taken of an earlier permission for a larger stable building (not constructed) that would have had a greater impact on the Green Belt. Regard was also had to LDF policies that allowed stables for recreational purposes in the Green Belt on the basis that such uses could only be accommodated within the rural area. Account was also taken of the guidance at paragraph 28 of the NPPF which encourages the sustainable growth and expansion of rural businesses, which would include those in the Green Belt, although this is not specifically stated. These factors were considered to amount to the 'very special circumstances' necessary to outweigh the harm to the Green Belt. The small scale expansion of the business to accommodate the equine part of the practice is also considered to be sustainable as it would complement existing facilities on the site.

### **GREEN BELT IMPLICATIONS**

Inappropriate development in the Green Belt is by definition harmful and should only be permitted if there are 'very special circumstances'. Substantial weight should be given to the harm that would be caused by inappropriate development. The proposed development would have a harmful impact on the openness of the Green Belt, but this would be limited given the scale of the development and the location of the buildings. Whilst not strictly an extension of the existing building, the new building would provide for an expansion of a rural business, by providing ancillary accommodation close by. Whilst contrary to Green Belt policy, the development would accord with other parts of the NPPF, in particular the support that should be given to rural businesses. The equine part of the practice has been relocated from Newmarket and the new facilities are required to accommodate this aspect. It is also relevant to take account of the other development permitted nearby in support of the veterinary practice which recognised that keeping horses before and after treatment could only realistically take place within the rural area. In these circumstances it is considered that there are 'very special circumstances' sufficient to outweigh the limited harm that would be caused to the Green Belt.

### **DESIGN/IMPACT ON STREET/GARDEN SCENE**

The four buildings would be located adjacent to the main practice buildings which are set back over 200m from Nags Head Lane. Immediately to the west are large buildings that form part of Ivy Lodge Farm and to the south is a well established hedgerow 3-4 m in height. The site is, therefore, well screened from public view points, including the public footpath to the west of the farm. The buildings are small scale and clustered together adjacent to existing buildings that are significantly greater in scale. Whilst the buildings are functional in appearance they would not be out of character within the group of buildings that make up the practice and the adjoining farm buildings. As a consequence there would be no material adverse impact on the character and appearance of the area.

### **IMPACT ON AMENITY**

The application site is only visible from one residential property, Paternoster Cottage which lies to the east of the site. The four single storey buildings would be seen against the backdrop of other buildings that are significantly larger in scale. Accordingly there would be no material harm to the visual amenities enjoyed by the occupants of the property. The buildings are over 50m

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away from the house and there would be no material impact from noise or other activities arising from the use of the buildings. The buildings are already in use and had there been any significant increase in activities this would have been noticeable to occupants of the two nearby properties. However, no objections have been raised in response to the application.

### **HIGHWAY/PARKING**

The use of the buildings would not result in any significant increase in the amount of traffic visiting the site. The existing access and car parking arrangements would be adequate for any increase.

### **KEY ISSUES/CONCLUSIONS**

The application site lies within the Green Belt and the development is considered to be inappropriate development as it does not fall within any of the categories set out in the NPPF or in LDF Policy DC45. However, the buildings would provide for the expansion of a rural business in line with guidance in the NPPF. They would be modest in scale and set close to much larger buildings so would have a limited impact on openness. Other small scale buildings to support the business have recently been permitted on the site. Taking all these factors into account it is considered that the harm by reason of inappropriateness is clearly outweighed by these other factors. Planning permission is recommended accordingly.

### **RECOMMENDATION**

It is recommended that **planning permission be GRANTED** subject to the condition(s) given at the end of the report

#### **1. Non Standard Condition 31**

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 the buildings hereby permitted shall be used only for activities ancillary to the main use of the site for the purposes of a veterinary clinic.

Reason:-

To restrict the use of the premises to one compatible with the surrounding area and to enable the Local Planning Authority to exercise control over any future use not forming part of this application in accordance with policies DC45 and DC61 of the Core Strategy and Development Control Policies DPD.

#### **2. SC25 (Open storage)**

No goods or materials shall be stored on the site in the open.

Reason:-

In the interests of visual amenity and to protect the open nature of the Green Belt in accordance with the Core Strategy and Development Control Policies Development Plan Document Policies DC45 and DC61 and the guidance in the National Planning Policy Framework.

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### **INFORMATIVES**

**REGULATORY SERVICES COMMITTEE**

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**1 Non Standard Informative 1**

Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: 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.

**2 Approval and CIL (enter amount)**

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 £2390 (subject to indexation). CIL is payable within 60 days of commencement of development, which in this case is the date of the grant of this planning permission. A Liability Notice will be sent to the applicant (or anyone else who has assumed liability) shortly. Further details with regard to CIL are available from the Council's website.

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# REGULATORY SERVICES COMMITTEE

19 June, 2014

# REPORT

**Subject Heading:**

**P0455.14 – Mardyke Farm, Dagenham Road**

**Variation of Conditions 1 and 8 of planning permission P0432.10 - extension of time for completion and reduction in the number of site access points following restoration**

**Report Author and contact details:**

**Simon Thelwell (Projects and Regulation Manager) 01708 432685**

**Policy context:**

**Local Development Framework  
London Plan  
National Planning Guidance**

**Financial summary:**

**None**

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

Clean, safe and green borough	[X]
Excellence in education and learning	[ ]
Opportunities for all through economic, social and cultural activity	[X]
Value and enhance the life of every individual	[X]
High customer satisfaction and a stable council tax	[ ]

## **SUMMARY**

This planning application proposes the variation of planning conditions under the provisions of Section 73 of the Town and Country Planning Act 1990. Planning permission P0432.10 granted consent for the restoration, re-contouring and landscaping of land without complying with conditions 2 (time limit for completion), 9 (landscaping), 11 (phasing), 13 (drainage ditches), and 15 (clay cap) of planning permission P0186.93.

Planning permission P0432.10 allowed for a variation of the conditions attached to P0186.93 to allow for the continued restoration of the land, with amendments, to public open space. The application under consideration proposes variations to conditions 1 (time limit for completion) and 8 (landscaping arrangements), to allow for an additional three years to complete the development, and to reduce the number of public access points into the restored site from five to two.

The main issues to be considered by Members in this case are the principle of development, visual impact, local amenity, and access considerations. Officers are recommending that planning permission be granted, subject to conditions.

## **RECOMMENDATIONS**

That the proposal is unacceptable as it stands but would be acceptable subject to the applicant entering into a Deed of Variation under Section 106A of the Town and Country Planning Act 1990 (as amended). The deed would vary the Section 106 planning obligations completed on 1<sup>st</sup> July, 2010 in respect of planning permission P0432.10, the planning conditions for which are annexed to this report, by substituting that planning permission reference with a new reference to reflect the new consent and to amend the approved landscaping plan to reflect the proposed number of access points, along with any consequential amendments to the definitions, recitals and clauses of the section 106 dated 1<sup>st</sup> July 2010.

The developer / owner shall pay the Council's legal costs in respect of the preparation of the Deed of Variation irrespective of whether the matter is completed.

Save for the variation set out above and any necessary consequential amendments to the Section 106 planning obligation dated 1<sup>st</sup> July 2010, all recitals, terms, covenants and obligations in the aforementioned Section 106 Agreement shall remain unchanged.



That Staff be authorised to enter into a Deed of Variation to secure the above and upon completion of that agreement, grant planning permission subject to the conditions set out below.

1. Time Limit – With the exception of aftercare works, the development hereby approved, including the approved engineering operations and landscaping works, shall be completed by 11<sup>th</sup> April 2017.

Reason: In the interest of amenity and to ensure the full restoration of the site within a reasonable timescale.

2. Access Arrangements - All construction traffic shall continue to use the existing access onto Dagenham Road. There shall be no other vehicular access to the site.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper and expeditious restoration of the site to amenity and nature conservation use.

3. Working Hours - With the exception of after-care and tree planting the development hereby permitted shall only be carried out between 08.00 and 18.00 on weekdays, 08.00 and 13.00 on Saturdays and not at all on Sundays and public holidays.

Reason:

In the interests of local amenity in accordance with Policy DC61 of the Development Control Policies Development Plan Document, and the guidance contained in the NPPF.

4. Noise - The development shall be undertaken in accordance with the noise controls approved under condition 4 of planning permission P0432.10.

Reason:

In the interests of local amenity in accordance with Policy DC61 of the Development Control Policies Development Plan Document, and the guidance contained in the NPPF.

5. Noise - The monitoring of noise emissions from the development hereby permitted shall be undertaken in accordance with the scheme approved under condition 5 of planning permission P0432.10. Monitoring data shall be retained during the life of the operation and shall, be supplied to the local planning authority on request.

Reason:

In the interests of local amenity in accordance with Policy DC61 of the Development Control Policies Development Plan Document, and the guidance contained in the NPPF.

6. Noise - All vehicles, plant and equipment used on the site shall be silenced, maintained and operated in accordance with the manufacturers specifications.

Reason:

In the interests of local amenity in accordance with Policy DC61 of the Development Control Policies Development Plan Document, and the guidance contained in the NPPF.

7. Dust - The control and monitoring of dust emissions from the development hereby permitted shall be undertaken in accordance with the scheme approved under condition 7 of planning permission P0432.10 and shall be implemented for the life of the development.

Reason:

In the interests of local amenity in accordance with Policy DC61 of the Development Control Policies Development Plan Document, and the guidance contained in the NPPF.

8. Landscaping and Restoration – The development shall be undertaken in accordance with the approved landscaping plans approved as part of condition 8 of planning permission P0432.10 except as amended by the approved plans referenced “96000-LANDSCAPE-001 VER D” and “Boundary Treatment Plan”, received on 29<sup>th</sup> May 2014 and 6<sup>th</sup> June 2014 respectively.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure the proper restoration of the site.

9. Aftercare - Any trees or plants which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site.

10. Drainage - The development shall continue to be undertaken in accordance with the drainage scheme and any balancing ponds approved as part of condition 10 of planning permission P0432.10.

Reason:

To prevent the increased risk of flooding to third parties, to the site itself, to improve water quality and to enhance biodiversity.

11. Restoration Materials - Only restoration soils that are in accordance with the site specific environmental permit and exemption issued by the Environment Agency will be imported onto the site and used for infilling.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site to public amenity.

12. Soils - The final layer of covering material shall be at least 0.6m depth of topsoil or other soil-forming materials and this shall be increased to at least 1.5m depth in areas to be planted with trees and shrubs. Topsoil shall be graded to form the approved final contours and to provide an even surface for planting and grass sowing. The finished surface shall be ripped to disturb the whole soil profile to a depth of at least 0.4m in order to alleviate compaction. Soil material shall only be spread when friable in order to minimise compaction. Any soil or other material which is surplus to requirements shall be removed from the site within 1 month on completion of restoration.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site.

13. Stockpiles - Restoration materials shall not be stored in mounds exceeding 3m in height and all other materials shall be stored in mounds not exceeding 4m in height.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site.

14. Wheel Cleaning – The approved development shall continue to be undertaken in accordance with the wheel washing details approved as part of condition 14 of planning permission P0432.10.

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 and in order that the development accords with Policies DC61 and DC32 of the LDF Development Control Policies DPD.

15. Wheel Cleaning – All heavy goods vehicles that leave the site during the course of the approved engineering operations, shall be cleaned in accordance with the details approved as part of condition 14 above.

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 and in order that the development accords with Policies DC61 and DC32 of the LDF Development Control Policies DPD.

16. Internal Roads - Internal haul roads shall be constructed in accordance with the plans and specifications approved under planning permission P0432.10. All vehicles and machinery shall travel to the individual phases of the development within the site on the designated haul roads. Any alterations or amendments to the haul roads location and/ or specifications shall be submitted to and approved in writing by the local planning authority prior to their implementation. Upon completion of the site restoration, the haul roads shall be broken up and removed and the site restored in accordance with the details approved under condition 8 above.

Reason:

In the interests of local amenity in accordance with Policy DC61 of the Development Control Policies Development Plan Document, and the guidance contained in the NPPF.

17. Perimeter Fencing - The site perimeter fencing approved under condition 16 of planning permission P0432.10 shall be retained for the duration of the restoration works. Lockable gates shall continue to be provided at the vehicular access to the land. The gate shall be kept locked at all times when the site is closed and the security fencing maintained throughout the construction period. Upon completion of the engineering operations, the perimeter fencing shall be removed or modified in accordance with the details approved as part of condition 8 above.

Reason:

For the purposes of this condition Engineering Operations means any phase of the development that has been completed and the final layer of topsoil spread made ready for planting/seeding.

18. Contaminated Land - The development hereby approved shall continue to be undertaken in accordance with the details approved as part of condition 17 of planning permission P0432.10, and shall continue to be undertaken in accordance with the requirements of that condition.

Reason:

To protect those engaged in construction and occupation of the development from potential contamination. Also in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC53.

19. Ecology - The development hereby permitted shall continue to be undertaken in accordance with the ecological management plan and protected species management plan approved as part of condition 18 of planning permission P0432.10. Any change to operational, including management, responsibilities shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

To ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national planning policy PPS9 and LDF policies DC58 and DC59.

20. Invasive Species - The development shall continue to be undertaken in accordance with the details approved as part of condition 19 of planning permission P0432.10 for the removal or long-term management/eradication of Japanese knotweed, giant hogweed and New Zealand pygmyweed at the site.

Reason:

To ensure the site is restored for ecological enhancement in the interests of overall site enhancement and public amenity.

21. Notification – The local planning authority shall be notified in writing within 5 working days of the completion of the approved infilling of material and engineering operations, and within 5 working days of the completion of those landscaping and restoration works approved as part of condition 8 above.

22. Topographical Survey – A plan showing the final site levels (with contours at 1m intervals), shall be submitted for the approval in writing of the Local Planning Authority, within 1 month following the completion of the approved infilling of material and engineering operations. A further plan showing final site levels shall be submitted to the Local Planning Authority for its written approval within 1 month following the completion of the landscaping and restoration works approved as part of condition 8 above.

Reason:

In the interests of ensuring the development is completed in time and to establish the commencement date for the required aftercare period.

## **INFORMATIVES**

Note: 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.

### **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.

### **Approval – No Negotiation Required**

Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: 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.

## **REPORT DETAIL**

### **1. Site Description**

- 1.1 The site, which is located off Dagenham Road, is an irregular shaped area of land approximately 37ha in area. The site's northern boundary adjoins Dagenham Road along with residential properties located along Thorogood Way. The site's western boundary predominantly adjoins residential properties located along Stanley Road North and Betterton Road, but adjoins sports fields at its southern end. The southern boundary adjoins sports pitches associated with a nearby school, and at its western end, adjoins residential development within or in close proximity to Orchard

Village. The site is bounded to the west by the Beam River forming the Borough boundary with Barking and Dagenham.

- 1.2 The site has been the subject of active land restoration since April 2011, involving the importation and deposition of inert material, and its shaping to form levels approved as part of the restoration scheme associated with planning permission P0432.10. These works are intended to restore the site to a public open space and nature conservation area, follow past failures to properly restore the site following mineral extraction in the postwar period.
- 1.3 The site is located in the Green Belt.

## **2. Description of Proposal**

- 2.1 Condition 1 of planning permission P0432.10 states that:

*“Unless otherwise agreed in writing by the local planning authority the whole of the development hereby permitted, apart from aftercare, shall be completed within 3 years of the date of re-commencement of works pursuant to this application.”*

Condition 8 of planning permission P0432.10 states that:

*“Within 12 months of this permission a scheme of landscaping and restoration shall be submitted to and approved by the Local Planning Authority. The scheme shall be based on the approved landscaping plans Landscape Layout 14a and Landscape Sections 14b and shall include:*

- a) indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development;*
- b) long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas;*
- c) details of the proposals for the progressive re-contouring and restoration of the site and the timing of tree and shrub planting, footpath creation and public access, fencing, re-grading of embankments and construction of the ponds and drainage features;*
- d) Details of the extent and type of new planting;*
- e) Details of maintenance regimes;*
- f) Details of any new habitat created on site;*
- g) Details of treatment of site boundaries and/or buffers around water bodies.*

*The scheme of landscaping and restoration shall be carried out as approved and any subsequent variations shall be agreed in writing by the Local Planning Authority.”*

- 2.2 This planning application seeks approval for the variation of conditions 1 and 8 of planning permission P0432.10 (granted 1<sup>st</sup> July 2010), to allow for an extension to the approved working period, and to reduce the number of

public access points into the site, along with any consequential changes. The submitted information states that, owing to the economic downturn over the past few years, it has not been possible to import enough material and progress the development at the rate originally anticipated. An extension of three years has therefore been requested to complete the development. The submitted information states that the proposed reduction in the number of public access points into the restored site has arisen from discussions with local residents. The approved restoration scheme would include five public access points, however, owing to concerns about nuisance activities taking place within the site, such as the use of motorbikes, only two access points are now proposed. It is considered that this will help to reduce and control such activities more effectively.

2.3 In all other respects, the proposal would be as previously approved.

### **3. Relevant History**

3.1 Historically mined for sand and gravel from the late 1940s, the site was a subsequently landfilled and, by modern standards, poorly restored. Planning permission was granted on appeal in 1995 under planning reference P0186.93 to further restore the site through the importation of some 1.25 million cubic metres of inert materials that would encapsulate the historic landfill and restore the site for informal public open space and woodland. Approximately 70% of the material was imported, however, filling ceased in late 2003 leaving the scheme largely unfinished. The works re-commenced in April 2011 following the grant of the planning permission referenced P0432.10.

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

4.1 This application was advertised by site notice and a press advertisement. Notification letters were sent to 302 neighbouring addresses. Letters have been received from 1 neighbouring occupier, objecting to the proposal on the grounds that the proposed extension of time is too long and that the development should be completed more quickly.

Comments have also been received from the following:

Environment Agency	-	No objections.
Highways	-	No objections; conditions recommended.
Environmental Health	-	No comments received.

### **5. Relevant Policies**

5.1 Havering's Core Strategy and Development Control Policies DPD:



DC32 (The Road Network)  
DC45 (Appropriate Development in the Green Belt)  
DC58 (Biodiversity and Geodiversity)  
DC61 (Urban Design)  
DC72 (Planning Obligations)

In addition, the Landscaping SPD, Sustainable Design and Construction SPD, and the Planning Obligations SPD are also material considerations in this case.

5.2 The East London Joint Waste Plan (“the Waste DPD”)

Policies W4 (Disposal of inert waste by landfilling) and W5 (General considerations with regard to waste proposals.)

5.3 The London Plan

Policies 5.13 (sustainable drainage), 5.18 (construction, excavation, and demolition waste), 5.21 (contaminated land), 6.1 (strategic transport approach), 6.3 (assessing effect on transport capacity), 6.9 (cycling), 6.10 (walking), 6.13 (parking), 6.14 (freight), 7.3 (designing out crime), 7.4 (local character), 7.8 (heritage assets and archaeology), 7.14 (improving air quality), 7.15 (reducing noise and enhancing soundscapes), 7.16 (green belt), 7.19 (biodiversity and access to nature), and 8.2 (planning obligations).

5.4 Relevant national planning guidance:

National Planning Policy Framework (“the NPPF”)

**6. Staff Comments**

6.1 This proposal is put before Committee because, should planning permission be granted, an agreement under Section 106A of the Town and Country Planning Act 1990 would need to be completed.

6.2 In the event that planning permission is granted in this case, the proposal would result in a new planning permission being issued. Where appropriate, and subject to any necessary amendments, the conditions imposed on the last planning consent would need to be re-imposed in this instance.

6.3 The main issues to be considered by Members in this case are the principle of development, visual impact, local amenity, and access considerations.

**7. Assessment**

7.1 Principle of development

7.1.1 Policy DC45 of the DPD states that planning permission for development in the Green Belt will only be granted where it is for given purposes, including

for outdoor recreation and nature conservation. The proposed continuation of landfilling and engineering operations is intended to restore a former mineral extraction site and facilitate the creation of an outdoor recreation and nature conservation area. The proposal is considered to be in accordance with Policy DC45 of the LDF.

7.1.2 The guidance contained in the NPPF is also of relevance. The preliminary assessment when considering proposals for development in the Green Belt is as follows:-

- a) It must be determined whether or not the development is inappropriate development in the Green Belt. The NPPF and the Development Plan set out the categories of appropriate development.
- b) If the development is not considered to be inappropriate, the application should be determined on its own merits.
- c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies.

7.1.3 Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. It is for the applicant to show why permission should be granted and "very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations".

7.1.4 In terms of Green Belt policy, this application mainly proposes engineering operations (importation and levelling of material) and incidental building operations, including fencing around the site perimeter. Paragraph 90 of the NPPF states that "certain other forms of development" may constitute appropriate development in the Green Belt providing they preserve the openness of and do not conflict with the purposes of including land in the Green Belt. These include engineering operations.

7.1.5 The proposal concerns a development that has been granted planning permission before, and for which significant progress has been made. The applicant has stated that circumstances outside of their control have resulted in the completion of the development being delayed, and thus additional time is required to complete the development. Aside from the proposed reduction in public access points (and any minor consequential amendments), which is not considered to have any particular significance in terms of impacts on the Green Belt, the proposed restoration landform will be identical to that previously approved. In terms of those matters having significance for the site's openness, in particular the raising of ground levels, the proposal would be as previously approved.

7.1.6 The proposed extension to the approved working period would delay the site's restoration to an open green space, and for the duration of the extended construction works, there would be harm to the openness and

visual amenities of the Green Belt. However, given that the construction works are intrinsic elements to restoring the land and are temporary in nature, their harm to the openness and visual amenities of the Green Belt are not considered to be significant, particularly considering the poor condition of the site historically, and that the proposed extension of time would enable the applicant to restore the site to a public open space and nature conservation area.

7.1.7 The proposal would result in a new planning permission being issued and it is necessary to assess the application in accordance with the latest planning guidance. It is considered that the proposed land raising works and associated development would not be harmful to the openness of the Green Belt given, in this case, that the site forms a parcel of land enclosed by urban development and its historically very poor condition. Following the completion of the restoration works, the site will appear as an open green space surrounded by urban development, and to this extent, it is considered that the proposal would be beneficial to the openness of the Green Belt and purposes of included land within it.

7.1.8 Policy W4 of the Waste DPD states that planning permission for waste disposal by landfilling will only be granted provided the waste to be disposed of cannot practicably and reasonably be reused, and the proposal is both essential and involves the minimum quantity of waste necessary for, amongst other things, restoring current or former mineral workings sites. The fill material being used to restore the site has been approved separately by the Environment Agency and comprises inert fill material. In terms of the fill material being used, the purpose of the development and the site's previous use, and the proposed restoration scheme, the proposal is considered to be in accordance with the requirements of Policy W4 of the Waste DPD.

7.1.9 The proposal is considered to be acceptable in principle.

## 7.2 Visual Impact

7.2.1 Policy DC61 of the DPD states that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area.

7.2.2 The proposal would not result in any significant amendments to the overall appearance of the site once it is restored. The proposal is for an extension to the approved working period, and minor amendments to the site's access arrangements, but the proposal is otherwise as previously approved.

7.2.3 The proposed extension of time would mean that, potentially, as things stand, it could take a further three years to complete the development, although the actual importation of material and engineering operations should be complete within two years. The extended construction period would be temporary and it is considered that, given the desirability of restoring the site as soon as is practicably possible, that the short-term harm

of extending the working period would be outweighed by the long-term benefits of supporting the site's continued restoration.

7.2.4 In terms of its visual impact, the proposal is considered to be in accordance with Policy DC61 of the DPD and the guidance contained in the NPPF.

### 7.3 Local Amenity

7.3.1 Policy DC61 of the DPD states that planning permission will not be granted for proposals that would significantly diminish local and residential amenity.

7.3.2 The proposal would not result in any significant amendments to the overall appearance of the site once it is restored. The proposal is for an extension to the approved working period, and minor amendments to the site's access arrangements, but the proposal is otherwise as previously approved.

7.3.3 The noise controls imposed on the previous planning permission are recommended again in relation to the current proposal. These include the proposed working methods, noise monitoring scheme, maximum permitted noise levels, and a scheme for the submission of details to demonstrate compliance to the Council. The Council's Environmental Health officers report that no noise-related complaints have been received about the ongoing development.

7.3.4 The proposed changes to the site's access arrangements are intended to reduce the likelihood of nuisance activities occurring within the restored site, and according to the submitted information, have been proposed following discussions with local residents. The proposed extension to the working period would mean that construction works would continue for a longer period of time than originally anticipated, and this would result in a degree of harm to the amenities of local occupiers. However, the long term benefits of supporting the continued restoration of the site are considered to outweigh the short term harm identified.

7.3.5 The proposal is considered to be in accordance with Policy DC61 of the DPD.

### 7.4 Access Considerations

7.4.1 Policy DC32 of the DPD states that new development which has an adverse impact on the functioning of the road hierarchy will not be allowed.

7.4.2 The proposal is for a continuation of a previously approved development except with, arguably, a longer period of time to import a lower amount of material than originally permitted, given that the site's restoration is already significantly progressed.

7.4.3 There have been allegations in the past that the site under consideration has given rise to mud and other debris being tracked into the highway. However, investigations by planning officers found no conclusive evidence

of this, and, in general, the operator's use of wheel wash and road sweeping equipment has been sound. Nevertheless, the Council's Highway officers have requested a condition requiring the approval of such measures to prevent any potential deposition of material into the highway in future. The condition imposed on the last planning permission has therefore been updated.

7.4.4 In terms of its impact on highway safety and amenity, it is considered that the continuation of mineral processing at the application site would be acceptable and in accordance with Policy DC32 of the DPD.

## **7. Conclusion**

7.1 Officers consider the proposal to be acceptable, having had regard to Policies DC32, DC45, DC58, DC61, and DC72 of the LDF, and all other material considerations, subject to the recommended conditions and the completion of a legal agreement.

## **IMPLICATIONS AND RISKS**

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

None.

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

Legal resources will be required to prepare a deed of variation in relation to an existing legal agreement.

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

None.

### **Equalities implications and risks:**

None.

## **BACKGROUND PAPERS**

Application form

All information submitted in support of planning application P0455.14, and the details approved to satisfy the conditions imposed on planning permission P0432.10 (condition approval references Q0148.10 and Q0200.10).

Appendix A – Conditions imposed on planning permission P0432.10.

1) Unless otherwise agreed in writing by the local planning authority the whole of the development hereby permitted, apart from aftercare, shall be completed within 3 years of the date of re-commencement of works pursuant to this application.

Reason: In the interest of amenity and to ensure the full restoration of the site within a reasonable timescale.

2) All construction traffic shall use the existing access onto Dagenham Road. There shall be no other vehicular access to the site.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper and expeditious restoration of the site to amenity and nature conservation use.

3) With the exception of after-care and tree planting the development hereby permitted shall only be carried out between 08.00 and 18.00 on weekdays, 08.00 and 13.00 on Saturdays and not at all on Sundays and public holidays.

Reason:

To protect residential amenity.

4) The control of noise emissions from the development hereby permitted shall be undertaken in accordance with a scheme to be submitted to and approved by the local planning authority prior to any works associated with this permission commences. The scheme shall include details of the maximum levels of noise to be permitted at noise sensitive residences.

Reason:

To protect residential amenity.

5) The monitoring of noise emissions from the development hereby permitted shall be undertaken in accordance with a scheme to be submitted to and approved by the local planning authority prior to any works associated with this permission commences. The scheme shall include the monitoring of noise levels at intervals not greater than 3 months at 3 or more locations to be approved by the local planning authority. Monitoring data shall include L90 and LAeq noise levels measured over a one hour period, prevailing weather conditions and comments on the source or sources of noise which are controlling the noise climate. Monitoring data shall be retained during the life of the operation and shall, be supplied to the local planning authority on request.

Reason:

To protect residential amenity.

6) All vehicles, plant and equipment used on the site shall be silenced, maintained and operated in accordance with the manufacturers specifications.

Reason:

To protect residential amenity.

7) The control and monitoring of dust emissions from the development hereby permitted shall be undertaken in accordance with schemes to be submitted to and approved by the local planning authority prior to any works associated with this permission commences. The dust control scheme shall include:

- a. The stabilization of soil mounds and large bare areas of land.
- b. The restriction of operations at times when high wind speeds would cause dust nuisance at residences.
- c. The retention on site of a water bowser to be used to spray road surfaces in dry periods.
- d. A surfaced road between the site entrance and the works compound.
- e. a speed limit on vehicles moving within the site.

Reason:

To ensure that minimum harm is caused to the amenities of the area and those of local residents.

8) Within 12 months of this permission a scheme of landscaping and restoration shall be submitted to and approved by the Local Planning Authority. The scheme shall be based on the approved landscaping plans Landscape Layout 14a and Landscape Sections 14b and shall include:

- a) indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development;
- b) long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas;
- c) details of the proposals for the progressive re-contouring and restoration of the site and the timing of tree and shrub planting, footpath creation and public access, fencing, re-grading of embankments and construction of the ponds and drainage features;
- d) Details of the extent and type of new planting;
- e) Details of maintenance regimes;
- f) Details of any new habitat created on site;
- g) Details of treatment of site boundaries and/or buffers around water bodies.

The scheme of landscaping and restoration shall be carried out as approved and any subsequent variations shall be agreed in writing by the Local Planning Authority.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site to amenity.

9) Planting, seeding or turfing comprised in the approved details of landscaping for each phase of the development shall be carried out in the first planting and seeding seasons following the completion of that phase; and any trees or plants which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site to amenity.

10) The proposed drainage scheme and any necessary balancing pond, shall be constructed in accordance with the plans and particulars hereby submitted and approved.

Reason:

To prevent the increased risk of flooding to third parties, to the site itself, to improve water quality and to enhance biodiversity.

11) Only restoration soils that are in accordance with the site specific waste management permit and exemption issued by the Environment Agency will be imported onto site and used for infilling.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site to public amenity.

12) The final layer of covering material shall be at least 0.6m depth of topsoil or other soil- forming materials and this shall be increased to at least 1.5m depth in areas to be planted with trees and shrubs. Topsoil shall be graded to form the approved final contours and to provide an even surface for planting and grass sowing. The finished surface shall be ripped to disturb the whole soil profile to a depth of at least 0.4m in order to alleviate compaction. Soil material shall only be spread when friable in order to minimise compaction. Any soil or other material which is surplus to requirements shall be removed from the site on completion of restoration.

Reason:



To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site to public amenity.

13) Restoration materials shall not be stored in mounds exceeding 3m in height and all other materials shall be stored in mounds not exceeding 4m in height.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site to public amenity.

14) No materials shall be brought to the site for the purpose of the development hereby permitted until a vehicle wheel cleaner has been installed close to the site entrance. The cleaner shall be used by all vehicles leaving the site.

Reason:

To ensure that mud and other debris is not tracked out onto the public highway and in the interests of highway safety.

15) Internal haul roads shall be constructed in accordance with the plans and specifications hereby approved. All vehicles and machinery shall travel to the individual phases of the development within the site on the designated haul roads. Any alterations or amendments to the haul roads location and/ or specifications shall thereafter be submitted to and approved by the local planning authority. Upon completion of the site restoration, the haul roads shall be broken up and removed and the site restored in accordance with the final plans.

Reason:

To ensure that minimum harm is caused to the amenities of the area and those of local residents.

16) Prior to any works associated with this permission commencing the site perimeter fencing shall be installed and made secure. Lockable gates shall be provided at the vehicular access to the land. The gate shall be kept locked at all times when the site is closed and the security fencing maintained throughout the construction period. Upon completion of the Engineering Operations the perimeter fencing shall be removed and the land re-instated for public access in accordance with the approved plans and specifications unless otherwise agreed in writing by the Local Planning Authority.

For the purposes of this condition Engineering Operations means any phase of the development that has been completed and the final layer of topsoil spread made ready for planting/seeding.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site to amenity.

17) Prior to the commencement of any works pursuant to this permission the developer shall submit for the written approval of the Local Planning Authority (the Phase I Report having already been submitted to and approved in writing by the Local Planning Authority):

a) 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.

b) 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.

c) 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

d) 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.

For further guidance see the leaflet titled, 'Land Contamination and the Planning Process'.

Reason:

To protect those engaged in construction and occupation of the development from potential contamination. Also in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC53.

18) Prior to any works associated with this permission commencing an ecological management plan and a protected species management plan shall be submitted to the Local Planning Authority for written approval. The plans shall include details of the protection and/or mitigation of damage to populations of great crested newts, common lizard and breeding birds, and their associated habitat during construction works and once the development is complete. Any change to operational, including management responsibilities shall be submitted to and approved in writing by the Local Planning Authority. The ecological management plan and protected species management plan shall then be carried out in complete accordance with the plans and particulars as approved.

Reason:

To ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national planning policy PPS9 and LDF policies DC58 and DC59.

19) Prior to any works associated with this permission commencing, a detailed method statement for the removal or long-term management/eradication of Japanese knotweed, giant hogweed and New Zealand pygmyweed on the site shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall include proposed measures to prevent the spread of Japanese knotweed, giant hogweed and New Zealand pygmyweed during any operations such as mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds / root / stem of any invasive plant covered under the Wildlife and Countryside Act 1981. Development shall proceed in accordance with the approved method statement.

Reason:

To ensure the site is restored for ecological enhancement in the interests of overall site enhancement and public amenity.

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**REGULATORY  
SERVICES  
COMMITTEE**

**REPORT**

19 June 2014

**Subject Heading:**

**P0856.13 - Land off Dudley Road, Romford - The erection of 2 no. 2 bed chalet bungalows with associated parking (received 10/07/13; amended plans received 07/05/14)**

**Report Author and contact details:**

**Suzanne Terry  
Interim Planning Manager  
(Applications)  
[suzanne.terry@havering.gov.uk](mailto:suzanne.terry@havering.gov.uk)  
01708 432755**

**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**

- |  |                                     |
|--|-------------------------------------|
| Clean, safe and green borough  | <input checked="" type="checkbox"/> |
| Excellence in education and learning                                 | <input type="checkbox"/>            |
| Opportunities for all through economic, social and cultural activity | <input type="checkbox"/>            |
| Value and enhance the life of every individual                       | <input checked="" type="checkbox"/> |
| High customer satisfaction and a stable council tax                  | <input type="checkbox"/>            |

**SUMMARY**

This application relates to Council owned undeveloped land. The application proposes the erection of 2 x No. 2 bed chalet bungalows. Staff consider the proposal to be acceptable.

The application is recommended for approval subject to conditions and the applicant entering into a Section 106 Agreement

## RECOMMENDATIONS

That the Committee notes that the development proposed is liable for the Mayor's Community Infrastructure Levy (CIL) in accordance with London Plan Policy 8.3 and that the applicable fee is based on an internal gross floor area of 96.8m<sup>2</sup> per bungalow and amounts to £3,872.

That the proposal is unacceptable as it stands but would be acceptable subject to the applicant entering into a Section 106 Legal Agreement under the Town and Country Planning Act 1990 (as amended), to secure the following:

- A financial contribution of £12,000 to be paid prior to commencement of development and to be used towards infrastructure costs.
- 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.
- To pay the Council's reasonable legal costs in association with the preparation of a legal agreement irrespective of whether the legal agreement is completed.
- Payment of the appropriate planning obligation/s monitoring fee prior to completion of the agreement.

That staff 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 Act 1990.

2. Accordance with plans: The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans listed on page 1 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.

3. Parking standards: Before the building(s) hereby permitted is first occupied, provision shall be made for 2 off-street car parking spaces per unit within the site and thereafter this provision shall be made permanently available for use, unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure that adequate car parking provision is made off street in the interests of highway safety.

4. Materials: Before any of the development hereby permitted is commenced, samples of all materials to be used in the external construction of the building(s) shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be constructed with the approved materials.

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

5. Landscaping: No development 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:** In accordance with Section 197 of the Town and Country Planning Act 1990 and to enhance the visual amenities of the development, and that the development accords with the Development Control Policies Development Plan Document Policy DC61

6. Standard flank wall condition: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995(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 plans,) 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.

7. Obscure glazed windows: Notwithstanding the details shown on the approved plans, the proposed southwest facing dormers serving en-suite bathrooms shall be permanently glazed with obscure glass and with the exception of top hung fanlights shall remain permanently fixed shut and thereafter be maintained to the satisfaction of the Local Planning Authority, in order that the development accords with Policy DC61 of the LDF.

**Reason:** In the interest of privacy.

8. Cycle storage: Prior to completion of the works hereby permitted, cycle storage of a type and in a location previously submitted to and agreed in writing by the Local Planning Authority shall be provided and permanently retained thereafter.

**Reason:** In the interests of providing a wide range of facilities for non-motor car residents, in the interests of sustainability.

9. Hours of construction: All building operations in connection with the construction of external walls, roof, and foundations; site excavation or other external site works; works involving the use of plant or machinery; the erection of scaffolding; the delivery of materials; the removal of materials and spoil from the site, and the playing of amplified music shall only take place between the hours of 8.00am and 6.00pm Monday to Friday, and between 8.00am and 1.00pm on Saturdays and not at all on Sundays and Bank Holidays/Public Holidays.

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

10. Construction Method Statement: Before commencement of the proposed development, a scheme shall be submitted to and approved in writing by the Local Planning Authority making provision for a Construction Method Statement to control the adverse impact of the development on the amenity



of the public and nearby occupiers. The Construction Method statement shall include details of:

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

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

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

11. Highway Agreements: The necessary agreement, notice or licence to enable the proposed alterations to the Public Highway shall be entered into prior to the commencement of the development.

**Reason:** To ensure the interests of the travelling public and are maintained and comply with policies of the Core Strategy and Development Control Policies, namely CP10, CP17 and DC61.

12. Secured by Design/Crime Prevention: Prior to the commencement of the development hereby approved a full and detailed application for the Secured by Design award scheme shall be submitted to the Local Planning Authority, setting out how the principles and practices of the Secured by Design Scheme are to be incorporated. Once approved in writing by the Local Planning Authority in consultation with the Metropolitan Police Designing Out Crime Officers (DOCOs), the development shall be carried out in accordance with the agreed details.

**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.

13. Refuse and recycling: Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority.

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

14. Risk and Contamination Assessment, Part 1: (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 Scheme) 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:** To protect those engaged in construction and occupation of the development from potential contamination and in order that the

development accords with Development Control Policies Development Plan Document Policy DC53.

15. Risk and Contamination Assessment, Part 2: (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.

16. Permitted Development rights: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 ("the 1995 Order) (or any order revoking and re-enacting that Order with or without modification) no extensions, roof extensions, roof alterations or outbuildings shall take place unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

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

17. Screen fencing: Prior to the commencement of the development, all details of boundary screening shall be submitted to and approved in writing by the Local Planning Authority the approved details shall be implemented immediately on approval and shall be permanently retained and maintained thereafter to the satisfaction of the Local Planning Authority.

**Reason:** To protect the visual amenities of the development and to prevent undue overlooking of adjoining properties.

18. Lighting: Before the building (s) hereby permitted is first occupied, a scheme for lighting within the development, to include the lighting along the access road, shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be provided prior to occupation and operated in strict accordance with the approved scheme.

**Reason:** In the interest of residential amenity.

19. Wheel washing: Before the development hereby permitted is first commenced, wheel scrubbing/wash down 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.

**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, and in order that the development accords with the Development Control Policies Development Plan Document Policies DC61 and DC32.

20. Sprinklers: Prior to the first occupation of the development hereby permitted, provision shall be made for the installation of a domestic sprinkler system to each of the dwellings on Plot 1 and Plot 2. Thereafter this provision shall be retained permanently unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In lieu of adequate access for a Fire Brigade pump appliance and in the interest of amenity and safety for future occupiers.

## INFORMATIVES

1. Fee Informative:

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. 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. The applicant is advised that planning approval does not constitute approval for changes to the public highway. Highway Authority approval will only be given after suitable details have been submitted, considered and agreed. Any proposals which involve building over the public highway

as managed by the London Borough of Havering, will require a licence and the applicant must contact StreetCare, Traffic and Engineering on 01708 433750 to commence the Submission / Licence Approval process.

4. The developer, their representatives and contractors are advised that planning permission does not discharge the requirements under the New Roads and Street Works Act 1991, the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004. Formal notifications and approval will be needed for any highway works (including temporary works) required during the construction of the development.
5. The applicant 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.
6. 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.
7. In aiming to satisfy condition 12 the applicant should seek the advice of the Police Designing Out Crime Officers (DOCOs). The services of the Police DOCOs are available free of charge and can be contacted via [docomailbox.ne@met.police.uk](mailto:docomailbox.ne@met.police.uk) or 0208 217 3813. It is the policy of the local planning authority to consult with the DOCOs in the discharging of community safety condition(s).
8. Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: 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.

### **Mayoral CIL**

The proposed development is liable for the Mayor's Community Infrastructure Levy (CIL) in accordance with London Plan Policy 8.3. The applicable fee is based on an internal gross floor area of 96.8m<sup>2</sup> per bungalow which, at £20 per m<sup>2</sup>, equates to a Mayoral CIL payment of £3,872 (subject to indexation).

## REPORT DETAIL

### **1. Site Description**

- 1.1 The application site is an empty piece of land which is located to the rear of No. 36 to 46 Dudley Road. The site is surrounded by residential dwellings. The ground level drops down from Dudley Road towards the subject site. The site has an overall area of approximately 1080m<sup>2</sup>.
- 1.2 Development in the vicinity is characterised by 2-storey residential terraced dwellings. There is no characteristic built form and dwellings are constructed from a mix of bricks and render.

### **2. Description of Proposal**

- 2.1 The application seeks permission for the erection of 2 x no. 2 bed chalet bungalows with associated parking and amenity.
- 2.2 The dwellings would measure 7.35m in width and 9.1m in depth. They would each have a chalet style roof and would measure 2.4m to the eaves and 6.55m to the top of its ridge. The dwellings would be centrally located in the site and will be set 2.9m off the closest boundary.
- 2.3 Three dormer windows are proposed, two to the front roof slope and one to the rear. The dormers would measure 1.6m in width, 2.9m in depth and 2.2m in height to the top of the dual pitched roofs.
- 2.4 On ground floor level would be a bathroom, kitchen / dining room, lounge and a bedroom. In the loft space would be a bedroom, en-suite bathroom and walk-in cupboard. Windows and doors would generally be arranged to the front (east) and rear (west) with flank wall windows to the southern elevation.
- 2.5 The proposal would retain the existing access to the site measuring approximately 3.1m in width.
- 2.6 There would be a bin collection point along the access road, approximately 17m from the front of the proposed dwelling and 28m from the edge of the highway. Streetcare has not raised an objection to these distances.

2.7 Parking provision for 4 vehicles would be provided on a hardstanding to the front of the dwellings.

2.8 The dwelling would have a northeast-southwest orientation with garden spaces towards the rear (southwest) and wrapping around to the sides, measuring approximately 235m<sup>2</sup> for plot 1 and 147m<sup>2</sup> for plot 2.

### **3. History**

3.1 No relevant planning history.

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

4.1 Notification letters were sent to 30 neighbouring properties and 3 letters of objections were received raising the following concerns:

- Proposal would result in patched roads and paths to the detriment of the area
- Overlooking of neighbouring gardens
- Will limit future extension of own property
- Possible pets to new tenant would cause noise nuisance
- Area is too small for houses
- Development will be an eyesore
- Narrow access way will put pedestrians at risk

4.2 The Council's Environmental Health Service requested the part 2A condition to be added as the Desktop Study indicated that there are potential pollutant linkages present on the site.

4.3 The Highway Authority has raised concerns over the narrow entrance to this site, and feel that this could be improved by creating a small bell mouth entrance. Highways further require that the refuse collection point on the access road to be clearly marked out as such and that residents are advised that failure to deposit their rubbish at the required time on this point may result in their rubbish not being collected.

4.4 The Borough Crime Prevention Design Advisor require a Secured by Design condition.

### **5. Relevant Policies**

5.1 Policies CP1 (Housing Supply), CP17 (Design), DC3 (Housing Design and Layout), DC33 (Car parking), DC35 (Cycling), DC55 (Noise), DC61 (Urban Design), DC63 (Crime) and DC72 (Planning Obligations of the Local Development Framework Core Strategy and Development Control Policies Development Plan Documents and the Residential Extensions and Alterations Supplementary Planning Document (SPD), Planning Obligations SPD and the Residential Design SPD are also relevant.

- 5.2 Policies 3.3 (Increasing Housing Supply), 3.4 (Optimising Housing Potential), 3.5 (Quality and Design of Housing Developments), 3.8 (Housing Choice), 6.9 (Cycling), 6.10 (Walking), 6.13 (Parking), 7.1 (Building London's Neighbourhoods and Communities), 7.2 (Inclusive Design), 7.3 (Designing out Crime), 7.4 (Local Character), 7.5 (Public Realm), 7.6 (Architecture) of the London Plan (2011).
- 5.3 National Planning Policy Framework (NPPF) Section 6 "Delivering a wide Choice of Homes", and Section 7 "Requiring Good Design".

## **6. Staff comments**

6.1 This proposal is put before the Committee owing to the application site comprising land owned by the Council. The main issues to be considered by Members in this case are the principle of development, the site layout and amenity space, design/street scene issues, amenity implications, and parking and highways issues.

### *6.2 Principle of Development*

6.2.1 Policy CP1 indicates that outside town centres and the Green Belt, priority will be made on all non-specifically designated land for housing. The proposal is for redevelopment of a derelict site within an existing residential area. The proposal is therefore acceptable in principle and in accordance with Policy CP1 and policy 3.3 of the London Plan which seeks to increase London's housing supply.

6.2.2 Policy 3.8 of the London Plan states that DPD policies should offer a range of housing choices, in terms of the mix of housing sizes and types, taking account of the housing requirements of different groups. Policy 3.5 states that Local Development Frameworks should incorporate minimum space standards. The Mayor has set these at 83m<sup>2</sup> for a 2-bed 4-person dwelling. The proposal has an internal floor space of 96.8sq.m which is in line with the recommended guidance and considered acceptable.

### *6.3 Site Layout / Amenity Space*

6.3.1 The Council's Residential Design SPD in respect of amenity space recommends that every home should have access to suitable private and/or communal amenity space in the form of private gardens, communal gardens, courtyards, patios, balconies or roof terraces. In designing high quality amenity space, consideration should be given to privacy, outlook, sunlight, trees and planting, materials (including paving), lighting and boundary treatment. All dwellings should have access to amenity space that is not overlooked from the public realm and this space should provide adequate space for day to day uses.

6.3.2 Amenity space would mainly be provided with garden spaces towards the rear (southwest) and wrapping around to the sides, measuring approximately 235m<sup>2</sup> for plot 1 and 147m<sup>2</sup> for plot 2. The site currently has



screen fencing around its boundaries however, fencing can be required by means of a planning condition to those boundaries that do not have appropriate fencing.

- 6.3.3 Amenity provision in the locality is generally arranged towards the rear of dwellings. Staff consider the amenity space to be sufficient and would not detract from the surrounding area. Staff are of the opinion that the garden area would be large enough to be practical for day to day use and with the provision of fencing, would be screened from general public views and access, providing private and usable garden areas. As a result, it is considered that the proposed amenity area of the new dwelling would comply with the requirements of the Residential Design SPD and is acceptable in this instance.
- 6.3.4 The residential density range for this site is 30 - 50 units per hectare. The proposal would result in a density of approximately 20 units per hectare. Although the density range is below the recommended range it is considered acceptable given the nature and siting of the development.
- 6.3.5 In terms of the general site layout, the proposed detached dwellings would have sufficient spacing towards the front with generous amenity areas towards the rear, and therefore are not considered to appear as an overdevelopment of the site. The proposal would be towards the rear gardens of the surrounding properties and with sufficient spacing between buildings, is not considered to appear as a cramped form of development. The layout of the site is therefore considered acceptable.

#### 6.4 *Impact on Local Character and Street Scene*

- 6.4.1 Policy DC61 of the LDF Development Plan Document seeks to ensure that new developments are satisfactorily located and are of a high standard of design and layout. Furthermore, the appearance of new developments should be compatible with the character of the surrounding area, and should not prejudice the environment of the occupiers and adjacent properties. Policy DC61 of the DPD states that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area.
- 6.4.2 The proposal would not form part of the Dudley Road street scene. The development is proposed towards the rear of garden areas of the surrounding properties and would therefore only be visible within the rear garden environment. Any view up the drive is also considered acceptable given the narrow driveway leading up to the proposed dwellings and the central location of the proposed dwellings.
- 6.4.3 The characteristic built form in the immediate surrounding area is mainly two storey terraced dwellings built from a mix of bricks and render.
- 6.4.4 In terms of its design and visual appearance, Staff are of the opinion that the development of the proposed detached dwellings in this location would

have an acceptable appearance with no harmful impact to the character and appearance of the surrounding area. In light of sufficient separation distances between the proposed dwelling and neighbouring properties, Staff are of the opinion that the proposal would not appear as a cramped form of development and overall would have an acceptable design and appearance, compliant with the aims and objectives of Policy DC61 of the Local Development Framework

## 6.5 *Impact on Amenity*

- 6.5.1 Policy DC61 considers that new developments should not materially reduce the degree of privacy enjoyed by the occupants of adjoining properties or have an unreasonably adverse effect on sunlight and daylight to adjoining properties.
- 6.5.2 Neighbouring properties to the west and south are separated from the proposed dwelling by approximately 14m and 17m respectively at the nearest point. The distance is considered acceptable as the proposed dwellings are chalet bungalows with the proposed dormers facing southwest to be obscure glazed as they serve en-suite bathrooms. Any potential impact to these properties is therefore considered acceptable.
- 6.5.3 The nearest dwelling towards the north along Dudley Road is No. 40 approximately 22.7m from the front elevation of the nearest proposed dwelling. It is considered that this separation distance is sufficient to prevent any harmful impact in terms of overlooking and overshadowing.
- 6.5.4 Overall, no harmful levels of overshadowing or overlooking are considered to occur as a result of the proposed chalet bungalows.
- 6.5.5 In terms of vehicular activity and the proposed parking arrangement, Staff are of the opinion that 2 x 2-bed bungalows would not give rise to a significant rise in the level of vehicular activity over and above that which was previously experienced as a result of access to existing garages to the western side of the subject site and situated in the rear gardens of no's. 60 and 62 Chatteris Avenue.
- 6.5.6 In terms of general noise and disturbance, it is not considered that the addition of 2 no. family dwellings would give rise to any undue levels of noise and disturbance to the surrounding neighbouring properties within what is a predominantly residential area.
- 6.5.7 It should however be noted that although Staff consider the proposal to be acceptable in its current form, given the size of the proposed bungalow development in relation to the resultant limited plot space, any additions, extensions or alterations to the dwelling may result in harm to the character of the surrounding area and neighbouring amenity. In light of this, Staff are of the opinion that all Permitted Development Rights for the proposed development should be removed in order to safeguard the appearance of the street scene and amenities of neighbouring occupiers.

6.5.8 It is therefore considered that the layout, siting and design of the proposed development would be acceptable with no material harmful impact on the amenities of neighbouring properties. The development is therefore considered to comply with the aims and objectives of Policies CP17 and DC61 of the LDF Development Control Policies DPD in respect of its impact on neighbouring amenity.

## 6.6 *Highways / Parking Issues*

6.6.1 6.6.1 Policy DC33 in respect of car parking refers to the density matrix in Policy DC2. The site has a PTAL rating of 1-2 and therefore requires 2 - 1.5 parking spaces per unit for a development of this type in Romford. The development would provide a total of 4 parking spaces to the eastern side of the dwelling. In terms of the number of spaces proposed, the provision of off-street parking spaces would comply with the requirements of Policy DC33 and no issues are raised in this respect.

6.6.2 A condition would be added to provide storage for 4 cycle spaces in order to comply with the Council's standards.

6.6.3 The access road would not have sufficient width for Fire Brigade vehicles to access the subject site, however the Fire Brigade have no objection subject to a condition requiring domestic sprinklers to the proposed dwellings.

6.6.4 The Highway Authority has raised concerns over the narrow entrance to this site, and feel that this could be improved by creating a small bell mouth entrance. This could be secured by making changes to the existing pavement and would therefore not impact on the merits of the development or access arrangements.

6.6.5 The Highway Authority have also requested a 2.1 metre by 2.1 metre visibility splay to be provided on each side of the access in the interest of pedestrian safety. Staff are of the opinion that the current visibility relies on the absence of obstruction on land belonging to the neighbouring properties on each side of the access. As one of the properties on the side of the access road is privately owned it would not be possible to secure the requested visibility splays. It should however be noted that the proposal would not alter the existing access arrangements. The proposed development for 2 dwellings would arguably not create significantly more vehicle movement than the current scenario where at least two properties utilise the access road in order to reach garages in their back gardens. Staff therefore consider the proposed arrangement to be similar to the existing and do not consider the lack of visibility splays a sufficient reason for refusal, however Members may attach more weight to the potential impact on pedestrian safety and the requirement for visibility splays and may wish to refuse the application on these grounds.

## 6.7 *The Mayor's Community Infrastructure Levy*

6.7.1 The proposed development is liable for the Mayor's Community Infrastructure Levy (CIL) in accordance with London Plan Policy 8.3. The applicable fee is based on an internal gross floor area of 193.6m<sup>2</sup> which equates to a Mayoral CIL payment of £3,872.

6.8. *Planning Obligations*

6.8.1 In accordance with the Planning Obligations Supplementary Planning Document a financial contribution of £12,000 to be used towards infrastructure costs arising from the new development is required. This should be secured through a S106 Agreement

6.9 *Other Issues*

6.9.1 With regards to refuse collection, similar to other dwellings in the Borough, future occupiers would be required to leave refuse bags close to the highway on collection days. The proposal provides a bin collection point along the access road, approximately 20m from the front of the dwelling and 27m from the edge of the highway. The bin collection point is within an acceptable distance from the highway in order for refuse collection to take place and also within an acceptable distance from the front of the proposed dwelling. The Highways Authority requires that the refuse collection point on the access road to be clearly marked out as such and that residents are advised that failure to deposit their rubbish at the required time on this point may result in their rubbish not being collected. Details of the refuse collection arrangements are proposed to be required by condition.0

**7. Conclusion**

7.1 Overall, Staff are of the opinion that the proposal would not detract from the character of the surrounding area or neighbouring properties. It is considered that the proposal presents an acceptable degree of spacing between buildings and is not considered to appear as unacceptably dominant or visually intrusive as seen from neighbour's rear gardens. It is considered that the proposal would not have any material harmful impact on neighbouring amenity. Amenity space provision is considered sufficient. Overall, Staff consider the development to comply with Policy DC61 and the provisions of the LDF Development Plan Document. Approval is recommended accordingly.

**IMPLICATIONS AND RISKS**

**Financial Implications and risks:**

This report concerns only material planning issues. Any land transaction between the applicant and the Council is dealt with independently.

**Legal Implications and risks:**

Legal resources will be required to prepare and complete the legal agreement.

**Human Resource Implications:**

None

**Equalities and Social Inclusion Implications:**

The proposed dwellings would be constructed to meet the Lifetime Homes Standard which means that they would be easily adaptable in the future to meet the changing needs of occupiers.

<b>BACKGROUND PAPERS</b>
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1. Application forms and plans received 10/07/13; amended plans received 07/05/14.

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# REGULATORY SERVICES COMMITTEE

# REPORT

19 June 2014

**Subject Heading:**

**Section 137 Town and Country  
Planning Act 1990 - Purchase Notice in  
relation to Land adjacent to 151 Avon  
Road, Upminster RM14 1RQ  
Helen Oakerbee Planning Control  
Manager 01708 432800  
helen.oakerbee@havering.gov.uk**

**Report Author and contact details:**

**Policy context:**

**Local Development Framework  
London Plan, Planning Policy  
Statements/Guidance Notes**

**Financial summary:**

**Were a Purchase Notice to be upheld at  
appeal in respect of the above land the  
Council would be required to purchase  
the land.**

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

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input checked="" type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

## SUMMARY

This report concerns the service of a Purchase Notice on the Council dated 24<sup>th</sup> March 2014 by the owners of land adjacent to 151 Avon Road, Upminster RM14 1RQ, shown hatched on the attached plan, following the refusal of planning permissions to develop the site. The owners claim that the land has become incapable of beneficial use in its existing state and cannot be rendered capable of a reasonably beneficial use and therefore, in accordance with Section 137 of the Town and Country Planning Act, the Council should purchase the land. The Council contested the Notice and the Secretary of State will issue a preliminary decision on the Purchase Notice should the Secretary of state in their preliminary decision reject the Purchase Notice, if the claimant so chooses, the claimant can request that their claim be heard by way of public inquiry.

The land in question has been subject of a number of planning applications. The most recent planning application on the land adjacent to 151 Avon Road, was made under planning reference P1160.12 and proposed a ground floor retail use within Use Classes A1 and A2 with a 2 bedroom maisonette at first and second floor levels. The application was refused under the Head of Regulatory Services delegated powers and was subsequently subject to appeal to the Secretary of State. The Secretary of State dismissed the appeal (Reference: APP/B5480/A/13/2199255) primarily because the proposal would be harmful to the character and appearance of the site and the surrounding area contrary to Policy DC61 of the Council's Core Strategy and Development Control Policies Development Plan document (DPD) 2008. There were three previous applications on the site which were refused; P0175.11 proposed a ground floor retail use within Use Classes A1 and A2 with a 3 bedroom maisonette; P1537.09 proposed a ground floor retail use within Use Classes A1 and A2 with a 3 bedroom maisonette, side dormer, external staircase and amenity space and P1278.09 proposed a ground floor retail use within Use Classes A1 and A2 with a 3 bedroom maisonette, external staircase and amenity space. P0175.11 was dismissed at appeal in November 2011 and P1537.09 was dismissed on appeal in July 2010.

It is considered that the land or part of the land is capable of beneficial use in its existing state either for parking of vehicles, use for the stationing of structures/kiosk pursuant to uses class A1, stationing of tables and chairs ancillary to the use of the ground floor of 151 Avon Road as a takeaway (use class A5) or general amenity land. It is further considered that the site could be rendered capable of a reasonably beneficial use for the time being for a number of uses, including parking of vehicles, stationing of a structure/kiosk within use class A1 stationing of tables and chairs ancillary to the use of the ground floor of 151 Avon Road as a takeaway (use class A5) or general amenity land. As part of any future Purchase Notice Inquiry staff consider following legal advice that an undertaking should be given that planning permission would be granted for these uses, subject to conditions. It is therefore recommended that the Council contest the Purchase Notice and undertake to grant planning permission for the uses outlined in this report.



## RECOMMENDATIONS

That members resolve that:

- (1) The Purchase Notice be contested at any forthcoming public inquiry;
- (2) The site, in its existing state is capable of a beneficial use as general open amenity land;
- (3) As part of any Purchase Notice Inquiry, an undertaking to grant planning permission be given to use part of the site within Classes A1 for the stationing of a kiosk or other similar structure:
  - No buildings other than a kiosk or kiosk like structure to be erected
  - Site not to be used and no deliveries to the site shall take place outside the hours of 0800 to 2200 Monday to Friday and 0800 to 2200 Saturdays
  - Maximum height of any structure stationed on the site not to exceed 2.5 metres above ground level
  - No Structure to be stationed within 2 metres of the existing rear-access external flight of steps serving as access to the adjacent residential block or blocking access to the use of the external flight of steps serving as access to the adjacent residential block
  - Use not to commence until details of parking layout submitted and approved by Local Planning Authority
  - Use not to commence until details of layout of open storage areas to be submitted and approved by Local Planning Authority
  - Use not to commence until details of method of waste storage and disposal submitted to and approved in writing by the Local Planning Authority
  - Space to be laid out within the site and any structures stationed on the site, in accordance with details submitted and approved in writing by the Local Planning Authority, to enable vehicles to enter from Front Lane and exit onto Front Lane in forward gear and to ensure that the use of the rear-access flight of steps serving the residence at first floor of the adjacent block is not obstructed.
  - Use not to commence until details of external lighting submitted to and approved in writing by the Local Planning Authority
  - Use not to commence until details of boundary treatment submitted to and approved in writing by the Local Planning Authority
  - Noise levels, expressed as the equivalent continuous sound level LAeq (1 hour), calculated at the boundary with the nearest noise sensitive premises shall not exceed LA90 -5dB.
- (4) As part of any Purchase Notice Inquiry, an undertaking to grant planning permission be given to use the site for the parking of vehicles subject to the following conditions:

- Maximum of 2 vehicles no greater in size than a transit van to be kept on the site at any time
  - No buildings to be erected on the site including temporary buildings and demountable buildings.
  - Space to be laid out within the site, in accordance with details submitted to and approved in writing by the Local Planning Authority, to enable vehicles to enter from Front Lane and exit onto Front Lane in forward gear and ensure that the use of the rear-access flight of steps serving the residence at first floor of the adjacent block is not obstructed.
  - Use not to commence until details of external lighting submitted to and approved in writing by the Local Planning Authority
  - Use not to commence until details of boundary treatment submitted to and approved in writing by the Local Planning Authority
- (5) As part of any Purchase Notice Inquiry, an undertaking to grant planning permission be given to use part of the site within Classes A5 for the stationing of tables and chairs ancillary to the use of the ground floor of 151 Avon Road as a takeaway (use class A5):
- No buildings including temporary or demountable buildings to be erected
  - Site not to be used and no deliveries to the site shall take place outside the hours of 0800 to 2200 Monday to Friday and 0800 to 2200 Saturdays
  - No tables and chairs to be stationed within 2 metres of the existing rear-access external flight of steps serving as access to the adjacent residential block or blocking access to the use of the external flight of steps serving as access to the adjacent residential block
  - Use not to commence until details of parking layout submitted and approved by Local Planning Authority
  - Use not to commence until details of layout of the area/s for tables and chairs to be submitted and approved by Local Planning Authority
  - Use not to commence until details of method of waste storage and disposal submitted to and approved in writing by the Local Planning Authority
  - Parking space to be laid out within the site and tables and chairs to be stationed on site, in accordance with details submitted and approved in writing by the Local Planning Authority, to enable vehicles to enter from Front Lane and exit onto Front Lane in forward gear and to ensure that the use of the rear-access flight of steps serving the residence at first floor of the adjacent block is not obstructed.
  - Use not to commence until details of external lighting submitted to and approved in writing by the Local Planning Authority
  - Use not to commence until details of boundary treatment submitted to and approved in writing by the Local Planning Authority
  - Noise levels, expressed as the equivalent continuous sound level LAeq (1 hour), calculated at the boundary with the nearest noise sensitive premises shall not exceed LA90 -5dB.

## REPORT DETAIL

### 1. Site Description

- 1.1 The subject site of this report is an area of land about 0.008 hectares (80 square metres) in size adjacent to 151 Avon Road, Upminster RM14 1QR at the corner of Front Lane and Avon Road. There are 2 small trees located on the site. There is no physical boundary between the adopted footway and the site which is hard-surfaced and includes the approach to and the external flight of steps that serves as pedestrian access to the first floor maisonettes above the commercial units in the adjacent block of which 151 Avon Road forms the part. The adjacent block fronts onto Avon Road and to the rear of the land adjacent to 151 Avon Road (subject of the Purchase Notice) there is a service road. Currently part of the land is used for the parking of vehicles.
- 1.2 The site is immediately adjacent to a Major Local Centre designated in the LDF. Policy DC15 encourages the increase in retail floor space. Other uses within Classes A2, A5, A4, A5 would in principle be acceptable within this Major Local Centre at ground floor level.
- 1.3 The site has been subject to four planning applications all of which were refused with the three most recent refusals being appeal and all three appeals being dismissed by the Secretary of State. The details are set out in the summary to this report.
- 1.4 On 24<sup>th</sup> March 2014, agents acting for the owner of the site served upon the Council a Purchase Notice under Section 137 of the Town and Country Planning Act 1990, on the basis that (i) the land had become incapable of reasonable beneficial use in its existing state; and (ii) the land could not be rendered capable of reasonable beneficial use by the carrying out of any other development for which permission had been granted, or is deemed to be granted, or for which the Local Planning Authority or the Secretary of State had undertaken to grant planning permission.
- 1.5 The consequence of accepting the Purchase Notice or it being confirmed by the Secretary of State would be that the Council would have to purchase the land.

### 2. Description of Proposal

- 2.1 Following legal advice, the Council informed the Planning Inspectorate (who adjudicate in Purchase Notice matters) that it was not willing to accept the Purchase Notice for the following reasons:

1. Although planning permission has been refused for the whole of the land for Class A1/A2 at ground floor and residential development above, the land nevertheless has a reasonable beneficial use in whole or in part. Where an owner of land claims that his land has become incapable of reasonably beneficial use, he is regarded as making the claim in respect of the whole land in question. Therefore, if part of the land is found to be capable of reasonable beneficial use, it follows that the owner of the land has not substantiated his claim;

2. In particular, the site adjacent to 151 Avon Road, is capable of accommodating the parking of vehicles. Consequently, the Secretary of State cannot be satisfied that the condition specified in s.137 of the Act has been fulfilled in respect of the whole land;

3. (It should be noted that the land was subject to a planning application under planning reference P1071.08 for use of the premises at 151 Avon Road, Upminster for hot food takeaway and included within the red-line application site plan the land subject to the Purchase Notice. That application appears to have been implemented and 151 Avon Road is currently being used as a takeaway. Therefore either the land subject to the Purchase Notice has the benefit of an implemented planning permission or the Council has granted planning permission that would if implemented benefit the land subject of the Purchase Notice.) Part of the land would also be capable of stationing of tables and chairs ancillary to the use of the ground floor of 151 Avon Road as a takeaway (use class A5 subject to layout and appropriate planning conditions to safeguard residents amenity;

4 Part of the land would be capable of containing a kiosk or a kiosk like structure/s pursuant to Class A1 (shop) subject to layout and appropriate planning conditions to safeguard residents amenity;

5. There has been no evidence put forward by the owner that there is no reasonable prospect of selling or letting the land for any purpose, were its availability to be made known locally. There should be some evidence to show attempts have been made to dispose of the owner's interest in the land before being satisfied that the land has become incapable of reasonably beneficial use.

6. The local authority would further say that they have not found any other local authority or statutory undertaker who would agree to comply with the Notice in the place of the Council.

2.2 The Council has served a counter notice in response to the Purchase Notice and the Secretary of State will consider the counter-notice and make a preliminary assessment. Notwithstanding the preliminary assessment under Section 140(3) of the Act the owner is entitled to require the Secretary of State afford him an opportunity of being heard before any final determination was made.

### **3. Beneficial Use of the Site in its Existing State**

- 3.1 Save for Planning Permission Reference P1071.08, referred to above, the site does not have the benefit of any planning permission and so currently could only be put to uses that are either not defined as development, fall within planning permission P1071.08 or are permitted development.
- 3.2 In this regard it is considered that the site could be used as private informal open space (private amenity space), without the need to obtain planning permission.
- 3.3 Staff therefore recommend that the Purchase Notice be resisted on the ground that the land could have an existing beneficial use for the time being as private informal open space or a use ancillary to the takeaway use under planning permission reference P1071.08.

### **4. Can the Land be Rendered Capable of Beneficial Use**

- 4.1 Notwithstanding Staff's view that the land is capable of beneficial use in its existing state, it is considered that further weight to resisting the Notice would be given by considering what uses of the land may be granted planning permission, should an application be forthcoming.
- 4.2 The procedures in Purchase Notices are a little unusual in that in suggesting uses that may be acceptable the Council is actually undertaking to grant planning permission, should an application be made. The Council could not refuse permission - it is therefore with caution that any uses are put forward, on the basis that neighbour notification and other usual processes have not been undertaken. A full consideration of the planning merits of the uses suggested is provided. Members should be aware that accepting any of the uses suggested below amounts to the granting of planning permission.
- 4.3 The site in question is vacant and located at the junction of Front Lane and Avon Road. A parade of shops immediately adjacent to the site fall within a Major Local Centre. Were Policies DC15 and DC16 of the Core strategy and Development Control Policies Development Plan Document applied by extension to this site, in principle A1 (shop) or A2 (financial and professional services) would be acceptable, subject to meeting the detailed criteria in policies DC15 and DC16. An A1 use would meet the detailed criteria of policy DC16 and potentially increase the percentage of retail uses in an extended parade of shops within the Major Local Centre. In this case an A2 use would be acceptable if the grouping of non-retail A2-A5 which resulted did not exceed a grouping of 3 or more non-retail uses and the percentage of non-retail uses did not exceed 33% of the frontage. Even with these constraints, it is considered that a beneficial use of the land could be made (and planning permission granted) for each of these uses subject to the appropriate planning conditions.

## 5. **Use for the Parking of Vehicles**

- 5.1 Principle – There are no site specific policies that affect the site that would preclude the parking of vehicles, subject to appropriate planning conditions.
- 5.2 Visual Impact - subject to appropriate conditions requiring details of layout and restricting the numbers and types of vehicles with appropriate boundary treatment, etc., parking would not be detrimental to visual amenity, in accordance with Policy DC61 of the LDF.
- 5.3 Residential Amenity – Condition would restrict the layout of any parking arrangements so that the access to the maisonettes at the first floor level in the adjacent block was not impeded. Use for parking of vehicles may result in some increased noise and disturbance from vehicle movements. However, in this case, the site is already subject to some noise due to the proximity of the adjacent highway as it is situated at the corner of Avon Road and Front Lane which are both busy thoroughfares. Use for vehicle parking is considered to be in accordance with Policies DC55 of the LDF.
- 5.4 Highways and Access – There is a Service Road to the rear of the site and the adjacent block which is currently being used to access the site and park vehicles. Subject to a condition that vehicles enter from and exit onto Front Lane in forward gear and the conditions referred to in the recommendation it is considered that the use for parking vehicles would not result in any highway concerns, in accordance with Policy DC32 of the LDF.
- 5.5 It is therefore recommended that, in relation to the resisting of Purchase Notice, an undertaking be given to grant planning permission for use of the land for parking of vehicles, subject to conditions.

## 6. **Independent Use of part of the land for the stationing of a kiosk falling within use class A1**

- 6.1 Principle - The site immediately adjoins the parade of shops which fall within a Major Local Centre where Policies DC15 and DC16 of the Core strategy and Development Control Policies Development Plan Document apply. If those policies are applied by extension to this site, in principle A1 (shop) would be acceptable, subject to meeting the detailed criteria in policies DC15 and DC16. An A1 use would meet the detailed criteria of policy DC16 and potentially increase the percentage of retail uses of an extended Major Local Centre. In this case an A1 use would be acceptable subject to the appropriate planning conditions protecting residential amenity.
- 6.2 Visual Impact - There are no concerns over the visual impact of using the site for limited A1 subject to the appropriate planning conditions this would be in accordance with Policy DC61 of the LDF
- 6.3 Residential Amenity – Subject to the necessary planning condition there are no issues with regard to impact on residential amenity.

- 6.4 Highways and Access - No new vehicular access would be required.
- 6.5 It is therefore recommended that, in relation to the resisting of Purchase Notice, an undertaking be given to grant planning permission for use of the land (or part thereof) subject to the appropriate planning condition referred to in the report and the Recommendation for A1 use.
- 7. Use of part of the land for the stationing of tables and chairs ancillary to the ground floor use of 151 Avon Road as a takeaway (Class A5)**
- 7.1 Principle - The site immediately adjoins the parade of shops which fall within a Major Local Centre where Policies DC15 and DC16 of the Core strategy and Development Control Policies Development Plan Document apply. If those policies are applied by extension to this site, in principle a use ancillary to the neighbouring use of the ground floor of 151 Avon Road as A5 (takeaway) would be acceptable as it would extend rather than increase the number of A5 uses, subject to meeting the detailed criteria in policies DC15 and DC16. An ancillary A5 use would in the circumstances meet the detailed criteria of policy DC16 in an extended Major Local Centre. In this case an A5 use would be acceptable subject to the appropriate planning conditions protecting residential amenity.
- 7.2 Visual Impact - There are no concerns over the visual impact of using the site for limited A5 subject to the appropriate planning conditions this would be in accordance with Policy DC61 of the LDF
- 7.3 Residential Amenity – Subject to the necessary planning condition there are no issues with regard to impact on residential amenity.
- 7.4 Highways and Access - No new vehicular access would be required.
- 7.5 It is therefore recommended that, in relation to the resisting of Purchase Notice, an undertaking be given to grant planning permission for use of the land (or part thereof) subject to the appropriate planning condition referred to in the report and the Recommendation for ancillary A5 use.

## **11. Conclusion**

Having regard to all relevant factors and material planning considerations Staff are of the view that these proposals would be acceptable. Staff are of the view that due to the siting, scale and location the proposals subject to the imposition of appropriate planning conditions would not be disproportionate or have a harmful impact on the character of the street scene or result in a loss of amenity to neighbouring occupiers. The proposals are considered to be acceptable in all other respects and it is therefore recommended that members undertake to grant planning permission as detailed in the report and Recommendation subject to conditions.

## IMPLICATIONS AND RISKS

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

None.

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

Further legal resources will be required should the matter proceed to inquiry and in any event in dealing with the response to the Purchase Notice.

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

None.

### **Equalities implications and risks:**

#### **(a) Equalities Implications and risks:**

Section 149 of the Equalities Act 2010(EA) consists of a general equality duty, for the public sector and specifies duties which came into law on 10 September 2011, in England and 6 April, in Wales and consolidates and incorporates “positive equalities duties” found in Section 71 of the Race Relations Act 1976. (RRA) The general duty of Section 149(EA) came into force on 5 April 2011.

Section 49 of the Disability Discrimination Act 1995 (DDA) and Section 76(A) of the Sexual Discrimination Act 1975(SDA) so that due regard must be had by the decision maker to specified equalities issues. The old duties under the RRA, DDA and SDA remain in force.

The duties under Section 149 of the EA do not require a particular outcome and what the decision making body decides to do once it has had the required regard to the duty is for the decision making body subject to the ordinary constraints of public and discrimination law including the Human Rights Act 1998. Article 8 – Right to respect for private and family life is not an absolute but a qualified right. Having considered the above Equalities Act duty there are no direct equality issues raised. The individual on whose behalf the Purchase Notice has been served is professionally represented in this matter.

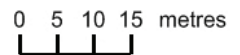
## BACKGROUND PAPERS

None





Scale: 1:1250  
Date: 10 June 2014



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