



Havering

LONDON BOROUGH

REGULATORY SERVICES COMMITTEE AGENDA

7.30 pm

**Thursday
17 July 2014**

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

Members 11 : Quorum 4

COUNCILLORS:

**Conservative
(5)**

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

**Residents'
(4)**

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

**UKIP
(1)**

Phil Martin

**Independent
Residents
(1)**

Graham Williamson

For information about the meeting please contact:

**Richard Cursons 01708 432430
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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 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.

4 PLANNING APPLICATIONS - SEE INDEX AND REPORTS (Pages 1 - 40)

5 P1053.13 - LAND OFF HARLOW GARDENS, ROMFORD (Pages 41 - 56)

6 P1566.12 - RAINHAM LANDFILL (Pages 57 - 162)

- 7 **P1583.13 - LAND ADJACENT TO 32 HAMILTON AVENUE, ROMFORD** (Pages 163 - 176)
- 8 **P0615.14 - 102-120 VICTORIA ROAD, ROMFORD** (Pages 177 - 202)
- 9 **P0677.13 - 165 ST ANDREWS AVENUE, ELM PARK** (Pages 203 - 214)
- 10 **PLANNING ENFORCEMENT - 1 SPINNEY CLOSE** (Pages 215 - 222)
- 11 **PLANNING ENFORCEMENT - 9 SHAKESPEARE ROAD** (Pages 223 - 230)
- 12 **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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Agenda Item 4

Regulatory Services Committee

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Page No.	Application No.	Ward	Address
1-6	P0065.12	Upminster	Leprechaun, Gerpins Lane, Upminster
7-17	P0196.14	Harold Wood	Elite Panelcraft, 65 Gubbins Lane, Romford
17-24	P0568.14	Rainham & Wennington	Ingrebourne Links Golf Course, New Road, Rainham
25-28	P0648.14	Hylands	Tesco Stores, 300 Hornchurch Road, Hornchurch
29-37	P0780.14	Brooklands	YMCA, Rush Green Road, Romford

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APPLICATION NO:	P0065.12	
WARD :	Upminster	Date Received: 20th January 2012 Expiry Date: 16th March 2012
ADDRESS:	Leprechaun Gerpins Lane Upminster	
PROPOSAL:	Retention of building for use for rearing / breeding of ducks, geese and other fowl- for production of eggs, hatchlings and stock Additional Statement Received 31.05.2012	
DRAWING NO(S):	OS Map H041-01a H041-04 H041-05	
RECOMMENDATION :	It is recommended that planning permission be REFUSED 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 Councillor Linda van den Hende as she does not wish for the application to be determined under delegated powers as it seems complex.

SITE DESCRIPTION

The application site, which is basically open and flat, is located in the Green Belt on the southern side of Gerpins Lane between Upminster and Rainham.

To the west of the site lies Havering Council's waste recycling centre; to the east are substantial plots of residential properties fronting the western side of Aveley Road; to the north is recently planted woodland forming part of Thames Chase Community Forest and to the south is open undeveloped land.

The site is substantially undeveloped but for a bungalow - in which the applicant and her family have lived since 2008 - and the building to which the current application relates.

There are in addition two shipping containers that are being used on a temporary basis for the storage of the personal effects of the applicant and her family.

DESCRIPTION OF PROPOSAL

This proposal is for retrospective permission for the retention of a new building erected to the western part of the site. The building was initially erected as a stable block but is now intended to be used for the breeding, incubation and the rearing of ducks, geese and other fowl.

The new building measures 32.5m in length and 8m in width. The building is finished with a hipped roof 2.4m in height to eaves and 4m in height to the ridge.

Internally the building is divided into smaller units to be used for breeding, incubation and the rearing of stock with in addition ancillary storage areas.

RELEVANT HISTORY

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- E0003.12 - Certificate of lawfulness for an existing bungalow on agricultural small holding
PP not required 07-12-2012
- P0064.12 - Use of lake for recreational angling. Retention and modification of 3 no. existing
mobile homes adjacent to fishing lake to provide ancillary accommodation for
angling parties
Refuse 16-03-2012
- P0063.12 - Application to provide curtilage/garden for bungalow, which is the subject of
Certificate of Lawfulness E0003.12.
Apprv with cons 07-12-2012
- E0002.11 - Certificate of Lawfulness for existing use of land as residential curtilage

Awaiting Decision

CONSULTATIONS/REPRESENTATIONS

The application has been advertised on site and in the local press. Neighbour notification letters have also been sent to 15 neighbouring properties. One letter of support was received.

Environmental Health Services raised no objection to the proposal provided that a noise and odour condition is added in the event of an approval.

RELEVANT POLICIES

LDF

- CP14 - Green Belt
- DC45 - Appropriate Development in the Green Belt
- DC47 - Agriculture
- DC61 - Urban Design

OTHER

- LONDON PLAN - 7.16 - Green Belt
- 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 internal gross floor area created which amounts to 260m² and equates to a Mayoral CIL payment of £5200.

STAFF COMMENTS

The issues arising from this application are the principle of development within the Green Belt, the impact of the development on the character and openness of the Green Belt generally, amenity and parking and highway issues.

BACKGROUND

The subject building was erected in 2010. The applicant has advised that the building was thought to be permitted development, connected with the existing bungalow on the site. It however became apparent that the foundations of the bungalow were put in outside the time limits for commencement of work under the applicable permission and the subsequent approval of reserved matters.

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This meant that the bungalow did not have the benefit of planning permission and therefore did not enjoy normal permitted development rights. The significance of this was that the subject building could not be constructed under permitted development.

At the time of construction the intention was to provide a stable for the family's horses and the provision of a certain amount of accommodation for their growing flock of ducks and geese, with a view to developing this latter use as a business in the future.

The applicant has advised that, given the building on site cannot be considered to be permitted development, future proposals to establish a business rearing and breeding of ducks, geese and other fowl, have been brought forward. The need for the building has also become more urgent as the existing stock is being decimated by fox-kill.

The dwelling has subsequently received a Certificate of Lawfulness for an established use with a limited residential curtilage. The subject building is not located within the area defined as residential curtilage and requires planning permission.

PRINCIPLE OF DEVELOPMENT

The National Planning Policy Framework provides that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF states that the construction of new buildings is inappropriate in the Green Belt but there are exceptions to this, including where they are required for agricultural purposes. Policy DC45 of the LDF states that permission for new development will only be granted where it is for specific purposes, including agriculture and forestry.

The building in question has already been constructed. The building was not constructed for agricultural purposes and Staff therefore consider that it comprises inappropriate development, in principle, within the Green Belt. Furthermore, although the applicant has stated an intention to convert the building to an agricultural use, at the time of this application such an agricultural use has not been established on the site. Staff therefore take the view that the retention of this building, which was constructed as a stable block, constitutes inappropriate development in the Green Belt.

It is noted that the development occupies a similar position to a smaller building that existed on the site. Although the NPPF provides that the replacement of a building can be appropriate in the Green Belt, this is subject to it being in the same use and not materially larger than the one it replaces. Staff do not consider either to apply in this case and are of the view that the fact this replaces a previously existing building does not render the proposal appropriate development in principle.

Inappropriate development within the Green Belt should not be approved except in very special circumstances. The case for very special circumstances is addressed later in this report.

GREEN BELT IMPLICATIONS

The subject building is situated approximately 26 metres from Gerpins Lane and would have a larger footprint (260m²) than the building (147m²) it replaced, a 78% increase. There is no planning history relating to the previous building but which aerial photos indicate to date back at least 20 years. The increase in footprint comes largely from the increase in the width of the building and a change in height. It should be noted that the original structure had a flat roof (approximately 2.5m in height) and the current building is finished with a hipped roof (4m in height).

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The subject building is judged to represent a material increase in the footprint, scale and bulk of the building on the site. The building is of substantial scale, having an overall length of some 30m and a substantial 4m ridge height. Whilst, to some extent, the building is screened from views from the east due to hedging and trees, it is more widely visible in Gerpins Lane from the west of the site, where there are more gaps in the boundary treatment. Land levels are also slightly higher on the site than on the road giving the building a more elevated position and consequently a greater impact on the landscape. Consequently it is judged to cause harm to the openness of the Green Belt and detracts from the character of the surrounding area.

Although Staff consider the building to cause unacceptable harm to the openness of the Green Belt and the surrounding area, Members may reach a different conclusion on the impact on the openness of the Green Belt and the extent to which it affects wider views outside of the site. There is some limited scope for mitigation through the ability of the owner to remove existing rubble and containers from the site to the south of the structure, which could improve the appearance of this part of the Green Belt.

Staff consider the scale, bulk and mass of the building, its elevated position and degree of visibility within the wider area is harmful to the openness of the Green Belt and detracts from the character of the surrounding area to the extent that justifies refusal.

DESIGN/IMPACT ON STREET/GARDEN SCENE

The subject building has replaced an existing building. Although it is bigger in size and height staff it is set back approximately 26m from the road and is partially screened by vegetation. The external appearance of the building appears akin to a stable building, which is not uncharacteristic of a rural location. Therefore, although Staff consider that there will be material harm to the openness of the Green Belt, the nature of the building is such that character of Gerpins Lane is not materially affected.

IMPACT ON AMENITY

The subject building is well removed from any residential property. The nearest residential properties are those fronting Aveley Road to the east, some 205m away. Combined with the significant dense and mature vegetation that screens these properties from view, Staff do not consider the subject building to have an adverse impact on neighbouring amenity.

If permission were granted, conditions will be added requesting a scheme for the control of noise and odour to further mitigate any potential impact to residential amenity.

HIGHWAY/PARKING

It is not considered that there would be any significant increase in traffic as a result of the proposal. The Highways Authority has raised no objection to the existing and proposed works to be carried out. The proposal is therefore acceptable in highway terms.

OTHER ISSUES

Very Special Circumstances

A specific case for very special circumstances has not been submitted. However, the factors in support of the applicants case are that:

-At the time that the subject building was erected in 2010, it was the applicants reasonable belief that the building was being constructed under permitted development.

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- Although the building was originally intended as a stable, the applicant already keeps and breeds, duck, geese and fowl on the site, and has intended to develop this as an agricultural business in the future. These plans are now being brought forward earlier than originally planned in order to make use of the building. The need for the building has become more urgent as the existing stock is being decimated by fox-kill.

Staff do not consider these constitute the very special circumstances needed to justify inappropriate development within the Green Belt. The structure has not been built as permitted development, despite the applicants original intention that this should be the case. Furthermore, the building in question was not purpose built for any agricultural purpose and, as a result, is arguably much larger than that which would normally be associated with the breeding and rearing of ducks, geese and other fowl. The size and bulk of the building that has been constructed has not been demonstrated to be necessary to support the proposed enterprise and has resulted in development of a size and bulk that is judged to be detrimental to the openness of the Green Belt.

Taking all of these factors into account, Staff consider that very special circumstances have not been demonstrated which overcome the in principle harm arising from inappropriate development and the physical harm to the openness of the Green Belt.

KEY ISSUES/CONCLUSIONS

It is concluded that the proposal constitute inappropriate development in principle in the Green Belt. Furthermore, the scale, bulk and mass of the building is detrimental to the openness of the Green Belt. Staff do not consider that very special circumstances exist to justify the proposal and refusal is recommended.

RECOMMENDATION

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

1. Reason for refusal - Metropolitan Green Belt

The site is within the area identified in the Core Strategy and Development Control Submission Development Plan Document Policy Plan as Metropolitan Green Belt. The Core Strategy and Development Control Submission Development Plan Document Policy and Government Guidance as set out in the National Planning Policy Framework states that in order to achieve the purposes of the Metropolitan Green Belt it is essential to retain and protect the existing rural character of the area so allocated and that new building will only be permitted outside the existing built up areas in the most exceptional circumstances. The special circumstances case submitted is not considered to amount to the very special circumstances needed to warrant a departure from this policy and the proposal is therefore contrary to the National Planning Policy Framework and Policy DC45 of the LDF Core Strategy and Development Control Policies Development Plan Document.

2. REFUSAL - Non Standard

The proposed building would, by reason of its size, massing and siting appear unacceptably large and prominent within the landscape, resulting in material harm to the openness of the Metropolitan Green Belt. The proposal is therefore contrary to the provisions of the National Planning Policy Framework.

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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.

2 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 £5200. Further details with regard to CIL are available from the Council's website.

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APPLICATION NO:	P0196.14	
WARD :	Harold Wood	Date Received: 13th February 2014 Expiry Date: 15th May 2014
ADDRESS:	Elite Panelcraft 65 Gubbins Lane Romford	
PROPOSAL:	Demolition of existing buildings and erection of a two storey development with ground floor to provide 352 m2 retail (A1 use) floorspace, 9 residential units(C3 use) at first and second floors and associated car parking and landscaping.	
DRAWING NO(S):	4956(P)100 Rev A 4956(P)10 Rev A 4956(P)101 Rev B 4956(P)102 Rev B 4956(P)103 Rev B 4956(P)104 Rev E 4956(P)105 Rev E 4956(P)106 Rev 0 4956(P)202 Rev C	
RECOMMENDATION :	It is recommended that planning permission be REFUSED for the reason(s) given at the end of the report given at the end of the report.	

SITE DESCRIPTION

The site, which is approximately 0.1ha in area, comprises land currently in use as a vehicle repair and MOT facility, with a garage building located towards the centre of the site and much of the remaining land area being used for vehicle parking and access.

The site's southern boundary adjoins the Harold Wood Hospital Site Specific Allocation area, which has been redeveloped as a large scale residential development. The site's western boundary adjoins land that was formerly owned by the applicant, and, along with the application site, was the subject of a previously approved residential development (P0585.12). This third party area of land, which is occupied by a workshop building, does not form part of the currently proposed development, except to the extent that another existing building, partly located on it, would be demolished as part of the proposal. Beyond the aforementioned land, planning permission P0702.08 indicates that a building up to four storeys in height is likely to be developed beyond the site's western boundary, in association with the hospital redevelopment, and that open space and an access road will be located alongside the southern boundary.

The eastern boundary lies adjacent to the public highway, which at that point includes a bus stop, whilst the northern boundary abuts existing residential properties fronting onto Gubbins Lane, which comprise two storey, pitch-roofed dwellings. The site is located in close proximity to the Harold Wood Major Local Centre, the Oak Road Minor Local Centre, and Harold Wood railway station.

The application site, and the land immediately to the west, benefit from a planning consent for the development of 16 residential units in two blocks (reference P0585.12). A three to four storey block of 10 flats would be located alongside Gubbins Lane, and a second, two-storey block would be located to the rear, comprising four flats and two houses.

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DESCRIPTION OF PROPOSAL

This planning application proposes the demolition of two existing buildings and their replacement with a block comprising a retail unit at ground floor level, with two floors of residential accommodation above, amounting to nine flats. The proposal would be accompanied by a parking area, private amenity spaces for the flats, a refuse store, and cycle storage. Vehicular access would be through the existing access onto Gubbins Lane.

The proposed block would be located at the southern end of the site, with the northern side providing the parking area for both residents and users of the retail stores. Nine residential parking spaces would be located alongside the site's northern boundary, each of which would include a bollard to prevent unauthorised parking. Twelve retail parking spaces would be provided, with two located alongside the site's northern boundary, and ten to be located alongside the retail store, separated from it by a pedestrian access path connecting the site to Gubbins Lane.

Pedestrian access to the retail store would be through the building's northern elevation, whilst pedestrian access to the residential units would be through the eastern elevation. The building's eastern elevation would be set back from the public highway by approximately 3.5m with landscaping to be provided in between. The proposed residential bin store and bike store would be accessed from the building's eastern elevation, in which the two would be set.

The proposed retail unit would have a floor area of 330sqm. The nine residential units, which are between approximately 74sqm and 94sqm in area (including private amenity spaces), would comprise nine 2-bed flats. The main elevations of the block would face in a north-south direction, and each flat would be accompanied by a private balcony. The proposal would not include any communal amenity spaces for the proposed dwellings. The proposal would be clad in a mixture of brick, render, and glazing.

The land located to the west of the site, which the submitted information states is now in separate ownership, does not form part of the proposal under consideration.

RELEVANT HISTORY

The previous planning decisions of most relevance to this application are as follows:

P0585.12 - 16 no. new build residential flats and houses as; 1 bedroom, 2 bedroom and 3 bedroom units in 2 blocks from 2 to 4 storeys in height with car parking bays and associated communal landscaped areas and private gardens - Approved.

P1446.10 - Redevelopment of commercial workshop/body shop for residential use, erection of 24 apartments (Demolition of existing builders yard) - Refused on the following grounds:

"1. The proposed development would, by reason of the inadequate on site car parking provision, result in unacceptable overspill onto the adjoining roads to the detriment of highway safety and residential amenity and contrary to Policies DC2, DC33 and DC61 of the LDF Development Control Policies Development Plan Document.

2. The proposal represents an overdevelopment of the site which is unable to provide an acceptable level of off-street parking without resulting in deficient amenity space provision. To provide adequate amenity space the resultant shortfall in parking would give rise to unacceptable overspill onto the public highway to the detriment of highway safety. The development is therefore contrary to Policies DC33 and DC61 of the LDF Development Control Policies DPD.

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3. In the absence of a Section 106 Legal Agreement, the applicant fails to demonstrate how the impact of the development on Education provision will be provided for. In this respect, the proposal would be contrary to Policies DC29 and DC72 of the LDF."

This decision was appealed by the applicant (Reference: APP/B5480/A/11/2150765) but the appeal was dismissed in August 2011 on the grounds that some of the units would have inadequate amenity space and that the scheme would make inadequate provision for car parking.

P0233.09 - Redevelopment of commercial workshop/bodyshop for residential use, erection of 27 apartments (Demolition of Existing Buildings) - Refused on the following grounds:

"1. The proposed development would, by reason of its position, bulk and mass, appear as a visually intrusive feature in the streetscene, harmful to the appearance of the surrounding area, contrary to Policy DC61 of the LDF Development Control Policies Development Plan Document.

2. The proposed development would, by reason of its position and proximity to an approved adjoining scheme under application ref. P1232.06, cause overlooking and loss of privacy which would have a serious and adverse effect on the living conditions of adjacent future occupiers and prejudice the living conditions of prospective occupiers of the proposed development, contrary to Policy DC61 of the LDF Development Control Policies DPD.

3. The proposed development would, by reason of the inadequate provision of amenity space, result in a cramped over-development of the site to the detriment of future occupiers and the character of the surrounding area contrary to Policy DC61 of the LDF Development Control Policies Development Plan Document and the SPG on Residential Amenity Space.

4. In failing to deliver a high quality of design through the deficiencies described in reasons 1 and 2 above, the proposal fails to justify such high density of development, contrary to Policies CP2 and DC2 of the LDF Core Strategy and Development Control Policies Development Plan Documents.

5. The proposed development would, by reason of the inadequate servicing of the site and lack of details of a new bus stop, result in unacceptable loading, unloading and turning of vehicles at the site and render the bus stop inaccessible to the general public, causing an impact on the adjoining roads to the detriment of highway safety and residential amenity and contrary to Policies DC32, DC36 and DC61 of the LDF Development Control Policies DPD.

6. The scheme does not give particulars with regards to an energy demand assessment or details of the energy efficiency design measures and renewable energy technology to be incorporated into the development. It has therefore not been sufficiently demonstrated how the scheme could achieve the required displacement of at least 20% of carbon dioxide emissions through on site renewable energy measures and energy efficient technology and is contrary to Policy DC50 of the LDF Development Control Development Plan Policy and Policies 4A.4 and 4A.7 of the London Plan.

7. Insufficient justification has been provided for the lack of provision of affordable housing. In this respect, the proposal would be contrary to Policies 3A.9 and 3A.11 of the London Plan and Policy DC6 of the LDF.

8. Insufficient justification has been provided for the lack of provision of an educational contribution. In this respect, the proposal would be contrary to Policies DC29 and DC72 of the LDF."

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This decision was appealed by the applicant (Reference: APP/B5480/A/09/2112021) but the appeal was dismissed in February 2010 on the grounds that the proposal would result in an over development of the site, allowing insufficient amenity space for all of the residents, and insufficient access arrangements. It was also considered that the proposal would have an unacceptable impact on the street scene and that there was insufficient justification for the absence of affordable housing units.

The following is also of relevance as it relates to the neighbouring, former hospital site.

P0702.08 - Outline application for the redevelopment of the site to provide 810 dwellings including submission of full details in relation to the retention, with alterations, of the Grange listed building within the site to provide 11 flats and for a two storey building adjacent to the Grange to provide 4 flats - Approved.

CONSULTATIONS/REPRESENTATIONS

One of the buildings to be demolished as part of the proposal straddles the site's western boundary and is partially located on land outside of the applicant's ownership. The owner of the land affected has been consulted about the proposal and submitted representations stating that they have no objections to the proposal.

Neighbour notification letters have been sent to 54 local addresses. 25 representations have been received objecting to the proposal. Objections to the scheme are raised on the following grounds. It is stated that the proposal would:

- Result in significant noise and other disruption to local residents;
- Result in additional traffic congestion in the area;
- Result in overlooking of neighbouring properties;
- Not be in keeping with the character of the area, in terms of its height and design;
- Not provide sufficient parking spaces for future occupiers or shoppers;
- Provide a retail unit, which is not needed and would harm existing retail units;
- Result in an over development of the site;
- Have insufficient access arrangements;
- Cause dust nuisance;
- Be harmful to pedestrian safety.

Concerns about the proposal have also been raised by former Councillors Lesley Kelly and Pam Light, on the grounds of traffic impact and highway safety, the potential effects on local businesses, and provision of vehicle parking.

Comments have also been received from the following:

The Environment Agency
No objections.

Designing Out Crime Officer
No objections; condition and informative recommended.

Environmental Health (Noise)
No objections; conditions recommended in relation to limitations on noise transfer and construction times.

Environmental Health (Contaminated Land)
No objections; condition recommended.

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Highway Authority

Objections raised in relation to highway safety.

RELEVANT POLICIES

National Planning Policy

National Planning Policy Framework ("the NPPF")

Regional Planning Policy

Following its recent adoption the London Plan July 2011 is the strategic plan for London and the following policies are considered to be relevant: 3.3 (increasing housing supply), 3.4 (optimising housing potential), 3.5 (quality and design of housing developments), 3.8 (housing choice), 3.9 (mixed and balanced communities), 3.10 (definition of affordable housing), 3.11 (affordable housing targets), 3.12 (negotiating affordable housing), 3.13 (affordable housing thresholds), 4.7 (Retail and Town Centre Development), 4.8 (Retail), 5.2 (minimising carbon dioxide emissions), 5.3 (sustainable design and construction), 5.7 (renewable energy), 5.12 (flood risk management), 5.13 (sustainable drainage), 5.16 (waste self sufficiency), 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), 7.6 (architecture), 7.8 (heritage assets and archaeology), 7.14 (improving air quality), 7.15 (reducing noise and enhancing soundscapes), 7.19 (biodiversity and access to nature) and 8.2 (planning obligations).

Local Planning Policy

Policies CP1, CP2, CP9, CP10, CP17, DC2, DC3, DC6, DC7, DC30, DC32, DC33, DC34, DC36, DC40, DC49, DC50, DC51, DC53, DC55, DC61, DC63, and DC72 of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document ("the LDF") are material considerations.

In addition, the Residential Design Supplementary Planning Document ("the SPD"), Designing Safer Places SPD, Landscaping SPD, Sustainable Design and Construction SPD, and Draft Planning Obligations SPD are also material considerations in this case.

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 chargeable floorspace of the development once the demolition works are taken into account is approximately 352sqm, which equates to a Mayoral CIL payment of £7,040.

STAFF COMMENTS

The issues arising from this application are the principle of development, design and amenity considerations, environmental impact, highway and parking issues, affordable housing, community infrastructure, and other considerations.

PRINCIPLE OF DEVELOPMENT

Policy CP1 of the LDF states that outside town centres and the Green Belt, priority will be made on all non-specifically designated land for housing. To the extent that the application proposes the erection of new housing on unallocated land, the proposal is considered to be acceptable in principle.

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Policy DC15 of the LDF relates to retail development and the way in which it should be assessed, however, it is silent in relation to the status of Major Local Centres, such as Harold Wood, which the proposal would be located in close proximity to. However, the guidance contained in the London Plan does include local centres, such as that located at Harold Wood, in its definition of town centres. The proposal would be located approximately 55m from the Harold Wood Major Local Centre, and is therefore considered to be an edge-of-centre site.

Policy 4.7 of the London Plan states that edge-of-centre proposals should be the subject of an impact assessment, however, no threshold is stated for when this is required. The proposed retail space is below the 2500sqm threshold referred to in the NPPF as requiring a retail impact assessment when one is not stipulated in an up to date local plan. The proposal does need to be subject to the sequential test, which favours the location of retail development in town centres first, then in edge of centre locations, and then in out of centre locations where it can be demonstrated that appropriate capacity is not available in the preferred locations.

The submitted retail impact assessment and sequential test concludes that the development of a modest, convenient retail outlet in an edge of centre location in close proximity to a railway station and a major new residential development would not be harmful to the town centre, whether defined by the District Local Centre 1.4 miles away at Harold Hill, or the Major Local Centre located 55m away at Harold Wood. The proposal is for convenience shopping in the local area, and an assessment of the existing retail premises at both Harold Wood and Harold Hill, concludes that insufficient space is available for the development of a retail store of the size proposed.

Given the potential additional demand for local convenience retail provision in the local area, arising from the significant provision of new housing development, and considering the size of the proposed retail unit, which would be at the smaller end of the scale, it is considered unlikely that the proposal would result in significant harm to the nearest existing retail centres. The site is well within the 300m radius used to define edge-of-centre sites, and the proposal would be well connected to the Harold Wood retail centre by foot. The scope of the submitted sequential test is considered to be sound. Given the foregoing considerations, and that a shortage of suitably sized local retail premises has been identified, officers consider that, on balance, the proposed retail unit is acceptable in principle.

DENSITY/SITE LAYOUT

Policy DC2 of the LDF stipulates the appropriate residential densities in given areas of the borough. Policy DC61 states that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area. The SPD contains guidance in relation to the design of residential development.

The application site covers an area of approximately 0.1 hectares and proposes 9 units, giving a development density of approximately 90 units per hectare. Whilst this is above the density range of 50-80 units per hectare set out in Policy DC2, the close proximity of the proposal to Harold Wood railway station and the Harold Wood Major Local Centre is such that it is considered that the site's location could support the proposed density of residential development. Moreover, the previously approved scheme, which would have had the equivalent of 100 dwellings per hectare, was considered to be acceptable.

The proposal under consideration differs from that previously approved in that it would include a smaller area of land, and the proposed development would be orientated in an east-west direction, rather than the north-south orientations proposed for the two previously approved

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blocks. Nevertheless, it is considered that the two developments bear comparison in relation to their densities. Both the current scheme and the previously approved flatted block would be set back from the public highway by a similar distance, although the one currently under consideration would be located further away from the existing residential properties to the north.

The proposal would not include any communal amenity space specifically for the benefit of future occupiers, however, each of the proposed flats would exceed the minimum space standards required by the London Plan, and would include private amenity spaces in the form of balconies. Each of the flats would include one parking space, whilst the proposed retail unit would benefit from twelve parking spaces. The proposed provision of vehicle parking and residential amenity space is considered to be acceptable.

The land to the west of the site would continue to be occupied by a single storey workshop building, separated from the proposal by a vehicular access area. This building would be accessed through the site. It is considered that in terms of site layout, both this existing building and the proposal could be located in close proximity to one another without any significant harm arising.

It is considered that the site could accommodate the proposed development without amounting to an over development of the site. The proposed three storey development would be one floor lower than the highest part of the previously approved scheme, and when all of the elements are considered, would not result in a significantly more dense overall development. In terms of the proposal's density and site layout, it is considered to be in accordance with Policies DC2 and DC61 of the LDF.

DESIGN/IMPACT ON STREET/GARDEN SCENE

The site is located in a broadly residential area comprising a range of house types, with traditional, two storey, pitched roof dwellings and some larger scale flatted development. The neighbouring site to the west and south is currently being developed for residential purposes, and will eventually include a variety of houses and flatted development. The application site is considered to be in an unsightly condition, and the proposal would improve its appearance.

The proposed block would have a modern, flat-roofed appearance, and would include a variety of cladding materials. In terms of its general appearance, the proposal is considered to be comparable to the modern, flat roofed block of flats that was previously approved at the site, notwithstanding that the proposal would be orientated differently within the site, and would include a retail unit at ground floor level. The proposal would have a maximum height to the top of its service core, of approximately 12.5m, and would be three storeys in height, although most of the building would have a height of around 11m. The previously approved flatted development would have a maximum height of around 13m, although the building would generally be between 9.5m and 12m in height.

The scale and massing of the proposal blocks is considered to be broadly in keeping with the character of the wider area, particularly given the emerging residential development at the former Harold Wood hospital site, and considering the development previously approved at the site. It is recommended that planning conditions be imposed requiring the submission of details relating to the proposed use of cladding materials and landscaping within the site.

Given the nature of the proposal, including its appearance, layout, scale, massing and design in relation to the surrounding area and within the proposed development itself; it is considered that the proposal would have an acceptable impact on the character of the area, and that it would

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therefore be in accordance with Policy DC61 of the LDF and Policy 7.4 of the London Plan.

IMPACT ON AMENITY

Policy DC2 of the LDF provides guidance in relation to the dwelling mix within residential developments. Policy DC61 states that planning permission will not be granted for proposals that would significantly diminish local and residential amenity. The Residential Design SPD provides guidance in relation to the provision of adequate levels of amenity space for the future occupiers of new dwellings.

Policy 3.5 of the London Plan advises that housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment. To this end Policy 3.5 requires that new residential development conform to minimum internal space standards set out in the plan. In this instance the proposed dwellings would each exceed the stipulated minimum standards and officers therefore consider that the proposal would provide an acceptable standard of living accommodation for future occupiers.

In terms of the site layout, all of the proposed dwellings would have adequate access to sunlight and daylight. In relation to amenity space provision, the Council's Residential Design SPD does not prescribe amenity space standards but rather seeks to ensure that amenity space is provided in a high quality, functional and well designed manner. Amenity space should also be private and not unreasonably overshadowed. The proposed development would provide private balconies for the proposed apartments. All of the dwellings are considered to be provided with acceptable amenity space provision, which accords with the aims of the SPD.

The Council's Environmental Health officers have raised no objections to the proposal; conditions are recommended seeking to control noise levels, which can be imposed should planning permission be granted.

In terms of how they relate to one another and the retail unit, it is considered that the proposed dwellings would not result in any unacceptable levels of overlooking, overshadowing, or outlook. It is considered that the proposed development would provide an adequate level of amenity for the future occupiers of the development.

In relation to the impact the proposal would have on existing, neighbouring occupiers then particular attention needs to be paid to the impacts on residents along Gubbins Lane, which are the nearest existing neighbouring properties to the site. Consideration also needs to be given to the impacts between the proposal and the approved residential development at the neighbouring, former hospital site.

The eastern elevation of the proposal would be located approximately 24m from the neighbouring dwellings located on the opposite side of Gubbins Lane. Given the nature of the proposal, including its overall scale, it is considered that its siting would not result in any significant adverse impacts on the amenities of the occupiers of these properties, in terms of overlooking, overshadowing, or outlook.

The nearest neighbouring property would be No.67 Gubbins Lane, which is located immediately to the north of the site. The proposed access and car park would run between the proposed block and this dwelling. Given that the access to the existing business is located in the same position and that the less intensively used residential parking spaces would mainly be located alongside this property, it is considered that the proposal would not result in any significant noise impacts on the amenities of this property's occupiers, subject to the use of conditions controlling

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the opening hours of the retail unit, and the installation of acoustic fencing along the site's northern boundary.

Given the siting of the proposed building in relation to No.67 and its height, it is considered that there would not be any significant adverse impacts in terms of the outlook and access to daylight of the occupiers of No.67. In terms of overlooking, the proposal would include windows and balconies at second and third floor level within its northern elevation that would face towards No.67 and permit a degree of overlooking towards its rear curtilage. With a separation distance of approximately 17m between the proposed flats and the rear garden of No.67, it is considered that a significant degree of overlooking, and a significant perception of overlooking on the part of No.67's occupiers, could arise. However, the submitted information indicates that these impacts can be overcome through the use of eye-level, angled screens to the proposed balconies and the use of oriel windows to the main living areas that would either prevent, or significantly reduce, any potential overlooking to the neighbouring property and address the possible perception of overlooking. It is recommended that a condition be imposed, should planning permission be granted, requiring the approval of details to prevent overlooking to this neighbouring property, in relation to the proposed balconies and other openings along the proposal's northern elevation.

Consideration also needs to be given to the relationship that the proposal would have with the proposed development at the neighbouring, former hospital site. Outline planning permission has been granted for residential development at the neighbouring site, with reserved matters approval being granted in different areas of that site. The phase nearest to the site under consideration does not yet benefit from reserved matters consent and it is anticipated that this will not be sought until 2015. The outline consent that has been granted indicates that an apartment block, up to four storeys in height, would be constructed approximately 21m to the west of the building proposed in the application under consideration. However, the outline consent that has been granted only relates to the access arrangements; the anticipated reserved matters application would therefore provide scope for the scale, design, and layout of that proposal to be adapted to the prevailing conditions existing at that time. Given that the future design of the neighbouring apartment block can be adapted to prevent any significant adverse impacts between that development and the proposal, the proposed development is considered to be acceptable in terms of the relationship it would have with the neighbouring site.

The land to the west of the site would continue to be occupied by a single storey workshop building, separated from the proposal by a vehicular access area. This building would be accessed through the site. It is considered that in terms of amenity, both this existing building and the proposal could be located in close proximity to one another without any significant harm arising.

Officers consider that in terms of the standard of accommodation and amenity space to be provided, and the amenity of existing neighbouring occupiers, and the amenity of the future occupiers of the development, that the proposal is acceptable and would be in accordance with Policy DC61 of the LDF and guidance contained in the Residential Design SPD.

HIGHWAY/PARKING

The application proposes 21 car parking spaces: nine for the proposed residential units, and 12 for the proposed retail unit, two of which would be for disabled users. The proposed car parking provision would therefore equate to 1 space per dwelling. Cycle storage would also be provided at a rate of more than one space per dwelling.

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The site has a PTAL rating of 3-4, which translates to a moderate level of public transport accessibility, however, the proposal is located in close proximity to Harold Wood railway station and is located immediately adjacent to a bus stop.

The Council's highways officers have raised objections to the proposal on the grounds that the anticipated increase in vehicular movements associated with a residential and retail use combined, would result in an unacceptable impact on highway safety at a site access that crosses a frequently used footpath and is in close proximity to a bus stop with a high frequency of services. These concerns are compounded by the potential continued use and/or development of the land immediately to the west of the site, which the submitted information suggests will either be retained as it is, occupied by a workshop building, or may be re-developed in future for some other purpose. The Highway Authority has indicated that the concerns raised might be overcome by the removal of the parking spaces associated with the proposed retail unit, which would reduce the number of traffic movements through the site's access, or through the creation of an additional access point through the site's western boundary. However, the application does not propose either of these arrangements.

Concerns are also raised in relation to overspill parking into the public highway given then limited parking restrictions in the local area. However, Highways officers are satisfied that this issue could be overcome through the use of a planning obligation and/or changes to the management of the public highway.

It is considered that the proposal would result in a significant adverse impact on highway safety, and that it would therefore be contrary to Policy DC32 of the LDF.

OTHER ISSUES

The Council's Environmental Health officers were consulted about the application with no objections being raised. Conditions have been recommended in relation to land contamination, sound attenuation, and limitations to construction times. It is recommended that these be employed should planning permission be granted.

SECURED BY DESIGN

Havering's Crime Prevention Design Advisor has recommended a condition requiring the submission of details relating to the way in which "Secured by Design" standards will be achieved, accompanied by an informative. In the interests of designing out crime, this condition and informative can be imposed should planning permission be granted.

SECTION 106

This planning application is subject to the Council's tariff under the draft Planning Obligations SPD. The proposal would give rise to a contribution of £56,000 towards infrastructure costs. However, in the absence of a completed legal agreement to secure this financial contribution, the proposal is considered to be contrary to Policy DC72 of the LDF, and the guidance contained in the Planning Obligations SPD.

KEY ISSUES/CONCLUSIONS

Given the anticipated adverse impacts that the proposal would have on highway safety and amenity, and in the absence of a completed legal agreement to secure the required infrastructure contributions, officers recommend that planning permission should not be granted in this case.

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The proposal is considered to be unacceptable having had regard to Policies Policies CP1, CP2, CP9, CP10, CP17, DC2, DC3, DC6, DC30, DC32, DC33, DC34, DC36, DC40, DC49, DC51, DC53, DC55, DC61, DC63, and DC72 of the LDF and all other material considerations.

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 anticipated increase in vehicular movements associated with a residential and retail use combined, particularly when considered alongside the use of an adjoining site, all of which would make use of an access point that crosses a pedestrian footway and is in close proximity to a heavily used bus stop, would result in an unacceptable impact on highway safety. The proposal is therefore contrary to Policy DC32 of the Development Control Policies DPD.

2. Refusal non standard condition

In the absence of a completed legal agreement to secure the required infrastructure contributions, the proposal is considered to be contrary to the Planning Obligations SPD and Policy DC72 of the Development Control Policies DPD.

1 Refusal - Amendments requested not made

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 declined to make the suggested revisions.

2 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 £7,040. Further details with regard to CIL are available from the Council's website.

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APPLICATION NO:	P0568.14	
WARD :	Rainham & Wennington	Date Received: 24th April 2014 Expiry Date: 24th July 2014
ADDRESS:	Ingrebourne Links Golf Course New Road Wennington Rainham	
PROPOSAL:	Variation of condition 1 (timescale) of P0084.12	
DRAWING NO(S):	0128/TS/1a	
RECOMMENDATION :	It is recommended that planning permission be GRANTED 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 land located to the east of the A1306 (New Road), Rainham, on which a golf course, driving range, and associated club house, car parking, and ancillary facilities are currently being constructed. The construction works involve the importation of inert material, which is brought in by road, deposited and stockpiled at the western end of the site. The application under consideration only concerns this material reception area, which represents a very small part of the overall golf course development approved under planning permission P0319.09.

The site is located in the Green Belt and on land designated as Thames Chase Community Forest.

DESCRIPTION OF PROPOSAL

This planning application proposes an extension of time for the temporary material storage area approved as part of planning application P0084.12. The site is located on land that benefits from planning permission for the development of a golf course, which is currently under way and anticipated to be completed by the Autumn of 2015. The location of the site is in an area of the wider golf course development that is already being employed as a material reception, storage and reception area. The application under consideration would allow for the continued delivery and storage of material outside of the hours already approved for the wider golf course development. On completion of the golf course development, the site would be restored in accordance with planning permission P0319.09.

The golf course development project is partly reliant on the inert material being excavated as part of the Crossrail project. The Crossrail project currently has a surplus volume of material needing to be disposed of with a lack of land on which to store it in central London. Given the central London location of much of the Cross Rail tunneling works, the export of material will most likely take place throughout the night.

Condition 8 of planning permission P0319.09 limits works in the area under consideration, including the delivery of material, to the hours of 0700-1800 Monday to Friday, and 0700-1300 Saturday. Planning permission P0084.12 subsequently granted a temporary consent for the importation of material on a 24 hour, 7 days per week basis. This permission expired in April 2014 and the application under consideration has been submitted the works approved under the permission P0084.12 to the end of September 2014, when it is anticipated that the volume of Crossrail material available will be greatly reduced.

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As before, the proposal is only for the delivery and storage of inert material. No other operations, including the processing and working of the material delivered, would occur outside of the hours already approved as part of planning permission P0319.09.

RELEVANT HISTORY

P0084.12 - Temporary change of use for a material storage area - Approved (10th April, 2012).

P0319.09 - Construction of a 'links' style golf course, club house, car parking and ancillary facilities using treated indigenous and imported materials - Approved (25th May 2010).

CONSULTATIONS/REPRESENTATIONS

Notification letters were sent to 27 neighbouring properties; a site notice was placed in the vicinity of the site; and advertisements have been placed in the local press. One representation has been received, objecting to the proposal on the grounds of noise, light intrusion, and mud on the road.

Comments have been received from the following consultees:

Highways - No objections.

Environmental Health - No objections.

RELEVANT POLICIES

The following policies of the LDF Core Strategy and Development Control Policies DPD ("the LDF") are of relevance:

DC22 - Thames Chase Community Forest

DC33 - Car Parking

DC45 - Appropriate Development in the Green Belt

DC55 - Noise

DC61 - Urban Design

National Planning Guidance

National Planning Policy Framework.

STAFF COMMENTS

The main issues in this case are considered to be the principle of development, the impact upon the character of the area, impact upon neighbouring occupiers, and highway considerations.

PRINCIPLE OF DEVELOPMENT

The site is located on land designated as Thames Chase Community Forest. Policy DC22 of the LDF states that opportunities for informal recreation in the countryside will be increased by various means. The site already benefits from planning permission for the development of a golf course, which is in the process of being completed. It is considered that the proposal would not be contrary to Policy DC22.

The proposed development would take place within the Green Belt. Policy DC45 of the LDF states that planning permission will only be granted for development if it is for given purposes, including outdoor recreation. The proposed use of land as a temporary material reception and

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storage area, associated with the development of a golf course, is considered to be in accordance with Policy DC45.

In terms of the guidance contained in NPPF, 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.

In terms of Green Belt policy, the application proposes the change of use of land. The guidance contained in the NPPF does not include material changes of use in the categories of appropriate Green Belt development and the proposal is therefore considered to constitute inappropriate development in principle in the Green Belt. However, it is considered that the proposal, which would be for a temporary extension to a planning permission granted previously, and which would support the completion of the wider golf course development on schedule, benefits from very special circumstances, which outweigh the identified harm to the Green Belt. No other significant harm is identified in relation to the proposal.

DESIGN/IMPACT ON STREET/GARDEN SCENE

The site is located within the Green Belt.

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

The proposal would result in the delivery and storage of inert material at the site, on land located within an approved golf course development that is already being employed as a material reception, storage, and processing area. The proposal would continue to allow for the delivery of inert material outside of the hours already approved by the wider golf course planning permission, which was previously agreed under P0084.12. The controls associated with the golf course planning permission, in which the site is located, would continue to apply. The only significant change in terms of the visual impact, over and above what the existing development gives rise to, would be that vehicles could be observed entering and leaving the site at times of the day that are currently permitted by the extant golf course consent.

The site under consideration would be restored in accordance with planning permission P0319.09. It is recommended that a condition be imposed, should planning permission be granted, stipulating that the site be restored in accordance with the plans approved under planning permission P0319.09. In the interests of visual amenity and the timely completion of the golf course development, it is also recommended that the provisions of conditions 13 (limiting the importation of material to that required for the construction of the golf course), 15 (limiting the storage of imported material to the area approved), and 25 (preventing the installation of flood lighting without the prior approval of the Council) of planning permission P0319.09 be employed in this case. These conditions were all imposed on the earlier consent, P0084.12, such that the position is not materially changed in this respect.

It is considered that the proposal would not result in any significant adverse visual impacts and that it would therefore be in accordance with Policy DC61 of the LDF.

IMPACT ON AMENITY

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

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The site has been advertised and neighbours notified of the proposed development. The nearest noise sensitive properties are Wennington Hall Cottages, which are located approximately 310m to the south west of the site entrance and on the other side of the A1306. These properties are located approximately 460m from the material reception and storage area in which material would be deposited during the night. Another residential property, known as The Willows, and the Travel Inn hotel, are located approximately 430m to the south of the vehicular access through which inert material would be imported, and around 500m from the area that the material would be deposited within. The objection received is from the occupier of the Willows.

It is considered that the location of the proposed reception and storage area is such that there would not be any significant adverse impacts on the amenity of local residents. The same conditions will be re-applied as previously, stipulating that material shall only be deposited and stored, and that no processing or other activities shall take place during the proposed hours of operation and preventing the installation of floodlighting.

A further condition should require that the 24/7 importation of material cease on or before 30th September 2014.

The proposed extension of the period during which material may be delivered to the site would result in an increase in heavy goods vehicle movements during the evenings and early morning hours, which could have an adverse noise impact on the occupiers of properties located alongside the public highway. The anticipated number of deliveries during the period from 7pm and 7am would be in the region of 30 or 40, or 60-80 vehicle movements, the equivalent of 2-4 deliveries (4-8 movements) per hour on average. As with the last application (P0084.12), it is considered that the proposed vehicle movements would not have any significant adverse impacts on the amenities of neighbouring occupiers providing a condition is imposed requiring that vehicles visiting the site during the night, only access the site from the direction of the Wennington junction of the A13, and leave the site in the direction of that junction. This will mean that HGV traffic can avoid the more densely populated areas to the north and north west of the site, particularly where traffic lights and junctions would require HGVs to stop near to residential properties.

Subject to the use of the afore mentioned conditions, it is considered that the the proposal would therefore be in accordance with Policy DC61 of the LDF.

HIGHWAY/PARKING

The Highway Authority has raised no objections to the proposal.

Should planning permission be granted, it is recommended that conditions 10 (wheel wash) and 26 (Travel Plan) relating to planning permission P0319.09 be imposed in this case to ensure that vehicles visiting the site continue to utilise the wheel wash facilities installed on site and to ensure that the provisions of the Travel Plan approved as part of the wider golf course development continue to be adhered to. This is as per the previous approval P0084.12.

Subject to the use of the afore mentioned conditions, it is considered that the proposal would not result in any significant adverse impacts on highway safety and amenity.

KEY ISSUES/CONCLUSIONS

The proposed development is considered to be acceptable having had regard to Policies DC22, DC33, DC45, DC55, and DC61 of the LDF, and all other material considerations.

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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

The development hereby approved shall cease by 30th September, 2014. The site shall thereafter be restored in accordance with the phasing and details approved as part of planning permission P0319.09.

Reason:

In the interests of visual and local amenity and in accordance with Policy DC61 of the Core Strategy and Development Control Policies Development Plan Document.

2. Non standard condition

Only inert material required for the restoration / construction of the golf course landform, approved by planning permission P0319.09, shall be brought onto the site. No material shall be removed from the site.

Reason:

To ensure that the minimum amount of soil making material is brought into the site to ensure the site is restored in the minimum amount of time available and that minimum harm to the amenities of the area is caused in accordance with Policy DC61 of the Core Strategy and Development Control Policies Development Plan Document.

3. Non standard condition

Storage of material shall only take place within the area edged red on the plan referenced 0128/TS/1a.

Reason:

In the interests of visual amenity and in accordance with Policy DC61 of the Core Strategy and Development Control Policies Development Plan Document.

4. Non standard condition

No floodlighting shall be provided on any part of the application site without the prior written approval of the Local Planning Authority.

Reason:

In the interests of the character and appearance of the site which forms part of the Metropolitan Green Belt and of amenity, in accordance with Policy DC61 of the Core Strategy and Development Control Policies Development Plan Document.

5. Non standard condition

The approved development shall be undertaken in accordance with the Travel Plan approved under condition 26 of planning permission P0319.09.

Reason: To bring about a reduction in vehicle journeys.

6. Non standard condition

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6. Non standard condition

The wheel scrubbing/wash down facilities approved and installed in accordance with condition 10 of planning permission P0319.09 shall be employed by all heavy goods vehicles leaving the site, to prevent mud being deposited onto the public highway.

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 Policy DC61.

7. Non standard condition

This planning permission only grants approval for the deposition and storage of inert material. No other operations shall occur.

Reason:

In the interests of local amenity and in accordance with Policy DC61 of the Core Strategy and Development Control Policies Development Plan Document.

8. Non standard condition

Stockpiled material at the site shall not be stored at heights greater than 4m, measured from ground level.

Reason:

In the interests of visual amenity and in accordance with Policy DC61 of the Core Strategy and Development Control Policies Development Plan Document.

9. Non Standard Condition

Heavy goods vehicles entering and leaving the site to deposit material between the hours 1800 and 0700 Mondays to Fridays, 1300-0800 on Saturdays, and at all times on Sundays, Bank and Public holidays, shall only approach and leave the site according to the following routing arrangements:

a) Heavy goods vehicles shall only approach the site, along the A1306, from the direction of the Wennington junction between the A1306 and the A13, which is located to the south of the site. Heavy goods vehicles shall only enter the site from the public highway by a right-hand turn.

b) Heavy goods vehicles shall only depart from the site, along the A1306, by approaching Wennington junction between the A1306 and the A13, which is located to the south of the site. Heavy goods vehicles shall only enter the public highway from the site by a left-hand turn.

Reason:

In order to prevent heavy goods traffic significantly diminishing the amenity of residential occupiers located in close proximity to the public highway, and in accordance with Policy DC61 of the Core Strategy and Development Control Policies Development Plan Document.

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10. 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 (as set out on page one of this decision notice).

Reason:-

The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

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 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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APPLICATION NO:	P0648.14	
WARD :	Hylands	Date Received: 8th May 2014 Expiry Date: 3rd July 2014
ADDRESS:	Tesco Stores Ltd 300 Hornchurch Road Hornchurch	
PROPOSAL:	Variation of condition 8 of L/HAV/1719/83 (as amended by Ref: P0195.97) to extend store opening hours from 8:00- 22:00 Monday to Saturday and 10:00 - 16:00 on Sunday to 24 hours Monday to Saturday and 10:00 and 16:00 on Sunday.	
DRAWING NO(S):	Ordnance survey map	
RECOMMENDATION :	It is recommended that planning permission be GRANTED subject to the condition(s) given at the end of the report given at the end of the report.	

CALL-IN

The application has been called in to committee by Councillor Ganly on the grounds of unacceptable disturbance to neighbouring residents.

SITE DESCRIPTION

The application site comprises of a supermarket building and its curtilage to the north side of Hornchurch Road. To the north-west of the site is a retail warehouse store. There is an existing petrol filling station within the site, adjacent to its northern boundary. To the west lie retail premises to the west and residential dwellings towards the east of the site and opposite, on the south side of Hornchurch Road. The nearest residential properties are located between 30 and 45 metres away from the supermarket.

Planning permission has recently been granted for residential development on the site of the former Dukes Hall community centre (planning reference P0490.13). These units are currently under construction.

DESCRIPTION OF PROPOSAL

The application seeks consent for variation of condition 8 of L/HAV/1719/83 (as amended by Reference P0195.97) to extend store opening hours from 8:00 - 22:00 Monday to Saturday and 10:00 - 16:00 on Sunday to 24 hours Monday to Saturday and 10:00 and 16:00 on Sunday.

RELEVANT HISTORY

There is extensive history, the most recent and relevant is as follows:

P0199.14 - Variation of condition 4 of planning permission P0957.13 to allow construction/deliveries in relation to the permission to operate between 16:00pm to 00:00am on Sundays - Approved.

P0195.97 - Variation of condition 8 of planning permission L/HAV/1719/83 (as amended by consents P0332.92, P0617.93 and P0788.96) to extend store trading hours to 08:00 - 22:00 Monday to Saturday and 10:00 - 16:00 on Sundays - Approved.

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CONSULTATIONS/REPRESENTATIONS

Neighbour notification letters were sent to 190 local addresses. Nine letters of objection were received with detailed comments that have been summarised as follows:

- The opening hours are not suitable for the centre of a residential area.
- It is alleged that when the store was originally built, it was on the proviso that it would not be open 24 hours 7 days a week.
- There are two other Tesco stores at Gallows Corner and Rainham which are open 24 hours.
- There will be another supermarket in the vicinity situated away from residential areas that will offer 24 hour shopping facilities, so Tesco's extension of normal shopping hours will not be needed.
- Noise.
- Smells.
- Traffic.
- Light pollution.
- Disturbance.
- Impact on neighbouring amenity.
- The proximity of the supermarket to existing and newly built residential properties.
- A new refit of the store resulted in disruption to local residents.
- Anti-social behaviour.
- Crime.
- Privacy.
- Servicing/deliveries.
- Rubbish.
- Abandoned trolleys.
- Parking, rubbish and other issues regarding the car park adjacent to Blockbusters and Burger King.
- An application for 24 hour opening has been refused permission before.
- Concerns that some neighbouring properties were not consulted.

In response to the above comments, each planning application is determined on its individual planning merits. Noise and disturbance can be addressed by an appropriate planning condition 3. The Council has a duty to consult neighbouring residents that directly abut the application site. The Council uses its discretion to undertake a wider consultation when necessary. In this instance, 190 neighbouring properties were consulted. Comments regarding a recent refit of the supermarket are not material planning considerations. Comments regarding the car park adjacent to Blockbusters and Burger King do not form part of the application site and as such, are not material planning considerations. This application seeks a variation to the store's opening hours, not delivery hours. The remaining issues are covered in the following sections of this report.

RELEVANT POLICIES

Policies DC55 and DC61 of the Local Development Framework Development Control Policies Development Plan Document.

MAYORAL CIL IMPLICATIONS

The proposal is not liable for Mayoral CIL.

STAFF COMMENTS

The issues arising from this application are the impact of the proposal on residential amenity and any highway and parking issues.

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IMPACT ON AMENITY

With regard to the impact upon neighbouring properties consideration must be given to potential implications in terms of the extension of opening hours and noise and disturbance.

It is noted that there is a retail store to the north-west of the site and the existing Tesco petrol station to the north. As such there is a certain level of commercial activity in the vicinity of the site and associated noise is to be expected. The site already exhibits a commercial character and consideration must be given as to whether the increase in trading hours would create levels of noise and disturbance which are materially different or greater than is presently the case. The store is presently open from 08.00 to 22.00 hours Monday to Saturday. Sunday trading hours would not be altered.

It is considered that the impact of the increased opening hours would be spread across a relatively large site and given the separation distances from neighbouring properties the increased opening hours would not create conditions that would be unduly harmful to residential amenity.

The supermarket is located between approximately 30 and 45 metres from the nearest residential properties on the former Dukes Hall site in Maygreen Crescent, which would help to mitigate the impact of the proposal. It is noted that these residential properties are currently under construction, so any future occupiers of these units would be aware of the relationship with the Tesco store and the opening hours of the supermarket. There is a substantial separation distance between the rear facade of the supermarket and the flats in Maygreen Crescent, which would help to mitigate the impact of the proposal.

The main customer parking area is located to the western side of the supermarket, whilst the residential properties within Maygreen Crescent are located to the east. The proposal does not seek to alter the delivery hours to the store or the hours of operation of the petrol filling station. It is judged that the levels of activity associated with the extended hours of operation of the supermarket would be concentrated primarily around the western side of the building, where the main parking areas and the store entrance is located. This to some extent would provide a degree of separation from the main areas of external activity and the residential properties to the east, such that material harm to the amenity of residents to the east of the site would not occur.

From the site visit it was observed that Hornchurch Road is a heavily trafficked road with relatively high ambient noise levels. Given the nature of this road, there is no reason to believe that these observations are unusual. It is reasonable to assume, given the location of the application site that the ambient noise level would remain reasonably high in the evenings. It is considered that residential properties to the south of the application site would not be adversely affected by the proposal as they are located on the opposite side of Hornchurch Road and sufficiently well separated from the application site.

In terms of the likely impacts on local and residential amenity, it is considered that the proposal would be in accordance with Policy DC61 of the LDF.

HIGHWAY/PARKING

It is considered that the proposal would not create any parking or highway issues, as there is sufficient car parking provision on site. The Highways Authority has no objection to the proposal.

KEY ISSUES/CONCLUSIONS

It is considered that the extension of opening hours would not result in material harm to residential amenity and nor would it create any highway or parking issues. Approval is

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recommended.

RECOMMENDATION

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

1. SC27 (Hours of use) ENTER DETAILS

The premises shall not be used for the purposes hereby permitted other than between the hours of 06:00 Monday through to 23:59 on Saturdays and between 10:00 and 16:00 on Sundays without the prior consent in writing of the Local Planning Authority.

Reason:-

To enable the Local Planning Authority to retain control in the interests of amenity, and in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

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.

2 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.

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APPLICATION NO:	P0780.14	
WARD :	Brooklands	Date Received: 5th June 2014 Expiry Date: 31st July 2014
ADDRESS:	YMCA Rush Green Road Romford	
PROPOSAL:	A temporary single storey education building in the west corner of the site to accommodate a primary school for 3 forms of entry. The building will comprise three classrooms as well as ancillary facilities. A single storey administration staff room. There will also be replacement hardstanding play area and new fences with gates.	
DRAWING NO(S):	6APFSXXX/PL/TEMP/020 Rev 0 6APFSXXX/PL/TEMP/030 Rev 0 6APFSXXX/PL/TEMP/025 Rev 0	
RECOMMENDATION :	It is recommended that planning permission be GRANTED subject to the condition(s) given at the end of the report given at the end of the report.	

SITE DESCRIPTION

The application site is an irregular shaped parcel of land measuring approximately 0.1ha in area. The site comprises an area of open hardstanding within the curtilage of the YMCA complex, located off Rush Green Road. The site's northern boundary adjoins the rear gardens of residential properties located on the southern side of Rush Green Road. The southern boundary adjoins the rear gardens of residential properties located along Gorseway. The western boundary abuts open land located between the residential properties of Rush Green Road and Gorseway. The eastern boundary lies adjacent to an area of hardstanding associated with the YMCA complex, beyond which is the associated multi storey building.

DESCRIPTION OF PROPOSAL

This planning application proposes the erection of two temporary buildings to provide accommodation for a primary school. The Oasis Academy is awaiting the construction of its proposed permanent facility at the Oldchurch site in Romford, and requires a temporary arrangement in the mean time. It is intended that the proposed, temporary facility would be open in time for the September 2014 intake and would be required for two years.

The proposal was originally for a temporary school accommodating upto 90 pupils during its first year, and upto 180 pupils during its second year, making use of a two storey teaching block. Following advice from officers, the applicants have amended the application such that any increases in the school's capacity above 90 pupils in its second year should be the subject of a separate application. The applicant has also been made aware that a two storey building in the proposed location may not be acceptable. The applicant has stated that any future application to expand capacity could be based on a single storey building.

The temporary school would accommodate upto 90 4-11 year olds in its first year. It is anticipated that planning permission will be sought at a later date to allow for an expansion of the temporary facilities and the enrolment of a further 90 pupils in its second year, with 10 staff in the first year, followed by a further 6 in the second year. However, as far as the current application is concerned, the proposal is for the creation of a temporary school, required for a

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two year period, to accommodate upto 90 pupils with 10 staff.

Both of the proposed temporary buildings would be modular structures: one would be a single storey building located close to the southern boundary and would provide office accommodation; the other would be a flat roofed, single storey building located alongside the northern site boundary, containing classrooms and other pupil facilities for three forms of entry. The office building would be approximately 90sqm in area and would have a maximum height of around 3.2m, whilst the teaching block would be around 300sqm and would have a height of around 3.5m.

A covered play area would be located to the south of the proposed teaching block; whilst an outdoor play area would be located alongside the southern boundary. Both play areas would be located on replacement hardstanding. The site's perimeter would be secured by a 2150mm high chain link fence.

No additional hard or soft landscaping is proposed. The proposal would include six parking spaces for staff and visitors, including one disabled space. Bicycle parking would also be provided.

RELEVANT HISTORY

There are no previous planning decisions at the site of particular relevance to this proposal.

CONSULTATIONS/REPRESENTATIONS

As discussed earlier in this report, the initial proposal for a two storey teaching block, accommodating upto 180 pupils, has been revised. The proposal is now for a single storey teaching block accommodating and the school would accommodate upto 90 pupils.

Notification letters were sent to 84 neighbouring properties with 12 objection letters being received along with a petition, containing 39 signatures, objecting to the proposal. The objection letters include one from two Councillors (an Eastbrook Ward Member and Cabinet Member for Regeneration) from the London Borough of Barking and Dagenham. Objections raised are on the following grounds:

- a) There is insufficient capacity in the local highway network for more traffic;
- b) The proposal would provide insufficient parking spaces;
- c) The increase in traffic will reduce highway safety;
- d) There is intense traffic congestion during the mornings and afternoons;
- e) There will be an increase in noise, particularly in relation to the proposed outdoor play area;
- f) The site is too small to accommodate the proposed development;
- g) A single storey extension would be preferred;
- h) The proposal would result in the loss of light and overlooking impacts;
- i) The need for an expanded school in this location has not been demonstrated;
- j) The proposal would be contrary to planning policies;
- k) Sewage infrastructure may not be sufficient to accommodate the proposal;
- l) The proposal may not be in accordance with policies relating to security, local character, and amenity;
- m) There are more suitable sites elsewhere.

Responses have been received from the following statutory and internal consultees:

Environmental Health (contaminated land) - No objections.

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Environmental Health (noise) - Comments awaited.

Highway Authority - No objections; informative recommended.

Crime Prevention Design Advisor - Comments awaited.

Education - No objections.

Thames Water - Comments awaited.

RELEVANT POLICIES

The following policies of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document ("the LDF") are material in this case:

CP10 (Sustainable Transport)
CP17 (Design)
DC29 (Educational Premises)
DC32 (The Road Network)
DC33 (Car parking)
DC55 (Noise)
DC61 (Urban Design)
DC63 (Secure by Design)

The following policies of the London Plan are of relevance:

Policy 3.18 (Education Facilities)

National Planning Policy Framework is also a material consideration.

MAYORAL CIL IMPLICATIONS

The proposed education facility would not give rise to a contribution under the Mayoral CIL Regulations.

STAFF COMMENTS

This proposal is put before Members owing to the sensitivity of the proposal. The main issues to be considered in this case are the principle of development, design/street scene issues, amenity implications, highways issues, designing out crime, and other considerations.

Members are being asked to make a judgement about the proposal, which has clear benefits, but may also result in some harm. There is an identified need for additional primary school places within the borough, however, the proposal, whilst being temporary, would be located in close proximity to neighbouring properties resulting in potential noise impacts.

PRINCIPLE OF DEVELOPMENT

Policy 3.18 of the London Plan states that:

"Development proposals which enhance education and skills provision will be supported, including new build, expansion of existing facilities or change of use to educational purposes. Those which address the current projected shortage of primary school places will be particularly encouraged."

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Policy DC29 seeks to ensure that the provision of primary and secondary education facilities is sufficient in quantity and quality to meet the needs of residents. The need for increased school places will normally be met by seeking opportunities within existing sites.

The submitted information states that the proposal is required for a temporary period whilst the school awaits the construction of its permanent facility at the former Oldchurch Hospital site.

The Council's Education officers have commented as follows:

"As a result of a rise in the birth rate and more people moving into the borough, Havering is experiencing a demand for primary school places that in some part of the borough outstrips demand. The school organisation team support this planning application as it will help provide much needed school places in an area of high demand, helping the Council meet its legal duty to ensure that there are enough school places available for children who live in the borough."

Given the existing use of the site as a car park, and the objectives of the above mentioned policies, this proposed temporary development, which would assist with the expansion of primary school provision, is considered to be acceptable in principle.

DESIGN/IMPACT ON STREET/GARDEN SCENE

Policy DC61 seeks to ensure that new developments/alterations are satisfactorily located and are of a high standard of design and layout. Furthermore, it seeks that the appearance of new developments/alterations is compatible with the character of the surrounding area, and does not prejudice the environment of the occupiers and adjacent properties.

The proposed temporary buildings would be single storey in height and, with the exception of neighbouring residential properties, from which the proposal would be partially visible beyond the site boundary, the proposed buildings would not generally be visible within the surrounding area. The surrounding area is characterised by a range of building types, including pitch roofed, two storey dwellings and the YMCA complex, which includes a tower block. Given the proposal's temporary nature, and the siting, scale, and design of the proposed buildings, along with the varied character of the surrounding area, it is considered that the proposed development would not give rise to any significant adverse visual impacts. In this regard, the proposal is considered to be in accordance with Policy DC61 of the LDF Development Control Policies Development Plan Document.

IMPACT ON AMENITY

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

The site is located alongside the rear gardens of a number of residential properties, and approximately 30m from the dwellings themselves.

Given the single storey nature of the proposed buildings and their siting in relation to neighbouring properties, it is considered that the proposal would not result in any significant adverse impacts in relation to overlooking, loss of light, or outlook.

The proposed temporary use would generate noise during school hours, particularly when children are playing in the outdoor area, and given the temporary nature of the proposal, it is not considered reasonable to require any significant investment in acoustic screens around the site. Comments are still awaited from the Council's noise officer and Members will be advised of

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these during the committee meeting. The advice in this report may therefore be subject to change, however, whilst the Environmental Health comments are awaited, planning officers would comment as follows.

Whilst the proposal would generate noise, this needs to be considered in relation to the fact that the site can currently be used as a car park. Moreover, the proposal would be for a temporary period, and the noise that does arise would only occur during term times, and during certain periods of the day. The proposed operating hours are 0730 - 1930 Monday to Friday, however, the applicant has indicated that the school opening hours are likely to be between 0845 and 1520 (to be agreed). The amount of time that groups of children will be located in the outdoor areas would therefore represent a relatively small portion of the day.

In light of these considerations, but subject to advice from Environmental Health, officers consider, on balance, that the noise arising from the proposal would not result in significant harm to the amenities of neighbouring occupiers. However, this is subject to the use of conditions limiting the life of the development to the two years applied for, and limiting the approved operating hours.

Subject to no adverse comments being received from Environmental Health officers, and subject to the afore mentioned conditions, it is considered that the proposal would be in accordance with Policy DC61 of the LDF in relation to amenity considerations.

HIGHWAY/PARKING

The application site would contain a total of 7 car parking spaces, but the wider YMCA site would be available for use by vehicles associated with the proposed school. The submitted information states that the wider YMCA site has 99 marked car parking spaces and 6 minibus spaces, along with a significant area of unmarked parking spaces, of which the application site would occupy a portion. It is estimated that the unmarked areas could accommodate around 61 cars. The proposal would result in the loss of around 44 of these spaces, leaving a total of 122 spaces within the wider site, where the submitted transport assessment indicates that during the proposed school hours (circa 0845 to 1520), the maximum observed demand is currently for 63 spaces.

The school propose a pick up and drop off area within the YMCA site that would accommodate upto 28 vehicles, although the use of cars is to be discouraged by means of a Travel Plan including measures such as a shuttle bus between Romford Town Centre and the site. The area of the wider site being considered for the pick up and drop area is an unused sports court off the south eastern side of the YMCA building and it is therefore stated that it would not result in any loss of car parking spaces. Based on the originally submitted proposal for a school accommodating upto 180 pupils in its second year, it is estimated that the vehicular traffic associated with the school would result in a 3.1% increase in two-way traffic flow along Rush Green Road during the weekday morning and evening peak times.

The Highway Authority has been consulted about the proposal and has raised no objections subject to the use of an informative, should planning permission be granted, advising the school operator of an appropriate location to pick up and drop off children as part of its proposed bus service.

The proposed number of off-street parking spaces is considered sufficient to serve the development, particularly when the wider YMCA site is considered, as is the surrounding road infrastructure. It is anticipated that pupils will be transported to the site by a range of means,

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including by foot, public transport, bicycle and by road.

Should planning permission be granted, it is recommended that conditions be employed requiring the approval of a Travel Plan, detailing the proposed means of encouraging sustainable means of transport to the site, and the approval of details relating to bicycle storage at the site.

Whilst the proposal is likely to result in modest, periodic increases in local traffic congestion, given that no objections have been raised by the Highway Authority, and given that the increased highway impact would generally only occur at specific periods of time, the impact of the proposal, in terms of highway safety and access arrangements, is considered to be acceptable, subject to the use of the afore mentioned conditions.

OTHER ISSUES

Objections have been received stating that there are problems with the sewage infrastructure in the local area. Thames Water have been consulted about the proposal, although comments have not been received at the time of writing. Members will be given an update about any comments received during the committee meeting, although the issue of sewage capacity and whether the proposed development could be accommodated is a matter for the relevant statutory undertaker. The submitted information states that the proposal would be served by mains sewers.

SECURED BY DESIGN

The Metropolitan Police have been consulted about the proposal, however, comments are still awaited. Members will be given an update when the application is presented to the committee.

KEY ISSUES/CONCLUSIONS

There is an identified need for additional primary school places in the borough, as described by the Council's Education department and London Plan policy. However, the demand for the proposal needs to be weighed against the other material considerations. Officers consider that the proposal will give rise to noise in the locality, however, given the temporary nature of the proposal, and that the noise described will only occur during term times, and during limited periods of the day, it is considered on balance that the identified harm would not be sufficient to outweigh the benefits of the proposal.

Subject to there being no significant adverse comments from consultees following the committee's resolution, and subject to the recommended conditions, officers consider the proposal to be acceptable having considered Policies CP10, CP17, DC18, DC29, DC32, DC33, DC55, DC58, DC61, and DC63 of the LDF and all other material considerations, and therefore recommend that the application be approved.

RECOMMENDATION

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

1. SC4 (Time limit) 3yrs

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

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2. Non Standard Condition 32

The use hereby approved shall cease, and all buildings associated with the development shall be removed, on or before August 31st 2016.

Reason:-

In the interests of amenity and in accordance with Development Control Policies Development Plan Document Policy DC61.

3. SC32 (Accordance with plans)

The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans (as set out on page one of this decision notice).

Reason:-

The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

4. SC58 (Refuse and recycling)

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

Reason:-

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

5. SC59 (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.

6. SC65 (Contaminated land condition No. 2) (Pre Commencement)

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.

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17th July 2014

7. Non Standard Condition 31

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.

8. Non Standard Condition 33

No construction works or deliveries into the site shall take place other than between the hours of 08.00 to 18.00 on Monday to Friday and 08.00 to 13.00 hours on Saturdays unless agreed in writing with the Local Planning Authority. No construction works or deliveries shall take place on Sundays, Bank or Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason:-

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

9. Non Standard Condition 34

The development shall not be occupied unless a Travel Plan for the school has been submitted to and agreed in writing by the Local Planning Authority. The plan shall include measures to reduce private vehicular trips and proposals for monitoring progress, including a timetable for its implementation and review. The agreed Travel Plan shall remain in force permanently and implemented in accordance with the agreed details.

Reason: To help bring about a reduction in private car journeys and to minimise the potential for increased on street parking in the area.

10. Non Standard Condition 35

Prior to the first occupation of the development, details of the proposed school operating hours shall be submitted to and approved in writing by the local planning authority. Specific reference shall be made to the days and times during which school children will be present at the site. The development shall thereafter be operated in accordance with the approved details.

Reason:-

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

REGULATORY SERVICES COMMITTEE

17th July 2014

INFORMATIVES

1 Fee Informative
INFORMATIVES

1) The applicant is advised that any proposed bus service to be operated by the school should seek the permission of Transport for London before making use of any formal bus stops. The Council's highways officers can advise about potential, suitable pick-up and drop-off points.

2) 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 Approval following revision

Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: Improvements required to make the proposal acceptable were negotiated and submitted, in accordance with para 186-187 of the National Planning Policy Framework 2012.

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**REGULATORY
SERVICES
COMMITTEE**

REPORT

17 July 2014

Subject Heading:

P1053.13 - Land off Harlow Gardens, Romford - The erection of 3 no. 2 bed chalet bungalows and 2 no. 2 bed bungalows (received 21/08/13; amended plans received 03/12/13 and 06/03/14)

Report Author and contact details:

Suzanne Terry
Interim Planning Manager
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 3 no. 2 bed chalet bungalows and 2 no. 2 bed bungalows. The application was deferred at the Regulatory Services Committee of

8 May 2014 in order to allow members to do an unaccompanied site visit. The following report is unchanged from that which was previously deferred.

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 78.9m² per bungalow and 96.8m² per chalet bungalow and amounts to £8,964.

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 £30,000 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 10 no. off-street car parking spaces 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, 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 front and rear facing loft windows serving en-suite bathrooms and cupboards as well as the ground floor flank windows to plot 3 and plot 5 serving a lounge and kitchen 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. Permitted Development rights: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 ("the 1995 Order) (as amended) 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.

15. 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.

16. 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 and operated in strict accordance with the approved scheme.

Reason: In the interest of residential amenity.

17. 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.

18. Prior to the commencement of the development hereby approved details of existing ground levels and proposed ground and finished floor levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved plans unless otherwise submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of neighbouring amenity and to accord with Policy DC61 of the Core Strategy and Development Control Policies Development Plan Document.

19. Tree protection: No building, engineering operations or other development on the site, shall be commenced until a scheme for the protection of preserved trees on the site has been submitted to and agreed in writing by the Local Planning Authority. Such scheme shall contain details of the erection and maintenance of fences or walls around the trees, details of underground measures to protect roots, the control of areas around the trees and any other measures necessary for the protection of the trees. Such agreed measures shall be implemented before development commences and kept in place until the approved development is completed to the satisfaction of the Local Planning Authority.

Reason: To protect the trees on the site

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 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 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 448.2m² which, at £20 per m², equates to a Mayoral CIL payment of £8,964 (subject to indexation).

REPORT DETAIL

1. Site Description

- 1.1 The application site is an empty piece of land which is located to rear of the properties along Harlow Gardens, Romford. The site is surrounded by residential dwellings. The ground has a severe slope down from northeast to southwest. The site has an overall area of approximately 2496m².
- 1.2 Development in the vicinity is characterised by 2-storey and 3-storey residential dwellings with various different external finishing.

2. Description of Proposal

- 2.1 The application seeks permission for the erection of 3 no. 2 bed chalet bungalows and 2 no. 2 bed bungalows with associated parking and amenity. The proposed bungalows would be arranged on site as 2 no. detached bungalows situated along the narrowest part of the site and a terrace of 3 chalet bungalows situated in the wider part (south-eastern corner) of the site.
- 2.2 The detached bungalows would measure 8.45m in width and between 8.35m and 10.6m in depth. The terrace of 3 chalet bungalows would measure 21.4m in width and 9.15m in depth. The bungalows would be finished with hipped styled roofs measuring 2.3m in height to eaves and 5.1m to the ridge. The terrace of 3 chalet bungalows would be finished with a chalet style dual pitched roof measuring 2.4m in height to eaves and 6.55m to the ridge. The proposed chalet bungalows would also feature 2 no. front dormers and a rear dormer measuring 1.6m in width, 2.7m in depth and 2.2m in height to the top of the dual pitched roofs.
- 2.3 The proposed bungalows would consist of a bathroom, kitchen / dining room, living room and two bedrooms. The proposed chalet bungalows would consist of a bathroom, kitchen / dining room, lounge and a bedroom at ground floor and a cupboard, en-suite bathroom and bedroom in the loft space.
- 2.4 The development proposes a new 4.8m wide access road off Harlow garden. Parking provision for 10 vehicles would be provided, 2 spaces to the rear of plots 1 and 2 respectively and two spaces to the front of each of the chalet bungalows.
- 2.6 The dwellings would have a northwest-southeast orientation with garden spaces towards the rear (northwest) for plot 2 and southeast for plots 1, 3,

4 and 5, measuring approximately 102m² for plot 1, 139 m² for plot 2, 98m² for plot 3 and 71m² for plot 4 and 79m² for plot 5.

3. History

3.1 No recent, relevant planning history.

4. Consultation/Representations

4.1 Notification letters were sent to 44 neighbouring properties and 7 letters of objections were received raising the following concerns:

- Concerns over narrowness of access road and the ability of fire and emergency vehicles to access the site
- Proposal will add to the existing parking problem in Harlow Gardens
- Overlooking
- Lack of green space in the area
- Decrease in property value
- Streetlights would impact on residential amenity
- Removal of an oak tree unacceptable
- Increase in noise and disturbance
- Removal of trees would result in increased water runoff

4.2 The Highway Authority has raised no objection to the proposal.

4.3 The Borough Designing Out Crime Officer requires a Secured by Design condition.

4.4 The London Fire and Emergency Planning Authority are satisfied with the proposal.

4.5 London Fire Brigade has recommended the installation of 1 private fire hydrant which has been indicated on a plan received 16/09/2013.

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, loss of trees 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.

6.3 Site Layout / Amenity Space

- 6.3.1 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 70m² for a 2-bed 4-person flat and 83m² for a 2-bed 4-person two storey dwelling. The minimum space requirements for flats has been used in order to evaluate the proposed bungalows as they do not fall in the 2 or 3-storey category. The proposed dwellings have individual internal floor space of 78.9m² and 96.8m² respectively which is in line with the recommended guidance and considered acceptable.

- 6.3.2 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.

- 6.3.3 Amenity space would mainly be provided with garden spaces towards the rear, measuring approximately 102m² for plot 1, 139 m² for plot 2, 98m² for plot 3 and 71m² for plot 4 and 79m² for plot 5. 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.

6.3.4 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 areas would be large enough to be practical for day to day use and with the provision of fencing, would be in most cases be screened from general public views and access, providing private and usable garden areas. Staff are mindful that there would be some overlooking to the rear gardens of plot no.'s 1 and 2 from the 3 storey building at No. 5 to 10, 11 and 12 Harlow Gardens, however this will be a buyer beware scenario where future buyers would be aware of the potential impact on their amenity. As a result, it is considered that the proposed amenity areas of the new dwellings are acceptable in this instance.

6.3.5 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.

6.3.6 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 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 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 Harlow Gardens 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.

6.4.3 Development in the vicinity is characterised by 2-storey and 3-storey residential dwellings with various different external finishing.

6.4.4 In terms of its design and visual appearance, Staff are of the opinion that the development of the proposed detached and terraced 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 Consideration should be given to the potential impact as a result of the severe level change dropping down from the northeast to the southwest of the site. The level changes would have an impact on the properties situated along Highfield Close and consideration has been given to limit any southeast facing flank windows to mitigate the potential for overlooking. Although there will be a living room flank window to the southwestern elevation of the bungalow proposed to plot 1, Staff do not consider this to result in a harmful impact given the separation distance of 8m to the southwestern boundary and 32m to the nearest residential dwelling to the southwest.
- 6.5.3 Consideration has also been given to the potential impact on outlook to these dwellings along Highfield Close. Given the severe slope of the subject site the proposed bungalows would appear higher than bungalows when viewed from the rear gardens of these neighbouring properties. Staff acknowledge that there would be some impact in terms of outlook, however do not consider it to be to such an extent as to warrant a refusal. Any impact would be mitigated by the separation distances in excess of 30m between the existing and proposed dwellings and the distance of 8m from the rear boundaries of the existing properties along Highfield Close to the nearest proposed dwelling.
- 6.5.4 In reference to the terrace of bungalows, neighbouring dwellings to the south and southeast are separated from the proposed dwellings by approximately 28m and 32m respectively at the nearest points. Neighbouring dwellings to north and northeast are separated from the proposed dwellings by approximately 14m and 19m respectively at the nearest points.
- 6.5.5 The property most affected by the proposed terraced block would be No. 3 Harlow Gardens with a front to side separation distance of 19m. Although there would be some impact in terms of overlooking the rear garden of this neighbouring occupier, Staff consider the distance to be sufficient to mitigate any loss of privacy. This is however a matter of judgement and members may attach different weight to loss of amenity as a result of

overlooking. Staff are mindful that the severe down slope from northeast to southwest could result in overlooking from the southwestern flank windows. As these windows are secondary windows to a kitchen and lounge, an obscure glazing condition will be imposed in order to mitigate any potential for overlooking. Staff do not consider the proposed terrace block to have an unacceptable impact on neighbouring amenity.

- 6.5.6 The proposed detached bungalows are situated towards the middle of the subject site at the narrowest part. Neighbouring dwellings to the southwest and north east are separated from the proposed dwellings by approximately 31m and 11m respectively at the nearest points. Staff do not consider these neighbouring properties to be negatively affected by the proposed detached bungalows given the northwest southeast orientation and no flank windows proposed at first floor. Also given the severe down slope from northeast to southwest, any overlooking to the northeast at ground floor would be mitigated by high fencing.
- 6.5.7 Overall, Staff do not consider unacceptable levels of overshadowing or overlooking to occur as a result of the proposed bungalows.
- 6.5.8 In terms of vehicular activity and the proposed parking arrangement, Staff are of the opinion that 5 x 2-bed bungalows would not give rise to an unacceptable level of vehicular activity.
- 6.5.9 In terms of general noise and disturbance, it is not considered that the addition of 5 no. dwellings would give rise to any undue levels of noise and disturbance to the surrounding neighbouring properties within what is a predominantly residential area.
- 6.5.10 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 rear garden environment and amenities of neighbouring occupiers.
- 6.5.11 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 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. The development would provide a total of 10 x No. parking spaces. 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 The London Fire and Emergency Planning Authority has raised no objection and is satisfied that a pump appliance can access the site. The request for a new fire hydrant is not a planning consideration and has been forwarded to the applicant for their information.

6.6.3 A condition would be added to provide storage for 2 no. cycle spaces per dwelling in order to comply with the Council's standards.

6.6.4 In light of the above, the proposal is considered to satisfy the requirements of Policy DC2 and DC33 and would not result in any highway or parking issues.

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 448.2m² which equates to a Mayoral CIL payment of £8,964.

6.8. *Planning Obligations*

6.8.1 In accordance with the Planning Obligations Supplementary Planning Document a financial contribution of £30,000 to be used towards infrastructure costs arising from the new development is required. This should be secured through a S106 Agreement

6.9 Trees

6.9.1 The applicant only proposes the removal of one tree situated near the northwestern corner of the site. Staff consider the removal of this tree acceptable as it is not protected by a Tree Protection Order (TPO). The existing dense tree cover on the southwestern boundary and the large tree to the front of plot 5 would be retained. A tree protection condition would be requested in order to safeguard the existing trees during the construction phase.

6.10 *Other Issues*

6.9.1 With regards to refuse collection, Staff consider the access arrangements to be sufficient to allow a refuse vehicle to enter the site, turn around and exit again in forward gear. A refuse condition will be added to ensure that refuse collection and storage arrangements are submitted to the Council for approval prior to the occupation of the development.

6.9.2 Neighbouring objections relating to the lack of green space and loss of property values are not a material consideration.

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. On balance, Staff also consider any potential impact on neighbouring amenity to be acceptable. 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.

BACKGROUND PAPERS

1. Application forms and plans received 21/08/13; amended plans received 03/12/13 and again on 06/03/14.



**REGULATORY
SERVICES
COMMITTEE**

17 July, 2014

REPORT

Subject Heading:

**P1566.12 – Rainham Landfill,
Coldharbour Lane**

Planning application for the continuation of waste inputs and operation of other waste management facilities (materials recycling facility, waste transfer station, open air composting site, gas engines, leachate treatment plant, and incinerator bottom ash processing) until 2024 and re-profiling of final contours.

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	<input checked="" 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

The application relates to a 177 hectare site located on the River Thames at the most southeastern part of the Borough. The application site currently benefits from an existing consent (reference: P1275.96) to deposit refuse materials through controlled landfill amounting to the importation of 12.3 million cubic metres of waste. The current landfill consent requires the site to be restored by 2018, relying solely on river sourced waste imports from 2012.

The current application has been submitted as the landfill is settling at a greater rate than originally anticipated. This is due to the biodegradable content of domestic waste steadily increasing over time, owing to the imposition of landfill tax and the resultant drive towards recycling which has resulted in the removal of materials such as bottles, plastics, cans, building waste, which might previously have been landfilled.

Without re-grading of the landform the site would likely suffer from poor drainage and increased pollution risks and may not be suitable for public access. The proposal is to bring in additional waste that would ensure that a landform could be achieved that is accessible and safe for public use, with incorporation into the Wildspace regeneration project.

The revisions include the importation of an additional 3.6 million tonnes of non-hazardous waste over the current landform. This would achieve a higher pre-settlement restoration height than previously approved, which would settle over time to a lower height that is similar to what was previously approved.

The importation of additional volumes of waste would require an extension in time for road-borne waste imports for the life of the landfill. The proposed completion date for landfilling is now proposed for December 2024, with restoration to be completed by December 2026.

The operator has previously submitted an application (Reference: U0013.08, superseded by P1295.11), which was intended to amend planning permission P1275.96. This application requested an extension of the period by which waste can be imported by road to 2018, along with a revised restoration scheme; changes to the facility's access arrangements; the importation of additional waste; and re-contouring of the site to achieve the restoration scheme. This proposal was agreed in principle by the Regulatory Services Committee in 2011, subject to the completion of a legal agreement. However, this agreement was never completed and the operator has subsequently sought planning permission for some other changes to the approved development, which are the subject of the application under consideration.

The application under consideration proposes the following elements:

- An extension to the period of working, including landfilling and all other waste processing uses at the site, to 2024;

- Completion of restoration by 2026;
- The importation of an additional 3.6 million tonnes of waste over the proposed period of working;
- An increase in pre-settlement levels of between 3.5m and 12m across the site, including at the peaks and midslopes;
- An increase in post-settlement levels in the mid-slopes of up to a maximum of 7.5m;
- Changes to the approved restoration arrangements with previously proposed visitor facilities to be the subject of later applications;
- Changes to the site approved access so that they remain as existing, with landfill access at the north of the site from Coldharbour Lane, and recycling activities access at the southern end of the site from Coldharbour Lane.

The application under consideration is identical to planning application P1295.11 except for the proposed extension of the working and restoration period, and minor changes to the proposed site access and restoration. Officers recommend that planning permission be granted, subject to the completion of a legal agreement and the conditions detailed below.

RECOMMENDATION

That subject to the Stage 2 referral process resulting in no significant adverse comments being received from the Mayor of London, that the proposal is unacceptable as it stands but would be acceptable subject to the planning conditions set out in this report and subject to the applicant first entering into a Legal Agreement under Section 106 and Section 106A of the Town and Country Planning Act 1990 (as amended), to secure (for the avoidance of doubt the heads of terms of the Section 106 agreement are amplified by the draft agreement attached to this report and the detailed terms of the draft annexed take precedence should there be any inconsistency between the heads of terms and the draft; further the Head of Regulatory Services is given delegated authority to insert title details, plans and draft documentation to amplify and give effect and meaning to the draft Section 106 agreement attached and to make textual changes which have substantially the same effect as the terms of the draft agreement attached) the following:-

Advance Routes- Define and provide the routes of footpaths, cycleways or highways within the Orange Land and the Brown Land to be made temporarily available for use by members of the public substantially in accordance with

the Zone Access Plan or in a position otherwise agreed with the Council in writing.

Advance Routes Notice - Provide for a written notice, in respect of each of Zone 1 and Zone 2, given by or on behalf of Veolia to the Council confirming that the Advance Routes within each of Zone 1 or Zone 2 (as the case may be) have been constructed, and served in accordance with paragraph 4.2 of Schedule 3.

Advance Routes Specification - Provide the specification set out on Plan 6, Plan 7 and Plan 8 to which the Advance Routes shall be constructed (unless otherwise agreed in writing with the Council).

Zone Access Plan– Provide for the indicative locations in which Advance Routes will temporarily be made available to members of the public starting with Zone 1 on Plan 4 and ending with Zone 2 on Plan 4.

Insurance - Prior to service of the Advance Routes Notice Veolia shall, at its own cost, obtain the Insurance Policy (public liability insurance) and thereafter maintain the Insurance Policy until the last day of the Aftercare Period.

Maintenance of Coldharbour Lane, the First Access Road, the First Car Park and the Second Car Park, and Control of Vegetation Growth: Following service of the Advance Routes Notice and until (and including) the last day of the Aftercare Period, Veolia shall, to a standard suitable and reasonable for use by the public to gain access to the Property

Aftercare – To diligently carry out the Aftercare during the Aftercare Period and to carry out works of aftercare for each Zone comprising works of good husbandry to be undertaken in full compliance with Condition 5 of the New Planning Permission following completion of the Restoration Works in respect of each Zone, over the period of 5 years from the completion of the Restoration Works, completing the Aftercare by 31st December 2031.

HGV Routing Plan– to ensure that HGVs travel directly between the A13 to the site and are not routed through built up areas including Rainham Village.

Environmental Centre - Upon service of the Final Completion Notice and until the end of the Aftercare Period ***Veolia*** shall make available to the Council, for use as an environmental centre, the Gatehouse (or any alternative building of a similar specification suitable for use as an environmental centre) and during this period ***Veolia*** shall maintain and repair the Gatehouse (or such alternative building) so as to be fit for purpose Provided That this shall not require the repair of any damage in excess of fair wear and tear caused by the Council, its employees or visitors.

Indemnity - Veolia shall indemnify and keep indemnified the other Owners against all expenses, losses, damage, liability and claims whatsoever arising from access over, or use of, or the proposed use of the Property (including

such part of Coldharbour Lane that lies within the Property, or the Property, or within Zone 1 or Zone 2 as the case may be,) by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan (or the Zone Access Plan as the case may be) until and including the last day of the Aftercare Period provided as set out in the draft Section 106 attached to this report.

The Yellow Land - Veolia and Oldrealm shall make the Yellow Land available to the Council (but without any cost to Veolia (save for all legal cost transfer of the Yellow Land to the Council) and/or Oldrealm) for the purposes of nature conservation PROVIDED THAT Veolia and Oldrealm shall only make the Yellow Land available to the extent that they have any interest in the Yellow Land until as set out in the attached Section 106 agreement.

Public Routes - Until the last day of the Aftercare Period, Veolia shall maintain the Public Routes and shall permit public access by foot or by bicycle.

Prior to the end of the aftercare period Veolia shall use reasonable endeavours to enter into a Deed of Rights of Access to permit public access over the relevant parts of the First Access Road and Coldharbour Lane, and permit parking by the public in the First Car Park.

Second car park: Veolia shall permit members of the public to park private vehicles in the Second Car Park during daylight hours and subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time.

Beacon Land: Nothing in the Deed shall be interpreted as preventing or impeding the Port of London Authority from (PLA) from accessing at any time without notice with or without vehicles the Beacon Land subject to no unlawful interference with public rights of way.

Blue Land: The Second riverside Footpath is subject to Oldrealm retaining the right at all times (subject to obtaining any necessary consents and orders **including, for the avoidance of any doubt, any necessary consent or licence from the PLA as navigation authority**) to construct at its own cost across the Second Riverside Footpath an access for all purposes to the river from the Blue Land PROVIDED THAT such access to the river shall be exercised in a manner that does not obstruct the public right of way dedicated over the Second Riverside Footpath.

Until the last day of the Aftercare Period: Veolia shall maintain the Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath in accordance with the Riverside Footpaths and Footpath Specification subject to provisos as set out in the draft agreement attached.

Bond: Within two (2) months of the date of this Deed Veolia shall obtain and deliver to the Council the Bond upon which the Council shall be entitled to call for the sum of £1,071,242 (ONE MILLION AND SEVENTY ONE THOUSAND, TWO HUNDRED AND FORTY TWO POUNDS) which shall be substantially in the form annexed at Appendix 12 and shall be provided by a bank or other financial institution first approved by the Council acting reasonably

On or before the last day of the Aftercare Period, the Council shall be entitled to recover any expenses reasonably incurred by it in enforcing planning obligations against the Bond

Brown Land: Nothing in the Deed shall interfere with the PLA from using the Pump Ashore Facility to carry dredgings across the Brown Land ~~and across Coldharbour Lane~~ to any land adjoining Coldharbour Lane, or maintaining a river jetty and entering the Brown Land from time to time with or without vehicles for the purposes of cleaning out and turning pipes and inspecting, maintaining, replacing, or renewing any of the structures including those comprising the Pump Ashore Facility

Veolia shall maintain, and the PLA hereby consent to Veolia maintaining, that part of the First Access Road and the First Car Park which is situated within the Brown Land until (and including) the last day of the Aftercare Period to a standard suitable and reasonable for use by the public to gain access to the Property.

The Owners to grant options over the Brown Land in accordance with the terms set out in the draft Section 106 agreement attached.

Car Parking Area the visitor car parking area and the transport hub receiving public transport as may be constructed and operated by the Operator at Zone B or the extended Second Car Park intended to serve the Visitor Centre over which the owners will procure leases to Operators subject to Schedule 2 of the draft agreement attached.

Implementation Notice and Deed of Rights of Access ~~Upon service (or deemed service) of the Implementation Notice and until the Deed of Rights of Access has been entered into, the Owners shall, on the terms and provisos set out at paragraph 6.3 of this Schedule 3, permit members of the public access over and along those parts of the First Access Road and Coldharbour Lane as are within their respective ownerships and shall permit members of the public to park private vehicles in the First Car Park.~~

Public Access Coldharbour Lane: that members of the public shall be permitted to pass and repass during daylight hours by private car along those parts of Coldharbour Lane that are within the Property subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time

Maintenance of Coldharbour Lane, the First Access Road, the First Car Park and the Second Car Park, and Control of Vegetation Growth: Following service of the Advance Routes Notice and until (and including) the last day of the Aftercare Period, Veolia shall, to a standard suitable and

reasonable for use by the public to gain access to the Property.

Restoration Works: Veolia shall serve:

- an Interim Completion Notice within fifteen (15) working days following the completion of the Restoration Works in respect of each Phase; and
- the Final Completion Notice within fifteen (15) working days following completion of the Restoration Works in respect of the final Phase in the Phasing Sequence.

Landscape and Restoration Plan

- Within one (1) year of the date of the New Planning Permission Veolia shall submit the Landscape and Restoration Plan for approval by the Council.
- Once approved the Landscape and Restoration Plan shall be implemented in full and carried out in accordance with its terms unless otherwise agreed in writing by the Council.

Phasing Sequence the sequence in which the Restoration Works are to be undertaken, beginning with Phase A on Plan 5 and ending with Phase J on Plan 5 or such other phasing sequence for the Restoration Works agreed between Veolia and the Council

Riverside Footpaths and Footpath Specification: Veolia shall maintain the Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath in accordance with the Riverside Footpaths and Footpath Specification Provided That nothing in this paragraph 9.4 shall require Veolia to undertake any works which cannot be performed within the Property and the other Owners and the Council hereby consent to Veolia undertaking such works within the Brown Land, the Blue Land and the Green Land

Site Infrastructure Plan: the plan labelled “Site Infrastructure” attached to this Deed at Appendix 14 and In accordance with Condition 7 of the Existing Permission Veolia shall remove the facilities shown on the Site Infrastructure Plan, which shall be removed on or before 31 December 2024 unless otherwise agreed in writing with the Council

Green Travel Plan: Within **three (3)** months of the date upon which the New Planning Permission is issued Veolia shall submit the Green Travel Plan to the Council for its approval. The Green Travel Plan shall contain provisions demonstrating how, from the date the Council’s written approval of the Green Travel Plan, Veolia proposes to limit the number of HGV Movements which enter the Property via the Landfill Entrance for the purpose of delivering waste

for disposal within the Property, to no more than 300 HGV Movements per day, and shall contain a programme to be reviewed annually to reduce HGV Movements from 300 HGV Movements per day to the Property.

Highway Contribution: Sum of £25,000 to be paid by Veolia to the Council on or prior to the date of the completion of the Section 106 agreement (Deed) to be spent on the repair and maintenance of the highway between the A13 and the Property.

HGV Routing Plan: Within **one (1)** month of the date upon which the New Planning Permission is issued Veolia shall submit the HGV Routing Plan to the Council for its approval which requires that no HGV movements between the Property and the A13 are made through Rainham Village or other built up residential area.

Options: Grant London Borough of Havering the option of a piecemeal lease/s on the application site on a phased basis subject to an independent review of contamination, pollution and health risks;

Local Labour Commitment Scheme: A scheme to be submitted to the Council for its approval to promote employment of residents living within the administrative area of the Council.

Public Access: Within twelve (12) months of the date of this Deed Veolia shall provide the Council with a realistic timeframe for achieving phased public access to the Property.

Ecological Method Statement: a statement to be submitted to the Council in accordance with paragraph 9.1 of Schedule 1 which shall be complementary to the Landscape and Restoration Plan and shall include methods and responsibilities for future management of existing and newly created habitats and methods of monitoring habitats and species including targeting and protecting priority Biodiversity Action Plan species and habitats.

Restoration Works: Veolia shall keep the settlement of waste within the landfill area of the Property under review and within two (2) calendar months of serving or having been deemed to serve the Implementation Notice and upon serving any Interim Completion Notice shall report in writing to the Council as to whether the pattern of settlement conforms to what was predicted in support of the Application for the following Phase(s) and to the extent that it does not shall set out the measures which shall be taken to deliver the long term post settlement contours as predicted in support of the Application (and shown in approved drawing number 3) within a timeframe to be agreed in writing with the Council.

Odour Mitigation Strategy: Within three (3) months of the date upon which the New Planning Permission is issued Veolia shall submit the Odour Mitigation Strategy for approval by the Council.

- If an Operator is proposed by the Council between now and 31 December 2028, the Owners will use reasonable endeavours to procure the grant of lease to the Council of the following operator zones

Zone A for a Visitor Centre

Zone B for a Car Parking Area

Zone C for a Water Recreation Facility

Zone D for Recreational Facilities

Zone E for an extended Second Car Park.

- The Council has until 31 December 2021 to decide whether to call for the new car parking area in Zone B serving a Visitor Centre in Zone A, or whether instead to opt for the extension of the existing car park in Zone E. This is because, if the Zone B car park is not required, Veolia needs sufficient time to landfill that area before the landfill operation is due to end in 2024.
- If the Council requests by 31 December 2030, the Owners will procure the grant of options to the Council for leases of the various land ownership parcels, which collectively will provide a pie-crust lease which excludes the sub-soil beneath the bentonite cap over the entire landfill site. The leases must be completed simultaneously by the end of the Aftercare Period (31 December 2031).

Council's Absolute Right to Assign or Sub-let Lease: The Council at its absolute discretion should it accept the grant of any lease of the Property (excluding subsoil beneath the bentonite cap) may assign or sub-let that lease. This clause takes precedence over any contrary provision in this Deed.

If the Council does not request the lease options over the remainder of the landfill, long leases to the Council of any operator zones may be terminated to enable Veolia to let a long lease of the entire site to a third party.

Subject to the Council at its absolute discretion being satisfied that the obligation in the First Agreement having been satisfied or replicated in this Deed that the obligations in First Agreement be discharged on the implementation of the planning permission under planning reference P1566.12.

Legal and Monitoring Fees: The Council's legal fees for preparation of the agreement shall be paid as set out in the draft Section 106 attached to the report on or prior to completion and the Council's planning obligation monitoring fees shall be paid as required by the Council.

That staff be authorised to enter into a legal agreement to secure the above, subject to any necessary changes that may arise during negotiations, and upon completion of that agreement, grant planning permission subject to the conditions set out below:

1. 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.

2. Time Limits - Waste disposal and all other processing operations shall cease on or before 31st December, 2024 and restoration of the site shall be completed by 31st December 2026, in accordance with the scheme approved under condition 4 below. The restored area(s) shall, from the date restoration is completed in any particular zone, be subject to a period of aftercare, in accordance with the scheme approved under condition 5 below.

Reason:

To ensure that the development is restored in a timely fashion.

3. Notification - Within 7 working days of the date aftercare commences in any given phase of the site, the Local Planning Authority shall be notified in writing.

Reason:

To ensure that the approved period of aftercare is undertaken.

4. Restoration - Within 12 months of the date of this planning permission, a detailed scheme of restoration, relating to all areas of the application site, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the proposed phasing of restoration; infilling material and soils; the method of infilling; the use and depths of soil material; final levels and contours (shown at 1 metre intervals); removal of existing buildings and structures; along with details of all planting, boundary treatment, proposed access arrangements, and drainage works. The site's restoration shall be undertaken in accordance with the approved details. Written

notification to the Local Planning Authority shall be provided within 7 days of the completion of final restoration within each phase.

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 agriculture.

5. Aftercare - An aftercare scheme, detailing the steps as may be necessary to ensure the site is restored in accordance with the approved restoration scheme, shall be submitted for the written approval of the Local Planning Authority not later than 12 months following the date of this planning permission. The approved scheme shall:

- a) Provide an overall strategy for a 5 year aftercare period within each phase, including the maintenance and/or replacement where necessary, of any hedging or tree planting that may be damaged, die, or become diseased, along with the maintenance and replacement where necessary, of any boundary treatment, field drainage, or ditch systems. The submitted overall strategy shall specify the timing of the measures to be taken and shall be implemented within 7 days of final restoration in a given phase.

- b) Provide for the submission of annual management reports describing each year's aftercare programme, to be submitted in writing to the Local Planning Authority not less than 1 month before the final restoration within each phase, and then subsequently on an annual basis for the duration of the aftercare period.

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 agriculture.

6. Noise - Within three months of the date of this planning permission, a noise mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. The approved strategy shall be implemented within 1 month following the Council's approval in writing, and shall be retained for the operational life of the development.

Reason: To assess and minimize noise generated by the site which may impact upon nearby sensitive receptors.

7. Wheel washing – Within three months of the date of this planning permission, details of wheel scrubbing/wash down facilities to prevent mud and other material being deposited onto the public highway shall be submitted to and approved in writing by the Mineral Planning

Authority. The approved facilities shall be brought into use within 1 month following the Council's approval in writing, and shall be retained for the operational life of the development.

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.

8. Highway Maintenance - All Heavy Goods Vehicles leaving the site shall have first passed through the approved wheel-wash facilities and, following this, checks shall be made to ensure that the tyres, wheels, axle, chassis, and sides of vehicles are clear of mud, debris and dirty water. Should mud or other debris be tracked from the site into the public highway, then all infilling operations shall cease until such time as the debris has been removed from the highway, in accordance with details to be approved in writing by the Mineral Planning Authority. Within three months of the date of this planning permission.

To ensure that mud, debris and dirty water is not deposited on the public highway, in the interests of the free and safe use of the highway and visual amenity.

9. Dust Mitigation - Within 3 months of the date this planning permission, a scheme of dust mitigation shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 1 month following the Council's approval in writing, and shall be retained for the operational life of the development.

Reason: To minimize the transmission of dust and particulates from the development in the interests of air quality and residential amenity.

10. Vermin - Within 3 months of the date of this planning permission, a scheme detailing the proposed means of controlling seagulls and vermin shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented within 1 month of its approval and retained for the operational life of the development.

Reason: In the interests of amenity.

11. Permitted Development - Notwithstanding the provisions of Part 4 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no change of use or provision of buildings, moveable structures, works, plant or machinery shall be undertaken other than those approved by this permission, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the further waste related development remains under the control of the Local Planning Authority, in the interests of nearby sensitive receptors included the natural environment and residential locations

12. Restoration - In the event of the cessation of extraction or infilling operations within a phased working area, for a period exceeding 12 months at any time before that working area is fully restored, a reinstatement and low level restoration and aftercare scheme shall be submitted for the written approval of the Local Planning Authority within 2 months of the end of that 12 month period. The scheme shall provide details of ground levels, soiling, and landscaping along with a proposed timescale for implementation, and shall be implemented within 1 month of the scheme being approved.

Reason:

To ensure that the site is restored in a prompt and acceptable manner.

13. Restoration - Within 2 months following the final restoration of each phase, a detailed survey of the surface levels within that working area (with contours at 1m intervals) shall be submitted to the Local Planning Authority.

Reason:

14. Restoration - Any areas of the site filled to final levels but not available for final restoration shall be temporarily seeded with grass in the first available planting season.

Reason:

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

15. Soil Handling - No topsoil or subsoil to be deposited as part of the approved landform's final restoration shall be moved or deposited except in dry weather conditions and when the soils are in a correspondingly dry and friable condition. The movement of the aforementioned soils shall not take place between November and March in any year. Topsoils shall not be traversed by vehicles at any time during the course of the development, except for the purposes of stripping or final restoration. Written notification shall be submitted to the Local Planning Authority at least 7 working days in advance of topsoil deposition associated with the site's final restoration.

Reason:

To minimise damage to surface soils during stripping and re-spreading operations thereby helping improve the quality of final restoration of the site.

16. Restoration - In the event that any areas of uneven settlement occur during the aftercare period, these shall be made good with suitable imported soils to the satisfaction of the Local Planning Authority.

Reason:

In order to provide a high quality, even and stable landform.

17. Landfill Material - Only solid, non-hazardous waste materials shall be deposited at the site.

Reason:

For the purposes of environmental control and safety, particular with regard to the protection of ground water.

18. Soil Storage - Topsoil and subsoil for use in the site's final restoration shall be stored in separate stockpiles of no more than 3m in height.

Reason:

To prevent soil compaction.

19. Soil Storage - All stockpiled soils intended to remain in place for more than 6 months shall be sown with an appropriate grass seed mix and maintained (including weed control) in accordance with a scheme submitted to and approved in writing by the Local Planning Authority within 3 months of the date of this planning permission.

Reason:

In the interested of visual amenity and dust control.

20. Leachate and Settlement Ponds - Leachate storage lagoons or settlement ponds shall not be located on previously landfilled areas without the prior written agreement of the Local Planning Authority.

Reason:

In the interests of controlling potential pollution pathway from the site into the natural environment.

21. External lighting - Within 3 months of the date of this planning permission, a scheme for the lighting of external areas of the development, including the access roads and working areas, shall be submitted to and approved in writing by the Local Planning Authority.

The scheme of lighting shall include details of the extent of illumination together with precise details of the height, location and design of the lights. The installation of any external lighting shall be undertaken in accordance with the approved scheme.

Reason: In the interests of highway safety, amenity, and nature conservation.

22. External Lighting - There shall be no light spill into any adjacent watercourse or river corridor habitat. To achieve this, artificial lighting shall be directional and focused with cowlings.

Reason:

In order to protect the wildlife and habitat of the river corridor and in accordance with Policy DC61 of the Development Control Policies DPD.

23. Pre and Post Settlement Levels – With the exception of any stockpiled material, which shall not exceed the highest point of the landfill, and shall not in any event exceed a height of 3m from ground level, pre-settlement levels shall not exceed those depicted on the approved plan referenced “Figure 1.4a”. The site’s final ground levels shall not exceed the post-settlement contours depicted on the approved plan referenced “Figure 1.4b”.

Reason: In the interests of visual amenity and in accordance with Policy DC61 of the Development Control Policies DPD.

Informatives

1. Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: Improvements required to make the proposal acceptable were negotiated and submitted, in accordance with para 186-187 of the National Planning Policy Framework 2012.

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.

REPORT DETAIL

1. Site Description

- 1.1 The application site includes a triangular area of land approximately 177ha in the most southern point of the Borough, at Coldharbour point, Rainham and is bounded by Coldharbour Lane and the Thames.
- 1.2 The site lies within a mixed setting of open marshland, partly restored and operational landfill, and industrial uses. The Inner Thames Marshes Site of Special Scientific Interest (SSSI) lies immediately to the north. The closest residential properties are located in Rainham, approximately 1.3km to the north; Wennington, approximately 1.3km to the north east; and Purfleet, approximately 1.4km to the east. Erith lies approximately 1km to the south across the Thames. There are three industrial areas which lie north west of the site, between 400m and 1km away, and these comprise Tilda Rice, the Beam Reach industrial park, and Ferry Lane Industrial Estate. The Freightmaster Estate lies between the site and the River Thames.
- 1.3 Different areas of the site have received waste since the 1800s. Subsequently, river dredgings were pumped onto the site, and the importation of mainly river-borne domestic waste commenced in the 1960s. Permission was granted in the 1990s for landraising to be completed by 2018, to restore the site for public amenity. In addition to the landfilling works, other operations at the site include a Material Recovery Facility (MRF), composting plant, ash processing plant, a landfill gas utilization plant exporting power to national grid, and leachate treatment plant.
- 1.4 Access to the site is from Coldharbour Lane, which links to the A13 via Ferry Lane. There is an existing operational jetty linking the site to the Thames.

2. Description of Proposal

- 2.1 The current application has been submitted as the landfill is settling at a greater rate than originally anticipated. This is due to the biodegradable content of domestic waste steadily increasing over time, owing to the imposition of landfill tax and the resultant drive towards recycling which has deprived landfill sites of materials such as bottles, plastics, cans, building waste, which might previously have been landfilled.

- 2.2 As a result, the amount of settlement at this landfill site has been greater than envisaged. Consequently, without re-grading of the landform the site would likely suffer from poor drainage and increased pollution risks. Moreover, current settlement rates would mean that the landform may not be suitable for public access. The additional waste would ensure that a landform could be achieved that is accessible and safe for public use, with incorporation into the Wildspace regeneration project.
- 2.3 The applicant therefore seeks planning permission for updated settlement rates in order to create a satisfactory final landform similar to that originally envisaged. The revisions include the importation of an additional 3.6 million tonnes of non-hazardous waste over the current landform. This would achieve a higher pre-settlement restoration height than previously approved, which would settle over time to a lower height that is similar to what was previously approved. The revised landform would assist in the delivery of the site for public access, and allow for the potential delivery of various visitor facilities.
- 2.4 The importation of additional volumes of waste would require an extension in time for road-borne waste imports for the life of the landfill. The proposed completion date for landfilling is now December 31st, 2024, with restoration to be completed by 31st December 2026.
- 2.5 The original planning permission was subject to a detailed legal agreement which sought to ensure, amongst other things, adequate restoration and aftercare and to ensure public access. It is recommended that the extant clauses in the agreement are brought forward and amended as necessary with changes/additions to allow early public access to the site, local employment training, and any other matters detailed in the recommendation.
- 2.6 The application under consideration proposes the following elements:
- An extension to the period of working, including landfilling and all other waste processing uses at the site, to 2024;
 - Completion of restoration by 2026;
 - The importation of an additional 3.6 million tonnes of waste over the proposed period of working;
 - An increase in pre-settlement levels of between 3.5m and 12m across the site, including at the peaks and midslopes;
 - An increase in post-settlement levels in the mid-slopes of up to a maximum of 7.5m;

- Changes to the approved restoration arrangements with previously proposed visitor facilities to be the subject of later applications;
 - Changes to the site approved access so that they remain as existing, with landfill access at the north of the site from Coldharbour Lane, and recycling activities access at the southern end of the site from Coldharbour Lane.
- 2.7 Although the pre-settlement contours are higher than those approved as part of the existing planning permission, this is required in order to achieve appropriate post settlement contours that would be more representative of the current permission. This occurs via a number of means through mechanical and bio-chemical processes. Wastes generally compact and shift to nearby voids and the biodegradable components of the land filled waste break down over a period of time and form landfill gas and leachate. The landfill gas is extracted as part of the process and converted to energy. The leachate is extracted and treated before being disposed of. The total volume of waste therefore steadily reduces and the restoration surface steadily settles. The rate of settlement is comparatively rapid in the early years and the rate gradually decreases with time.
- 2.8 The land raising would be completed on a phased basis that would see the completion of the more visually prominent areas, first along the northern fringe that will both create a visually softer landform to the adjacent marshes and to enable parts of the site for early public access and associated public facilities such as pathways, lookout points and car parking. As the site is restored, this would be the subject of a final restoration plan to detail landscaping, visitor facilities and ecological habitats to ultimately form part of the wider Wildspace project.

3. Relevant History

- 3.1 The site is a historic municipal landfill and waste processing site. The previous decisions of most relevance to the proposal are as follows:

P0136.14 - Construction of an extended area for bales storage, water storage tank, pump house and electrical sub-station – Approved.

P0651.11 - Variation of conditions 2, 6, 9 and 11 of application P1210.05 to extend the temporary permission from 2012 to 2018; temporarily allowing for the exportation of recycled materials away from the adjacent landfill; allowing vehicle access through existing landfill entrance; allowing the site to be restored in accordance with the restoration proposals of the adjacent landfill – Under consideration.

P1295.11 - Proposed re-contouring of landfill site through controlled landfill involving continuation of road-borne waste imports until 2018

(as well as river-borne imports, as previously approved) to achieve appropriate restoration scheme and associated visitor facilities – Under consideration.

U0011.08 - Variation of condition 1 of planning permission P0835.97 to allow for the export of recycled aggregates - Approved

U0005.06 - An extension to the domestic materials recycling facility - Approved

U0002.05 - Autoclave processing facility for municipal solid waste - Approved

P1210.05 - Development of soil recycling area within the boundary of the landfill site to provide soils for restoration - Approved

P1901.03 - A plant for the in-vessel composting of bio-wastes to produce a saleable compost - Approved

P1032.00 - Improvements to unadopted Coldharbour Lane, including carriageway widening, the erection of gates and a security post - Approved

P0861.99 - Variation of Condition No.11 of planning permission P1275.96 allowing opening on 27th & 28th December 1999 and 3rd January 2000 - Approved

P1324.98 - Storage, recycling and provision of recovered electrical equipment, paper & household co-mingled recyclable materials - Approved

P1139.98 - Renewal of permission P0824.97 for the erection of open plan temporary domestic waste transfer facility - Approved

P0015.98 - To retain and use existing vacant Nissan hut for recycling trials and occasional maintenance - Approved

P0835.97 - Continued use of the waste transfer jetty - Approved

P0824.97 - Erection of open plan temporary domestic waste transfer facility - Approved

P0159.97 - Retention of road access - Approved

P0121.97 - Delete Condition 1 of permission P1058.95 to allow the continuation of delivery of waste by road to Rainham Landfill Site, Coldharbour Lane, Rainham - Approved

P1275.96 - Deposit of refuse materials through controlled landfill provision of material recovery facilities and creation of contoured landform and restoration scheme - Approved

P1058.95 - Modification of condition 10 of P1049.83 to enable supply of waste by road - Approved

P1409.95 - Renewal of P1806.86 - Approved

P0715.94 - Landfill gas powered electricity generating station - Approved

P1424.93 - Relocation and improvement of facilities ancillary to landfill site, including works hop x 2, office, site control office, mess facilities, toilets facilities, wheelspinner diesel storage and car park - Approved

P1409.91 - Renewal of temporary permission for refuse container unloading & transfer system involving the extension of the existing deep water jetty complex - Approved

P1809.86 - Refuse container unloading and transfer system involving the extension of the existing deep water jetty complex - Approved

P1806.86 - Jetty Extension - Approved

P0905.86 - Refuse container unloading and transfer system involving the extension of the existing deep water jetty complex - Approved

P0257.86 - Deposit of refuse materials to extend contoured landform - Approved

L/Hav/1049/83 - Deposit of refuse materials - Approved

L/Hav/1416/67 - Disposal of household refuse and waste materials - Approved

4. Consultations/Representations

4.1 This application was advertised by site notice and a press advertisement. Notification letters were sent to 237 local addresses. One letter of objection has been received from a local resident on the following grounds:

- a) The case for extending the working period is not convincing;
- b) The operator has previously had extensions to the working period;
- c) The proposal is harmful to the visual amenities and character of the landscape;
- d) The proposal has adverse impacts on amenity owing to traffic, noise, odour, and dust.

4.2 Councillor Jeffrey Tucker has objected on the following grounds:

- a) The continued extension of the operating period has been harmful to trade and visitor numbers in Rainham;
- b) The case for extending the working period is not convincing;
- c) The operator has previously had extensions to the working period;
- d) The proposal has adverse impacts on amenity owing to traffic, noise, odour, dust, and general danger;
- e) The landfill facility is harmful to the health and safety of local people.

Comments have also been received from the following:

Environment Agency	-	No objections.
Natural England	-	No objections.
Greater London Authority	-	No objections subject to further information.
Transport for London	-	No objections subject to further information.
Thurrock Council	-	No objections.
Port of London Authority	-	No objections;
Ministry of Defence	-	No objections;
RSPB	-	No objections. Comments made in relation to restoration scheme, which can be addressed as part of the approval of details should planning permission be granted.
Highways	-	No objections; planning obligation requested.
Environmental Health	-	No comments received.

5. Relevant Policies

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

- DC19 – Locating Cultural Facilities
- DC20 – Access to Recreation and Leisure
- DC22 – Countryside Recreation
- DC33 – Car Parking
- DC34 - Walking

DC35 - Cycling
DC40 – Waste Recycling
DC48 – Flood Risk
DC50 – Renewable Energy
DC51 – Water Supply, Drainage and Quality
DC52 – Air Quality
DC53 - Contaminated Land
DC55 - Noise
DC58 – Biodiversity and Geodiversity
DC61 – Urban Design
DC62 - Access
DC63 - Crime
DC72 – Planning Obligations

Site Specific Allocations

SSA17 – London Riverside Conservation Park

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”)

W1 (Sustainable Waste Management)
W2 (Waste Management Capacity, Apportionment and Site Allocation)
W5 (General Considerations With Regard to Waste Proposals)

5.3 The London Plan

Policies 5.13 (sustainable drainage), Policy 5.16 (waste self-sufficiency), 5.17 (waste capacity), 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”)

PPS10 (Planning for Sustainable Waste Management)

6. Staff Comments

6.1 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 The application seeks planning permission to import additional volumes of waste in order to restore the site for public use and nature conservation. LDF Policy SSA17 and London Plan policy 2.14 identify and support Regional and Metropolitan Park opportunities and promote this site for restoration into the London Riverside Conservation Park (Wildspace). Policy SSA17 acknowledges the extant planning permission which allows the land raising of the site through the importation of non-hazardous waste for restoration proposals to public open space and amenity in line with Wildspace objectives. However, the final soil tipping is envisaged to be complete by 2018.
- 7.1.2 Whilst the proposal would result in a delay to the site's final restoration, this needs to be weighed against the likely outcome if the proposed extension of time, and associated changes, are not permitted. A logical alternative to the proposed development would be the "do nothing" approach, which would involve filling as per the existing consent, albeit with road-borne importation of waste allowed beyond 2012. The applicant states that filling to the currently permitted levels would result in a much lower landform, which would settle at uneven rates, reducing adequate surface runoff and leading to high levels of site contamination. Ponding of surface water could breach the cap creating more leachate, and increased engineering issues within the landfill.
- 7.1.3 The applicant states that this would potentially lead to an unsafe landform not suitable for public access or nature conservation and would require further long term remediation techniques involving stripping of the restoration layer and surcharging areas which may have depressed, consistently disturbing the longer term goal of a regional open space objective and creating further environmental issues, such as leachate control, methane production, water management issues, and site management issues.
- 7.1.4 Officers have examined the submitted modeling techniques and various supporting information submitted with this application and are satisfied that the continuation of this landfill under the current permission may lead to longer term management difficulties which may adversely affect the future aspirations of the site as a public open space and amenity area within the Wildspace objectives. As discussed, these problems arise as a result of changes in waste management arrangements generally, which have resulted in less waste being available for landfilling, and resulted in changes to the types of waste available. The end result is a requirement, for which approval is being sought as part of this application, to allow the applicant more time to import waste, and to allow more waste to be imported.

- 7.1.5 In addition to the landfill operations, the applicant also seeks an extension of time for the other waste processing activities at the site. Detailed financial information concerning the operation of the site has been scrutinized by officers, and it is concluded that the continuation of the other operations at the site until 2024, is justified as they provide financial support for the loss-making landfill operations, making the continued restoration of the site more financially viable, and also complement the landfill facility by producing the soils required for its continued restoration.
- 7.1.6 Officers therefore consider that the objectives of Policy SSA17, which concern the achievement of the Wildspace Project, are best served by allowing the applicant more time and to import more material, to properly complete the landfill development. It is considered that the long term benefits of enabling the operator to restore the site to a high standard overcome the short-term cost of delaying the completion of the scheme.
- 7.1.7 Policy CP11 of the LDF states that the Council is committed to increasing recycling and reducing the amount of waste being sent to landfill. Policy W1 of the Joint Waste DPD states that the East London Waste Authorities (ELWA) will encourage the reuse and recycling of materials, and the recovery of resources.
- 7.1.8 The Waste DPD sets out East London's waste planning strategy to 2021, identifying the levels of waste management capacity required by the area and guiding the location of facilities to address this requirement. One of the Waste DPD's main objectives is to:
- "Reverse the historical trend of the ELWA area being the dumping ground for London's waste." (Paragraph 3.2)
- 7.1.9 Policy W2 of the Waste DPD sets out the amount of waste to be managed by the East London boroughs up to 2021, as established in the London Plan, and identifies preferred sites within the plan area that can be developed to provide the required capacity to manage this waste. The Schedule 1 sites, which include the waste recycling facilities at Rainham Landfill, are to be safeguarded. The proposed extension of working for these facilities is therefore considered to be acceptable in principle, subject to their eventual removal as part of the site's restoration. These facilities are, in any case, complementary to the landfilling works being undertaken, both in supporting the loss-making landfill operations financially, and also in terms of waste management and restoration. Therefore, if the working period of the landfill is to be extended, it is practicable to extend the working period for these other facilities as well.

7.1.10 Paragraph 4.6 of the Waste DPD states that:

"Waste management facilities that do not count toward meeting the capacity required to manage MSW and C&I wastes include transfer stations and landfill as these options do not support recycling."

7.1.11 As the proposal includes an extension of the working period, and an increase of waste importation for, a landfill site, it is considered that the proposed landfilling works beyond the date already approved, would not contribute to meeting the capacity required by the East London boroughs to meet their waste apportionment. Paragraph 4.11 of the Waste DPD states that:

"... sites will only be approved where they are needed to contribute to meeting the London Plan apportionment figures for the ELWA boroughs, and capacity sought only where there is an identified need."

7.1.12 It is considered that the proposed landfilling operations are contrary to the objectives of the Waste DPD. However, the objectives of the DPD are long term ones. The proposal under consideration concerns an historic landfill facility, and the increase in the working period and amounts of waste to be imported would assist the final restoration of the site. It is because of the general success of recycling and recovery methods for the handling of waste that landfill facilities such as Rainham have not only experienced a decline in the amount of waste being received, but also a change in the type of waste being received.

7.1.13 As discussed earlier in this report, the end result is that the landfill's completion has been delayed and subject to levels of settlement that were not considered in the facility's original design. Given that the landfill facility is an existing one; that it has been affected by originally unforeseen circumstances; and that the proposals would not only be temporary, but would assist in completing the development for the public good, it is considered that there are material considerations that support the principle of the development in this case.

7.1.14 The proposed additional volumes of waste to be placed over the existing landform are intended to ensure that a high quality landform results for the future of the site, aiding its restoration and eventual use by the general public. The proposal is considered to be acceptable in principle, having regard to Development Plan policies and other material considerations.

7.2 Visual Impact

7.2.1 Policy DC61 of the LDF 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 application proposes revisions to what has previously been approved that would involve the deposition of additional volumes of waste over the current landform. This takes into consideration changes in waste management practices and increased levels of settlement.
- 7.2.3 The proposed revised pre-settlement profile would be significantly higher in parts with the highest point being approximately 9m higher than that currently approved. As the settled landform would be similar to the landform currently approved, the main visual impact would be as a result of the proposed pre-settlement contours. A visual assessment was undertaken as part of the submission and the proposal has taken into consideration the conclusions which propose to restore the landfill in phases, focusing on the deliverability of the outer areas first and central, higher areas last. The early completion of the outer areas aims to soften the visual impact from the immediate surrounding areas and ensure the success of delivering earlier restoration proposals.
- 7.2.4 It is additionally proposed that the final indicative restoration plan would involve various landscaping in key areas that would soften the appearance of the landform and neighbouring industrial uses from public vantage points on the site, including the Freightmaster estate.
- 7.2.5 The profile of the post-settlement landform remains generally the same as that previously approved except for slight amendments which have been altered to accommodate gentler slopes. The maximum proposed increase in post-settlement levels at any location on the site is within the mid-slopes of the southwest-facing valley where the increase is approximately 7.5m from the current permission, whilst a reduction in heights of approximately 5m is proposed in the mid slopes to the north.
- 7.2.6 The proposed increases in pre-settlement heights, compared to the approved landform, would be approximately 9m on the west peak, 4m to the east peak and 3.5m to the saddle. The maximum increase would relate to the mid-slopes of the southwest-facing valley, where the increase would be approximately 12m. These presettlement height increases are necessary to achieve the proposed final landform, which would, in relation to the highest points (the peaks), be as previously approved. A summary of the heights comparing the approved and subject applications are tabulated below.

Landform ¹	Pre-settlement Contours (metres AOD)		Post-settlement Contours (metres AOD)	
	P1275.96	Proposed	P1275.96	Proposed
East Peak	36	~40	31	31
West Peak	41.2	~50	37	37
Saddle	34	37.5	27	27

¹Existing surrounding land lies at approximately 5m AOD

- 7.2.7 The volumes and types of waste for each section of the landfill have been modeled to create a satisfactory post-settlement contour. It is calculated that the majority of the settlement, around 80%, would occur in the first 20 years. Settlement will continue for some 80-150 years thereafter but at significantly reduced rates. Predicting the settlement of municipal waste landforms is not an exact science, however, officers are satisfied that adequate modeling has been conducted and that the information submitted by the applicants indicate that an acceptable final landform will result from the proposed development.
- 7.2.8 The proposed pre-settlement contours would settle in a controlled manner to ultimately create adequate slopes that would reduce leachate through controlled surface water run-off, reduce the potential for damage to the gas extraction pipework and reduce the potential need for post restoration repairs that would ultimately create a manageable, useable, high quality, public open space and nature conservation area in line with the current Wildspace objectives, LDF and London Plan policies.
- 7.2.9 The proposed extension to the working period would also involve a temporary extension to the presence of the existing waste processing facilities. These facilities are relatively small scale when considered in relation to the site as a whole, and are not particularly visible to the north of the site. These facilities are visible when viewed from the south, however, their existence is generally complementary to the completion of the landfill as a whole; they are in accordance with policies supporting the recycling and recovery of waste; and the proposed extension of the working period is temporary.
- 7.2.10 Officers consider that the higher restoration profile would largely be a short term measure resulting in greater long term results and are satisfied that through the proposed phasing scheme and a condition requiring the approval of detailed restoration works, that the short term visual impact would be a price worth paying. In terms of the proposal's siting, scale, and design; considering that it concerns an historic landfill, which can only be dealt with where it occurs; and the identified need for the proposed changes to what was previously approved, the visual impact is considered to be acceptable and in accordance with Policy DC61 of the LDF.

7.3 Amenity

- 7.3.1 Policy DC61 states that planning permission will not be granted for proposals that would significantly diminish local and residential amenity.
- 7.3.2 Given the siting of the proposal in relation to residential properties, it is considered that it would not result in any significant adverse impacts on the amenities of residential occupiers, in terms of their outlook, privacy,

and access to light. The lower sensitivity of other neighbouring uses, which are primarily of an industrial nature, is such that the proposal would not result in significant harm to other neighbouring land uses in terms of their privacy, outlook, and access to light. There are other types of impacts that the proposal may give rise to and these will be considered below.

Odour

- 7.3.3 Past operations at the site have resulted in some odour complaints from nearby residential areas. Whilst the landfill techniques utilized on site have been improved significantly to address this, the more recent complaints were as a result of techniques used at the open-air windrow compost site located adjacent the Thames. Various mitigation measures have since been employed such as deodorizers, lower compost heights, and greater turning rates which have successfully reduced this impact.
- 7.3.4 The Veolia-run community liaison group, which meets on a quarterly basis, has improved relations between the operator and neighbouring residents. An odour mitigation plan has been agreed between the operator and the Environment Agency as part of the site's Environmental Permit. These practices have since proved successful in mitigating odour levels on the site and the local planning authority is unaware of any recent complaints concerning odour-release from this facility.
- 7.3.5 The main source of odour from landfill sites is from escaping landfill gas. Management of existing landfill gas is currently controlled through a network of pipes within the landfill and flared to existing generators which generate electricity for the national grid. Due to the additional volumes of waste to be imported, gas levels are expected to be generated for a longer period of time but are not expected to increase the peak flows. Therefore the current gas extraction system is considered to be adequate in managing the level of gas likely to be produced.
- 7.3.6 The proposed re-contouring is required to ensure that the existing gas management system largely remains successfully operational. The additional volumes of waste are not expected to increase peak gas rates but rather the gas would be sustained for longer. It is anticipated that the total gas would increase by approximately 10% over the gas producing lifetime of the development. An extensive gas management system is currently in place and would be retained throughout the lifetime and aftercare of the scheme. Existing flaring units, the subject of separate consents would remain and will continue to generate electricity for the national grid. Adequate treatment is undertaken to ensure that this does not create odour issues to nearby residential areas.

- 7.3.7 The Council's Environmental Health officers and the Environment Agency have been consulted in relation to the proposal with no objections being raised.

Health Risks & Air Quality

- 7.3.8 A detailed health risk assessment has been undertaken examining the level of particulate matter and health related gases emanating from the site on nearby sensitive receptors such as residential areas, nearby industrial sites, and the inclusion of a potential visitor centre following restoration. It was concluded that there would be no increase in current baseline air quality as a result of the proposed revisions and no further impact expected. Further consideration was given toward the principle of providing early visitor access, it was concluded that there would be minimal impact to the health of these receptors subject to various control measures being incorporated.
- 7.3.9 The submitted information concerning the proposal's impact on air quality have been considered by the Council's Environmental Health officers and the Environment Agency with no objections being raised. Conditions and obligations are recommended concerning the control of dust drift and odour, and officers are satisfied that these impacts can be properly controlled through the approval of details following the grant of planning permission. The Greater London Authority has requested additional information in relation to the potential for nitrogen and acid rain deposits at the nearby SSSI. However, both the Environment Agency and Natural England, which are, respectively, the statutory bodies for the control of air emissions and sites of ecological value, have raised no objections to the proposal. The Environment Agency is satisfied that emissions from the site can be adequately controlled as part of the Environmental Permitting regime it administers. Planning officers are therefore satisfied that the proposal would not give rise to any significant adverse impacts in relation to air quality and associated matters.

Noise

- 7.3.10 The proposed extension to the facility's working period would involve prolonging any noise impacts that it gives rise to. However, officers are not aware of any noise complaints in relation to the facility under consideration. The Council's Environmental Health officers have raised no objections to the proposal and a condition is recommended, concerning the control of noise, should planning permission be granted.

7.4 Transport

- 7.4.1 Waste is imported to the site via road and water. The continued vehicular access arrangements from Coldharbour Lane are considered to be sufficient to accommodate the anticipated number of vehicle movements over the extended course of the development.

- 7.4.2 Although this application seeks permission to extend road-borne waste imports until 2024, the number of heavy vehicle movements during each day will not be increased and will continue to reduce as the site nears completion. It is envisaged that as the numbers of heavy goods vehicles reduce, visitor numbers may increase and impacts would be minimal. Consideration has been made in the retention of the current landfill access and location of public facilities to ensure maximum safety. Staff are satisfied that minimal impact would occur in this regard and recommend this be included within a legal agreement to continue to monitor vehicle numbers and movements and an ongoing travel plan.
- 7.4.3 Both Transport for London and the Greater London Authority requested additional information from the applicants in relation to the nature and number of on-site parking spaces; a commitment to sustainable means of travel; and a commitment to monitoring and use of opportunities to import waste by river. The site currently has 54 off-site parking spaces serving around 100 members of staff. The submitted information states that some staff make use of a minibus service.
- 7.4.4 Given the remote location of the site, particularly in relation to public transport links, officers consider the proposed vehicle parking arrangements to be acceptable. Sustainable transport measures will be the subject of a Travel Plan to be completed as part of the proposed legal agreement. In relation to water-borne importation of waste: approximately 15% of imported waste is generally imported by river at the moment. Whilst it is preferred to import waste by water-borne methods, there is difficulty in securing the limited availability of contracts. It is considered likely that the operator will continue to seek opportunities to make use of river-borne methods of importing waste owing to the potential commercial benefits of doing so. However, in the interests of allowing the landfill to be completed as soon as possible, planning officers consider that the operator should be allowed to make use of road-hauled importation as required, subject to the conditions and obligations referred to earlier in this report.
- 7.4.5 The Council's Highways officers have raised no objections to the proposal subject to the operator paying a financial contribution £25,000 towards public highway repair and maintenance to and from the application site to the A13, given the additional wear and tear the proposed extension of working would cause. It is recommended that this sum be sought as part of the proposed legal agreement, as detailed earlier in this report.
- 7.4.6 The impacts of air quality from the additional traffic movements have been described above and it is concluded that they would have minimal additional impact over and above the site's existing output.

7.5 Ecology

- 7.5.1 The application is located immediately adjacent to the Rainham, Wennington, and Aveley Marshes SSSI and Borough SINCs that lie immediately to the north and east of the site. The site's southern boundary lies adjacent to the Thames River frontage which is part of the River Thames Metropolitan SINC.
- 7.5.2 The proposed future use of the landfill site is for nature conservation and public recreation, which is to be managed by Havering Council and other stakeholders and combined with the existing surrounding marshes would be incorporated into the London Riverside Conservation Park, or Wildspace.
- 7.5.3 The proposed importation of additional waste to the site would impact parts of the site's established biodiversity in the short term, whilst the existing final layer is removed and surcharged with additional volumes of waste. However, this impact is expected in the short term and, subject to stringent ecological mitigation and management plans, the site's timely restoration will generate significant nature conservation benefits.
- 7.5.4 Natural England have been consulted about the proposal and have raised no objections in relation to its impact on the neighbouring SSSI. The RSPB have also been consulted, with comments being raised in relation to the site's eventual restoration and how this might impact on the neighbouring wildlife reserve. Comments are also made in relation to the proposal's potential to prolong or increase pest nuisance. In answer to these concerns, officers recommend that the RSPB be consulted and involved in the completion of the detailed restoration scheme, which is required by condition. A condition has also been recommended requiring the approval of details in relation to the control of vermin and other pests.
- 7.5.5 Officers are satisfied that the long term biodiversity gains would outweigh the short term impacts arising from the importation of additional volumes of waste to the site and that subject to various conditions imposed to secure mitigation and adequate restoration habitats that there would be minimal adverse long term ecological impacts as a result of these proposals.

7.6 Flood Risk and Drainage Considerations

- 7.6.1 The proposal to revise the pre-settlement contours is intended to ensure that the final landform would be of adequate angle and gradient to promote surface water run-off and reduce drainage issues on the site, which would otherwise lead to ponding and greater associated environmental risk. The additional pre-settlement contours have taken into account the potential increased rate of surface water runoff and have been designed to ensure no impacts on surface water and flood

risk is to occur. The proposal has been considered by the Environment Agency with no objections being raised in relation to flood risk or impacts on drainage arrangements.

7.7 Public Access and After Use

7.7.1 The proposed revisions would allow the site to be adequately restored to be included within the Wildspace regeneration project. The phased regeneration approach is proposed to allow the site to be available for public use at an earlier opportunity than was previously approved. In addition to achieving a manageable site, the restored landfill is to be opened in stages for public use.

7.7.1 These can be divided into two core themes and would include:

- Public access including:
 - Provision and maintenance of footpaths and cycle paths over the landform including two new viewpoints;
 - Maintenance of the existing Rainham to Purfleet path;
 - Access to and provision of serviced sites for a new car park, and potentially for recreational facilities and a visitor centre;
 - Increased access to the Thames and to existing walking and cycle routes;
- Creation of new habitat and active management of these that would achieve a large amount of London's targets for biodiversity for flora and fauna.

7.7.2 In addition to the above, the applicant has also examined various alternate public facility possibilities that may be achievable and compatible with the restored landfill, the Thames, and areas of the SSSI. These included such themes as an adventure playground, water sports facilities and general open space. Although not forming part of this application, these facilities could come forward at a future date subject to further design and subsequent planning consent and would be discussed in detail with various stakeholders.

7.7.3 Additional work was carried out by the applicant to ensure that through allowing early public access to parts of the site that this would be compatible to the operation of the landfill. Officers are satisfied that safe access can be achieved and is protected by condition and legal agreement.

7.7.4 Officers are satisfied that the applicant has recognised the future aspirations for the site's after-use, and is assisting the Council in working to achieve the longer term goals and aspirations for the site and wider area.

7.8 Conclusion

- 7.8.1 It is considered that the proposal is acceptable in principle, considering the originally unforeseen circumstances affecting the site's completion; the need to ensure that the site is restored to a high standard on environmental grounds; and to permit public access in future as part of a wider regeneration scheme; and having had regard to the policies contained in the Waste DPD, LDF, and other relevant planning policies and guidance. It is considered that the proposal would not result in significant adverse impacts on visual or local and residential amenity, over and above what has previously been approved. The environmental and highways impacts of the proposal are considered to be acceptable.
- 7.8.2 In light of the foregoing, officers are recommending that the proposed development be granted planning permission, subject to no significant adverse comments being received from the Mayor during the application's Stage 2 referral, along with the completion of a legal agreement and subject to the aforementioned conditions. The proposal is considered to be acceptable having regard to the provisions of the Development Plan, and all other material considerations.

IMPLICATIONS AND RISKS

8 Financial implications

- 8.1 In approving this application, the permission would be subject to the applicant entering into a legal agreement to secure various measures as detailed in this report. It is the intention that the London Borough of Havering would exercise an option to actively manage the site either via a 'pie crust' leasehold arrangement with the various landowners or to take up an option to become landowners. An additional option to take up ownership of the 'Saltings' is also offered. If the Council decides to take up these options, responsibility will be taken for the upkeep of the site under the arrangements of the lease or otherwise for the period following the completion of the aftercare period required to be fulfilled by the developer and in the case of the 'Saltings' ,in regard to general land management.
- 8.2 The Council would need to extend its public liability insurance in allowing public access once this option is exercised. It is recommended by officers that the Council does not agree to the leasehold or ownership until such time as an independent review is carried out on the site as it is progressively restored and allowed 'open' for public access. Reasonable costs should be met by the applicant and the option to take the leasehold to be agreed subject to the conclusions and recommendations of such a report. There are ongoing financial

costs in securing the extension to the public indemnity insurance and longer term park management.

9 Legal Implications

9.1.1 Officer time would be associated with the creation and monitoring of the legal agreement and in determining to take up any options offered in regard to public access, leaseholds and land ownership.

BACKGROUND PAPERS

Application form

All information submitted in support of planning application P1566.12.

20112014

Deed

made pursuant to section 106 and section 106A of the Town and Country Planning Act 1990 (as amended) relating to land at Rainham Landfill Site, Coldharbour Lane, Rainham, Essex

London Borough of Havering⁽¹⁾
Veolia ES Cleanaway (UK) Limited⁽²⁾
Port of London Authority⁽³⁾
Oldrealm Limited⁽⁴⁾
National Westminster Bank Plc⁽⁵⁾

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DATED**2014****PARTIES**

- (1) THE MAYOR & BURGESSES of the LONDON BOROUGH OF HAVERING of Town Hall, Main Road, Romford, Essex, RM1 3BB (**Council**).
- (2) VEOLIA ES CLEANAWAY (UK) LIMITED (company number 806128) whose registered office is situated at 8th Floor, 210 Pentonville Road, London, England N1 9JY (**Veolia**).
- (3) PORT OF LONDON AUTHORITY whose principal office is situated at London River House, Royal Pier Road, Gravesend, Kent DA12 2BG (**PLA**).
- (4) OLDREALM LIMITED (company number 1960419) whose registered office is situated at Kinetic Centre, Theobald Street, Borehamwood, Hertfordshire WD6 4PJ (**Oldrealm**).
- (5) NATIONAL WESTMINSTER BANK PLC (company number 929027) whose registered office is situated at 135 Bishopsgate, London, EC2M 3UR (**Mortgagee**).

BACKGROUND

- (A) Veolia ES Landfill Limited operates the landfill on part of the Property and submitted the Application to the London Thames Gateway Development Corporation (**Corporation**) who resolved to grant planning permission for the Development subject to the completion of an agreement under Section 106 of the 1990 Act.
- (B) By virtue of the London Thames Gateway Development Corporation (Planning Functions) (Amendment) Order 2011 the Corporation ceased to exercise planning functions in, and the Council resumed responsibility as the local planning authority for, the London Borough of Havering which is the area within which the Property is situated.
- (C) The Council is the local planning authority for the area within which the Property is situated and is the appropriate statutory body to enforce this Deed for the purposes of section 106 of the 1990 Act.
- (D) The Owners are registered at the Land Registry as the freehold owners of the Property.
- (E) The Mortgagee is proprietor of a registered charge on the freehold title of the Blue Land and part of the Green Land [dated 24 November ~~2005~~2005].
- (F) The Council considers it expedient in the interests of the proper planning of its area and having regard to all other material considerations that provision should be made for discharging the First Agreement in accordance with Section 106A of the 1990 Act and regulating the Development pursuant to section 106 of the 1990 Act in the manner set out in this Deed.
- (G) The Parties subject to the Council at its absolute discretion being satisfied that the obligation in the First Agreement having been satisfied or replicated in this Deed have agreed to discharge the First Agreement under Section 106A of the 1990 Act and to enter into this Deed, accepting that the obligations that it contains fall properly to be considered as material to the determination of the Application.
- (H) In accordance with section 25 of the Highways Act 1980 the Owners have agreed to dedicate their respective interests in the Footpath, the Second Riverside Footpath and the Third Riverside Footpath as public footpaths upon or prior to the expiry of the Aftercare Period and the Council ~~shall enter into~~ enters into this Deed as the highway authority for the area in which the Development is situated and the Council agrees to maintain the Footpath, the Second Riverside Footpath and the Third Riverside Footpath following their dedication.
- (I) Following dedication, the Owners and the Council have agreed to permit the use of the Footpath, the Second Riverside Footpath and the Third Riverside Footpath as cycleways and the Owners have agreed to co-operate with the Council to formalise their use as cycleways as may be necessary.
- (J) The Council has resolved to grant the New Planning Permission pursuant to the Application subject to the conditions set out in the New Planning Permission and subject to the covenants, undertakings and restrictions herein contained.

NOW THIS DEED WITNESSETH as follows:

OPERATIVE TERMS

1 Definitions and Interpretation

1.1 In this Deed the words below have the meanings next to them unless the context requires otherwise:

1990 Act	the Town and Country Planning Act 1990 (as amended) or any re-enactment or modification thereof for the time being in force.
Advance Routes	the routes of footpaths, cycleways or highways within the Orange Land and the Brown Land to be made temporarily available for use by members of the public substantially in accordance with the Zone Access Plan or in a position otherwise agreed with the Council in writing.
Advance Routes Notice	a written notice, in respect of each of Zone 1 and Zone 2, given by or on behalf of Veolia to the Council confirming that the Advance Routes within each of Zone 1 or Zone 2 (as the case may be) have been constructed, and served in accordance with paragraph 4.2 of Schedule 3.
Advance Route Specification	the specification set out on Plan 6, Plan 7 and Plan 8 to which the Advance Routes shall be constructed (unless otherwise agreed in writing with the Council).
Aftercare	works of aftercare for each Zone comprising works of good husbandry to be undertaken in full compliance with Condition 5 of the New Planning Permission following completion of the Restoration Works in respect of each Zone.
Aftercare Period	the period of 5 years from completion of the Restoration Works in respect of each of Zone 1, Zone 2 and Zone 3 (and the last day of the Aftercare Period shall be construed as the last day of the period of 5 years from completion of the Restoration Works in respect of the last of Zone 1, Zone 2 or Zone 3 to which works of Aftercare are undertaken).
Application	Full planning application (reference P1566.12) for the continuation of waste inputs and operation of other waste management facilities (materials recycling facility, waste transfer station, open air composting site and associated soil plant, gas engines, leachate treatment plant, and incinerator bottom ash processing) until 2024 and re-profiling of final contours.
Beacon Land	the freehold land used for a navigation light beacon the freehold title of which is registered at the Land Registry under title number EGL 397953
Blue Land	the freehold land and buildings at Coldharbour Point, Rainham registered at the Land Registry and forming part of title number EGL 182072 and shown coloured blue on Plan 1.

Bond	a bond for the sum of £1,071,242 (ONE MILLION AND SEVENTY ONE THOUSAND, TWO HUNDRED AND FORTY TWO POUNDS) which shall be substantially in the form annexed at Appendix 12 and shall be provided by a bank or other financial institution first approved by the Council acting reasonably
Brown Land	the freehold land on the south west side of Coldharbour Lane, Rainham registered at the Land Registry under <u>and forming part of</u> title number EGL 510484 subject to the Licence and shown coloured brown on Plan 1.
Car Parking Area	the visitor car parking area and the transport hub receiving public transport as may be constructed and operated by the Operator at Zone B or the extended Second Car Park intended to serve the Visitor Centre.
<u>Call Date</u>	<u>the seventh anniversary of the first request made by the Council in accordance with paragraph 1.3 of Schedule 4 or the 31 December 2030 whichever is earlier</u>
CIL or Local Tariff	a tax, tariff or charge introduced by the Council as planning authority and/ or highway authority pursuant to regulations enabled by Part 11 of the Planning Act 2008 or any subsequent legislation or instrument of similar effect to fund the delivery of infrastructure by a system known as the "community infrastructure levy" or the "local tariff" (or known by any other name) which for the avoidance of doubt does not include Mayoral Community Infrastructure Levy.
Coldharbour Lane	that the unadopted part of Coldharbour Lane as shown between points A, B and C, shown for the purposes of identification only by black dashed lines on Plan 2.
Deed of Rights of Access	a deed granting rights of access containing the terms identified at paragraph 6.3 of Schedule 3 and <u>substantially</u> in the substantial form annexed at Appendix 11.
Development	the development of the Property in accordance with the New Planning Permission.
Ecological Method Statement	a statement to be submitted to the Council in accordance with paragraph 9.1 of Schedule 1 which shall be complementary to the Landscape and Restoration Plan and shall include methods and responsibilities for future management of existing and newly created habitats and methods of monitoring habitats and species including targeting and protecting priority Biodiversity Action Plan species and habitats.
Environmental Permit	the variation,* number EPR/EP 3136GK/V002, *to environmental permit number EPR/EP 3136GK <u>as varied by variation notice*</u> number EPR/EP 3136GK/V002, *issued to Veolia by the Environment Agency permitting the recontouring of the landfill site at

	the Property.
Existing Car Parks	the First Car Park and the Second Car Park.
Existing Planning Permission	the planning permission granted by the Council under reference P1275.96 for deposit of refuse materials through controlled landfill provision of material recovery facilities and creation of contoured landform and restoration scheme and dated 6 February 1998.
Expert	<p>such expert as may from time to time be appointed for the purposes of resolving a relevant dispute as follows:</p> <p>a) if the dispute relates to transport or highway works, engineering, demolition, or construction works, a chartered civil engineer being a member of the Institution of Civil Engineers (having not less than 10 years' relevant experience in the public or private sector) agreed by the parties to the dispute but in default of agreement appointed at the request of any of the parties by or on behalf of the President from time to time of the Institution of Civil Engineers;</p> <p>b) if the dispute relates to any building within the Development or any similar matter, a chartered surveyor (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of either party by or on behalf of the President from time to time of the Royal Institution of Chartered Surveyors;</p> <p>c) if the dispute relates to financial matters or matters of accounting usually and properly within the knowledge of a chartered accountant, a chartered accountant (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of either party by or on behalf of the President from time to time of the Royal Institute of Chartered Accountants in England and Wales; and</p> <p>d) if the parties to the dispute shall fail to agree upon the nature or difference in question then it should be referred to a solicitor or barrister of at least 15 years' standing agreed by the parties but in default of agreement appointed at the request of either party by or on behalf of the President for the time being of the Law Society.</p>
Final Completion Notice	a written notice given by or on behalf of Veolia to the Council and copied to the PLA and Oldrealm which states the date when the Restoration Works in respect of the final Phase of the Phasing Sequence were completed.
First Access Road	the access road from Coldharbour Lane to the First Car Park shown by red dashed lines on Plan 2.
First Agreement	an agreement entered into by the Council, Oldrealm, the PLA, Veolia and Norwich Union Mortgage Finance Limited and Norwich Union Life and Pensions Limited

	as a deed made under section 106 of the 1990 Act and dated 6 February 1998.
First Car Park	the car park situated on the Brown Land shown coloured red on Plan 2.
First Riverside Footpath	the riverside footpath shown by blue dashed lines on Plan 2.
Footpath	the footpath from the First Car Park to the First Riverside Footpath shown with dashed brown lines on Plan 2.
Gatehouse	the security building situated on Coldharbour Lane at the location indicated on Plan 3.
Green Land	the freehold land at Coldharbour Lane, Rainham registered at the Land Registry comprising the whole of title number EGL 111270 and part of title number <u>EGL</u> 182072 subject to the Lease and shown coloured green on Plan 1.
Green Travel Plan	the Green Travel Plan to be submitted in accordance with paragraph 8 of Schedule 1.
Grounds off Refusal	Veolia <u>the proposed landlord</u> , acting reasonably does not consider , <u>considers</u> that the Operator <u>proposed tenant</u> is <u>not</u> of sufficient financial standing to enable it <u>the proposed tenant</u> to comply with the tenant covenants in the proposed lease.
Group Company	any company of which the Owner is a subsidiary or which has the same holding company as the Owner or a company formed as a joint venture company owned by the Owner or a subsidiary and one or more parties or a subsidiary of such joint venture company where subsidiary and holding company have the meanings given to them by section 1159 Companies Act 2006.
HGV Movements	the ingress and egress of heavy goods vehicles and one HGV Movement shall <u>include</u> mean the ingress and egress of one heavy goods vehicle.
HGV Routing Plan	the HGV Routing Plan to be submitted in accordance with paragraph 15 of Schedule 1.
Highway Contribution	Sum of £25,000 to be paid by Veolia to the Council on or prior to the date of the completion of the Section 106 agreement (Deed) to be spent on the repair and maintenance of the highway between the A13 and the Property.
Implementation	the implementation of the Development in accordance with the New Planning Permission by the carrying out of any material operation within the meaning of sections 56(2) and (4) of the 1990 Act Provided That and for the avoidance of doubt the carrying out of archaeological investigations demolition, site clearance, site preparation and surveys shall be deemed not to constitute a material operation.

Implementation Notice	a written notice given by or on behalf of Veolia to the Council stating the date of Implementation of the Development to be addressed to The Head of Development and Building Control, Mercury House, Mercury Gardens, Romford RM1 3LS and stating the application reference number P1295.11, and a notice will be deemed to have been given if Implementation has occurred for the purposes of this Deed and no written notice has been given.
Insurance Policy	a policy of insurance obtained by Veolia covering public liability risks arising from access over, or use of, or the proposed use of such part of Coldharbour Lane that lies within the Property, or the Property, or within Zone 1 or Zone 2 as the case may be, by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan (or the Zone Access Plan as the case may be) and which shall include an indemnity to principals clause Provided That the policy of insurance shall not be obtained in respect of dedicated rights of way within the Property save in respect of public liability risks arising directly out of Veolia's negligent act or default.
Interest	interest at three (3) % per cent above the base lending rate of the National Westminster Bank Plc from time to time.
Interim Completion Notice	a written notice, in respect of each Phase, given by or on behalf of Veolia to the Council and copied to the PLA and Oldrealm which states the date when the Restoration Works in relation to that Phase were completed and to be addressed to The Head of Development and Building Control, Mercury House, Mercury Gardens, Romford RM1 3LS.
Jetty	the jetty shown coloured pink on Plan 1.
Landfill Entrance	the landfill entrance shown marked on Plan 2 or such other entrance to the landfill as is agreed in writing with the Council from time to time.
Landscape and Restoration Plan	a masterplan to be submitted to the Council to establish the landscape and restoration outcomes as part of the Development.
Local Labour Commitment Scheme	A scheme to be submitted to the Council for its approval to promote employment of residents living within the administrative area of the Council.
Lease	two leases of the Green Land made between Oldrealm and Cleanaway Limited both dated 2 April 1998.
Licence	a waste disposal licence made between the PLA, Veolia and Cleanaway Holdings Limited dated 6 February 1998 as subsequently varied on 6 June 2003 by supplemental agreement and on 16 February 2005 by supplemental waste disposal licence.

New Planning Permission	the planning permission to be granted pursuant to the Application for the Development in the form annexed at Appendix 10 to this Deed.
Odour Mitigation Strategy	a strategy to be submitted to the Council in accordance with paragraph 11.1 of Schedule 1 setting out the measures proposed by Veolia to minimise odour impact on residential amenity as a result of the Development.
Operator	the proposed operator or operators (approved by Veolia following the procedure referred to at Paragraph 5 of Schedule 5) of the Car Parking Area, the Recreational Facilities, the Visitor Centre and/or the Water Sports Facility as the case may be.
Orange Land	the freehold land at Coldharbour Lane, Rainham registered at the Land Registry under title number EGL 232704 shown coloured orange on Plan 1.
Owner	Any or all of (as the case may be) Oldrealm, the PLA and Veolia (together the "Owners").
Parties	the parties to this Deed.
Phase	an area of land forming part of the Property shown as marked Phase A to Phase J (inclusive) on Plan 5, and references to a Phase shall be construed accordingly.
Phasing Sequence	the sequence in which the Restoration Works may be undertaken, beginning with Phase A on Plan 5 and ending with Phase J on Plan 5 or such other phasing sequence for the Restoration Works agreed between Veolia and the Council to accord with that approved by the Council pursuant to condition 25 of the New Planning Permission.
Plan 1	the plan marked Plan 1 attached to this Deed at Appendix 1.
Plan 2	the plan marked Plan 2 attached to this Deed at Appendix 2.
Plan 3	the illustrative drawing marked Plan 3 attached to this Deed at Appendix 3.
Plan 4	the plan marked Plan 4 attached to this Deed at Appendix 4.
Plan 5	the plan marked Plan 5 attached to this Deed at Appendix 5.
Plan 6	the plan marked Plan 6 attached to this Deed at Appendix 6.
Plan 7	the plan marked Plan 7 attached to this Deed at Appendix 7.
Plan 8	the plan marked Plan 8 attached to this Deed at Appendix 8.

Property	the Orange Land, the Green Land, and the Brown Land together known as land at Rainham Landfill Site, Coldharbour Lane, Rainham and which is situated within the area shown edged red on Plan 1.
Public Routes	the routes of footpaths and cycleways within the Property (other than Coldharbour Lane, the First Access Road, the First Riverside Footpath, the Footpath, the Second Riverside Footpath and the Third Riverside Footpath), to be made available for use by members of the public in accordance with the Landscape and Restoration Plan.
Public Routes Notice	a written notice given by or on behalf of Veolia to the Council confirming that the Public Routes have been constructed, and served in accordance with paragraph 5.2 of Schedule 3.
<u>Pump Ashore Facility</u>	<u>means the pipeline and pipebridge which carry dredgings across the Brown Land and Coldharbour Lane respectively as shown coloured pink on Plan 2.</u>
Recreational Facilities	such facilities for recreation as may be constructed and operated by the Operator at Zone C and Zone D.
Restoration Concept	the drawing marked Plan 3 and attached at Appendix 3 to this Deed.
Restoration Works	those works to restore the Property or any part of the Property in accordance with the New Planning Permission, the Phasing Sequence and the Landscape and Restoration Plan.
Riverside Footpaths and Footpath Specification	the specification for maintenance of the Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath set out at Appendix 9.
Riverworks Licence	the licence granted to Veolia by the PLA on 31 July 1984 to place and retain the Jetty at Coldharbour Point.
Second Car Park	the car park situated on the Orange Land shown coloured purple on Plan 2.
Second Riverside Footpath	the riverside footpath constructed between Coldharbour Point and Aveley Bay and shown by green dashed lines on Plan 2.
Services	pipes cables or wires as the case may be providing a supply of water and electricity (not exceeding 160 amps for the Visitor Centre or 100 amps for the Recreational Facilities) and in relation to the Visitor Centre and Water Sports Facility provision of a service duct to enable a connection to be made to the telephone network.
Site Infrastructure Plan	the plan labelled "Site Infrastructure" attached to this

	Deed at Appendix 14.
Third Riverside Footpath	[the <u>two sections of</u> riverside footpath constructed between the First Access Road and the Second Car Park and shown by amber dashed lines on Plan 2.]
Visitor Centre	such visitor centre facilities as may be constructed and operated by the Operator at Zone A.
Water Sports Facility	such water sports facilities as may be constructed and operated by the Operator at Zone C.
Yellow Land	the land at Wennington Marshes over which a caution has been lodged at the Land Registry in favour of Veolia under title number EGL 250928 and shown coloured yellow on Plan 1.
Zone 1	the area of land marked as Zone 1 on Plan 4.
Zone 2	the area of land marked as Zone 2 on Plan 4.
Zone 3	the area of land marked as Zone 3 on Plan 4.
Zone A	the area of land (excluding the subsoil of the land but including the air above it) circled in orange and labelled A on the Restoration Concept.
Zone B	the area of land (excluding the subsoil of the land but including the air above it) coloured light blue and labelled B on the Restoration Concept.
Zone C	the area of land (excluding the subsoil of the land but including the air above it) edged in dark blue and labelled C on the Restoration Concept or such alternative area within the Property identified for the Water Sports Facility in the Landscape and Restoration Plan.
Zone D	the area of land (excluding the subsoil of the land but including the air above it) hatched purple and labelled D on the Restoration Concept.
Zone E	the area of land on which the Second Car Park is situated (excluding the subsoil but including the air above it).
Zone Access Plan	the indicative locations in which Advance Routes will temporarily be made available to members of the public starting with Zone 1 on Plan 4 and ending with Zone 2 on Plan 4.

- 1.2 In this Deed, unless the context requires otherwise:
- 1.2.1 the headings appearing in this Deed are for ease of reference only and will not affect the construction of this Deed;
- 1.2.2 unless the context requires otherwise references in this Deed to clauses, sub-clauses, paragraphs, recitals, sub-paragraphs, annexures, appendices and schedules are references to those contained in this Deed and references to plans and drawings are references to plans and drawings annexed to this Deed;

- 1.2.3 the word "including" shall mean "including without limitation or prejudice to the generality of any description defining term or phrase preceding that word" and the word "include" and its derivatives shall be construed accordingly;
- 1.2.4 references in this Deed to statutes, bye-laws, regulations, orders and delegated legislation shall include any statute, bye-law, regulation, order or delegated legislation amending, re-enacting or made pursuant to the same;
- 1.2.5 in this Deed words importing the singular shall include the plural and vice versa and words importing one gender shall include all other genders;
- 1.2.6 in this Deed the expressions "Owner", "Veolia", "PLA", "Oldrealm", "Council" and "Mortgagee" shall include their respective statutory successors in respect of the functions to which this Deed relates and/or successors in title and assigns to the Property, the Blue Land or the Yellow Land or the relevant part of the Property, the Blue Land or the Yellow Land as the case may be;
- 1.2.7 any covenant by the Owners or each one of them not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person acting for them or any of them and under their respective control;
- 1.2.8 any covenant by Veolia shall be deemed to include a covenant that Veolia shall procure that any operator of the landfill situated on the Property shall comply with the obligations, undertakings and restrictions on the part of Veolia contained herein;
- 1.2.9 in the event of any conflict between the provisions of this Deed and any document annexed hereto as referred to herein save for the avoidance of doubt the New Planning Permission, the terms, conditions and provisions of this Deed will prevail; and
- 1.2.10 where any approval, consent, agreement or the like is required to be given pursuant to the terms of this Deed it shall be in writing and no party shall unreasonably withhold or delay any such approval, consent, agreement or the like provided that nothing herein shall fetter the statutory rights, powers or duties of the Council and/ or the PLA.

2 Legal Basis

- 2.1 This Deed is made pursuant to section 106 and section 106A of the 1990 Act, section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and section 111 of the Local Government Act 1972 and the obligations herein constitute planning obligations for the purposes of the 1990 Act and are enforceable by the Council as the local planning authority.
- 2.2 ~~It is agreed that the~~The Owners and the Mortgagee enter this Deed ~~with the effect of so as to bind~~ the planning obligations binding on their respective interests in the Property, the Blue Land and the Yellow Land.

3 Conditionality

- 3.1 Clause 6, clause 7 and clause 8 and the planning obligations in Schedule 1, Schedule 2, Schedule 3, and Schedule 4 are conditional upon:
 - 3.1.1 the grant of the New Planning Permission; and
 - 3.1.2 the Implementation Notice being given or deemed to have been given (or as the context so prescribes).
- 3.2 The covenants and obligations contained in paragraph 4, paragraph 5, paragraph 6, paragraph 7, paragraph 8 and paragraph 9 of Schedule 3 are conditional upon the Environment Agency's approval of the public being permitted access in the manner proposed and this having been reflected in the Environmental Permit accordingly.
- 3.3 All obligations relating to options are subject to Veolia providing the Council with a timely independent written report on contamination risk by an expert in contaminated land addressing the pollution and health risks relating to the relevant part of the Property.

4 Provisions for Release

- 4.1 Save for the effect of clause 19 of this Deed, it is agreed that this Deed will determine if the New Planning Permission or the Environmental Permit is quashed, cancelled, revoked or expires prior to Implementation or is otherwise rendered void.
- 4.2 Upon reasonable request from the Owners (or any one of them) and subject to payment of the Council's reasonable and proper professional costs and charges, which shall be met by Veolia, the Council shall certify compliance or partial compliance (as and if appropriate) with the provisions of this Deed.

5 Discharge of First Agreement

In consideration of entering into this Deed the Parties hereto agree, that upon the Implementation Notice being given or deemed to be given, they shall forthwith release and be released from all covenants and their respective obligations contained in the First Agreement and the Parties agree and declare that the First Agreement shall hereby immediately be discharged in accordance with Section 106A of the 1990 Act.

6 Covenants by Veolia

Veolia covenant with the Council to carry out and comply with the obligations contained in Schedule 1.

7 Covenants by the Owners

~~The~~Each Owners covenants with the Council and with each other to carry out and comply with their respective obligations contained in Schedule 2, Schedule 3 and Schedule 4.

8 Covenants by the Council

The Council covenants with the Owners and with each of them to carry out and comply with the obligations contained in Schedule 5.

9 Provisions Relating to the Council

Nothing in this Deed in any way fetters the statutory rights, powers and duties of the Council as local planning authority or highway authority.

10 Provisions Relating to Veolia

- 10.1 Nothing in this Deed shall be construed to prevent or impede Veolia (or interfere with Veolia), its operator of the landfill site, or its independent contractors from carrying out any tests, placing any apparatus or undertaking any works on the Property or carrying out any duties:

10.1.1 in accordance with the Environmental Permit; or

10.1.2 otherwise approved by the Environment Agency or by any other statutory authority; or

10.1.3 properly required in the interests of health and safety or security of any waste disposal activities or environmental controls in relation to the Property.

PROVIDED always that Veolia, its operator of the landfill site, or its independent contractors shall not at any time unlawfully obstruct or otherwise interfere with the public's right to pass and repass over the First Riverside Footpath and following their respective dedication the Footpath, the Second Riverside Footpath and the Third Riverside Footpath.

11 Provisions relating to the PLA

- 11.1 Nothing in this Deed shall be construed to prevent or impede the PLA (or interfere with the PLA) or its independent contractors:

11.1.1 from carrying out duties or undertaking any works on the Property as navigation or port authority; or

11.1.2 ~~carrying from using the Pump Ashore Facility to carry~~ dredgings across the Brown Land ~~by pipeline~~ and across Coldharbour Lane ~~by a pipe bridge~~ to any land adjoining Coldharbour Lane, or maintaining a river jetty and entering the Brown Land from time to time with or without vehicles for the

purposes of cleaning out and turning pipes and inspecting, maintaining, replacing, or renewing any of the structures including those comprising the Pump Ashore Facility or any part of them; or

- 11.1.3 from accessing at any time without notice with or without vehicles the Beacon Land.

PROVIDED always that the PLA shall not at any time unlawfully obstruct or otherwise interfere with the public's right to pass and repass over the First Riverside Footpath and following their respective dedication the Footpath, the Second Riverside Footpath and the Third Riverside Footpath.

12 Mortgagee's consent

The Mortgagee consents to Oldrealm entering into this Deed and acknowledges that the Blue Land and the Green Land will be bound by the terms and obligations contained in this Deed and if the Mortgagee becomes a mortgagee in possession of the whole or any part of the Property the Mortgagee will not carry out or procure the Development or any part thereof without performing and observing the terms and obligations contained in this Deed.

13 Successors in Title

The Parties agree that this Deed will be binding upon their respective interests in the Property, the Blue Land and the Yellow Land and will be enforceable against the relevant Owners and the Mortgagee (when in possession in accordance with clause 12) and their successors in title and assigns and those deriving title under them in respect of their respective interests in the Property, the Blue Land and the Yellow Land as provided in section 106(3) of the 1990 Act but in accordance with section 106(4) of the 1990 Act it is the intention of the Parties that none of the Owners or the Mortgagee or their respective successors in title or those deriving title under them will have any further liability under this Deed (but without prejudice to any rights of the Council in respect of any antecedent breach) in respect of any period after which the relevant party has parted with their interest in all or the relevant part of the Property, the Blue Land or the Yellow Land on which the breach occurs.

14 Registration

- 14.1 It is agreed between the Parties that this Deed will be registered as a Local Land Charge and ~~that~~ upon the discharge of the First Agreement in accordance with clause 5, the First Agreement will be removed from the register as a Local Land Charge for the purposes of the Local Land Charges Act 1975.
- 14.2 Upon the written request of the Owners or any of them in respect of the Brown Land, or the Blue Land, or the Green Land, or the Orange Land or the Yellow Land and upon the Council's satisfaction that the obligations, covenants or undertakings contained in this Deed in each case have been discharged or fully complied with the Council shall place a note to that effect on the Local Land Charges register relating to the land in question.

15 Third Party Rights

A person who is not a party to this Deed has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

16 Dispute Resolution

- 16.1 In the event of any dispute or difference between the Parties or any of them arising out of this Deed (other than a dispute or difference relating to a question of law or in relation to the interpretation of this Deed) it is hereby agreed that the matter in dispute will on the application of either of the Parties be referred to the Expert and it is further agreed that:
- 16.1.1 the determination of the Expert will be final and binding on the parties save in the case of manifest error;
- 16.1.2 the parties will be entitled to make representations and counter-representations in accordance with such timetable as the Expert directs;
- 16.1.3 the Expert's costs will be borne in such proportions as he/she may direct failing which the parties will each bear their own costs of the reference and

determination and the Expert's costs calculated by dividing the Expert's costs by the number of sides to the reference; and

- 16.1.4 the Expert may be replaced by a fresh appointee in the event of his/her becoming at any time unable or unwilling for any reason to proceed to discharge his/her function and such fresh appointee will be appointed in the same manner as the Expert.

17 Variations

No variation to this Deed will be effective unless made by Deed between the Council as local planning authority and all the parties against whom the obligations in this Deed are enforceable at the time or pursuant to the determination of an application made under section 106A of the 1990 Act subject to Section 106A (4).

18 Service of Notices

- 18.1 All notices, requests, demands or other written communications to or upon the respective parties pursuant to this Deed will be deemed to have been properly given or made if despatched by first class letter to the party to which such notice, request, demand or other written communication is to be given or made under this Deed and addressed as follows:

18.1.1 if to the Council for the attention of Head of Development and Building Control, Mercury House, Mercury Gardens, Romford RM1 3BD;

18.1.2 if to Veolia to the address set out above for the attention of ●;

18.1.3 if to the PLA to the address set out above for the attention of the Secretary;

18.1.4 if to Oldrealm to the address set out above for the attention of [Michael Young]; and

18.1.5 if to the Mortgagee to the address set out above for the attention of ●.

19 Legal and other Professional Costs

Veolia agrees that upon completion of this Deed it will pay the Council's reasonable professional costs including the costs of legal fees in preparation of this Deed including any VAT thereon and disbursements properly incurred in the negotiation and completion of this Deed in the sum of two thousand and five hundred pounds (£6,000).

20 VAT

If VAT becomes payable on payments made under this Deed the Parties agree that VAT will be additional to the sums required, provided that the Owners (or each one of them) will be entitled to valid VAT receipts in respect of any vatiable supplies properly incurred under this Deed.

21 Interest

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

22 Community infrastructure levy/Local tariff

- 22.1 If after the date of this Deed, a CIL or Local Tariff is introduced that is applicable to the Development then the Parties to this Deed shall each use reasonable endeavours to agree variations to this Deed with the intent that:

22.1.1 The planning obligations secured by this Deed ~~should~~ continue to be secured and delivered by the Parties in accordance with this Deed; and

22.1.2 Veolia, the PLA, the Council and Oldrealms ~~should~~ to fully co-operate with the Council to ensure that the Council is not be in a financially worse position because of CIL or Local Tariff in respect of the obligations contained in the Schedules than they would be if the Owners had performed the obligations in this Deed and no CIL or Local Tariff had been introduced.

IN WITNESS whereof this Deed has been executed by the Parties and is intended to be and is delivered on the date first above written

Schedule 1

Covenants by Veolia

1 Implementation

- 1.1 Veolia shall serve the Implementation Notice on the Council at least five (5) working days prior to the anticipated Implementation of the Development.

2 Restoration Works

- 2.1 Veolia shall serve:
- 2.1.1 an Interim Completion Notice within fifteen (15) working days following the completion of the Restoration Works in respect of each Phase; and
 - 2.1.2 the Final Completion Notice within fifteen (15) working days following completion of the Restoration Works in respect of the final Phase in the Phasing Sequence.
- 2.2 Veolia shall keep the settlement of waste within the landfill area of the Property under review and within two (2) calendar months of serving or having been deemed to serve the Implementation Notice and upon serving any Interim Completion Notice shall report in writing to the Council as to whether the pattern of settlement conforms to what was predicted in support of the Application for the following Phase(s) and to the extent that it does not shall set out the measures which shall be taken to deliver the long term post settlement contours as predicted in support of the Application (and shown in approved drawing number 3) within a timeframe to be agreed in writing with the Council.
- 2.3 Veolia shall complete the Restoration Works on or before 31 December 2026.

3 Aftercare

- 3.1 Veolia shall commence and use reasonable endeavours:
- 3.1.1 ~~to~~ diligently to undertake the Aftercare ~~for~~during the Aftercare Period; and
 - 3.1.2 to complete the Aftercare on or before 31 December 2031.

4 Operation

- 4.1 ~~Prior to completion of the Restoration Works,~~ Veolia shall maintain records of all waste delivered for disposal within the Property and on receipt of reasonable prior written notice from the Council will permit the Council to inspect the said records.
- 4.2 Veolia shall issue a formal written warning to the driver and the owner of any vehicle carrying waste by road where, ~~upon entering~~when it enters the Property, waste carried within the vehicle is uncovered (an "offence") and if a second offence is committed by that driver Veolia shall take such steps as may be reasonably necessary to ensure that the driver is not permitted to enter the Property if the vehicle driven by him is carrying uncovered waste.

5 Extension of Second Car Park

- 5.1 In the event that the Council serves a written notice upon Veolia on or before 31 December 2021 (**End Date**) which:
- 5.1.1 includes an irrevocable undertaking that the Council will not procure, in accordance with paragraph 1.1.2 of Schedule 2, ~~either~~ a lease of either the whole or any part of Zone B; and
 - 5.1.2 requests Veolia to increase the size of the Second Car Park to one which will accommodate at least 24 private vehicles (**Council's Car Park Extension Notice**)

Veolia shall use best endeavours to obtain all necessary consents to increase the footprint of the Second Car Park to accommodate at least 24 private vehicles (**Necessary Consents**) and, once obtained, shall use best endeavours to construct the said extension within twelve (12) calendar months of the date of issue of the last of the Necessary Consents.

- 5.2 Veolia shall give the Council at least twelve (12) calendar months' prior written notice of the End Date approaching (**Veolia's Prior Notice**) and in the event that Veolia does not do so the End Date shall be extended for a period ending twelve (12) calendar months from the date of service of Veolia's Prior Notice.

6 Insurance

- 6.1 Prior to service of the Advance Routes Notice Veolia shall, at its own cost, obtain the Insurance Policy and thereafter maintain the Insurance Policy until the last day of the Aftercare Period.
- 6.2 Within twenty eight (28) days of written request from the Council, the PLA or Oldream, Veolia shall provide to the Council, the PLA ~~and/or~~ Oldream as the case may be written evidence of the Insurance Policy then in force.

7 Indemnity

- 7.1 Veolia shall indemnify and keep indemnified the other Owners against all expenses, losses, damage, liability and claims whatsoever arising from access over, or use of, or the proposed use of the Property (including such part of Coldharbour Lane that lies within the Property, ~~or the Property, or within Zone 1 or Zone 2 as the case may be,~~) by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan (or the Zone Access Plan as the case may be) until and including the last day of the Aftercare Period Provided Always that the other Owners or any of them shall:

- 7.1.1 Notify Veolia of any claim or circumstances of which the relevant Owner is aware which may give rise to a claim by the Owners under the provisions of paragraph 7.1 of this Schedule 1 (including all particulars of such claim or circumstance);
- 7.1.2 At all times keep Veolia fully informed of any discussions, correspondence, negotiations and progress in connection with the claim or circumstance;
- 7.1.3 Not knowingly make any admission of liability to, or reach any agreement or compromise with any person, body or authority in relation to any such claim or circumstance without the prior written agreement of Veolia and for the purposes of this paragraph 7.1.3 that agreement may be refused if:
- (a) it is reasonable to believe that the claim or circumstance is without merit; or
 - (b) it is reasonable to believe that the claim or circumstance could be compromised or agreed at a figure lower than that proposed to be compromised or agreed by the other Owners;

AND FURTHER PROVIDED THAT this indemnity shall not apply if the expense, loss, damage, liability or claim:

- (i) arises in respect of access over or use of dedicatedpublically adopted rights of way within the Property, save in the event that it arises as a direct result of Veolia's negligent act or default
- (ii) is covered by the Insurance Policy or would otherwise have been covered by the Insurance Policy but for the fact that the Owners have acted (or have omitted to act) so as to vitiate, render void or otherwise limit the effect of the Insurance Policy.

8 Green Travel Plan

- 8.1 Within three (3) months of the date upon which the New Planning Permission is issued Veolia shall submit the Green Travel Plan to the Council for its approval.
- 8.2 The Green Travel Plan shall contain provisions demonstrating how, from the date the Council's written approval of the Green Travel Plan, Veolia proposes to limit the number of HGV Movements which enter the Property via the Landfill Entrance for the purpose of delivering waste for disposal within the Property, to no more than 300 HGV Movements per day, and shall contain a programme to be reviewed annually to reduce HGV Movements from 300 HGV Movements per day to the Property.

- 8.3 The Green Travel Plan shall contain a commitment by Veolia, prior to completion of the Restoration Works, to monitor and proactively review opportunities to increase the use of riverborne transport for delivery of waste for disposal within the Property and shall require a written report of Veolia's findings to be submitted to the Council on an annual basis.
- 8.4 The Green Travel Plan shall contain a programme for its implementation including the appointment of a Green Travel Plan co-ordinator if appropriate and a programme for monitoring and reviewing the Green Travel Plan annually or more frequently as required by the Council.
- 8.5 Once approved, the Green Travel Plan shall be implemented in accordance with the programme contained therein.
- 8.6 Except as otherwise agreed in writing by the Council, the Development shall not be carried out otherwise than in accordance with the approved Green Travel Plan.

9 Ecological Method Statement

- 9.1 Veolia shall submit the Ecological Method Statement to the Council for the Council's approval within two (2) years of Implementation.
- 9.2 Once approved the Ecological Method Statement shall be implemented in full and carried out in accordance with its terms unless otherwise agreed in writing by the Council.

10 Landscape and Restoration Plan

- 10.1 Within one (1) years of Implementation Veolia shall submit the Landscape and Restoration Plan for approval by the Council.
- 10.2 Once approved the Landscape and Restoration Plan shall be implemented in full and carried out in accordance with its terms unless otherwise agreed in writing by the Council.

11 Odour Mitigation Strategy

- 11.1 Within three (3) months of the date upon which the New Planning Permission is issued Veolia shall submit the Odour Mitigation Strategy for approval by the Council.
- 11.2 The development shall be implemented and carried out in accordance with the approved Odour Mitigation Strategy unless otherwise agreed in writing by the Council.

12 Provision of Bond

- 12.1 Within two (2) months of the date of this Deed Veolia shall obtain and deliver to the Council the Bond upon which the Council shall be entitled to call in accordance with the provisions set out at paragraph 2 of Schedule 5.

13 *Environmental Centre*

- 13.1 **Upon service of the Final Completion Notice and until the end of the Aftercare Period *Veolia* shall make available to the Council, for use as an environmental centre, the Gatehouse (or any alternative building of a similar specification suitable for use as an environmental centre) and during this period *Veolia* shall maintain and repair the Gatehouse (or such alternative building) so as to be fit for purpose Provided That this shall not require the repair of any damage in excess of fair wear and tear caused by the Council, its employees or visitors.*

14 Highway Contribution

- 14.1 On or prior to the date of this Deed Veolia shall pay to the Council the sum of £25,000 (twenty five thousand pounds) which for the avoidance of doubt will be subject to Interest on late payment towards the future repair and maintenance of the highway to be used in accordance with the Lorry Routing Plan between the Property and the A13 resulting from the impact of the increased HGV movements to and from the Property on the highway over the extended operation of the landfill facility permitted by the New planning Permission.

- 14.2 the Highway Contribution shall be spent by the Council in whole or part on the repair and maintenance of the highway to be used in accordance with the Lorry Routing Plan between the Property and the A13 within ten (10) years of the end of the Aftercare Period.

15. HGV Routing Plan

- 15.1 Within one (1) month of the date upon which the New Planning Permission is issued Veolia shall submit the HGV Routing Plan to the Council for its approval which requires that no HGV movements between the Property and the A13 are made through Rainham Village or other built up residential area.
- 15.2 The HGV Routing Plan shall contain provisions demonstrating how, from the date the Council's written approval of the HGV Routing Plan, Veolia proposes to restrict all HGV Movements between the Property and the A13 to ensure that no HGV movements between the Property and the A13 are made through Rainham Village or other built up residential area.
- 15.3 The HGV Routing Plan shall contain a commitment by Veolia, prior to completion of the Restoration Works, to monitor the routing of HGV movements between the Property and the A13 and to ensure that it is a contractual term of service between Veolia and each and every HGV operator complies with the requirements of the approved HGV Routing Plan and that failure to comply will result in the contract being terminated.
- 15.4 The HGV Routing Plan shall contain a programme for its implementation including the appointment and a programme for monitoring and reviewing annually or more frequently as required by the Council.
- 15.5 Once approved, the HGV Routing Plan shall be implemented in accordance with the programme contained therein.
- 15.6 Except as otherwise agreed in writing by the Council, the Development shall not be carried out otherwise than in accordance with the approved HGV Routing Plan.

16. Local Labour and Contractors

- 16.1 Veolia will not Implement the New Planning Permissions unless and until Veolia has submitted to the Head of Regulatory Services at the Council (or equivalent officer) the Local Labour Commitment Scheme which relates to the operation of the Development (save in respect of paragraph 16.3(a)) and the Council has approved it.
- 16.2 In preparing the Local Labour Commitment Scheme Veolia will consult with the Council.
- 16.3 The Local Labour Commitment Scheme will require or contain (as the case may be):
- (a) Veolia to provide statements of its staff/employment requirements to the Head of Regulatory Services at the council (or equivalent officer) before undertaking any other advertisements of any such requirement;
 - (b) establishment of suitable training opportunities for those recruited by Veolia;
 - (c) on-going notification of vacancies (particularly relating to the operation of the Development) to the unemployed and others being targeted in the Local Labour Commitment Scheme before undertaking any other advertisements of any such requirement;
 - (d) a procedure setting out criteria for initial screening of candidates for employment, and for matching of candidates to the vacancies;

- (e) a procedure for notifying the Head of Regulatory Services at the Council (or equivalent officer) of supply chain operation contracts to enable the Council to disseminate the information to appropriate local businesses;
- (f) a procedure for monitoring of the Local Labour Commitment Scheme and reporting to the Head of Regulatory Services at the council (or equivalent officer) in such a way as to comply with all relevant legislation including the Data Protection Act 1998 and which set out such detail as the Head of Regulatory Services at the Council (or equivalent officer) may reasonably require including (which for the avoidance of doubt, the submission of the following categories of information will not uniquely identify and individual):
 - (i) full postcode
 - (ii) gender
 - (ii) age group (16-24, 25-49, 50-55 and over 55)
 - (iv) length of residency in the Council's area in the following categories: (i) less than 6 months; (ii) 6-12 months; (iii) 1-5 years; (iv) 5-10 years and (v) 10 years plus
 - (v) job title
 - (vi) full-time or part-time
 - (vii) ethnicity (using census categories)
 - (viii) disability
 - (ix) previous employment status (including length of previous unemployment where relevant in the following categories: (i) less than 6 months; (ii) 6-12 months and (iii) 12 months plus
 - (x) sexuality

and the Council acknowledges that the provision of such data by individuals is on a voluntary basis;

- (g) a timetable for the implementation of the Local Labour Commitment Scheme; and
- (h) provisions for review

16.4 Veolia will implement the Local Labour Commitment Scheme in accordance with the timetable contained within the approved Local Labour Commitment Scheme

16.5 Veolia will carry out the Development in accordance with the approved Local Labour Commitment Scheme

- 16.6 Veolia will work with its contractors, tenants and purchasers of the Non-Residential Units to promote the Local Labour Commitment Scheme (in particular during the operation of the Development) and promote local employment (which is defined as being residents living within the Council's administrative area) during the operation of the Development and increase the percentage of the total workforce of the Development to be resident in the Council's administrative area during the end use of the Development.
- 16.7 Veolia will appoint and identify to the Head of Regulatory Services at the Council (or equivalent officer) an employment liaison officer who will be responsible for implementation of the Local Labour Commitment Scheme and to be the principal point of contact for the Head of Regulatory Services at the Council (or equivalent officer).
- 16.8 Veolia will use reasonable endeavours to procure that Veolia and contractors engaged in the operation of the Development interview and, if appropriate, recruit suitably qualified applicants put forward by the Head of Regulatory Services at the Council (or equivalent officer)
- 16.9 Veolia will provide such other reasonable assistance as the Head of Regulatory Services at the Council (or equivalent officer) from time to time reasonably considers appropriate to support Local Labour Commitment Scheme

17. Public Access

- 17.1 Within twelve (12) months of the date of this Deed Veolia shall provide the Council with a realistic timeframe for achieving phased public access to the Property.

18. Council's Absolute Right to Assign or Sub-let Lease

- 18.1 The Council at its absolute discretion should it accept the grant of any lease of the Property (excluding subsoil beneath the bentonite cap) may assign or sub-let that lease. This clause takes precedence over any contrary provision in this Deed.

Schedule2

Provisions relating to Zone A, Zone B, Zone C, Zone D and Zone E – Operator Leases

1 Procurement of the grant of leases

- 15.7 Upon the proposal of the Operator by the Council under paragraph 5 of Schedule 5 (occurring prior to any lease of the Owners' respective interests in Zone A, Zone B, Zone C, Zone D and/or Zone E to the Council in accordance with any options entered into under Schedule 4 of this Deed) and subject to Clause 10 and paragraph 1.3 of this Schedule 2, the Owners will use reasonable endeavours to procure the grant of leases (where these relate to land within their respective ownerships) on terms acceptable to the relevant Owners (acting reasonably) of:
- 15.7.1 Zone A to the Operator of the Visitor Centre and for the avoidance of doubt Veolia shall not be required to lease the land at Zone A in any better state and condition than it is in at the date of this Deed as indicated on the photographic schedule of condition attached at Appendix ~~15~~;
- 15.7.2 Zone B to the Operator of the Car Parking Area which shall be let at a standard which Veolia (acting reasonably) considers to be acceptable for use as a car park (and for the avoidance of doubt Veolia shall meet the costs of any necessary works in Zone B to let it at such standard and the lease shall require the Operator to keep the land at that standard) Provided That the relevant Owners shall not be required to lease the land at Zone B:
- 15.7.3 Zone E to the Operator of the Car Parking Area which shall be let at a standard which Veolia (acting reasonably) considers to be acceptable for use as a car park (and the lease shall require the Operator to keep the land at that standard) Provided That Veolia shall only be required to lease Zone E in the event that the Council has served the Council's Car Park Extension Notice in accordance with paragraph 5 of Schedule 1.
- 15.7.4 Such right, title or interest as is held by the relevant Owners in Zone C to the Operator of the Water Sports Facility and for the avoidance of doubt the relevant Owners shall not be required to lease the land at Zone C in any better state and condition than it is in at the date of this Deed ~~as indicated on the photographic schedule of condition attached at Appendix 16~~; and
- 15.7.5 Zone D to the Operator of the Recreational Facilities ~~which shall be let at a standard which Veolia (acting reasonably) considers to be acceptable for use as recreational facilities in accordance with the Landscape and Restoration Masterplan~~ and for the avoidance of doubt the relevant Owners shall not be required to lease the land at Zone D in any better state and condition than it is in at the date of this Deed as indicated on the photographic schedule of condition attached at Appendix 17 Provided That Veolia will not be required to procure the same prior to completion of the Restoration Works in respect of Zone D.
- 15.8 And Further Provided That nothing in this Deed shall require the relevant Owners:
- 15.8.1 to develop, construct or ~~to~~ undertake any preparatory works to enable the construction or development of the Visitor Centre, the Water Sports Facility or the Recreational Facilities; or
- 15.8.2 to grant any lease to any Operator for a term which expires after 31 December 2031.
- 15.9 Paragraph 1.1 of this Schedule 2 is subject to:
- 15.9.1 the relevant Owners' approval (acting reasonably) of the Operator following the Council carrying out the procedure referred to at paragraph 5 of Schedule 5; and
- 15.9.2 the respective uses and locations of Zone A, Zone B, Zone C, Zone D or Zone E (as the case may be) identified at paragraph 1.1 of this Schedule being consistent with the uses and locations of the recreational or related facilities identified in the Landscape and Restoration Plan.

16 Services

- 16.4 Veolia shall use reasonable endeavours to lay the Services up to the boundary of Zone A and Zone C (to which the relevant Owners² hereby consent) and the relevant Owners shall consent to a reasonable request for connection to the Services by a tenant of Zone A or Zone C.

Schedule 3

Covenants by Veolia and the other Owners

1 Works to the Property

16.5 Subject to Clause 10, the Owners shall not undertake any works on the Property that would adversely affect the integrity and/ or effectiveness of the bentonite wall, the basal clay, the capping and restoration layer, the leachate control and drainage system and the gas control and extraction system constructed under the Existing Planning Permission, the New Planning Permission and/or in accordance with the Environmental Permit.

17 Yellow Land

17.4 Veolia and Oldrealm shall make the Yellow Land available to the Council (but without any cost to Veolia (save for all legal cost transfer of the Yellow Land to the Council) and/or Oldrealm) for the purposes of nature conservation PROVIDED THAT Veolia and Oldrealm shall only make the Yellow Land available to the extent that they have any interest in the Yellow Land and shall only do so until whichever is the earlier of:

17.4.1 The end of the Aftercare Period; or

17.4.2 the date any transfer of the Yellow Land is completed pursuant to the option in respect of the Yellow Land in accordance with the provisions of Schedule 4 paragraph 1.2.3.

18 Green Land

18.4 Save in respect of the use and operation of the facilities shown on the Site Infrastructure Plan and for use as part of a landfill site on the land outside of those facilities, Veolia and Oldrealm shall not permit the Green Land to be used for any commercial purpose unless otherwise agreed in writing with the Council.

18.5 In accordance with Condition 7 of the Existing Permission Veolia shall remove the facilities shown on the Site Infrastructure Plan, which shall be removed on or before 31 December 2024 unless otherwise agreed in writing with the Council.

19 Advance Routes

19.4 Within three (3) months following completion of the Restoration Works within each of Zone 1 and Zone 2 respectively Veolia shall commence construction of the Advance Routes for each of Zone 1 and Zone 2 respectively and shall thereafter diligently carry out construction of the same in accordance with the Advance Route Specification.

19.5 Within one (1) calendar month of completion of the construction of the Advance Routes in each of Zone 1 and Zone 2 respectively Veolia shall serve an Advance Routes Notice confirming the line of the route(s) constructed and such Notice shall immediately take effect upon service so as to permit the public temporary access over that route(s) on the terms set out at paragraph 4.3 of this Schedule 3.

19.6 For the period or periods starting from service of the Advance Routes Notice until Service of the Public Routes Notice, Veolia shall maintain the Advance Routes to the standard constructed (save for fair wear and tear) and the Owners shall permit (by way of non-exclusive and revocable licence only) members of the public ~~to~~ temporarily to access on foot over and along the line of the route(s) referred to in the relevant Advance Routes Notice subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time Provided That:

- 19.6.1 The temporary access permitted over and along the Advance Route(s) shall be subject to:

Provided Further That in the event of a permanent closure which is not intended to be replaced by the creation of a route which may be notified as falling within the Public Routes, Veolia shall provide an alternative route which connects with the remaining permissive access routes and which shall be constructed in accordance with the Advance Route Specification.

- 19.7 In the event that the Advance Routes (or any one of them) are varied, diverted or closed in accordance with paragraph 4.3.1 (b) of this Schedule 3, Veolia shall notify the Council in writing of the nature of the emergency, the variation, diversion or closure made, and its likely duration, as soon as is reasonably practicable following the said emergency having arisen.

20 Public Routes

- 20.4 Veolia shall use reasonable endeavours to ensure that the Public Routes are constructed as soon as reasonably practicable in accordance with a programme and standard to be specified in the Landscape and Restoration Plan.
- 20.5 Within one (1) calendar month of completion of the construction of the Public Routes Veolia shall serve a Public Routes Notice confirming the line of the route(s) constructed and such Notice shall immediately take effect upon service so as to permit the public access over those routes on the terms set out at paragraph 5.3 of this Schedule 3.
- 20.6 Until the last day of the Aftercare Period, Veolia shall maintain the Public Routes and the Owners shall permit (by way of non-exclusive and revocable licence only) members of the public access on foot and by bicycle over and along the Public Routes subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time Provided That:
- 20.6.1 the access permitted shall be subject to:
- 20.7 In the event that the Public Routes (or any one of them) are varied, diverted or closed in accordance with paragraph 5.3.1 (b) of this Schedule 3, Veolia shall notify the Council in writing of the nature of the emergency, the variation, diversion or closure made, and its likely duration, as soon as is reasonably practicable following the said emergency having arisen.

21 Coldharbour Lane, the First Access Road and the First Car Park

- 21.4 Upon service (or deemed service) of the Implementation Notice ~~(or deemed service)~~ and until the Deed of Rights of Access has been entered into, the Owners shall, on the terms and provisos set out at paragraph 6.3 of this Schedule 3, permit members of the public access over and along those parts of the First Access Road and Coldharbour Lane as are within their respective ownerships and shall permit members of the public to park private vehicles in the First Car Park.
- 21.5 ~~Upon~~On or ~~prior to~~before the last day of the Aftercare Period, the Owners shall use reasonable endeavours to enter into the Deed of Rights of Access, upon the terms and provisos set out at paragraph 6.3 of this Schedule 3, to permit members of the public access over and along those parts of the First Access Road and Coldharbour Lane that are within their respective ownerships, and to permit members of the public to park private vehicles in the First Car Park.
- 21.6 The terms and provisos referred to at paragraph 6.1 of this Schedule 3 and the terms of the Deed of Rights of Access referred to at paragraph 6.2 of this Schedule 3 shall be as follows:
- 21.6.1 that members of the public shall be permitted to pass and repass during daylight hours by private car, bicycle or on foot along the First Access Road and to park private vehicles in the First Car Park subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time;

- 21.6.2 that members of the public shall be permitted to pass and repass during daylight hours by private car ~~or bicycle~~ along those parts of Coldharbour Lane that are within the Property subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time; and
- 21.6.3 that the access permitted shall be subject to:
- 21.7 in the event that Veolia temporarily or permanently close the Second Car Park in accordance with paragraph 7.2.1 of this Schedule 3, Veolia shall notify the Council in writing of the nature of the emergency and the details of any temporary or permanent closure as soon as is reasonably practicable following the said emergency having arisen.

22 Maintenance of Coldharbour Lane, the First Access Road, the First Car Park and the Second Car Park, and Control of Vegetation Growth

- 22.4 Following service of the Advance Routes Notice and until (and including) the last day of the Aftercare Period, Veolia shall, to a standard suitable and reasonable for use by the public to gain access to the Property:
- 22.4.1 maintain that part of Coldharbour Lane which falls within the Orange Land; and
- 22.4.2 use reasonable endeavours to procure the maintenance of those parts of Coldharbour Lane which fall within those parts of the Property of which the PLA and Oldrealm are the registered freehold proprietors.
- 22.5 Veolia shall maintain, and the PLA hereby consent to Veolia maintaining, that part of the First Access Road and the First Car Park which is situated within the Brown Land until (and including) the last day of the Aftercare Period to a standard suitable and reasonable for use by the public to gain access to the Property.
- 22.6 Veolia shall maintain the Second Car Park until (and including) the last day of the Aftercare Period or, if earlier, until either:
- 22.6.1 Zone E has been let to the Operator in accordance with the provisions of the Second Schedule; or
- 22.6.2 the Zone A and Car Parking Lease (as defined in the Fourth Schedule) has been let to the Council in accordance with the provisions of the Fourth Schedule and such maintenance shall be carried out to a standard suitable and reasonable for use by the public to gain access to the Property.
- 22.6.3 Veolia shall undertake all necessary works to control vegetation growth which is adjacent to the First Riverside Footpath, the Second Riverside Footpath, the Third Riverside Footpath, the Footpath and the Existing Car Parks until and including the last day of the Aftercare Period Provided That nothing in this paragraph 8.4 shall require Veolia to undertake any works which cannot be performed within the Property and the other Owners and the Council hereby consent to Veolia undertaking such works within the Brown Land, the Blue Land and the Green Land.

22.6.4

23 Dedication of the Footpath, the Second Riverside Footpath and the Third Riverside Footpath

- 23.4 ~~Upon~~On or ~~prior to~~before the last day of the Aftercare Period and subject always to paragraph 9.2 of this Schedule the Owners ~~covenant to~~shall enter into a public path creation agreement pursuant to section 25 of the Highways Act 1980 (substantially in the ~~substantial~~ form of the agreement annexed at Appendix 13) to dedicate their respective interests in the Footpath, the Second Riverside Footpath and the Third Riverside Footpath as a public footpath and, following such dedication, the Owners shall permit use of the same as cycleways and shall co-operate with the Council to formalise use of the same as cycleways as may be necessary.

- 23.5 The dedication of the Second Riverside Footpath shall be subject to:
- 23.5.1 the existing right of the PLA to access ~~["by foot, bicycle or vehicle*,"]~~ **the lighthouse the Beacon Land** over the Second Riverside Footpath ~~*by foot, bicycle or vehicle*~~; and
- 23.5.2 Oldrealm retaining the right at all times (subject to obtaining any necessary consents and orders including, for the avoidance of any doubt, any necessary consent or licence from the PLA as navigation authority) to construct at its own cost across the Second Riverside Footpath an access for all purposes to the river from the Blue Land PROVIDED THAT such access to the river shall be exercised in a manner that does not obstruct the public right of way dedicated over the Second Riverside Footpath.
- 23.6 Veolia covenants at its own expense to procure that a notice of the dedication of the Footpath is recorded on the title to the Brown Land at the Land Registry and the dedication of the Second Riverside Footpath is recorded on the title to the Orange Land, the Green Land and the Blue Land at the Land Registry and dedication of the Third Riverside Footpath is recorded on the title to the Orange Land, the Green Land and the Brown Land at the Land Registry as soon as reasonably practicable after completion of ~~thea~~ public path creation agreement relating to the same and Oldrealm and the PLA hereby consent to the same and will provide all reasonable assistance in connection with the application to register any notices.
- 23.7 Until the last day of the Aftercare Period:
- 23.7.1 Veolia shall maintain the Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath in accordance with the Riverside Footpaths and Footpath Specification Provided That nothing in this paragraph 9.4 shall require Veolia to undertake any works which cannot be performed within the Property and the other Owners and the Council hereby consent to Veolia undertaking such works within the Brown Land, the Blue Land and the Green Land; and
- 23.7.2 the Owners shall permit members of the public access on foot and by bicycle over and along those parts of the Footpath, the Second Riverside Footpath and the Third Riverside Footpath that are within their respective ownerships during daylight hours and subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time Provided That:
- i. in the case of emergency in connection with Veolia's use or operation of the Development or with Veolia's duties to be undertaken in accordance with the Environmental Permit, Veolia's right ~~to~~ temporarily or permanently, to vary, divert or close the same; and
 - ii. Veolia's ability ~~to~~ temporarily or permanently, to vary, divert or close the same if previously agreed with the Council in writing.
- 23.8 In the event that Veolia temporarily or permanently, vary, divert or close the Footpath, the Second Riverside Footpath or the Third Riverside Footpath in accordance with paragraph 9.4.2 (b) (i) of this Schedule 3, Veolia shall notify the Council in writing of the nature of the emergency and the details of any temporary or permanent variation, diversion or closure as soon as is reasonably practicable following the said emergency having arisen.

10 — *Environmental Centre*

- 10.1** ~~*Upon service of the Final Completion Notice and until the end of the Aftercare Period *the Owners* shall make available to the Council, for use as an environmental centre, the Gatehouse (or any alternative building of a similar specification suitable for use as an environmental centre) and during this period *the Owners* shall maintain and repair the Gatehouse (or such alternative building) so as to be fit for purpose Provided That this shall not require the repair of any damage in excess of fair wear and tear caused by the Council, its employees or visitors.*~~

15 ~~44~~-Disposal or creation of interests in the Property

15.1 ~~44.1~~The Owners covenant that prior to the last day of the Aftercare Period, the Owners shall not:

15.1.1 ~~44.1.1~~ dispose of any part of the Owners' respective interests in the Property, save for:

15.1.2 ~~44.1.2~~ create or allow to be created any interests in land or occupational interests or charges over their respective interest in the Property that would materially affect any intended use of that part of the Property to be used as public open space or for uses ancillary to public open space following the last day of the Aftercare Period Provided That the interests to be created in accordance with this Deed shall not be taken to be inconsistent with this obligation.

16 ~~42~~-Duty to co-operate

16.1 ~~42.1~~ Upon the Council's request each Owner shall use reasonable endeavours to facilitate any Party in fulfilling their respective obligations under this Deed including without limitation allowing access without charge or cost onto any of the Owners' respective interests in the Property to enable such obligations to be performed.

16.2 ~~42.2~~ Each Owner hereby covenants with the others and accepts the resulting requirements and restrictions so far as the Council is concerned, that where details of any works or plans are to be provided or consents are required to be obtained by the Owners under this Deed, then those details may be agreed or consents sought by, and only by, either:

16.2.1 ~~42.2.1~~ the holder of the Environmental Permit; or

16.2.2 ~~42.2.2~~ all of the relevant Owners.

Schedule 4

Provisions relating to the option agreements

1 Definitions

1.1 In this Schedule 4, the following expressions shall have the following meanings:

Brown Lease

a lease of the Brown Land to be made between PLA as landlord (1) and the Council as tenant (2) on the following terms:

- a) to exclude the subsoil beneath the Brown Land below a depth from the surface to be specified by Veolia (in consultation agreement with the PLA and the Council) but to include the air above the Brown Land;
- b) to exclude any part or parts of the Brown Land which at the time of completion of the lease is or are being used for the PLA's statutory functions;
- c) to exclude any boreholes, wells and monitoring and control equipment situated on the Brown Land;
- d) to be for a term of 150 years commencing on the date the lease is entered into;
- e) to be granted for a rent of one peppercorn per annum (if demanded);
- f) to be for use only as public open space ~~as more particularly and strictly in accordance with the use~~ identified in the Landscape and Restoration Plan for the Brown Land;
- g) to be granted subject to the Licence (as defined in clause 1.1 of this Deed) in so far as the same is still subsisting;
- h) to be granted subject to and with the benefit of all rights, easements, privileges, restrictions, covenants and stipulations of whatever nature affecting the Brown Land to the extent so demised;
- i) to be granted subject to any leases granted pursuant to Schedule 2;
- j)** to be granted subject to ~~a right of way over the Brown Land along Coldharbour Lane and the route dashed black on Plan 1*~~ in favour of the Beacon Land, the Blue Land, the Green Land and the Orange Land (with or without heavy goods vehicles)* ~~and for services; the right of free and uninterrupted passage and running of water soil gas electricity and all other services or supplies through such conduits as are now or may hereafter be in on or under the Brown Land and serving or capable of serving the Orange Land, the Green Land or the Blue Land together with the right to lay any new conduits in on under or over the Brown Land and to connect into such conduits together also with the right to enter upon the Brown Land to inspect repair maintain or install any such conduits~~
- k)** to be granted subject to rights of way over the Brown Land along the First Access Road, that part of Coldharbour Lane and that part of the route shown dashed black between points C and D on Plan 1 that lie within the Brown Land, and subject to a right to park in the First Car Park, such rights* in favour of the Beacon Land, the Blue Land, the Green Land and the Orange Land (with or without heavy goods vehicles)*;
- l)** ~~k)~~ to reserve to Veolia vehicular rights of access from and to the

Jetty through the premises so demised along that part of Coldharbour Lane and that part of the route shown dashed black on Plan 1 between points C and D on Plan 1 that lie within the Brown Land (with or without heavy goods vehicles);

- m)** ~~l)~~ to reserve to Veolia vehicular rights of access over the Brown Land along ~~Coldharbour Lane and~~ the First Access Road, that part of Coldharbour Lane and that part of the route shown dashed black between points C and D on Plan 1 that lie within the Brown Land, and the right to park in the First Car Park (with or without heavy goods vehicles);
- n)** ~~m)~~ to reserve to Veolia a right of entry through the premises so demised on reasonable prior notice (and without notice in the case of emergency) to the subsoil or any adjoining premises including the Orange Land or the Green Land for the purposes of complying with any statutory requirement; ~~and~~
- o)** ~~n)~~ to reserve to Veolia a right of entry on to the premises so demised on reasonable prior notice (and without notice in the case of emergency) for Veolia to undertake any works necessary to comply with its duties or obligations under the New Planning Permission or Environmental Permit Provided That any damage is promptly made good by Veolia to the standard and condition of the premises immediately prior to entry; ~~and~~
- p)** to reserve to Veolia the right to erect or alter or to consent to the erection or alteration of any building for the time being on any adjoining land or the carrying out of any works or the making of any alterations to the adjoining land notwithstanding that such erection or alteration may diminish the access of light and air to or enjoyed by the Brown Land and the right to deal with any such property as it may think fit.
- q)** ~~o)~~ to reserve the following rights to the PLA:
- i) rights for vehicular access to and egress from that part of Coldharbour Lane that lies within the Brown Land for the benefit of the Beacon Land to enable the PLA to carry out its statutory functions or inspect or maintain any equipment therein or from that part of Coldharbour Lane that lies within the Brown Land along the First Access Road to the sea wall to carry out its statutory functions or inspect or maintain any equipment, piers, pipelines, pipebridges or other works under in or over the Brown Land;
 - ii) the right to retain any equipment, piers, pipelines, pipebridges (including the Pump Ashore Facility) or other works under in or over the Brown Land at the date of the lease and used by the PLA for any of its statutory functions;
 - iii) rights to retain, use, inspect, cleanse, maintain, repair and replace any service media serving land used for the PLA's statutory functions and any equipment, piers, pipelines, pipebridges (including the Pump Ashore Facility) or other works and rights to lay new service media along such reasonable routes as the parties shall agree (both parties acting reasonably); and
 - iv) such other rights as the PLA shall reserve at the date of completion of the lease for the benefit of and which are necessary for the reasonable enjoyment of the Beacon Land Provided That such reservations do not prejudice the future use of the Brown Land as public open space (except

such reservations as are necessary to enable the PLA to carry out its statutory functions as navigation or port authority which shall be permitted notwithstanding any such prejudice).

r) ~~p)~~ to be granted subject to:

- i) the grant to the Environment Agency of rights to be exercised in the future relating to the common sewer and sluice near the north ~~eastern~~western boundary of the Brown Land and vehicular rights of way along the First Access Road to the common sewer and sluice and the river wall together with any rights for service media;
- ii) the Environmental Permit granted to Veolia or any amendment or variation of the same;
- iii) implementation of the New Planning Permission and any amendment or variation of the same;
- iv) any interests in land and occupational interests existing at the date of this Deed, details of which in so far as they are known shall be disclosed by the PLA to the Council;
- v) any other interests created before completion of the lease that do not materially affect the Brown Land's intended use as public open space following the last day of the Aftercare Period (and the PLA shall notify Veolia and the Council of any such interests ~~so~~-created which are within the PLA's actual knowledge); and
- vi) the provisions of this Deed.

s) ~~q)~~ to contain all such reciprocal rights and reservations ~~overin~~ favour of the Orange Land and the Green Land as the parties consider reasonably necessary and which do not materially affect the Property's intended use as public open space;

t) ~~r)~~ to contain a covenant on the part of the Council not to breach the provisions of this Deed, the Licence, or any planning permission, or environmental permits subsisting in respect of the land so demised and a covenant that the Council will enter into a deed of covenant with Veolia or its successors in title to comply with the terms of this Deed, the Licence, any planning permissions, and/or permits authorising the use of such land for waste disposal and to indemnify Veolia and the PLA (save in respect of any negligent acts or omissions of Veolia ~~and~~ or the PLA) against any such breach;

u) ~~s)~~ to contain a covenant on the part of the Council that the Council will not act, suffer or permit a third party to act in a way which would adversely affect the integrity of any engineering, capping, cut off walls, restoration, monitoring or control equipment;

v) ~~t)~~ to contain such other reasonable and appropriate covenants as the PLA requires to protect any land, equipment, lighthouses, piers, pipelines including the Pump Ashore Facility or other works of the PLA used for its statutory functions under in or over the Brown Land or on land excluded from the Brown Land Provided That the same does not materially affect the Brown Land's intended use as public open space;

w) ~~u)~~ to contain a covenant on the part of the Council to maintain warning signs on the river frontage as to the presence of the river as a hazard and such other warning signs as are reasonably required by Veolia relating to restrictions on use of the land as public open space due to the presence of the

restored landfill;

- x) ~~v)~~ to contain a covenant on the part of the Council to obtain and maintain on foot a policy of insurance to be paid for by Veolia covering public liability risks arising from access over, or use of, or the proposed use of the Brown Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and on which the PLA's interest shall be endorsed;
- y) ~~w)~~ to contain an indemnity from the Council to the PLA against all expenses, losses, damage, liability and claims whatsoever for the avoidance of doubt limited to the extent of the leasehold demise (save in respect of any negligent acts or omissions of the PLA ~~and~~ or Veolia) arising from the proposed use of the Brown Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and against the PLA's liability for any breach of the obligations for which the PLA will remain bound after completion of the lease, as well as a covenant ~~for on the part of~~ the Council to observe and perform such obligations;
- z) ~~x)~~ to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of part to any operator of recreational or related facilities identified in the Landscape and Restoration Plan; and
- aa) ~~y)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably and on the same terms as set out in the definition of the Green Lease and the Orange Lease mutatis mutandis.

Green Lease

a lease of the Green Land to be made between Oldrealm as landlord (1) and the Council as tenant (2) on the following terms:

- a) to exclude the subsoil beneath the Green Land below a depth from the surface to be specified by Veolia (in consultation with Oldrealm and the Council) but to include the air above the Green Land;
- b) to exclude any boreholes, wells and monitoring and control equipment situated on the Green Land;
- c) to be for a term of 150 years commencing on the date the lease is entered into;
- d) to be granted for a rent of one peppercorn per annum (if demanded);
- e) to be for use only as public open space ~~or for~~ and strictly in accordance with the uses identified in the Landscape and Restoration Plan for the Green Land;
- f) to be granted subject to the Lease (as defined in clause 1.1 of this Deed in so far as the same is still subsisting);
- g) to be granted subject to and with the benefit of all rights, easements, privileges, restrictions, covenants and stipulations of whatever nature affecting the Green Land;
- h) to be granted subject to any interests in land and occupational interests existing at the date of this Deed, details of which in so far as they are known shall be disclosed by Oldrealm to the Council;
- i) to be granted subject to any leases granted pursuant to Schedule 2;

- i)** to be granted subject to the right of free and uninterrupted passage and running of water soil gas electricity and all other services or supplies through such conduits as are now or may hereafter be in on or under the Green Land and serving or capable of serving the Orange Land, the Brown Land or the Blue Land together with the right to lay any new conduits in on under or over the Green Land and to connect into such conduits together also with the right to enter upon the Green Land to inspect repair maintain or install any such conduits;
- k)** j)-to be granted subject to a right of way over the Green Land along that part of Coldharbour Lane and that part of the route shown dashed black between points C and D on Plan 1 that lie within the Green Land in favour of the Beacon Land, the Blue Land, the Brown Land and the Orange Land (with or without heavy goods vehicles) ~~and for services~~;
- l)** k)-to be granted subject to any other interests created before completion of the lease that do not materially affect the Green Land's intended use as public open space following the last day of the Aftercare Period (and Oldrealm shall notify ~~the~~ Veolia and the Council of any such interests ~~so~~ created which are within Oldrealm's actual knowledge);
- m)** l)-to reserve to Veolia vehicular rights of access from and to the Jetty through the premises so demised along that part of Coldharbour Lane and that part of the route shown dashed black ~~on Plan 1~~ between points C and D on Plan 1 (with or without heavy goods vehicles) that lie within the Green Land;
- n)** m)-to reserve to Veolia a right of entry through the premises so demised to the subsoil or any adjoining premises including the Orange Land or the Brown Land for the purposes of complying with any statutory requirement;
- o)** n)-to reserve to Veolia a right of entry on to the premises so demised on reasonable prior notice (and without notice in the case of emergency) for Veolia to undertake any works necessary to comply with its duties or obligations under the New Planning Permission or Environmental Permit Provided That any damage is promptly made good by Veolia to the standard and condition of the premises immediately prior to entry;
- p)** to reserve to Veolia the right to erect or alter or to consent to the erection or alteration of any building for the time being on any adjoining land or the carrying out of any works or the making of any alterations to the adjoining land notwithstanding that such erection or alteration may diminish the access of light and air to and enjoyed by the Green Land and the right to deal with any such property as it may think fit.
- q)** o)-to contain all such reciprocal rights and reservations ~~overin~~ favour of the Orange Land and the Brown Land as the parties consider reasonably necessary and which do not materially affect the Property's intended use as public open space;
- r)** p)-to contain a covenant on the part of the Council not to breach the provisions of any planning permission, this Deed, the Lease, or any planning permission or environmental permits subsisting in respect of the land so demised and a covenant that the Council will enter into a deed of covenant with Veolia or its successors in title to comply with the terms of ~~the planning permission,~~ this Deed, the Lease, any planning permissions,

and/or ~~the permit~~permits authorising the use of such land for waste disposal and to indemnify Veolia and Oldrealm (save in respect of any negligent acts or omissions of Veolia ~~and/~~ or Oldrealm) against any such breach;

- s) ~~q)~~ to contain a covenant that the Council will not act, suffer or permit a third party to act in a way which would adversely affect the integrity of any engineering, capping, cut off walls, restoration, monitoring or control equipment;
- t) ~~r)~~ to contain a covenant on the part of the Council to maintain warning signs on the river frontage as to the presence of the river as a hazard and such other warning signs as are reasonably required by Veolia relating to restrictions on use of the land as public open space due to the presence of the restored landfill;
- u) ~~s)~~ to contain a covenant on the part of the Council to obtain and maintain on foot a policy of insurance to be paid for by Veolia covering public liability risks arising from access over, or use of, or the proposed use of the Green Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and on which Oldrealm's interest shall be endorsed;
- v) ~~t)~~ to contain an indemnity from the Council to Oldrealm against all expenses, losses, damage, liability and claims whatsoever (save in respect of any negligent acts or omissions of Oldrealm ~~and/~~ or Veolia) arising from the proposed use of the Green Land for the avoidance of doubt limited to the extent of the leasehold demise by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and against Oldrealm's liability for any breach of the obligations for which Oldrealm will remain bound after completion of the lease, as well as a covenant ~~for~~on the part of the Council to observe and perform such obligations;
- w) ~~u)~~ to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of part to any operator of recreational or related facilities identified in the Landscape and Restoration Plan; and
- x) ~~v)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably and on the same terms as set out in the definition of the Brown Lease and the Orange Lease mutatis mutandis.

Jetty Licence

the riverworks licence in respect of the Jetty granted to Veolia by the PLA on 14 December 1983

Orange Lease

a lease of the Orange Land to be made between Veolia as landlord (1) and the Council as tenant (2) on the following terms:

- a) to exclude the subsoil beneath the Orange Land below a depth from the surface to be specified by Veolia (in consultation with the Council) but to include the air above the Orange Land;
- b) to exclude any boreholes, wells and monitoring and control equipment situated on the Orange Land;
- c) to be for a term of 150 years commencing on the date the lease is entered into;
- d) to be granted for a rent of one peppercorn per annum (if demanded);

- e) to be for use only as public open space ~~or for~~ **and strictly in accordance with** the uses identified in the Landscape and Restoration Plan for the Orange Land;
- f) to be granted subject to any interests in land and occupational interests existing at **the date of** this Deed, details of which in so far as they are known shall be disclosed by Veolia to the Council;
- g) to be granted subject to any leases granted pursuant to Schedule 2;
- h) to be granted subject to the right of free and uninterrupted passage and running of water soil gas electricity and all other services or supplies through such conduits as are now or may hereafter be in on or under the Orange Land and serving or capable of serving the the Brown Land, the Green Land or the Blue Land together with the right to lay any new conduits in on under or over the Orange Land and to connect into such conduits together also with the right to enter upon the Orange Land to inspect repair maintain or install any such conduits**
- i) ~~h)~~ to be granted subject to a right of way over the Orange Land along that part of Coldharbour Lane ~~and the route dashed black on Plan 1~~ that lies within the Orange Land in favour of the Beacon Land, the Blue Land, the Green Land and the Brown Land (with or without heavy goods vehicles) ~~and for services~~;**
- i) ~~i)~~ to be granted subject to and with the benefit of all rights, easements, privileges, restrictions, covenants and stipulations of whatever nature affecting the Orange Land;**
- k) ~~j)~~ to be granted subject to any other interests created before completion of the lease that do not materially affect the Orange Land's intended use as public open space following the last day of the Aftercare Period (and Veolia shall notify the Council of any such interests ~~so~~ created which are within Veolia's actual knowledge);**
- l) ~~k)~~ to reserve to Veolia vehicular access rights from and to the Jetty through the premises so demised along that part of Coldharbour Lane ~~and the route dashed black on Plan 1~~ that lies within the Orange Land (with or without heavy goods vehicles);**
- m) ~~l)~~ to reserve to Veolia a right of entry through the premises so demised to the subsoil or any adjoining premises including the Green Land or the Brown Land for the purposes of complying with any statutory requirement;**
- n) ~~m)~~ to reserve to Veolia a right of entry on to the premises so demised on reasonable prior notice (and without notice in the case of emergency) for Veolia to undertake any works necessary to comply with its duties or obligations under the New Planning Permission or Environmental Permit Provided That any damage is promptly made good by Veolia to the standard and condition of the premises immediately prior to entry;**
- o) to reserve to Veolia the right to erect or alter or to consent to the erection or alteration of any building for the time being on any adjoining land or the carrying out of any works or the making of any alterations to the adjoining land notwithstanding that such erection or alteration may diminish the access of light and air to and enjoyed by the Orange Land and the right to deal with any such property as it may think fit.**

- p) ~~n)~~ to contain all such reciprocal rights and reservations ~~over in~~ **favour of** the Green Land and the Brown Land as the parties consider reasonably necessary and which do not materially affect the Property's intended use as public open space;
- q) ~~e)~~ to contain a covenant on the part of the Council not to breach the provisions of any planning permission, this Deed, or environmental permits subsisting in respect of the land so demised and a covenant that the Council will enter into a deed of covenant with Veolia or its successors in title to comply with the terms of the planning permission, this Deed, and/or the permit authorising the use of such land for waste disposal and to indemnify Veolia (save in respect of any negligent acts or omissions of Veolia) against any such breach;
- r) ~~p)~~ to contain a covenant **on the part of the Council** that the Council will not act, suffer or permit a third party to act in a way which would adversely affect the integrity of any engineering, capping, cut off walls, restoration, monitoring or control equipment;
- s) ~~q)~~ to contain a covenant on the part of the Council to maintain warning signs on the river frontage as to the presence of the river as a hazard and such other warning signs as are reasonably required by Veolia relating to restrictions on use of the land as public open space due to the presence of the restored landfill;
- t) ~~r)~~ to contain a covenant on the **part of the** Council to obtain **and maintain on foot** a policy of insurance to be paid for by Veolia covering public liability risks arising from access over, or use of, or the proposed use of the Orange Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and on which Veolia's interest shall be endorsed;
- u) ~~s)~~ to contain a covenant on the part of the landlord to procure a policy of insurance covering potential pollution and environmental risks associated with the waste deposited by Veolia underneath the land to be demised to the tenant under the Brown Lease, the Green Lease and the Orange Lease as well as for public liability arising from any such pollution or environmental risks, **such covenant to be expressed to be for the benefit of and enforceable by the owner(s) for the time being of the Brown Land and the Green Land as envisaged by the Contracts (Rights of Third Parties) Act 1999;**
- v) ~~t)~~ to contain an indemnity from the Council to Veolia against all expenses, losses, damage, liability and claims whatsoever for the avoidance of doubt limited to the extent of the leasehold demise (save in respect of any negligent acts or omissions of Veolia) arising from the proposed use of the Orange Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and against Veolia's liability for any breach of the obligations for which Veolia will remain bound after completion of the lease, as well as a covenant ~~for~~ **on the part of** the Council to observe and perform such obligations;
- w) ~~u)~~ to contain a covenant on the part of the landlord not ~~to~~ unreasonably **to** withhold or delay consent for underletting of part to any operator of recreational or related facilities identified in the Landscape and Restoration Plan; and

- x) ~~v)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably and on the same terms as set out in the definition of the Green Lease and the Brown Lease mutatis mutandis.

Zone A and Car Parking Lease

a lease of Zone A and either Zone B or Zone E (as the case may be) made between the relevant Owner as landlord (1) and the Council as tenant (2) to be made on the following terms:

- (a) to exclude the subsoil beneath Zone A and either Zone B or Zone E (as the case may be) below a depth from the surface to be specified by Veolia (in consultation with Oldrealm and the Council) but to include the air above Zone A and either Zone B or Zone E (as the case may be);
- (b) ~~contains~~ to contain a right for the relevant Owner in the event that the Council does not subsequently enter into the Brown Lease, the Green Lease and the Orange Lease on or before the Call Date (as defined at paragraph 1.4 of this Schedule), to determine the Zone A and Car Parking Lease on service by the relevant Owner of not less than one month's notice on the Council and providing that on expiry of such notice the Zone A and Car Parking Lease shall determine and cease to be of effect subject to any subsisting rights or liabilities and also subject to any subsisting interests created prior to 31 December 2031;
- (c) to be for a term of 150 years commencing on the date such lease is entered into;
- (d) to be granted for a rent of one peppercorn per annum (if demanded);
- (e) to be for a permitted use in Zone A as a visitor centre and in Zone B or Zone E as a car park to serve the visitor centre in Zone A;
- (f) to be granted subject to any leases granted pursuant to Schedule 2;
- (g) to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of the whole to any operator of recreational or related facilities identified in the Landscape and Restoration Plan;
- (h) where not inconsistent with paragraphs (a) to (g) above, to contain the same terms as set out in the definition of the Green Lease and the Orange Lease, or the definition of the Orange Lease as the case may be; and
- (i) ~~(h)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably.

Zone C Lease

a lease of Zone C made between the relevant Owner as landlord (1) and the Council as tenant (2) to be made on the following terms:

- (a) to exclude the subsoil beneath Zone C below a depth from the surface to be specified by Veolia (in consultation with the Council) but to include the air above Zone C;
- (b) contains a right for relevant Owner in the event that the Council does not subsequently enter into the Brown Lease, the Green Lease and the Orange Lease on or before the Call Date (as defined at paragraph 1.4 of this Schedule), to determine the Zone C Lease on service by the relevant Owner of not less than one month's notice on the Council and providing that on expiry

of such notice the Zone C Lease shall determine and cease to be of effect subject to any subsisting rights or liabilities and also subject to any subsisting interests created prior to 31 December 2031;

- (c) to be for a term of 150 years commencing on the date such lease is entered into;
- (d) to be granted for a rent of one peppercorn per annum (if demanded);
- (e) to be for a permitted use as water sports facilities and recreational facilities;
- (f) to be granted subject to any leases granted pursuant to Schedule 2;
- (g) to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of the whole to any operator of recreational or related facilities identified in the Landscape and Restoration Plan;
- (h) where not inconsistent with paragraphs (a) to (g) above, to contain the same terms as set out in the definition of the Orange Lease;** and
- (i)** ~~(h)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably.

Zone D Lease

a lease of Zone D made between Veolia as landlord (1) and the Council as tenant (2) to be made on the following terms:

- (a) to exclude the subsoil beneath Zone D below a depth from the surface to be specified by Veolia (in consultation with the Council) but to include the air above Zone D;
- (b) ~~contains to~~ **contain** a right for Veolia, in the event that the Council does not subsequently enter into the Brown Lease, the Green Lease and the Orange Lease on or before the Call Date **(as defined at paragraph 1.4 of this Schedule)**, to determine the Zone D Lease on service by Veolia of not less than one month's notice on the Council and providing that on expiry of such notice the Zone D Lease shall determine and cease to be of effect subject to any subsisting rights or liabilities and also subject to any subsisting interests created prior to 31 December 2031;
- (c) to be for a term of 150 years commencing on the date such lease is entered into;
- (d) to be granted for a rent of one peppercorn per annum (if demanded);
- (e) to be for a permitted use as recreational facilities;
- (f) to be granted subject to any leases granted pursuant to Schedule 2;
- (g) to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of the whole to any operator of recreational or related facilities identified in the Landscape and Restoration Plan;
- (h) where not inconsistent with paragraphs (a) to (g) above, to contain the same terms as set out in the definition of the Orange Lease;** and
- (i)** ~~(h)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed

between the parties acting reasonably.

1.2 Subject to paragraph 1.4 of this Schedule 4, upon the Council so requesting the Owners by written notice on or before 31 December 2030:

1.2.1 the Owners will ~~procure the grant of~~ option agreements to the Council on the following terms for the Brown Lease, the Green Lease and the Orange Lease:

- i) Veolia shall at its own cost and following completion of the Restoration Works commission an independent review, the scope of which shall first be agreed in writing by the Council and Veolia, of the effectiveness of the Restoration Works and Veolia shall provide the said review to the Council on or before 30 June 2031;
- ii) the Council's exercise of the options shall be entirely at the Council's discretion;
- iii) the options shall, if exercised, only be exercisable simultaneously and shall only be exercised on or before 31 October 2031;
- iv) the options shall each contain a term requiring completion of the relevant lease pursuant to the option on or before the end of the Aftercare Period, after which the exercise of the option shall be of no effect;
- v) the consideration for entering into each option shall not exceed one pound (£1.00) in each case;
- vi) there shall be annexed to the option agreements draft forms of the Brown Lease, the Green Lease and the Orange Lease and on the exercise of the options the Brown Lease, the Green Lease and the Orange Lease shall be completed ~~in accordance~~ substantially in the form of the drafts annexed to the option agreements;
- vii) the leases shall be completed simultaneously and only on or before the end of the Aftercare Period, after which the exercise of the options shall be of no effect; and
- viii) all other terms shall be agreed between the parties acting reasonably and in good faith towards each other.

1.2.2 Veolia will use reasonable endeavours up to the last day of the Aftercare Period to assist the Council in securing a Riverworks Licence to use the Jetty (subject to Veolia's Jetty Licence to use the Jetty for waste management purposes) and, so far as it lawfully may, the PLA undertakes that upon the Council's application to acquire the Jetty it will not unreasonably refuse to grant a Riverworks Licence.

1.2.3 Veolia and Oldrealm will use reasonable endeavours to procure the grant of an option for the transfer of such interest (if any) as may be held by Veolia and/or Oldrealm in the Yellow Land by Veolia and/or Oldrealm as transferor to the Council as transferee on the following terms:

- i) the Council shall be permitted to assign the benefit of the option subject to Veolia's and Oldrealm's prior written consent, such consent not to be unreasonably withheld or delayed;
- ii) the option shall only be exercised on or before 31 October 2031 and shall contain a term requiring completion of the transfer pursuant to the option on or before the end of the Aftercare Period, after which the purported exercise of the option shall be of no effect;
- iii) the consideration for entering into the option and completing the transfer shall not exceed one pound (£1.00) in each case;
- iv) the transfer shall contain a covenant that the Yellow Land shall not be used otherwise than as public open space for the purpose of nature conservation; and

- v) the Council shall raise no requisition or objection in respect of the lack of documentary title to the Yellow Land and no covenants for title shall be requested by or provided to the Council in respect of the Yellow Land.
- 1.3 Upon the Council so requesting the relevant Owners by written notice on or before 31 December 2030, the relevant Owners will use reasonable endeavours to procure the grant of leases to the Council for the Zone A and Car Parking Lease; and/ or the Zone ~~BC~~ Lease; and/ or the Zone D Lease (as the case may be) Provided That the said leases shall be completed on or before the end of the Aftercare Period.
- 1.4 In the event that the Council enters into the lease(s) referred to at paragraph 1.3 of this Schedule 4, the Council shall only be entitled to request the Owners to procure the grant of option agreements to the Council for the Brown Lease, the Green Lease and the Orange Lease ~~within seven (7) years of the first request made in accordance with paragraph 1.3 of this Schedule 4 or by 31 December 2022 if earlier (Call Date) by the Call Date~~ Provided That, in the event that it would otherwise have fallen earlier, Veolia shall have absolute discretion to extend the Call Date up to 31 December 2030 which may be so extended by written notice served upon the Council.
- 1.5 In the event that the Council does not enter into the Brown Lease, the Green Lease and the Orange Lease on or before the end of the Aftercare Period, Veolia shall be entitled to call upon the PLA and Oldrealm to procure the grant of the Brown Lease and the Green Lease respectively to a tenant not being the Council, whereupon the PLA, Oldrealm and Veolia shall use reasonable endeavours to procure the simultaneous grant of the Brown Lease, the Green Lease and the Orange Lease to such a tenant and for the avoidance of doubt the PLA and/or Oldrealm shall be entitled to refuse to grant the same but only on the Grounds for Refusal.**
- 1.6 Veolia shall meet the reasonable and proper legal fees of the PLA and Oldrealm incurred in entering into the options and leases required by this Schedule 4.**

Schedule 5

Covenants by the Council

1 Issue of New Planning Permission

- 1.1 The Council shall issue the New Planning Permission to Veolia within 7 days of the date hereof.

2 Enforcement of Obligations

- 2.1 The Subject to paragraph 2.4 below the Council shall not enforce the planning obligations on the part of the Owners (or any of them) contained in this Deed otherwise than as set out below:

2.1.1 in relation to any planning obligation restricting the use of the Property and made pursuant to section 106(1)(a) of the Act, the Council shall be entitled, at any time, to take such legal proceedings enforcement action or to seek an injunction in relation to any breach or non-compliance with any such planning obligation pursuant to section 106(5) of the Act against the Owner of the respective interest in the Property to which the breach or non-compliance applies; and

2.1.2 in relation to any planning obligation made pursuant to section 106(1)(b) and (c) of the Act the Council shall first seek to enforce such obligations against Veolia.

- 2.2 If the Council are unable to enforce any planning obligation as provided for in paragraph 2.1 of this Schedule 5 then the Council may at its discretion use its powers of entry under section 106(6) of the Act to enter on to the relevant part of the Owners' Property to carry out the relevant specified operation or activity or to enable the land to be used in the specified way and shall seek to recover its costs of so doing directly from Veolia.

- 2.3 On or before the last day of the Aftercare Period, the Council shall be entitled to recover any expenses reasonably incurred by it in enforcing planning obligations in accordance with paragraphs 2.1 and 2.2 of this Schedule 5 by calling upon the Bond with written evidence of its costs so incurred, save in respect of those planning obligations in this Deed which relate to the restoration of the Property in accordance with the Environmental Permit (including, but not exhaustively, monitoring of restoration measures, maintaining and monitoring of extraction of gas and leachate, and engineering works for installing the capping and restoration layer with associated landscaping works) Provided That the same are fully discharged in accordance with the requirements of the Environment Agency or any successor body carrying out its principal functions.

- 2.4 The Notwithstanding paragraphs 2.1, 2.2 and 2.3 above the Council shall not be entitled, in any circumstances whatsoever, to seek to recover costs from the PLA or Oldrealm in relation to any non-compliance with the obligations in this Agreement with respect to operations or activities carried out or to the use enabled, on the Property.

3 Owner Assistance

- 3.1 Subject to clause 9 of this Deed, the Council covenants and undertakes with the Owners:

3.1.1 Upon written request, and subject to being indemnified in relation to any costs, expenses or liabilities incurred by the Council (acting reasonably) as a direct consequence, to assist any Owner in ensuring that all Owners comply with the covenants, obligations and restrictions on the part of the Owners contained in this Deed; and

3.1.2 Upon written request, and subject to being indemnified in relation to any costs, expenses or liabilities incurred by the Council (acting reasonably) as a direct consequence, to use such statutory or other powers as it may have to assist the Owners in carrying out the covenants, obligations and restrictions on the part of the Owners contained in this Deed.

4 Certification for Creation of Interests

- 4.1 The Council shall on any written request from the Owners, or any one of them, certify whether or not they believe the creation of an interest in land or occupational interest or charge would materially affect any intended use of that part of the Property over which the creation of an interest in land or occupational interest or charge is proposed as public open space or for uses ancillary to public open space following the last day of the Aftercare Period and, if such a certificate is given that there would be no such material effect, that shall be conclusive for the purposes of this Deed and in particular for determining that the creation of the interest in land or occupational interest or charge has not resulted in a breach of the provisions of paragraph 9 of Schedule 3 to this Deed.

5 Approval of Operator

- 5.1 The Council shall propose the Operator to Veolia by providing the following matters (or such other matters as requested by Veolia) to Veolia in writing for Veolia's approval (which approval, for the avoidance of doubt, Veolia shall be entitled to refuse but only on the Grounds for Refusal):
- 5.1.1 evidence of the Operator's financial standing, including their audited annual accounts for the last three years;
 - 5.1.2 at least one reference confirming the Operator's acceptability as a tenant of the nature proposed and, where applicable, such reference shall be provided by a person or body who is a current landlord of the tenant; and
 - 5.1.3 details of the Operator's proposals for the design, construction and operation of the Car Parking Area, the Recreational Facilities, the Visitor Centre or the Water Sports Facility as the case may be.

6 Maintenance of the Footpath, the Second Riverside Footpath and the Third Riverside Footpath

- 6.1 Provided that Veolia has substantially complied with its covenant to maintain the Footpath, the Second Riverside Footpath and the Third Riverside Footpath in accordance with paragraph 9.4.1 of Schedule 3 of this Deed, the Council covenants to enter into a public path creation agreement pursuant to section 25 of the Highways Act 1980 (substantially in the ~~substantial~~ form of the agreement annexed at Appendix 13) to accept the Owners' dedication of the same as public footpaths and to covenant to the Owners that the Council shall maintain the same and, following such dedication, the Council shall permit their use as cycleways and shall co-operate with the Owners to formalise their use as cycleways as may be necessary.

Appendix 1
Plan 1 – The Property

Appendix 2

Plan 2 – First Access Road, First Car Park, First Riverside Footpath, Footpath, Second Riverside Footpath, Coldharbour Lane and Second Car Park

Appendix 3
Plan 3 – Restoration Concept

Appendix4
Plan 4 – Zone Access Plan

Appendix 5
Plan 5 – Phasing Sequence

Appendix6

Plan 6 – Advance Routes Specification (Kissing Gate Specification)

Appendix7

Plan 7 – Advance Routes Specification (Footpath Specification)

Appendix8
Plan 8 – Advance Routes Specification (Fence Specification)

Appendix9
Riverside Footpaths and Footpath Specification

In this specification the term “major damage” shall be taken to mean that the condition of the path would present a health or safety risk to members of the public using the path or would cause the path to be inaccessible to wheelchair users.

The Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath shall be maintained in accordance with the principles and objectives set out below:

1 Mowing

Mowing of the verges to a width of 1m at each side of the footpaths shall be carried out at regular intervals during the growing season to ensure that an even grass covering is maintained and reeds, brambles and shrubs etc are not allowed to encroach onto the path.

2 Inspections and Weed Control

Visual inspections shall be carried out at the time of mowing to determine if weeds etc. are growing in the footpath or through the macadam surface. Where such growth is identified, spraying with appropriate weed killer shall be carried out to prevent further deterioration.

3 Repairs to major damage to the Footpath and the First Riverside Footpath

Where major damage to these footpaths occurs, the path shall be closed if deemed a hazard to pedestrians and the damaged area reconstructed with 100mm of Type 1 sub-base and a 40mm macadam wearing course.

4 Repairs to major damage to the Second and the Third Riverside Footpaths

Where major damage to these footpaths occurs, the path shall be closed if deemed a hazard to pedestrians and the footpath reconstructed with a minimum of 200mm Type 6F2 (if the stabilised layer is damaged), 100mm of Type 1 sub-base and a 40mm macadam wearing course.

Appendix10
New Planning Permission

Appendix11
Form of Deed of Grant

20112014[]

Deed of Grant

of rights of access relating to land at Rainham, Essex

Oldrealm Limited ⁽¹⁾

London Borough of Havering ⁽²⁾

The Port of London Authority ⁽³⁾

Veolia ES Cleanaway (UK) Limited ⁽⁴⁾

DRAFT

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2 Grant.....	3
3 No Dedication and Conditions.....	3

DRAFT

DATED

20142014[]

PARTIES

- (1) OLDREALM LIMITED (company number 1960419) whose registered office is situated at Kinetic Centre, Theobold Street, Borehamwood, Hertfordshire, WD6 4PJ (**Oldrealm**).
- (2) THE MAYOR & BURGESSES of the LONDON BOROUGH OF HAVERING of Town Hall, Main Road, Romford, Essex, RM1 3BB (**Council**).
- (3) THE PORT OF LONDON AUTHORITY whose principal office is situated at London River House, Royal Pier Road, Gravesend, Kent, DA12 2BG (**PLA**).
- (4) VEOLIA ES CLEANAWAY (UK) LIMITED (company number 806128) whose registered office is situated at Veolia House, 154A Pentonville Road, London, N1 9PE (**Veolia**).

BACKGROUND

- (A) This Deed is made pursuant to the S.106 Agreement.
- (B) The Council is, and enters into this Deed as, the local planning authority for the area in which the Development is situated.
- (C) The Council has granted the Planning Permission for the Development.
- (D) Oldrealm is the freehold owner of the Green Land.
- (E) The PLA is the freehold owner of the Brown Land.
- (F) Veolia is the freehold owner of the Orange Land and has a leasehold interest in the Green Land and an interest in the Brown Land as licensee.
- (G) The Grantors have agreed to allow the public access to the Public Routes owned by the Grantors as set out below.
- (H) This Deed is made pursuant to Section 106 of the Town and Country Planning Act 1990 and shall bind those elements of the Property upon which the Public Routes are from time to time provided and the obligations shall be enforceable by the Council as local planning authority for the area.
- (I) References to "the Grantors" in Clause 2 are references to Veolia and either Oldrealm or the PLA as the case may be being the person who is the freeholder of the land referred to in the relevant sub-clause of Clause 3.

NOW THIS DEED WITNESSETH as follows:

1 Definitions and interpretation

1.1 In this Deed the words below have the meanings next to them unless the context requires otherwise:

Brown Land the freehold land on the south west side of Coldharbour Lane, Rainham forming part of the land registered at the Land Registry under title number EGL 510484 and shown coloured brown on Plan 1.

Coldharbour Lane ~~that the unadopted~~ part of Coldharbour Lane ~~as shown by~~ between points A, B and C, shown for the purposes of identification only by black dashed ~~black~~ lines on Plan 2.

Council ~~the Mayor and Burgesses of the London Borough of Havering of Town Hall, Main Road, Romford, Essex RM1 3BB~~

Development the development of the Property in accordance with the Planning Permission.

Environmental Permit	the variation, number EPR/EP 3136GK/V 002, to environmental permit number EPR/EP 3136GK 3136GK/V002, issued to Veolia by the Environment Agency permitting the recontouring of the landfill site at the Property.
First Access Road	the access road from Coldharbour Lane to the First Car Park shown by red dashed lines on Plan 2.
First Car Park	the car park situated on the Brown Land shown coloured red on Plan 2.
Grantors	Oldrealm, PLA and Veolia.
Green Land	the freehold land at Coldharbour Lane, Rainham registered at the Land Registry comprising the whole of title number EGL 111270 and part of title number EGL 182072 and shown coloured green on Plan 1.
Landscape and Restoration Plan	the masterplan to be submitted to the Council to establish the landscape and restoration outcomes as part of the Development.
Orange Land	the freehold land at Coldharbour Lane, Rainham registered at the Land Registry under title number EGL 232704 shown coloured orange on Plan 1.
Plan 1	the plan marked Plan 1 and annexed to this Deed at Appendix 1.
Plan 2	the plan marked Plan 2 and annexed to this Deed at Appendix 2.
Planning Permission	a Planning Permission dated [] reference number [].
Property	the Orange Land, the Green Land and the Brown Land together known as land at Rainham Landfill Site, Coldharbour Lane, Rainham shown for the purposes of identification only edged red on Plan 1.
Restoration Works	these works to restore the Property in accordance with the Planning Permission and the Landscape and Restoration Plan.
Section 106 Agreement	a Section 106 Agreement between the Council, Veolia, the PLA, Oldrealm and the National Westminster Bank Plc dated [].

2 Grant

2.1 Subject always to Clause 3, the Grantors hereby grant the following rights in perpetuity:

- 2.1.1 to the public to pass and repass during daylight hours by private car, bicycle or on foot along those parts of the First Access Road that are within their respective ownerships and to park private vehicles in the First Car Park subject to such restrictions as ~~Veolia~~ the Grantors and the Council shall agree in writing from time to time; and

2.1.2 to the public to pass and repass during daylight hours by ~~private car or bicycle~~ along those parts of Coldharbour Lane that are within their respective ownerships subject to such restrictions as ~~Veolia~~ the Grantors and the Council shall agree in writing from time to time.

3 No Dedication and Conditions

3.1 The Grantors hereby declare that this Deed is not a dedication of any right of way and that the access permitted hereunder shall be subject to:

3.1.1 in the case of emergency in connection with Veolia's use or operation of the Development or with Veolia's duties to be undertaken in accordance with the Environmental Permit, Veolia's right ~~to~~ temporarily or permanently, to vary, divert or close the same or any part thereof; and

3.1.2 Veolia's ability ~~to~~ temporarily or permanently, to vary, divert or close the same or any part thereof if previously agreed with the Council in writing.

3.2 The Grantors hereby give notice pursuant to the Highways Act 1980 Section 31(5) that the First Access Road, the First Car Park and Coldharbour Lane have not been dedicated to the public, nor is their use with permission to be taken in any way as an indication of an intention by the Grantors to dedicate the same to the public. The Grantors ~~shall be entitled~~ reserve the right to erect a notice to ~~such that~~ effect.

3.3 The permission and rights contained in this Deed shall only be exercised and are only made available for the use by members of the public for the purposes of recreation and the enjoyment of open space.

Any use of the First Access Road, the First Car Park or Coldharbour Lane hereby permitted shall only be allowed to the extent that such use is in accordance with the Landscape and Restoration Plan.

THE COMMON SEAL of **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF HAVERING** was hereunto affixed in the presence of:)
)
)
)

Authorised Person

Authorised Person

THE COMMON SEAL of **OLDREALM LIMITED** was hereunto affixed in the presence of:)
)
)
)

Authorised Person

Authorised Person

EXECUTED AS A DEED BY VEOLIA ES CLEANAWAY (UK) LIMITED acting by 2 Directors or a director/its secretary)
)
)

Director

Director/Secretary

THE COMMON SEAL of **PORT OF LONDON AUTHORITY** was hereunto affixed in the presence of:)
)
)
)

Authorised Person

Authorised Person

**Appendix12
Form of Bond**

BY THIS BOND

[] whose registered office is situated at []
(**Surety**) is held and firmly bound to the London Borough of Havering (**Council**) in the sum of £1,071,242 (ONE MILLION, SEVENTY ONE THOUSAND, TWO HUNDRED AND FORTY TWO POUNDS) to be paid to the Council for the payment of which sum the Surety binds itself and its successors.

EXECUTED and **DELIVERED** as a Deed this day of 2014

WHEREAS

- (A) By an agreement under section 106 and section 106A of the Town and Country Planning Act 1990 dated [] and made between the Council (1) Veolia ES Cleanaway (UK) Limited (**Veolia**) (2) Port of London Authority (3) Oldrealm Limited (4) and National Westminster Bank Plc (5) (**Agreement**) Veolia are required to carry out specified operations and activities, and to enable the land at Rainham Landfill Site, Coldharbour Lane, Rainham Essex to be used in ways specified in and required by the Agreement, which include works to restore the said land and permit public access over it (**Works**).
- (B) By the provisions of the Agreement Veolia contracted to provide a Bond to secure the performance of the Works, save in respect of restoration works which are required to be completed in accordance with an Environmental Permit reference number EPR/EP 3136GK/V002 (and subject to the extent that Veolia discharges the restoration requirements of the Environmental Permit), and such Works shall be referred to in this Bond as **Bond Works**.

NOW THIS DEED WITNESSETH as follows:

1. The Surety is hereby bound to the Council in the sum of £1,071,242 (ONE MILLION, SEVENTY ONE THOUSAND, TWO HUNDRED AND FORTY TWO POUNDS) (**Bond Figure**).
2. The Surety shall in the event of any breach or non-observance of any of the terms or covenants to undertake and complete the Bond Works on the part of Veolia contained in the Agreement pay to the Council on demand such sum of money as the Council reasonably certifies was necessary to complete the Bond Works Provided That:
 - 2.1 Before recovering any sum from the Bond Figure the Council shall first be required to follow the procedure referred to at Schedule 5 of the Agreement; and
 - 2.2 The total sums payable by the Surety shall not exceed the Bond Figure.
3. The rights of the Council and the obligation of the Surety shall not be prejudiced or affected by any extension of time, indulgence, forbearance or concession given to Veolia or by virtue of any modification or variation of the terms of the Agreement or by any assertion of or failure to assert any right or remedy against Veolia or by the administration, receivership, insolvency, liquidation, dissolution, reconstruction, amalgamation, incapacity or other change of Veolia.
4. It is hereby agreed and declared that, to the extent not previously called upon, the Council shall release the Surety from this Bond on the last day of the Aftercare Period (as defined in the Agreement).
5. Reference wherever it appears in this Deed to Veolia shall include its respective successors in title and references to the Council and the Surety shall include their respective statutory successors.

THE COMMON SEAL of
{SURETY}
was hereunto affixed in the
presence of:

)
)

Authorised Person

Authorised Person

**EXECUTED AS A DEED BYVEOLIA ES
CLEANAWAY (UK) LIMITED** acting by
two Directors or a director/its secretary

)
)
)

Director

Director/Secretary

The Common Seal of **THE
MAYOR AND BURGESSES
OF THE LONDON BOROUGH
OF HAVERING** was hereunto
Affixed in the presence of:

Authorised person

Authorised person

Appendix13
{Form of Public Path Creation Agreement}

Appendix 15
Schedule of Condition – Zone A

APPENDIX 16
Schedule of Condition – Zone C

APPENDIX 17
Schedule of Condition – Zone D

THE COMMON SEAL of **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF HAVERING** was hereunto affixed in the presence of:)
)
)
)

Authorised Person

Authorised Person

EXECUTED AS A DEED BYVEOLIA ES CLEANAWAY (UK) LIMITED acting by two Directors or a director/its secretary)
)
)

Director

Director/Secretary

THE COMMON SEAL of **THE PORT OF LONDON AUTHORITY** was hereunto affixed in the presence of:)
)
)

Authorised Person

Authorised Person

THE COMMON SEAL of **OLDREALM LIMITED** was hereunto affixed in the presence of:)
)
)

Authorised Person

Authorised Person

THE COMMON SEAL of
NATIONAL WESTMINSTER BANK PLC
was hereunto affixed in the
presence of:

)
)

Authorised Person

Authorised Person

Input:	
Document 1 ID	interwovenSite://DMSBRI1/4A-BRISTOL/3137653/42
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Description	#3137653v49<4A-BRISTOL> - Draft s106 Agreement
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Legend:	
<u>Insertion</u>	
Deletion	
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Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
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Deletions	237
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Moved to	7
Style change	0
Format changed	0
Total changes	512

REGULATORY SERVICES COMMITTEE

17 July 2014

REPORT

Subject Heading:

P1583.13 - Land Adj 32 Hamilton Avenue,
Romford - New 3 bedroom dwelling
(received 21/01/14; amended plans
received 17/03/14)

Report Author and contact details:

Suzanne Terry
Interim Planning Manager
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 is put before Members as there are a number of issues to be balanced as detailed in the report. . The application proposes the erection of 3-bed two-storey end of terrace dwelling with associated parking. The planning issues are set out in the report below and cover the principle of the development,

impact on streetscene, residential amenity and highways/parking. 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

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 the increase in the internal gross floor area which amounts to 45.3m² and equates to a Mayoral CIL payment of £906.

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 £6,000 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, 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, 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 layout: Notwithstanding the details submitted, before the building hereby permitted is first occupied, details of the parking layout shall be submitted to and approved in writing by the Local Planning. Provision shall be made for 3 off-street car parking spaces 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/or 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. 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.

8. 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.

9. 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.

10. 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. 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

13. Soil testing: Before any part of the development is occupied, site derived soils and/or imported soils shall be tested for chemical contamination, and the results of this testing together with an assessment of suitability for their intended use shall be submitted and approved in writing by the Local Planning Authority. Without prejudice to the generality of the foregoing, all topsoil used for gardens and/or landscaping purposes shall in addition satisfy the requirements of BS 3882:2007 "Specification of Topsoil".

Reason: To ensure that the occupants of the development are not subject to any risks from soil contamination in accordance with Development Control Policies Development Plan Document Policy DC53.

14. 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.

15. 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.

16. Sound insulation: The building(s) shall be so constructed as to provide sound insulation of 45 DnT,w + Ctr dB (minimum value) against airborne noise to the satisfaction of the Local Planning Authority.

Reason: To prevent noise nuisance to adjoining properties.

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. Pursuant to the provisions of the National Planning Policy Framework responsibility for securing a safe development rests with the developer and/or landowner. It is recommended that a watching brief is implemented for the presence of any land contamination throughout the life of the development. In the event that contamination is found at any time when carrying out the development it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must then be undertaken and where remediation is necessary a remediation scheme must be prepared, implemented and verified in accordance with current best practice and submitted to the Local Planning Authority.
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 the increase in the internal gross floor area which amounts to 45.3m² and equates to a Mayoral CIL payment of £906 (subject to indexation).

REPORT DETAIL

1. Site Description

- 1.1 The subject property is currently occupied by a two-storey semi-detached dwelling with existing parking for approximately 3 vehicles on a hardstanding to the front of the dwelling. It presently has a single storey side extension, which extends up to the boundary with No. 30 Hamilton Avenue.
- 1.2 The proposal would result in the removal of 2 small trees to the front of the existing dwelling. The existing dwelling has a tiled finish at first floor and render at ground floor. The ground is relatively level.
- 1.3 The surrounding area is characterised by similar two-storey semi-detached and terraced dwellings.

2. Description of Proposal

- 2.1 The Council is in receipt of a planning application seeking permission for a new 3-bedroom end of terrace dwelling to the south-eastern side of the subject dwelling.
- 2.2 The new dwelling would replace the existing single storey side extension and measures 6.6m in width and 7.2m in depth. The proposed dwelling would have a hipped roof to an overall height of 8m to the ridge. The new dwelling would consist of a kitchen, lounge, w.c and dining room at ground floor and three bedrooms and a bathroom at first floor.
- 2.3 The proposal would form an end of terrace dwelling and would abut the south-eastern boundary. The site would provide 1 No. off-street parking space to the front of the donor property and 2 No. spaces to the front of the new dwelling.
- 2.4 Amenity space would be provided towards the rear of the donor property as well as the new dwelling. The donor property would retain 35m² of amenity space with an average rear garden depth of 6.5m and the proposed

dwelling would have amenity space of 51.4m² with an average rear garden depth of approximately 7.8m.

3. History

3.1 No relevant history.

4. Consultation/Representations

4.1 Notification letters were sent to 38 neighbouring properties and 9 letters of objection were received raising the following concerns:

- reduce the value of the neighbouring property
- not in keeping with semi-detached houses in the road
- amenity space too small
- lack of sufficient parking
- sewerage will not be able to cope
- no space for rubbish disposal
- will add to the existing parking problem in the road
- increase local air and noise pollution
- detrimental to outlook
- result in more problems with people parking on the street making it difficult for emergency vehicles to access.
- loss of light

4.2 The Council's Environmental Health Service raised no objection to the proposal but require a condition for soil testing to be done for chemical contamination. Environmental Health also request sound insulation and limited construction hours conditions.

4.3 The Highway Authority has no objection to the proposals.

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 a number of balanced issues associated with the application. 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 development on an existing residential site in a 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 87m² for a 3-bed 4-person dwelling. The proposal has an internal floor space of approximately 85m² which is only slightly below the requirement. The internal layout is however functional and given the marginal degree of shortfall is 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 The existing plot will be sub-divided to create 2 separate plots for the existing and proposed dwellings. The proposed sub-division of the existing garden would result in an amenity space of approximately 35m² to No. 32 and 51m² to the new dwelling. Although the proposed sub-division of the existing garden would result in small amenity areas to both the donor and new property, Staff area of the opinion that the proposed amenity space would, on balance be usable and acceptable. Future occupiers would be aware of the limited amenity space availability. Members may however judge the amenity provision to be unacceptable and out of keeping with that which is provided to existing dwellings in the surrounding area. Members may further view the lack of sufficient amenity space as evidence

of a cramped overdevelopment of the site and may wish to refuse the application on these grounds.

- 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 as a matter of judgement, that the garden area is large enough to be practical for day to day use and with the provision of fencing, screened from general public views and access will be providing private and usable garden areas. As a result, it is considered on balance that the proposed amenity area 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 80 units per hectare which is in excess of the density range. Although the density is in excess of the recommended range it is considered acceptable given the nature, scale and siting of the development and the suitability of the amenity area. Members may however reach a different conclusion in this respect and may consider the proposal to be overdevelopment of the site.
- 6.3.5 In terms of the general site layout, the proposed dwelling would have sufficient spacing towards the front with sufficient amenity area towards the rear. 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 surrounding area consists of mainly two-storey semi-detached properties. Although the proposal would result in changing the semi-detached pair to a row of terraces, Staff do not consider this to out of keeping in the streetscene and surrounding area as the proposal would maintain the same design features as the existing semi-detached pair and would match the donor properties front and rear building lines. There are also terraced properties within Hamilton Avenue, to the east of the site.
- 6.4.3 In terms of its design and visual appearance, Staff are of the opinion that the development of the proposed terraced dwellings in this location would have an acceptable appearance with no harmful impact to the character and appearance of the surrounding area. The width of the proposed dwelling is comparable with existing properties and other houses in the cul-de-sac have extended close to the site boundaries. Therefore, 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, therefore 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 Although the proposal would be situated on the boundary with the detached neighbour at No. 30 Hamilton Avenue, Staff do not consider the proposal to result in an unacceptable impact on this neighbour in terms of overlooking as there are no windows proposed to the flank elevation. Any impact in terms of loss of light and outlook are also considered acceptable as there is a single storey side extension of approximately 3.3m wide situated to the south-eastern boundary. The neighbour at No. 30 Hamilton Avenue also has an existing single storey rear projection which will be broadly in line with the rear building line of the new dwelling.
- 6.5.3 Overlooking towards the rear is also considered acceptable as it is a similar arrangement than that of the existing donor property with a minimum separation distance of approximately 21m between the new dwelling and the dwellings along Ashmour Gardens.
- 6.5.4 Overall, no harmful levels of overshadowing or overlooking are considered to occur as a result of the proposed terraced dwelling.
- 6.5.5 In terms of general noise and disturbance, it is not considered that the addition of a further family dwelling would give rise to any undue levels of noise and disturbance to the surrounding neighbouring properties within what is a predominantly residential area.
- 6.5.6 It should however be noted that although Staff consider the proposal to be acceptable in its current form, given the size of the proposed residential development in relation to the resultant plot space and the relationship of the development to neighbouring properties, 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.
- 6.5.7 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 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 3 No. parking spaces. 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. Highways have raised no objection to the proposal.
- 6.6.2 A condition would be added to provide storage for 2 x no. cycle space per dwelling in order to comply with the Council's standards.
- 6.6.3 In light of the above, the proposal is considered to satisfy the requirements of Policy DC2 and DC33 and would not result in any highway or parking issues.

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 the increase in the internal gross floor area which amounts to 45.3m² and equates to a Mayoral CIL payment of £906. (subject to indexation).

6.8. *Planning Obligations*

- 6.8.1 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 £6,000

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.
- 6.9.2 Two small trees will be removed to the front of the dwellings. The subject tree are not protected trees and Staff therefore raise no objection to the loss of these trees.
- 6.9.3 Concerns raised regarding loss of property value, and inadequate sewerage provision are not material planning considerations. Staff also do not consider the proposal to result in an unacceptable increase in local air and noise pollution given the size of the development.

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 materially harmful impact on neighbouring amenity. Staff have considered the amenity space provision to be acceptable on balance however Members may wish to reach a different conclusion in this respect. Overall, Staff consider the development to comply with the aims, objectives and provisions of Policy DC61 and the provisions of the LDF Development Plan Document. Approval is recommended accordingly.

IMPLICATIONS AND RISKS

Financial Implications and risks:

Financial contributions are required through a legal agreement.

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 Council's planning policies are implemented with regard to Equalities and Diversity.

BACKGROUND PAPERS

1. Application forms and plans received 24/03/14; amended plans received 16/04/14.

REGULATORY SERVICES COMMITTEE

17 July 2014

REPORT

Subject Heading:

**P0615.14: 102-120 Victoria Road,
Romford**

**Residential development consisting of
a two and three storey building (with
apartments in the roof) comprising
17no. apartments and a two storey
building comprising 7no. apartments.
(Application received 2 May 2014)**

Report Author and contact details:

**Suzanne Terry Interim Planning
Control Manager 01708 432755
suzanne.terry@havering.gov.uk**

Policy context:

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

Financial summary:

None

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 checked="" 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

The proposal is for the erection of a residential development at the site of the former petrol filling station on Victoria Road, Romford, consisting of a part two and three storey building (with apartments in the roof) fronting onto Victoria Road and a two storey building to the rear of the site.

The development will comprise of 17no. apartments in the front block and 7no.apartments in the rear block, giving a total of 24no. units, of which 50% will be affordable.

In 2008 the Council reached a resolution to approve planning application P1980.07 subject to the completion of a legal agreement for erection of 2 and 3 storey block of flats consisting of 24 units. The necessary legal agreement was not completed and the application was eventually withdrawn in September 2009.

The proposed development draws on the principles of the previous proposals. It raises considerations in relation to the impact on the character and appearance of the streetscene and the impact on the amenity of the neighbouring residents.

On balance the proposal is considered to be acceptable in all material respects and it is recommended that planning permission is granted 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 would be £38,758, subject to indexation. This is based on the creation of 1,937.9 square metres of new gross internal floor space.

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:

- The provision on site of 50% of the units within the development as affordable housing (comprising 12 no. apartments) of which 70% (8 units) will be rented (with 50% of this provision capped rent and the other 50% discounted rent) and the remaining 30% (4 units) will be shared ownership.

- A financial contribution of £144,000 to be used towards infrastructure costs and paid prior to the commencement of development in accordance with the Planning Obligations Supplementary Planning Document.
- A financial contribution of £9,456 to be used towards the “Community Sustainable Energy Fund” in lieu of the shortfall of 3.94 tonnes CO2/yr in achieving the required 40% CO2 reduction target, to be paid by the developer prior to commencement of the development.
- 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 obligations/ 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 Regulatory Services to 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 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. In Accordance with Plans

The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans detailed on page 1 of the decision notice approved by the Local Planning Authority.

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.

3. Parking Provision

Before any of the flats hereby permitted are first occupied, the car park to the rear shall be laid out to the full satisfaction of the Local Planning Authority and be made available for 22no. car parking spaces and thereafter this car parking provision shall remain permanently available for use, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that car parking accommodation is made permanently available to the standards adopted by the Local Planning Authority in the interest of highway safety, and that the development accords with the Development Control Policies Development Plan Document Policy DC33.

4. External Materials

The development hereby permitted shall be constructed in accordance with the approved external materials as detailed in the submitted external materials schedule, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the appearance of the premises and the character of the immediate area, and that the development accords with the Development Control Policies Development Plan Document Policies DC61 and DC54.

5. Landscaping

Notwithstanding the details in drawing 14139_PL05 Revision B, no development shall take place until there has been submitted to and approved by the Local Planning Authority a detailed scheme of hard and soft landscaping, including full details of planting varieties, quantities and landscaping specifications. 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. Refuse and Recycling

Prior to the first occupation of the development hereby permitted, the siting and location of refuse storage and recycling awaiting collection shall be provided in accordance with the details in Drawing No. 14139_PL05 Revision B and permanently available for use and retained thereafter.

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

7. Cycle Storage

Prior to the first occupation of the development hereby permitted, the proposed cycle storage provision shall be provided in accordance with the details in Drawing No. 14139_PL05 Revision B and made permanently available for use and retained thereafter.

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

8. Balcony Screening Panel

Prior to occupation of the development a partition screening panel shall be installed on the balcony associated with flat 3 (as indicated on Drawing No. 14139_PL03 Revision B), adjacent to the boundary with 100 Victoria Road in accordance with details previously submitted to and agreed by the Local Planning Authority. Following installation, the screening panel shall remain in place permanently.

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

9. Noise Insulation

The buildings shall be constructed as to provide sound insulation of 45 DnT, w + Ctr dB (minimum value) against airborne noise to the satisfaction of the Local Planning Authority.

Reason: To prevent noise nuisance to adjoining properties in accordance with Development Control Policies Development Plan Document Policy DC55.

10. 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.

11. External Lighting Scheme

No development shall take place until a scheme for external lighting has been submitted to and approved in writing by the Local Planning Authority. The approved scheme of lighting shall include the low level lighting of the access road and details of continuing maintenance. The approved scheme shall be implemented in full prior to commencement of the development hereby approved and permanently maintained in accordance with the approved scheme to the satisfaction of the Local Planning Authority.

Reason: In the interests of security and residential amenity and in order that the development accords with the LDF Development Control Policies Development Plan Document Policies DC61 and DC63.

12. Pedestrian Visibility Splay

The proposals should provide a 2.1 by 2.1 metre pedestrian visibility splay on either side of the proposed access, set back to the boundary of the public footway. There should be no obstruction or object higher than 0.6 metres within the visibility splay.

Reason: In the interests of highway safety, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC32.

13. Vehicle Access

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

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

14. Wheel Washing

Before the commencement of any phase of the development hereby permitted, details of wheel scrubbing/wash down facilities to prevent mud being deposited onto the public highway during construction works of that phase shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be permanently retained and used at relevant entrances to the site throughout the course of construction works.

Reason: In order to prevent materials from the site being deposited on the adjoining public highway, in the interests of highway safety and the amenity of the surrounding area and in order that the development accords with Policies DC61 and DC32 of the LDF Development Control Policies DPD.

15. Contaminated Land

(1) Prior to the commencement of any works pursuant to this permission the developer shall submit for the written approval of the Local Planning Authority (the Phase I and Phase II Reports having already been submitted to the Local Planning Authority);

a) A Phase III (Remediation Strategy) Report as the Desk Study Report confirms the possibility of a significant risk to sensitive receptors and Phase II Report (Geo-environmental and geotechnical interpretative report) confirm 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.

b) Following completion of measures identified in the approved remediation scheme mentioned in 1(a) 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.

16. Contaminated Land

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.

17. Air Quality

(a) Prior to the commencement of the development, an air quality assessment report shall be submitted to and agreed by the LPA. The report shall detail: how the development may impact upon local air quality, model the future impact, identify mitigation measures, provides full details of measures that will be implemented or continue to be implemented after development to protect the internal air quality of buildings and to improve air quality in the vicinity of the development.

(b) All measures identified within the approved air quality assessment that are to be installed during the course of the development shall be fully implemented. No occupation of the development shall take place until a report demonstrating that each measure is fully implemented has been provided to the Local Planning Authority for its approval in writing.

Reason: To protect the amenity of future occupants and/or neighbours and in the interests of the declared AQMA.

18. Piling Work Risk Assessment

Piling or any other foundation designs using penetrative methods shall not be permitted at any time other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in strict accordance with the approved details.

Reason: To protect controlled waters by ensuring that the risks to groundwater are considered before any piling is undertaken.

19. Boundary Screening/ Fencing

The development hereby permitted shall be constructed in accordance with the approved measures for boundary screening and screen walling, as detailed in the submitted Landscape Plan (Drawing No. 14139_PL05 Revision B) unless otherwise agreed in writing by the Local Planning Authority, 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.

20. Construction Methodology

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

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

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

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

21. Hard Surfacing

The access drive, car park and vehicle turning area shall be surfaced in accordance with the approved surfacing materials as detailed in the submitted external materials schedule, unless otherwise agreed in writing by the Local Planning Authority. Once constructed, the extended part of the access road and vehicle turning area shall be kept permanently free of any obstruction (with the exception of the car parking areas shown on the plans) to prevent their use for anything but turning and access.

Reason: To ensure that the appearance of the proposed development will harmonise with the character of the surrounding area and in the interests of highway safety.

22. Sustainable Homes

No occupation of the development shall take place until the developer has provided a copy of the Interim Code Certificate confirming that the development design achieves a minimum Code for Sustainable Homes 'Level 3' rating. The development shall be carried out in full accordance with the agreed Sustainability Statement. Also before the proposed development is occupied the Final Code Certificate of Compliance shall be provided to the Local Planning Authority in order to ensure that the required minimum rating has been achieved.

Reason: In the interests of energy efficiency and sustainability in accordance with DC49 Sustainable Design and Construction and Policies 5.1, 5.2 and 5.3 of the London Plan.

23. Renewable Energy and Low Carbon

The renewable energy / low carbon system shall be installed in strict accordance with the agreed details and shall be operational to the satisfaction of the Local Planning Authority prior to the occupation of any part of the development.

Reason: In the interests of energy efficiency and sustainability in accordance with DC50 Renewable Energy and Policies 5.1, 5.2, 5.3 and 5.7 of the London Plan.

24. Secure By Design

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.

25. Topsoil Condition

Before any part of the development is occupied, site derived soils and/or imported soils shall be tested for chemical contamination, and the results of this testing together with an assessment of suitability for their intended use shall be submitted and approved in writing by the Local Planning Authority. Without prejudice to the generality of the foregoing, all topsoil used for gardens and/or landscaping purposes shall in addition satisfy the requirements of BS 3882:2007 "Specification of Topsoil".

Reason: To ensure that the occupants of the development are not subject to any risks from soil contamination in accordance with Development Control Policies Development Plan Document Policy DC53.

INFORMATIVES

1. A fee is required when submitting details pursuant to the discharge of conditions. In order to comply with the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, which came into force from 22.11.2012, a fee of £97 per request or £28 where the related permission was for extending or altering a dwellinghouse, is needed.
2. Statement Required by 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.
3. **Changes to the public highway (including permanent or temporary access)**
Planning approval does not constitute approval for changes to the public highway. Highway Authority approval will only be given after suitable details have been submitted considered and agreed. If new or amended access as required (whether temporary or permanent), there may be a requirement for the diversion or protection of third party utility plant and it is recommended that early involvement with the relevant statutory undertaker takes place. The applicant must contact Engineering Services on 01708 433751 to discuss the scheme and commence the relevant highway approvals process. Please note that unauthorised work on the highway is an offence.
4. **Highway legislation**
The developer (including their representatives and contractors) is advised that planning consent does not discharge the requirements of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004. Formal notifications and approval will be needed for any highway works (including temporary works of any nature) required during the construction of the development. Please note that unauthorised work on the highway is an offence.
5. **Temporary use of the public highway**
The developer is advised that if construction materials are proposed to be kept on the highway during construction works then they will need to apply for a license from the Council. If the developer requires scaffolding, hoarding or mobile cranes to be used on the highway, a licence is required and Streetcare should be contacted on 01708 434343 to make the necessary arrangements. Please note that unauthorised use of the highway for construction works is an offence.
6. 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 £38758.00 (subject to indexation). Further details with regard to CIL are available from the Council's website.

7. 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.

REPORT DETAIL

1. Site Description

- 1.1 The application relates to the site at 102-120 Victoria Road, Romford. This is a cleared and vacant site, having a former use as a petrol filling station. The site has been cleared and it is understood that some remediation works have taken place.
- 1.2 The site is located within an area of mixed residential and commercial uses, just to the east of the Romford town centre boundary. The site has an extensive 42 metre frontage onto Victoria Road, adjacent to a terrace of two storey houses to the west and the Victoria Public House to the east. The remaining site boundaries are shared with the rear gardens of residential properties at George Street to the west, a workshop and residential gardens at Albert Road to the east, and a light industrial premises located off Albert Road to the south.
- 1.3 The rectangular shaped site is relatively flat and covers an area of 2410m² (0.241 ha).

2. Description of Proposal

- 2.1 The proposal is for the erection of a residential development consisting of a part two and three storey building (including apartments in the roof space) fronting onto Victoria Road and a two storey building (including apartments in the roof space) to the rear of the site.
- 2.2 The development will comprise of two separate buildings with block 1, the more substantial of the pair, consisting of 17no. apartments and block 2 consisting of 7no.apartments, giving a total of 24no. new residential units of which 50% will be affordable.

- 2.3 In terms of accommodation the proposal will create 2no. one-bedroom flats and 22no. two-bedroom flats.
- 2.4 Block 1 will be sited along the main frontage onto Victoria Road, occupying an 'L-shaped' footprint of approximately 473 square metres. To the front, the proposed building will be formed of three elements; a central three storey section flanked by two storey sections on either side with accommodation within the roof space. As such the block will incorporate varying roof ridge lines with a maximum height of 14.3 metres in the central section. The roof will include a hipped, pitched design and a crown section on the western wing.
- 2.5 At the rear an additional three-storey section, with accommodation in the roof space, will project 10.6 metres towards the centre of the site. As with the other sections of the building the roof design will include hipped pitched features with differing ridge heights rising to a maximum height of 14 metres.
- 2.6 Block 1 will be accessed by a doorway leading from Victoria Road at the front and from two doorways at the rear of the site.
- 2.6 External balconies will be installed to the front on three of the apartments in the upper floors and to six apartments to the rear. Each of the five ground floor flats will benefit from an external terrace providing 7 square metres of private amenity space.
- 2.7 The four apartments contained within the roof space will be served by dormer windows and velux style roof lights.
- 2.8 Block 2 will be located in the southern section of the site, occupying a 'T-shaped' footprint covering approximately 273 square metres. The building will incorporate a hipped pitched roof design with a ridge height of 10.7 metres.
- 2.9 The block and apartments will be accessed through a centrally located doorway and stairwell. At ground floor each of the three apartments will be served by an external terrace providing 7 square metres of private amenity space. The three first floor flats will also benefit from external balconies offering 7 square metres of external amenity space. The second floor flat, located within the roof space will be served by dormer windows to the front and velux style roof lights to the rear.
- 2.10 All dwellings will have a dual aspect and will be designed to the London Plan minimum internal spacing standards and Lifetime Homes Standard.
- 2.11 The car park and servicing area will be laid out centrally within the site to the rear of the main building, block 1, and to the foreground of block 2 sited to the rear. A total of 22no. parking spaces will be provided which will include 2no. dedicated disabled user bays.

- 2.12 Vehicular access will be provided via an existing cross-over onto Victoria Road in the northern corner of the site adjacent to the Victoria Public House. The access road will abut the eastern site boundary and sweep around into the central section of the site providing a turning head to facilitate the manoeuvring of resident's cars and service vehicles.
- 2.13 The remainder of the site will be landscaped to provide communal amenity space and planting to soften the extent of the hardstanding.
- 2.14 A single refuse store will be provided adjacent to the western boundary of the site, within accessible distances from the proposed flats and in a suitable location for refuse vehicles
- 2.15 Secure cycle storage providing space for up to 24no. cycles will be set out in 2no. cycle stores located to the rear of block 1 and to the western flank of block 2.

3. Relevant History

- 3.1 P1980.07 - Erection of 2 and 3 storey blocks of flats with units to roof area (24 Units). 1 and 2 bed flats with parking and amenity – Resolution to approve but withdrawn following failure to sign legal agreement
- 3.2 P0949.05 - Erection of 2 and 3 storey flat blocks with units to roof area. (24 units). 1 & 2 bed flats with parking & amenity – Refused
- 3.3 P1473.03 - Erection of 1 No. one-bedroom and 35 No. 2 bedroom flats with amenity and parking – Refused

4. Consultations/Representations

- 4.1 Neighbour notification letters were sent to 147 properties and a site notice was displayed. 4 letters of objection have been received as a result of the consultation raising the following issues:
- The development will result in overlooking and loss of privacy to neighbouring gardens.
 - There are already far too many flats in Romford and the local amenities are struggling to cope.
 - The proposal will create additional traffic problems.
 - The proposed bin store is located too close to the neighbouring houses.
- 4.2 Essex and Suffolk Water have raised no objections to the proposal.
- 4.3 The Metropolitan Police - the Designing Out Crime Officer is satisfied that the proposal meets Secure by Design principles.
- 4.4 Regeneration & Partnerships – no comments.

- 4.5 The Council's Highway Authority has raised no objections to the proposal and have requested standard conditions and informatives relating to visibility splays, access and wheel washing are included in any approval notice.
- 4.6 Environmental Health have raised no objections to the scheme and have requested the inclusion of conditions relating to noise insulation and reduction measures and contaminated land issues.
- 4.7 The Designing Out Crime Officer has raised no objections to the scheme.

5. Relevant Policies

- 5.1 Policies CP1 (Housing Supply), CP2 (Sustainable Communities), CP17 (Design), DC2 (Housing Mix and Density), DC6 (Affordable Housing), DC11 (Non-designated Sites) DC33 (Car Parking), DC34 (Walking), DC35 (Cycling), DC36 (Servicing), DC53 (Contaminated Land), DC55 (Noise), DC61 (Urban Design), DC63 (Delivering Safer Places) and DC72 (Planning Obligations) of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document are considered to be relevant.
- 5.2 Other relevant documents include the Residential Design SPD, Sustainable Design and Construction SPD and the Planning Obligations SPD.
- 5.3 Policies 3.3 (increasing housing supply), 3.4 (optimising housing potential), 3.5 (quality and design of housing developments), 3.8 (housing choice), 3.9 (mixed and balanced communities), 3.10 (definition of affordable housing), 3.11 (affordable housing targets), 3.12 (negotiating affordable housing), 3.13 (affordable housing thresholds), 5.2 (minimising carbon dioxide emissions), 5.3 (sustainable design and construction), 5.7 (renewable energy), 5.12 (flood risk management), 5.13 (sustainable drainage), 5.16 (waste self sufficiency), 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), 7.3 (designing out crime), 7.4 (local character), 7.6 (architecture), 7.8 (heritage assets and archaeology), 7.14 (improving air quality), 7.15 (reducing noise and enhancing soundscapes), 7.19 (biodiversity and access to nature) and 8.2 (planning obligations) of the London Plan, are material considerations.
- 5.4 The National Planning Policy Framework, specifically Sections 1 (Building a strong, competitive economy), 4 (Promoting sustainable transport), 6 (Delivering a wide choice of high quality homes), 7 (Requiring good design), 8 (Promoting healthy communities) and 10 (meeting the challenge of climate change, flooding and coastal change) are relevant to these proposals.

6. Staff Comments

- 6.1 The main considerations relate to the impact on the character and appearance of the street scene, the implications for the residential amenity

of occupants of nearby houses and the suitability of the proposed parking and access arrangements.

7. Principle of Development

- 7.1 The NPPF and Policy CP1 support an increase in the supply of housing in existing urban areas where development is sustainable. The site is located on the fringe of Romford town centre within easy reach of good public transport links.
- 7.2 The proposal is for the redevelopment of a former commercial site to provide residential accommodation. The site is not designated as Green Belt land, an employment area, or within Romford town centre in the Development Plan. Therefore policy DC11 supports the redevelopment of commercial sites for housing when they become available.
- 7.3 On this basis the proposal is considered to be policy compliant in landuse terms and the residential use is therefore regarded as being acceptable in principle.

8. Density/ Layout

- 8.1 Policy DC2 of the LDF provides guidance in relation to the dwelling mix within residential developments. Policy DC61 states that planning permission will not be granted for proposals that would significantly diminish local and residential amenity.
- 8.2 The proposal would provide 24 no. flats consisting of 2no one-bedroom and 22 no. two-bedroom units at a density equivalent to around 99 dwellings per hectare. This complies with the aims of Policy DC2 which states that a dwelling density of between 80 to 275 dwellings per hectare would be appropriate in this location.
- 8.3 Policy 3.5 of the London Plan advises that housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment. To this end Policy 3.5 requires that new residential development conforms to minimum internal space standards. For one-bedroom flats for two occupants the spacing requirement is set at 50 square metres. For two-bedroom flats the minimum standard is set at 61 square metres for 3 occupants and 70 square metres for 4 occupants.
- 8.4 In both blocks 1 and 2 the proposal will provide units with varying floor space sizes all of which meet or exceed the respective minimum standards as per the proposed number of rooms and number of occupants they are intended to serve. Given this factor it is considered that the proposed development would be in accordance with Policy 3.5 of the London Plan and the apartments would provide an acceptable amount of space for day to day living.

- 8.5 The Residential Design SPD states that private amenity space should be provided in single, usable, enclosed blocks which benefit from both natural sunlight and shading. External terraces and balcony areas accessed from the living rooms with an area of 7 square metres will be provided to the 19 apartments forming the ground, first and second floor areas of blocks 1 and 2. The ground floor terraces will include hedging and fencing offering an extra degree of privacy and security. The 5 flats in the roof space areas of both blocks 1 and 2 will have no private external amenity space, but will have a dual aspect including large dormer windows and roof lights to enable an unobstructed outlook and good levels of daylight entering the living areas.
- 8.6 Full details of hard and soft landscaping measures have been submitted as part of the proposals. An area of approximately 280 square metres around block 1 and approximately 385 square metres around block 2 will be landscaped and set out as communal shared amenity space, offering varying levels of privacy to users depending on which part they use. As previously stated, 5 of the proposed flats will not include an area of private external amenity space associated with the apartment. However, given the proposed shared amenity areas to the front, sides and rear of both blocks 1 and 2, it is considered that occupants of these flats will have access to a reasonable provision of outdoor amenity space.
- 8.7 It is considered that the proposed amenity space would be of a suitable form and size and would therefore result in acceptable living conditions for future occupants. All of the proposed dwellings would have adequate access to sunlight and daylight. Therefore the general site layout is considered to be in accordance with Policy DC61 and The Residential Design SPD.
- 8.8 Staff are aware that the Borough Designing Out Crime Officer has been consulted on the proposals prior to their submission. This has enabled a number of detailed matters relating to community safety to be addressed in the submitted application. The Borough DOCO has raised no specific objections to the proposal, subject to planning conditions. The proposal is considered to respond in principle to the requirements of the NPPF, Policy 7.3 of the London Plan and LDF Policy DC63. Staff are satisfied that reasonable measures have been undertaken to make the development as safe as possible and recommend conditions relating to Secured by Design and other community safety measures.
- 8.9 The development is designed to Lifetime Homes standard and the units are designed to be adaptable to wheelchair housing standards. Accordingly the scheme is in accordance in principle with Policy DC7 of the LDF and the requirements of Policy 3.8 of the London Plan.

9. Design/Impact on Street/Garden Scene

- 9.1 Policy DC61 states that development must respond to distinctive local buildings forms and patterns of development and respect the scale, massing and height of the surrounding context.
- 9.2 The application site occupies a prominent location, with an extensive 42 metre frontage onto Victoria Road. The former petrol filling station site has been derelict for a number of years, with a previous apartment led scheme from 2007 failing to materialise due to financial constraints. As a result the site has remained boarded up and become neglected which has attracted anti-social behaviour causing disturbance and nuisance to local residents.
- 9.3 The main impact in terms of the street scene at Victoria Road relates to the character and appearance of block 1. The proposed block fills the majority of the site frontage and rises up to three-storeys high with a mansard roof. Given the immediate surroundings the scale and height of the proposed building will be more noticeable when viewed in contrast to the adjacent Victoria Public House to the east and the two-storey terrace houses to the west.
- 9.4 The proposed front elevation of block 1 will respect the building line of the adjacent properties and the side flanking sections have been designed to step down to two-storey level (with the eastern wing slightly higher to accommodate the two-bedroom apartment) to acknowledge the diminishing scale and height of the terrace row and pub. It is considered that this design feature will serve to soften the relationship between the adjacent buildings and the proposal, whilst enabling the development to maintain the rhythm of the building heights at the adjacent properties. This will also create a feature leading up to the taller central section of the proposed block.
- 9.5 This relationship will form a key aspect of the streetscene along this section of Victoria Road. However, an important consideration in this respect is the degree to which the proposed development would maintain or enhance the character and appearance of the streetscene. In assessing this aspect it is essential to consider the wider context of the site setting and give some acknowledgment to the town centre fringe location.
- 9.6 Directly opposite the site, the three-storey apartment blocks at Jane Court and Pamela Court frame the entrance into Corbridge Mews. As such this section of the north side of Victoria Road is characterised by a series of taller blocks stepping down to the more traditional two-storey terraced commercial units adjacent to the prominent cross road intersection of Mercury Gardens and Victoria Road. It is considered that this arrangement forms a key aspect of the local character where by buildings are not of uniformed scale and massing but are more of a varied design, appearance and height.
- 9.7 In addition to this the apartment development at Mercury Court lies on the opposite side of the cross roads junction. This development is of

considerable scale and height and demonstrates alternating four and three storey high sections which arc around to complement the curved site frontage. This neighbouring site can be regarded with some degree of separation in comparison to the application site, but nevertheless it is within a setting of traditional two-storey dwellings and commercial units and presents a positive and key component in enhancing the streetscene character in a gateway location into Romford town centre.

- 9.8 Some 75 metres further along from the cross roads junction on Victoria Road, there are further examples of taller buildings within the traditional two-storey setting, with the three-storey apartments at Centreview Court providing an important part of the local streetscene character. To the north of the site, just a short distance beyond the railway bridge over Mercury Gardens the average scale and heights of the buildings increases considerably providing a positive contribution to the character of the town centre fringe.
- 9.9 Within its immediate context, adjacent to the terraced houses and detached public house building, block 1 would appear as a much larger and dominant structure. However, it is noted that the design of the building includes elements that break down its perceived bulk, for example the stepped ridge height, the proposed window heights and proportions, front elevation detailing and the inclusion of balconies. These are judged to avoid the building having an overly dominant appearance.
- 9.10 Taking into consideration the wider character of the area along Victoria Road, an important element of the streetscene is the juxtaposition of taller three or four storey buildings in relation to the more traditional two storey terrace buildings. This relationship appears to form a key characteristic of the local streetscene and makes a positive contribution to the local character. It is therefore considered that block 1 of the proposed development would adhere to these characteristic principles, without excessively or unduly impacting on its immediate setting within Victoria Road.
- 9.11 Block 2 will be located to the south of the site and to the rear of block 1 and as such it will not be visible from Victoria Road. The proposed building will however be visible from the rear of houses on George Street and Albert Road and will form a prominent feature in the rear garden setting.
- 9.12 The proposed two-storey building with accommodation in the roof space will have a ridge height of 10.7 metres incorporating a hipped pitched roof design. In comparison the surrounding terraced houses at George Street and Albert Road are around 7.5 metres in height. There is also the rear of a single storey workshop unit abutting the site boundary, which is accessed from George Street and single storey light industrial units to the south.
- 9.13 The application site is effectively an infill plot and consequently the rear block does not necessary relate to the layout of the surrounding street pattern. In terms of the impact on the surrounding setting the proposed

building will occupy a currently vacant area of land which lies between the rear garden boundaries of the terraced houses on George Street and Albert Road. As a result the relatively open aspect from the rear gardens of these houses will be reduced to some degree. However, the building will be set well within the site boundaries and located some 18 metres from the rear of the Albert Road houses and 25 metres from the rear of the properties at George Street. The proposed block will therefore be well spaced between the neighbouring buildings and will not unduly encroach on the setting of the rear gardens. In this respect it is considered that the siting and appearance of block 2 would be sympathetic to its immediate surroundings and would serve to maintain and enhance the character of the rear garden setting.

- 9.14 On balance it is considered that the proposed development would serve to regenerate a vacant and neglected site, thereby enhancing the character and appearance of the surrounding area. The scale, bulk, height and massing of block 1 would form a prominent building in the streetscene, especially in relation to the immediately adjacent buildings. However, other taller buildings within the vicinity contribute positively to the local character and in this sense it is considered that the proposed development of both block 1 and block 2 would be sympathetic to the wider setting, resulting in a positive impact on the character and appearance of the streetscene and garden setting.

10. Impact on Amenity

- 10.1 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..
- 10.2 The main consideration in terms of residential amenity relates to the impact on the occupants of 100 Victoria Road (located to the west of block 1), 9 to 15 (odds) George Street (located to the west of block 2) and 2 to 10 (evens) Albert Road (located to the east of block 2).
- 10.3 Block 1 will be situated approximately 1 metre from the boundary with 100 Victoria Road, with the proposed building not projecting beyond the rear building line of the neighbouring house. The proposed first floor rear balcony serving flat 3 would be located some 3 metres from the boundary with No.100. Staff have concerns that the location of the balcony at first floor level raises issues in relation to privacy and the potential for overlooking. Therefore it is considered reasonable and necessary to include a condition requiring the balcony to include a side screening panel to prevent views west towards the neighbouring garden. It is considered that this measure would alleviate any undue impact and ensure that privacy levels between the properties are maintained.
- 10.4 The western elevation would contain a ground and first floor window serving the kitchen areas of flats 1 and 3 respectively. These secondary room windows will have an outlook onto the blank gable elevation of No.100 and it

is not considered that the positioning will result in any undue loss of privacy or overlooking to the occupants of No.100.

- 10.5 The windows in the rear elevation of block 1 would face directly into the south of the site and would only offer views at an oblique angle over to the neighbouring garden at No.100 to the west. This arrangement is similar to the current situation in respect of the neighbouring houses in the terrace row and it is therefore considered that occupants of No.100 would not experience any greater loss of privacy to the rear garden than they currently experience from the existing neighbouring houses.
- 10.6 Block 1 would be located away from the adjacent public house premises to enable suitable vehicular access to the car park and servicing area. It is not considered that the proposed development would unduly impact on the neighbouring commercial use, and is of a sufficient distance from the pub not to present potential noise and disturbance issue to future occupants of the flats.
- 10.7 The western flank elevation of block 2, containing 1 no. single pane window serving a first floor kitchen, will be located approximately 28 metres from the first floor rear habitable room windows at nos. 9, 11 & 13 George Street. The elevation will then cut in to form the rear section of the block creating the 'T-shaped' footprint. The side elevation of the rear section will include a first floor balcony and full height patio doors located some 33 metres from rear habitable room windows at No.15 George Street. This feature presents some concerns in relation to overlooking and creating a sense of obtrusiveness on the rear garden at No.15. Whilst Members will wish to consider the acceptability of this relationship, Staff have taken into consideration the distance between the balcony and the rear garden boundary No.15 of some 8.7m and the length of the neighbours rear garden, approximately 19m. On balance, these separation distances are considered to be sufficient so as not to result in a detrimental loss of privacy or overlooking.
- 10.8 The distances displayed between the proposed development at block 2 and the houses at George Street are considered to be acceptable in order to maintain outlook and privacy between the new apartment block and the neighbouring residents. As such it is not considered that the proposed development will result in any undue impact on the privacy of the occupants of the houses at George Street.
- 10.9 The eastern flank elevation of block 2, containing 1no. single pane window serving a first floor kitchen will be located approximately 18 metres from first floor rear habitable room windows at No.s 2, 4 & 6 Albert Road. As with the western flank wall, the eastern elevation will then cut in to form the rear section of the block. The side elevation of the rear section will include a first floor bathroom window and bedroom window located some 23 metres from rear habitable room windows at No.s 8 & 10 Albert Road.

- 10.10 As with the western flank, the distances displayed between the proposed development at block 2 and the houses at Albert Road are considered to be acceptable in order to maintain outlook and privacy between the new apartment block and the neighbouring residents. As such it is not considered that the proposed development will result in any undue impact on the privacy of the occupants of the houses at Albert Road.
- 10.11 Block 2 is two storeys high. It is set in from the boundary with the neighbouring properties in both George Street and Albert Road and has a staggered building line, which offsets its overall bulk and massing. Having regard to these factors, it is considered that the scale, height and bulk of the proposed building would be suitable and would not unduly impact on the rear of the houses at Albert Road and George Street by way of overbearing impact, overshadowing or a loss of daylight.
- 10.12 On balance, it is considered that the proposed extensions would not harm the amenities of neighbouring properties and would provide acceptable living conditions for the future occupants. The proposal is therefore in accordance with Policy DC61 and the intentions of the NPPF.

11 Environmental Issues

- 11.1 The site is a former petrol filling station and as such advice has been sought from the Council's Environmental Protection team. In relation to the former use a land contamination desk top and site investigation study have been carried out. This has been considered by Staff and a series of conditions have been recommended in respect of land contamination issues.
- 11.2 The site is not located within a Flood Zone and presents no issues in relation to flood risk.
- 11.3 The proposal is not considered to give rise to any significant noise issues subject to conditions required by Environmental Health.

12. Parking and Highway Issues

- 12.1 Policy DC33 seeks to ensure all new developments make adequate provision for car parking. Under Policy DC2 the Public Transport Accessibility Level (PTAL) is set at 5-6 and classifies the site as being within an Urban/Suburban setting. Therefore flatted residential development in this location is required to provide a low car parking provision of less than 1no. space per unit.
- 12.2 As part of the proposed development for 24.no flats a total of 22 no. parking spaces will be provided which will include 2 no. dedicated disabled user bays. The car park and servicing area will be laid out centrally within the site to the rear of the main building, block 1, and to the foreground of block 2 situated to the south of the site.

- 12.3 Vehicular access will be provided via an existing cross-over onto Victoria Road in the northern corner of the site adjacent to the boundary with the Victoria Public House. The access road will abut the western site boundary and sweep around into the central section of the site providing a turning head to facilitate the manoeuvring of resident's cars and service vehicles. The remainder of the site will be landscaped to provide communal amenity space and planting to soften the extent of the hardstanding.
- 12.4 The Local Highway Authority has raised no objection in relation to the proposed amount of car parking provision and the access and servicing arrangements from Victoria Road.
- 12.5 It is therefore considered that the proposed car parking and access arrangements are acceptable and would not result in highway safety or parking/ servicing issues.
- 12.6 In terms of public transport the site is located in an accessible location with a bus stop positioned immediately to the front of the site which is served by several bus routes. In addition the site lies approximately 400 metres from Romford Train Station.
- 12.7 The proposal can demonstrate adequate provision of secure bicycle storage with space for up to 24 no. cycles set out in 2no. cycle stores located to the rear of block 1 adjacent to the western boundary and to the side of the western flank elevation of block 2. The cycle stores will be sited in an accessible location with good surveillance adjacent to the shared amenity area and car park.
- 12.8 The proposed development includes provision for an enclosed refuse store adjacent to the western boundary of the site, within accessible distances from the proposed flats and in a suitable location for refuse vehicles.
- 12.9 Concerns have been raised from neighbours due to the proximity of the refuse store to the site boundary. Staff are of the view that given that the store would be fully enclosed and set-in approximately 1 metre from the boundary with 100 Victoria Road, the location of the refuse store would be acceptable in these circumstances. However, if members were minded to disagree with Staff's views on the location a condition could be included in any approval notice requesting further details of a suitable location for the refuse store, away from the neighbouring dwellings.

13. Affordable Housing

- 13.1 The proposal results in development for which an affordable housing provision is required in accordance with the National Planning Policy Framework and the London Plan. Policies CP2 and DC6 set out a borough wide target of 50% of all new homes built in the borough to be affordable.

13.2 A provision of 50% affordable housing (12 units) will be provided in accordance with Policies CP2 and DC6. Of this 50% affordable provision the mix will breakdown as follows:

- 70% (8 units) will be rented - with 50% of this provision capped rent and the other 50% discounted rent.
- The remaining 30% (4 units) will be shared ownership.

13.3 The applicant indicates that the proposal will address issues of local need and help to counteract the imbalance of social rented housing in this part of the Borough.

13.4 The Council's Homes and Housing team are satisfied with the proposed affordable housing mix.

14. Community Infrastructure Levy and Developer Contributions

14.1 The proposed development will create 24 no new residential units with 1,937.9 square metres of new gross internal floorspace. Therefore the proposal is liable for Mayoral CIL and will incur a charge of £38,758 based on the calculation of £20.00 per square metre.

14.2 Under the provisions of Policy DC72 of the LDF and the Planning Obligations SPD a payment of £6,000 should be made for each new dwelling in respect of the infrastructure costs arising from the development. The proposal would create 24 no. new dwellings and would therefore be subject to a legal agreement to provide a contribution of £144,000.

15. Conclusion

15.1 Having regard to all relevant factors and material planning considerations Staff are of the view that this proposal would be acceptable.

15.2 Staff consider that the proposed development raises considerations in relation to the impact on the character and appearance of the streetscene and the impact on the amenity of the neighbouring residents. On balance the proposal is considered to be acceptable in all material respects.

15.3 Staff are of the view that the siting, scale and location of the proposal 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 proposal is considered to be acceptable in all other respects and it is therefore recommended that planning permission be granted subject to conditions and the applicant entering into a Section 106 Agreement.

IMPLICATIONS AND RISKS

Financial implications and risks:

Financial contributions will be sought through the legal agreement.

Legal implications and risks:

Legal resources will be needed to draft the legal agreement.

Human Resources implications and risks:

None.

Equalities implications and risks:

The Council's planning policies are implemented with regard to equality and diversity. The development includes a mix of unit types, including units that provide for wheelchair adaptable housing, and units which are designed to Lifetime Homes standards. The development also includes the provision of an element of affordable housing, thus contributing to the provision of mixed and balanced communities.

BACKGROUND PAPERS

Application form, drawings and supporting statements received on 2 May 2014 and 19 May 2014.

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REGULATORY SERVICES COMMITTEE

17 July 2014

REPORT

Subject Heading:

P0677.14 – 165 St Andrews Avenue, Elm Park

Proposed conversion of an existing 2 storey extension at No.165 St Andrews Avenue into a 2 storey dwellinghouse. (Received 14 May 2014)

Report Author and contact details:

Suzanne Terry
Interim Planning Manager (Applications)
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 was called in by Councillor Barry Mugglestone because of the planning history of the application site.

This report concerns an application for the proposed conversion of an existing 2 storey extension of No.165 St Andrews Avenue into a 2 storey dwellinghouse.

The residential development on the site is considered to be acceptable in principle. Staff are of the view that the proposal would have an acceptable relationship to adjoining properties and would provide suitable amenity provision for future occupiers. The development is also considered to be acceptable in respect of parking and highway issues.

RECOMMENDATIONS

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

- A financial contribution of £6,000 to be paid prior to commencement of the development towards infrastructure costs to fulfil the requirements of 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.
- The Developer/Owner to pay the Council's reasonable legal costs associated with the Legal Agreement prior to the completion of the agreement irrespective of whether the agreement is completed.
- Payment of the appropriate planning obligations monitoring fee prior to the completion of the agreement.

That 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 Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. Accordance with plans: The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans as detailed on page one of the 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 the LDF Development Control Policies Development Plan Document Policy DC61.

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

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

4. 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.

5. 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.

6. Noise levels: Prior to the first occupation of the proposed dwelling, the building shall be adapted to provide sound insulation of 43 DnT,w + Ctr dB

(minimum values) against airborne noise to the satisfaction of the Local Planning Authority.

Reason: To prevent noise nuisance to adjoining properties in order that the development accords with the Development Control Policies Development Plan Document Policies DC55 and DC61.

7. Landscape: 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.

8. Boundary treatment: Prior to the commencement of the development hereby approved, details of all proposed walls, fences and boundary treatment shall be submitted to, and approved in writing by, the Local Planning Authority. This scheme shall make provision for a wall or fence alongside the flank of the new dwelling. The boundary treatment shall then be carried out in accordance with the approved details and retained permanently 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 and in order that the development accords with Policies DC61 and DC63 of the LDF Development Control Policies Development Plan Document.

9. Highways 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 development.

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

10. Car parking: Before the dwellinghouse hereby permitted is first occupied, provision shall be made within the site for 2 car parking spaces serving the house hereby approved and 2 car parking spaces for host dwelling No.165 St Andrews Avenue to the satisfaction of the Local Planning Authority 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.

11. Permitted Development rights: Notwithstanding 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 subsequent order revoking or re-enacting that order, no development shall take place under Classes A, B and E for extensions and outbuildings , 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.

INFORMATIVES

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. 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. The Highway Authority requests that these comments are passed to the applicant. 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 Street Care, Traffic & Engineering on 01708 433750 to commence the Submission/ Licence Approval process.
3. 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.

REPORT DETAIL

1. Site Description

- 1.1 The application site contains a 2 storey semi-detached dwellinghouse which benefits from existing extensions, rear outbuilding and hardstanding for 3 off-street car parking spaces to the front. The proposed plot measures approximately 180 square metres in floor area.
- 1.2 The property lies on a prominent corner plot on a bend in St Andrews Avenue. The area is predominantly residential, characterised by similar 2 storey terraced and semi-detached residential properties.

2. Description of Proposal

- 2.1 The application seeks permission for the conversion of an existing 2 storey extension at No.165 St Andrews Avenue into a 2 storey dwellinghouse.
- 2.2 The only external changes to the existing side extension would be a new entrance door to the proposed new dwelling on the ground floor flank wall and an obscure window on the first floor of the side elevation.
- 2.3 There would also be a sub-division of the back garden to ensure both dwellinghouses (the host and proposed) would have their own rear private garden space. The existing outbuilding to the rear of the host dwelling would be demolished and removed. The proposals indicate that a parking space would be provided in the rear garden of the proposed dwelling.

3. Relevant History

- 3.1 P0677.14 Single storey front and rear extension & 2 storey side/rear extension - Approve with conditions 25/5/07
- 3.2 P0042.14 Single storey front, side & rear and 2 storey side/rear extensions – Refused 2/3/07
- 3.3 P2045.04 One detached dwelling - Refused 6/1/05

4. Consultations/Representations

- 4.1 23 neighbouring properties were consulted, 1 letter of objection received on the following grounds;
 - Notes that the previous permission had a condition that restricting the use of the extension as a separate unit of residential accommodation.
 - The separate dwelling would further unbalance the two properties therefore devaluating their property.
 - The area has limited on-street car parking

- 4.2 Highways - No objections subject to vehicle access condition
- 4.3 London Fire Brigade Water Team - No objections
- 4.4 London Fire and Emergency Planning - No objections
- 4.5 Environmental Health - No objections subject to appropriate noise conditions.
- 4.6 Thames water – No objections, informatives are advised
- 4.7 Essex & Suffolk water – No objections, informatives are advised

5. Relevant Policies

- 5.1 Policies CP1 (Housing Supply), CP2 (Sustainable Communities), CP17 (Design), DC2 (Housing Mix and density), DC3 (Housing Design and layout), DC4 (Conversions of residential and subdivision of residential uses), DC33 (Car parking), DC61 (Urban Design), of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document are material planning considerations together with the Design for Living Supplementary Planning Document, the Landscaping Supplementary Planning Document, the Planning Obligations Supplementary Planning Document and the Residential Extensions and Alterations Supplementary Planning Document.
- 5.2 In addition, Policies 7.4 (Local character) of the London Plan and Chapters 6 (Delivering a wide choice of high quality homes), 7 (Requiring good design) and 8 (Promoting healthy communities) of the National Planning Policy Framework are relevant.

6. Staff Comments

- 6.1 The issues in respect of this application are the principle of development, impact on the streetscene and design, amenity issues and parking and highways implications.
- 6.2 The proposal in question concerns the conversion of the existing 2 storey side extension which was given permission under reference P0612.07. The application, as submitted, was for a granny annexe. It contained a lounge, kitchen and bathroom on the ground floor with bedrooms on the first floor. The annexe was proposed to be used in connection with the main house and was determined on the basis the extension would remain as an integral part of the main dwelling. In order that the impact of any sub-division could be addressed in the future, the development was approved subject to conditions that included:

The extension hereby permitted shall be used only for living accommodation as an integral part of the existing dwelling known as 165 St Andrews Avenue, Elm Park and shall not be used as a separate unit of residential accommodation at any time.

Reason:-

The site is within an area where the Local Planning Authority consider that the sub-division of existing properties should not be permitted in the interests of amenity, and that the development accords with Unitary Development Plan policy ENV1.

- 6.3 It does not mean that use as a separate dwelling should be assumed to be unacceptable, only that the condition is a means of imposing some control over future use and allowing the impact of such a conversion to be considered.
- 6.4 The proposal now before Members is distinct from the previously approved application as it seeks the conversion of the unit to a separate dwelling. The planning issues are set out below.

7. Principle of Development

- 7.1 The site currently has a residential land use. In accordance with the objectives of Policy CP1, there is no objection in principle to residential development on this site, providing that the proposals are acceptable in all other material respects.

8. Density/Layout

- 8.1 The site is identified as having a level of Public Transport Accessibility (PTAL) of 3-4, as defined by Policy DC2 on Housing Density. Within this zone and part of the Borough, housing density of between 30-65 dwellings is anticipated.
- 8.2 The application site comprises an area of 0.35 hectares and the proposal and host dwelling on this site would produce a density of 66 dwellings per hectare which would accord with this guidance.
- 8.3 It is proposed to create a new dwellinghouse. Policy 3.5 of the London Plan states that Local Development Frameworks should incorporate minimum space standards. The Mayor has set the standard for a 2 bedroom (4 persons) house at 83 square metres. The proposed house is approximately 86 square metres floor area, and therefore, is in accordance with the Mayor's standards.
- 8.4 The Council's Design for Living 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.

- 8.5 The proposal would provide approximately 30 square metres of amenity space for the new dwelling and 43 square metres for the donor property following the removal of the existing rear outbuilding. Staff are of the opinion that the amenity space would be private, screened from general public view and access, and in a conveniently usable form. As a result, it is considered on balance that the proposed amenity area for the new dwelling complies with the requirements of the Design for Living SPD and is acceptable. The amenity area is however of limited size for a family dwelling and Members may judge this to be evidence of an unduly cramped form of development that is uncharacteristic of its surroundings. Although staff judge the amenity provision to be acceptable, Members may reach a different conclusion in this respect.
- 8.6 Each habitable room within the dwelling would be of a suitable size and would be served with a clear opening for suitable light and outlook. With the above taken into consideration, the living accommodation of the dwellinghouse is considered to be adequate and usable.

9. Design and Appearance

- 9.1 Policy DC61 states that development should respond to local building forms and patterns of development and respect the scale, massing and height of surrounding physical context.
- 9.2 As mentioned above the only external alterations on the proposed dwelling would be the ground floor front door for the entrance of the new dwellinghouse and the first floor window to the side elevation. It is considered that the size, layout and proportion of these changes are considered minimal and appropriate to the existing building.
- 9.3 The proposed new front door is considered safe and secure for the future occupants, such door to the side elevation would not look out-of-character on a corner plot property. It would also be screened by existing boundary fences.
- 9.4 There would be a fence boundary erected to sub-divide the garden between the host and proposed dwelling, conditions would be added to finalise detail of the design of any proposed boundaries and landscaping.
- 9.5 Staff considers that, as the extension already exists, the overall impact on the character and appearance of the surrounding area is limited. However, Members may judge that the resultant dwelling creates a cramped, narrow plot that is not characteristic of the surrounding area and thereby detrimental to the streetscene.

9.6 In summary, the conversion from ancillary extension into a separate dwelling, is judged to be compatible with the overall character of development in the locality. With the above taken into consideration, staff are satisfied that the proposed development is unlikely to result in any visual harm. The development is considered to be acceptable and accords with the principles of Policy DC61.

10. Impact on Amenity

10.1 Policy DC61 of the LDF requires new development not to harm the amenities of adjoining occupiers by reason of noise and disturbance, loss of light, overlooking or other impacts.

10.2 According to Policy DC4, planning permission will only be granted for proposals involving subdivision of existing residential dwellings provided:

- 1) a suitable degree of privacy and private sitting out / amenity space is provided and
- 2) the living rooms of new units do not abut the bedrooms of adjoining dwellings.

10.3 The relationship with the donor property is not materially changed. No.167 St Andrews Avenue, which is the other semi-detached property within this pair, would not suffer any material increase of loss of light, outlook or privacy, as there are no physical changes affecting their side of the property.

10.4 The neighbouring property to the rear of the garden space is considered to not be affected, although there would be increased activity with the removal of the outbuilding to convert to usable amenity and parking space that would be more frequently used. Such change would be not be enough to warrant a refusal as the existing arrangement allows for car parking and it is not out-of-character in the area to have rear amenity space backing on to the rear or sides of other neighbouring properties.

10.5 As recommended by the Environmental protection officer, a condition would be added that prior to occupation of the converted unit, the building shall be adapted to provide sound insulation against airborne noise to the satisfaction of the Local Planning Authority. This would prevent noise nuisance to adjoining properties between the new and the host dwellinghouses.

10.6 As mentioned above, the rear garden spaces would be relatively private and it would be conditioned to secure details of the fence which would sub-divide the rear areas. Such rear amenity proposed would be in character with the surrounding area. A condition will be imposed to remove permitted development rights in view of the limited garden areas.

10.7 With the above taken into consideration, staff are therefore satisfied that the proposed development is unlikely to result in any material harm. The

development is considered to be acceptable and accords with the principles of Policy DC61.

11. Parking and highway issues

- 11.1 Policy DC33 seeks to ensure all new developments make adequate provision for car parking. Hornchurch has a PTAL rating of 3-4, and Policy DC2 of the LDF indicates that in this part of the Borough parking provision for residential development should be 2 to 1.5 spaces per unit.
- 11.2 There already exists hardstanding to the front of the property for 3 off-street car parking spaces and one in the rear garden. It is proposed that two parking spaces would be retained for the host property in the front garden and there would be one frontage space and one rear garden space for the proposed dwelling. The parking provision is in line with policy guidelines and considered acceptable, and a condition would be placed on a grant of permission to ensure that these 2 car parking spaces per dwelling are retained permanently.
- 11.3 Highways have no objection to the car parking arrangements and no objections to highway issues subject to a condition relating to vehicle access.
- 11.4 With the above taken into consideration with the appropriate conditions, it is considered that the proposal is acceptable and accords with the principles of Policy DC 33.

12. Section 106 implications

- 12.1 A Section 106 Legal Agreement is required to secure a financial contribution of £6,000 to be used towards infrastructure costs in accordance with Policy DC72 and the Planning Obligations Supplementary Planning Document.

13. Conclusion

- 13.1 Staff consider that the principle of residential development in this location is suitable. The proposal is judged acceptable in all material respects. However, Members may reach a different conclusion in respect of the resultant plot size and compatibility with local character.
- 13.2 For the reasons outlined above within the report, the proposal is considered to be acceptable and approval is recommended as it would not be contrary to the provisions of the Havering Supplementary Planning Documents and Policy DC61 and DC72 of the LDF Core Strategy and Development Control Policies DPD.

IMPLICATIONS AND RISKS

Financial Implications and risks:

Financial contributions are required through legal agreement.

Legal Implications and risks:

Legal resources will be required for the completion of a legal agreement.

Human Resource Implications:

None

Equalities and Social Inclusion Implications:

The Council's planning policies are implemented with regard to equalities and social inclusion issues..

BACKGROUND PAPERS

Application form, drawings and supporting statement received on 14th May 2014.

REGULATORY SERVICES COMMITTEE

REPORT

17 July 2014

Subject Heading:	Planning Contravention 1 Spinney Close Rainham Essex
Report Author and contact details:	Simon Thelwell Projects and Regulation Manager 01708 432685 simon.thelwell@havering.gov.uk
Policy context:	Local Development Framework
Financial summary:	Enforcement action and a defence of the Council's case in any appeal will have financial implications.

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 report concerns an outbuilding that lies to the rear of a residential property at No. 1 Spinney Close, Rainham. The outbuilding is being used to house a hot tub and gymnasium. The outbuilding has been constructed without the benefit of planning permission.

The outbuilding is considered to be unacceptable due to its height and bulk in the rear garden environment. It is therefore requested that authority be given to issue and serve an Enforcement Notice to seek to remedy the breach of planning control.

RECOMMENDATIONS

That the Committee consider it expedient that an Enforcement Notice be issued and served to require, within 3 months of the effective date of the notice:

- Remove the unauthorised outbuilding; or
- Reduce the height of the outbuilding to a maximum of 2.5m in compliance with Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, as amended;
- Remove from the land all materials and equipment associated with compliance with either of the above.

In the event of non compliance, and if deemed expedient, that proceedings be instituted under the provisions of the Town and Country Planning Act 1990.

REPORT DETAIL

1. **Site Description**

- 1.1 1 Spinney Close, Rainham, shown outlined bold black on the attached plan (“the Property”) is a detached house in a small Close of similar style properties. The rear garden of the Property is abutted by gardens in Karen Close and Frederick Road.
- 1.2 The rear gardens of the properties in Spinney Close are fairly compact.

2. **The alleged planning contravention**

- 2.1 Without planning permission, the erection of a single storey outbuilding in the area hatched black on the attached plan (“the Outbuilding”). The Outbuilding is L shaped and is a maximum of 6.5 metres wide by 8.2 metres deep and 3.4 metres high to the ridge, with a floor area of 31 square metres.
- 2.2 The Outbuilding is used to house a hot tub and a fully equipped gymnasium. The breach of planning control has occurred within the last 4 years.

3. **Relevant Planning History**

- 3.1 P0468.13 – Application to retain Outbuilding – Invalid and on hold.

4. **Enforcement Background**

- 4.1 A complaint was received in February 2013 alleging that an Outbuilding had been erected in the rear garden of the Property. A Building Control application was required and applied for as the floorspace measured 31sq.m. (App: BN/9003/13/3). A site visit confirmed that the Outbuilding was over 2.5m in height (measuring 3.4m) and was within 2m of the boundary of a neighbouring property.
- 4.2 Access to the Outbuilding can be obtained via a side extension to the Property. The Outbuilding has been constructed to a high standard and it is in use as a hot tub and a gymnasium.
- 4.4 The owner of the Property submitted a retrospective planning application in May 2013 which was placed on hold as no plans were attached. Several requests were made for the owner to provide the outstanding information. The owner had agreed to submit the requested information in November 2013 but to date has failed to do so. Therefore a decision needs to be made as to whether it would be appropriate to serve an Enforcement Notice against the Outbuilding.

5. **Policy and Other Material Considerations**

- 5.1 Article 3 and Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, as amended (the GPDO) provides that an outbuilding within the curtilage of a dwelling house would be permitted development. However, this is subject to Condition E.1. The condition prevents permitted development rights where an outbuilding: (i) is within 2 meters of the boundary of the curtilage of the dwelling house and (ii) exceeds 2.5 meters in height above the surface of the ground immediately adjacent to the outbuilding.
- 5.2 As the Outbuilding is not constructed within permitted development criteria it is considered that the development fails to comply with condition E.1 as set out in Part 1 of Schedule 2 to the GPDO.
- 5.1 Policy DC61 (Urban Design) states that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the area.
- 5.2 Paragraph 9.5 of the residential extensions SPD states that outbuildings should be subordinate in scale to the existing dwelling and to the plot. In

assessing proposals, the Council will consider factors such as the scale, height, proximity to boundaries, roof design, finishing materials and prominence in the street scene or rear garden environment. As with all extensions, outbuildings should not detract from the character of the area and should be unobtrusively located to the side and rear of the existing dwelling.

- 5.3 In this case, the Outbuilding takes up quite a significant part of the rear garden of the Property and is located close to neighbouring residential boundaries. Due to its size and height it is considered to appear as an inappropriately dominant structure that appears out of character in the rear garden environment.
- 5.4 It is considered that if a valid planning application were received for retention of the Outbuilding, refusal of planning permission would be recommended due to the harm to visual amenity, contrary to Policy DC61 of the LDF and guidance in the Residential Extensions SPD.

6. **Recommendation for Action**

- 6.1 For the reasons outlined above, the Outbuilding is considered to be unacceptable. The owner of the Property has not submitted a valid planning application and the Outbuilding remains in place.
- 6.2 Taking into account the harm that has been identified, it is recommended that enforcement notices be served requiring either the removal of the unauthorised Outbuilding or its reduction in height to a maximum of 2.5 metres in order to comply with permitted development regulations. It is considered that three months would be adequate period to secure compliance with the notice.

IMPLICATIONS AND RISKS

Financial implications and risks:

Enforcement action may have financial implications for the Council.

Legal implications and risks:

Enforcement action, defence of any appeal and, if required, prosecution procedures will have resource implications for the Legal Services.

Human Resources implications and risks:

No implications identified.

Equalities implications and risks:

Section 149 of the Equalities Act 2010 (EA) came in to force on 1st April 2011 and broadly consolidates and incorporates the 'positive equalities duties' found in Section 71 of the Race relations Act 1976 (RRA), Section 49 of the Disability Discrimination Act 1995 (DDA) and section 76(A)(1) of the Sexual Discrimination Act 1975 (SDA) so that due regard must be had by the decision maker to specified equality issues. The old duties under the RRA, DDA and SDA remain in force.

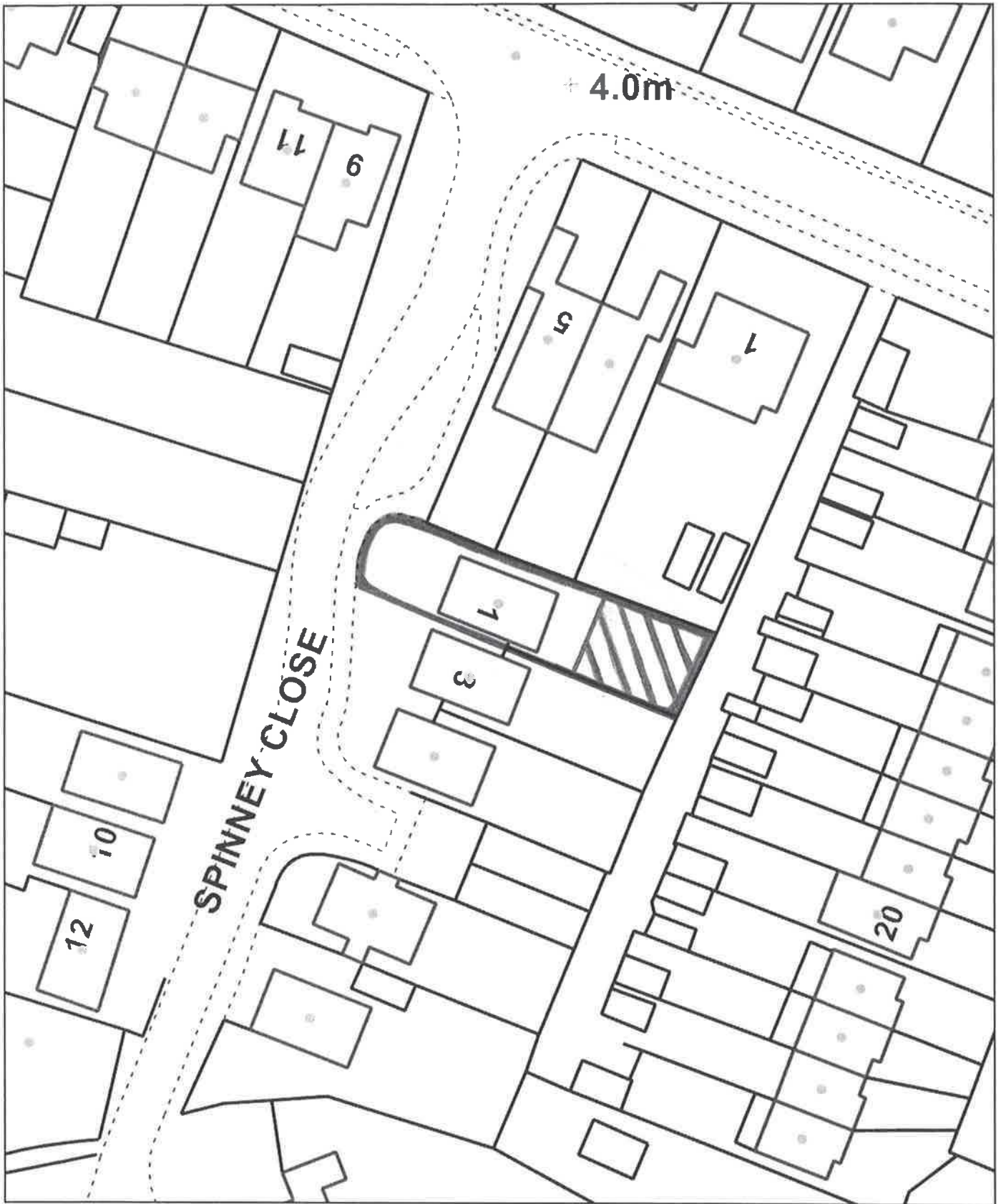
The duties under Section 149 of the EA do not require a particular outcome and what the decision making body decides to do once it has had the required regard to the duty is for the decision making body subject to the ordinary constraints of public and discrimination law including the Human Rights Act 1998.


Having consider the above duty and the Human Rights Act 1998 there are no equality or discrimination implications raised

BACKGROUND PAPERS


1. Ordnance survey extracts showing site and surroundings.

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1 SPINNEY CLOSE, RAINHAM	
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 <p>London Borough of Havering Town Hall, Main Road Romford, RM1 3BD Tel: 01708 434343</p>	© Crown copyright and database rights 2014 Ordnance Survey 100024327 <p style="text-align: center;">Page 221</p>
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REGULATORY SERVICES COMMITTEE

REPORT

17 July 2014

Subject Heading:

Planning Contravention
9 Shakespeare Road, Romford

Report Author and contact details:

Simon Thelwell
Projects and Regulations Manager
01708 432685

Policy context:

simon.thelwell@havering.gov.uk
Local Development Framework

Financial summary:

Enforcement action and a defence of the Council's case in any appeal will have financial implications.

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

Ensuring a clean, safe and green borough	<input type="checkbox"/>
Championing education and learning for all	<input type="checkbox"/>
Providing economic, social and cultural activity in thriving towns and villages	<input type="checkbox"/>
Value and enhance the life of our residents	<input checked="" type="checkbox"/>
Delivering high customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

This report concerns the construction of an unauthorised area of hardstanding to the front of the property at 9 Shakespeare Road, Romford. The provision of a hard surface for any purpose incidental to the enjoyment of the dwelling is permitted development subject to conditions. This requires that, if the area of the hard surface exceeds 5 meters squared, and if it lies between the dwelling and the

highway, the hard surface shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the curtilage of the dwelling.

The hard surface to the front of 9 Shakespeare Road fails to comply with permitted development criteria as it exceeds 5 square meters; it is constructed from non-porous material and no provision has been made to direct run-off water from the hard surface to a permeable or porous area within the curtilage of the dwelling.

It is considered that the hard surface results in increased surface water run off to the public highway, increasing risk of flooding and that it would be appropriate to take enforcement action.

RECOMMENDATIONS

That the committee consider it expedient that an Enforcement Notice be issued and served to require within 3 months of the effective date of the enforcement notice:

- i) To relay the hard surface with porous materials; or
- ii) Provision shall be made to direct runoff water from the hard surface area to a permeable or porous area or surface within the curtilage of the dwelling house; or
- iii) Take up the hard surface
- iv) Remove from the Land all materials, rubble, machinery, apparatus and installations used in connection with or resulting from compliance of (i, ii, iii) above.

In the event of non compliance, and if deemed expedient, that proceedings be instituted under the provisions of the Town and Country Planning Act 1990.

REPORT DETAIL

1. Site Description

- 1.1 9 Shakespeare Road, Romford shown outlined bold black on the attached plan (“the Property”) is a 2 storey, end of terrace residential dwelling. The surrounding area comprises of two storey detached and semi-detached dwellings.

2. The Alleged Planning Contravention

- 2.1 The formation of a hard surface to the front garden of the Property in the area shown hatched black on the attached plan without complying with

Condition F1 of the Town and Country Planning (General Permitted Development) Order 1995, as amended (“the Hardstanding”).

3. Relevant Planning and Enforcement History

- 3.1 In July 2013 the Local Planning Authority received a complaint that an area of Hardstanding had been constructed to the front of the Property without a soakaway. Officers investigated the complaint and found that the Hardstanding had not been constructed from a porous material and that there was no provision for direct run-off water to be retained within the curtilage of the Property. A letter was sent to the owner of the Property giving notice of the breach of planning control.
- 3.2 After corresponding with the owner on several occasions it became apparent that the necessary works to the Hardstanding would not be carried out.

4. Policy and Other Material Considerations

- 4.1 Article 3 and Class F of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended (the GPDO) provide that, within the curtilage of a dwellinghouse, the provision of a hard surface for any purpose incidental to the enjoyment of the dwelling is permitted development. However, this is subject to Condition F1. The condition requires that, if the area of the hard surface exceeds 5m², and if it lies between the dwelling and the highway, the hard surface shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the curtilage of the dwellinghouse.
- 4.2 As the unauthorised Hardstanding is not constructed within permitted development criteria it is considered that the development fails to comply with Condition F1 as set out in Part 1 of Schedule 2 to the GPDO.
- 4.3 The main planning issue in this case is the strain on the main drainage system due to the front garden area of the Property being paved. The Government introduced new planning legislation on October 2008 in order to ease the problem of surface run-off water to the highway.
- 4.4 Paragraph 103 of the National Planning Policy Framework states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.
- 4.5 Policy DC48 of the Council’s Local Development Frameworks states that development should not increase the risk of flooding elsewhere. Whilst the Hardstanding, in itself, is unlikely to result in direct flooding, the Hardstanding slopes toward the highway and none of the water run-off would be attenuated on site. As a result, the likelihood of flooding through

surface water run-off is increased and is considered this is considered to be contrary to Planning Policy.

5. **Recommendation for action**

- 5.1 The Hardstanding covers almost one third of the entire area of the front garden of the Property the remainder of the front garden is also covered in with a hard surface but this is immune from enforcement action due to the amount of time it has been there. The Hardstanding exceeds 5m² in area, and is formed from non-porous materials. The Hardstanding results in an increase in surface water run-off to the highway.
- 5.2 The owner of the Property has had an opportunity to install a soakaway or to make provisions for direct run-off from the Hardstanding to a permeable or porous area within the curtilage of the Property.
- 5.3 To date the development remains unchanged. With that in mind, it is considered that the only course of action available to prevent run off to the public highway with an increased risk of flooding is to serve an Enforcement Notice. The notice will give the owner of the Property the opportunity to alter the Hardstanding to direct run-off to an area within the Property boundaries or to change the surface so it is porous or else remove the Hardstanding.
- 5.4 It is considered that three months is sufficient time to enable compliance with the requirements of the Enforcement Notice.

IMPLICATIONS AND RISKS

Financial implications and risks:

Enforcement action may have financial implications for the Council.

Legal implications and risks:

Enforcement action, defence of any appeal and, if required, prosecution procedures will have resource implications for the Legal Services.

Human Resources implications and risks:

No implications identified.

Equalities implications and risks:

Section 149 of the Equalities Act 2010 (EA) came in to force on 1st April 2011 and broadly consolidates and incorporates the 'positive equalities duties' found in Section 71 of the Race relations Act 1976 (RRA), Section 49 of the Disability

Discrimination Act 1995 (DDA) and section 76(A)(1) of the Sexual Discrimination Act 1975 (SDA) so that due regard must be had by the decision maker to specified equality issues. The old duties under the RRA, DDA and SDA remain in force.

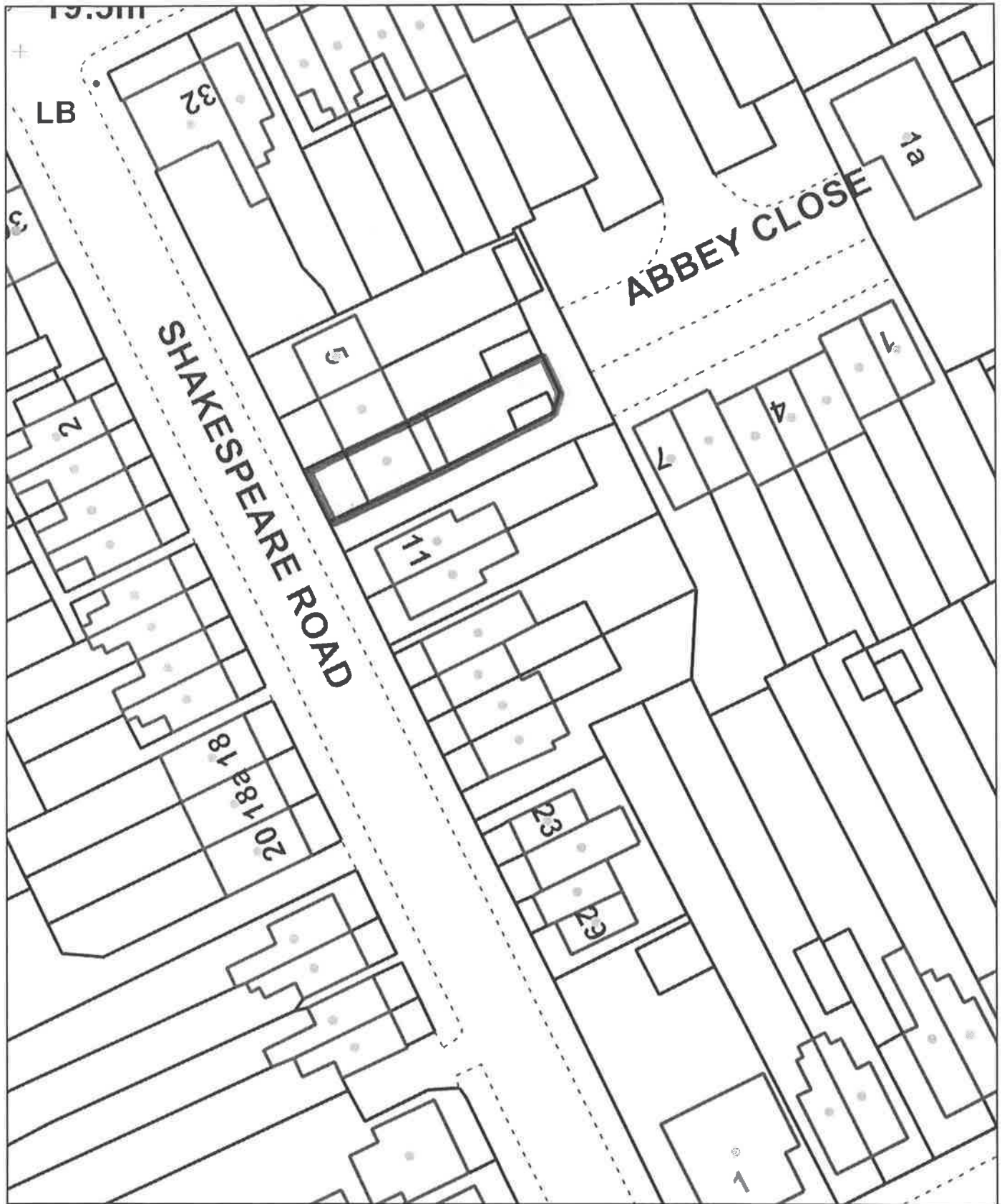
The duties under Section 149 of the EA do not require a particular outcome and what the decision making body decides to do once it has had the required regard to the duty is for the decision making body subject to the ordinary constraints of public and discrimination law including the Human Rights Act 1998.

Having considered the above duty and the Human Rights Act 1998 there are no equality or discrimination implications.

BACKGROUND PAPERS

Site photographs

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9 SHAKESPEARE ROAD N
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Scale: 1:500
Date: 07 July 2014

0 5 10 15 metres





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 Romford, RM1 3BD
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