

REGULATORY SERVICES COMMITTEE

24 April 2014

REPORT

Subject Heading:

P0112.14 – Land between 117 and 119
Shepherds Hill, Harold Wood– New
detached dwelling (received 5/02/14)

Report Author and contact details:

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Policy context:

Local Development Framework
The London Plan
National Planning Policy Framework

Financial summary:

None

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

Ensuring a clean, safe and green borough	[]
Championing education and learning for all	[]
Providing economic, social and cultural activity in thriving towns and villages	[]
Valuing and enhancing the lives of our residents	[x]
Delivering high customer satisfaction and a stable council tax	[]

SUMMARY

The application seeks planning permission for a detached dwelling. Staff consider that the proposal would be contrary to the Green Belt and urban design policies contained in the Local Development Framework Core Strategy and Development

Control Policies Development Plan Document and the National Planning Policy Framework. It is recommended that planning permission be refused.

Councillor Oddy requested this application be called in to committee, on the grounds that there is possible merit in the proposal and that Members may take an alternative view considering the site's location.

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 £2,508.66, subject to indexation. This is based on the creation of 126 square metres of new gross internal floor space.

That planning permission is refused for the following reasons:

1. The site is within the area identified in the Local Development Framework as Metropolitan Green Belt. Policy DC45 of the LDF and Government Guidance as set out in the National Planning Policy Framework (Green Belts) 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 development will only be permitted outside the existing built up areas in the most exceptional circumstances. The development is inappropriate in principle in the Green Belt. The special circumstances that have been submitted in this case, do not outweigh the in principle harm and visual harm to the character and openness of the Green Belt arising from this proposal. The proposed development is therefore contrary to Policy DC45 of the LDF Core Strategy and Development Control Policies Development Plan Document, as well as the National Planning Policy Framework.
2. The proposed development would, by reason of its scale, bulk, mass and position close to the boundaries of the site, appear unduly cramped in the site, harmful to the setting of the locally listed building as well as the character and appearance of the surrounding area contrary to Policies DC61 and DC67 of the Local Development Framework Development Plan Document.
3. In the absence of a legal agreement to secure a financial contribution of £6,000 to be used towards infrastructure costs of new development, the proposal is contrary to the provisions of Policy DC72 of the LDF and the Havering Planning Obligations Supplementary Planning Document.

INFORMATIVES

1. 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 £2,508.66 subject to indexation. Further details with regard to CIL are available from the Council's website.

2. 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.

REPORT DETAIL

1. **Site Description:**

- 1.1 The application has been advertised as required under The Town and Country (Development Management Procedure) (England) Order 2010 as contrary to the policy of the Development Plan. The application site is located on the northern side of Shepherds Hill. The application site comprises of a parcel of land in between No.'s 115 and 119/121 Shepherds Hill. The site previously formed part of the garden area of No.117 Shepherds Hill which is located towards the rear of the existing plot. The application site has since been subdivided from No. 117 Shepherds Hill. The surrounding area is characterised by two storey residential properties on large spacious plots. The application site and surrounding area is located within the Metropolitan Green Belt.

2. **Description of development:**

- 2.1 The application seeks full planning permission for the erection of a two storey dwelling on land between no.115 and 119/121 Shepherds Hill. The proposed dwelling would measure 11.5 metres in depth by 6.7 metres in width and have a hipped roof. The roof would be 7.9 metres in height at the ridge. A statement of very special circumstances has been submitted in support of the application.

3. **Relevant History:**

- 3.1 P1345.11 – Two storey detached family dwelling – Refused. Appeal dismissed.
P1588.09 - Residential annexe - Refused.
P1210.09 - Detached building to form annexe to rear of 117 Shepherds Hill - Withdrawn.
P2039.07 - New two bedroom bungalow - Refused.
P2299.88 - Detached house and garage - Refused and appeal dismissed.
P0091.87 - Detached dwelling - Refused
P0402.86 - Erection of detached dwelling - Refused
185/82 - Detached dwelling and garage (outline) - Refused and appeal dismissed
1153/79 - Outline domestic dwelling - Refused
L/HAV/773/66 – New dwelling and garage – Refused.

4. Consultations/Representations:

4.1 The application has been advertised in a local newspaper and by way of a site notice as a departure from Green Belt policies. Nineteen neighbouring occupiers were notified of the planning application. A petition has been received in support of the application with 19 signatures. Three letters of objection were received (one didn't have any address details) with detailed comments that have been summarised as follows:

- The Design and Access Statement advises that the application is in line with the National Planning Policy Framework, although there is no supporting evidence provided with this statement.
- This planning application is very similar to the original planning application.
- This location would deter, not encourage fly tippers as it's in between two houses and is a dangerous place to park including commercial vehicles to dump rubbish.
- There is no evidence of site clearance since planning application P1345.11.
- Loss of amenity – would appear cramped on the plot and remove the open aspect of the site.
- It is suggested that the site could be sold to someone else who would not develop the land for residential use, if the current owner does not want to clear the area.
- Would set an undesirable precedent for other properties in Shepherds Hill, with occupiers dividing their gardens to build houses.
- This is the 10th planning application and previous appeals have been dismissed. The reasons for refusal for the previous applications have not diminished.
- No. 119/121 Shepherds Hill may be included in the Register of Buildings of Local Heritage Interest.
- The impact of the proposal on the character and appearance of a locally listed property, which is of historical and architectural merit.
- The proximity of the proposal to the boundaries of neighbouring properties.
- The narrow width of the plot, access and highway safety.
- The proposal would be visually intrusive and out of character with neighbouring properties and the surrounding area.
- The site used to be a pleasant garden area, now it is barren land.
- The rural character of the Metropolitan Green Belt needs to be protected.
- Loss of light and outlook.
- Loss of privacy.
- There is a restrictive covenant on the application site preventing the development of a dwelling.
- Noise and disturbance during construction works.

4.2 Restrictive covenants and noise and disturbance from construction works are not material planning considerations. The remaining issues are addressed in the following sections of this report.

4.3 Crime Prevention Design Advisor – Recommends an informative if minded to grant planning permission.

4.4 The Highway Authority has no objections to the proposal and recommends conditions regarding cycle storage, pedestrian visibility splays and vehicle access and various informatives if minded to grant planning permission.

4.5 English Heritage – The proposal is unlikely to have a significant effect on heritage assets of archaeological interest.

5. **Staff Comments:**

5.1.1 The issues arising from this application are the principle of development, the impact upon the character and openness Metropolitan Green Belt, the impact on the streetscene, amenity implications, any highway and parking issues and the case for very special circumstances.

5.1.2 Policies CP1 (Housing Supply), CP2 (Sustainable Communities), CP14 (Green Belt), CP17 (Design), DC3 (Housing Design and Layout), DC33 (Car Parking), DC61 (Urban Design), DC63 (Delivering Safer Places) and DC72 (Planning Obligations) of the LDF Core Strategy and Development Control Policies Development Plan Document are considered material together with the Residential Design Supplementary Design Guidance, the Landscaping Supplementary Planning Document, the Planning Obligations Supplementary Planning Document. Policies 3.3 (increasing housing supply), 3.4 (optimising housing potential), 3.5 (quality and design of housing developments), 3.8 (Housing Choice), 5.3 (Sustainable Design and Construction), 6.13 (parking), 7.1 (building London's neighbourhoods and communities), 7.13 (safety, security and resilience to emergency), 7.16 (Green Belt), 7.4 (local character) and 8.3 (Community infrastructure levy) of the London Plan are relevant. Chapters 6 (Delivering a wide choice of high quality homes), 7 (Requiring good design) and 9 (Protecting Green Belt land) of the National Planning Policy Framework are relevant.

5.2 **Background**

5.2.1 The last planning application for this site was P1345.11, which sought permission for a two storey detached family dwelling and this was refused for the following reasons:

1) The site is within the area identified in the Havering Local Development Framework as Metropolitan Green Belt. The Council's development plan and Government Guidance as set out in Planning Policy Guidance Note 2 (Green Belts) is 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 the new building will only be permitted outside the existing built up areas in the most exceptional circumstances. The special circumstances that have been submitted in this case, to the Council's satisfaction, do not outweigh the in principle harm and visual harm arising from this proposal. The proposed development is therefore contrary to Policy DC45 of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document and the provisions of Government guidance contained in PPG2 (Green Belts).

2) The proposed development would, by reason of its roof form, scale, bulk, mass and position close to the boundaries of the site, appear unduly cramped in the site, harmful to the setting of the locally listed building as well as the character and appearance of the surrounding area contrary to Policy DC61 of the Local Development Framework Development Plan Document.

3) It is considered that the proposed development would, by reason of its excessive depth, scale, bulk and mass, appear dominant and visually intrusive in the rear garden environment harmful to the amenity of adjacent occupiers, particularly No. 115 Shepherds Hill contrary to Policy DC61 of the Local Development Framework Development Plan Document.

The application was subsequently dismissed on appeal.

5.3 Principle of Development

5.3.1 The application site lies within Metropolitan Green Belt. The proposal is for a new detached dwelling. Paragraph 89 of the National Planning Policy Framework (NPPF) states that the construction of new buildings is inappropriate in Green Belt. The exceptions to this are:

- buildings for agriculture and forestry;
- provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

5.3.2 Policy DC45 of the LDF states that planning permission for new buildings will only be granted for the following purposes - they are essential for agriculture and forestry, outdoor recreation, nature conservation, cemeteries, mineral extraction or park and ride facilities, or they involve limited infilling or redevelopment on a site designated as a Major Developed Site in accordance with DC46.

5.3.3 The provision of a new residential dwelling is not one of the specified purposes listed in the NPPF and as such this proposal is inappropriate in principle. The NPPF provides that where inappropriate development is proposed within the Green Belt planning permission should not be granted unless the applicant can demonstrate very special circumstances exist that outweigh the harm resulting from the development. The NPPF states that a Local Planning Authority should regard the construction of new buildings as

inappropriate in Green Belt, although one exception is limited infilling in villages or limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

- 5.3.4 Although Policy DC45 does allow for limited infilling this is relating to sites designated as a major development site in accordance with Policy DC46, which does not include the application site. The appeal decision for application P1345.11 stated that “The Framework requires local planning authorities to regard the construction of new buildings as inappropriate in the Green Belt, unless they meet certain, specified criteria. The Council asserts and the appellant does not dispute, that the proposed development does not meet any of these criteria. As such, the proposal would represent inappropriate development, which is, by definition, harmful to the Green Belt...and contrary to the NPPF and Policy DC45 of the LDF”.
- 5.3.5 When reviewing the merits of this application, consideration was given to an appeal decision regarding a separate planning application for a new dwelling in the vicinity of the application site. Planning application P0995.12 sought consent for a new dwelling at land to the north/rear of the Shepherd & Dog Public House, Shepherds Hill, which was refused planning permission on the following grounds (which have been summarised): 1) The development is inappropriate in principle in the Green Belt and no very special circumstances were submitted to outweigh the harm caused by inappropriateness and visual harm to the character and openness in the Green Belt. 2) The proposed development, by reason of the bulk and size of the proposed dwellings, would result in a visually intrusive form of development, which is detrimental to the open character of the Green Belt at this point. 3) In the absence of a mechanism to secure a planning obligation towards the infrastructure costs of new development the proposal is contrary to the provisions of the Havering Planning Obligations Supplementary Planning Document. This planning application was subsequently allowed on appeal.
- 5.3.6 The Inspector (for application P0995.12) referred to the NPPF which states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this include limited infilling in villages. The Inspector was of the view that the proposal would conflict with development plan policy DC45, however this is out of date as it is inconsistent with Government policy in the Framework in respect of development in the Green Belt, with which the proposal would comply. The Inspector concluded that Shepherds Hill forms a sufficiently extensive area of residential development to be considered a village and the new single dwelling would comprise limited infilling in a village. As a result the proposal would not comprise inappropriate development in the Green Belt for the purposes of the Framework. The Inspector referred to the appeal decision for P1345.11 at 117 Shepherds Hill, noting that the appellant in that case did not seek to contest the Council’s view that the dwelling would be inappropriate development and the issue of whether the proposal constituted limited infilling in a village did not

therefore arise. Therefore, the appeal decision for P0995.12 was considered on its own merits.

5.3.7 Staff maintain the view that the proposal is inappropriate development within the Green Belt, as Shepherds Hill is not a village or hamlet with its own facilities. The NPPF refers to local services and community facilities in villages, such as shops, meeting places, sports venues, cultural buildings, public houses and places of worship. With the exception of the Shepherd & Dog public house, there are no other local services or community facilities in Shepherds Hill. In addition, the application site is not in a Minor Local Centre and therefore, does not constitute a village. It is considered more appropriate to describe the application site as being located in an area of ribbon development within the Green Belt, rather than within a village. Such areas of ribbon development maintain a degree of openness by virtue of the spacing between properties and generally less dense nature of development compared to villages or nearby suburban areas. The impact of the development on the openness of the Green Belt is considered further below.

5.3.8 In this instance, some very special circumstances have been put forward to outweigh the harm to the Green Belt. Prior to appraising these very special circumstances, it is necessary to consider other impacts that may arise from the proposal.

5.4 Impact on the character and appearance of the Green Belt

5.4.1 Policy 9 of the NPPF states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

5.4.2 In this instance, the proposed dwelling would be two storey in nature. It is Staff's view that the site has an open and spacious character. The proposed dwelling would be visually detrimental in this location and materially harmful to the open character of the Green Belt. This view is supported by the appeal decision (for application P1345.11), which stated that openness is an essential characteristic of the Green Belt. The additional built development proposed would replace an undeveloped area of land and would, as a result, materially erode the openness of the Green Belt.

5.4.3 Although it is considered that an adequate access to the application site could be made from Shepherds Hill, this along with the associated vehicle hardstanding would be materially harmful to the visual amenity of the Green Belt contrary to Policy DC45 and the NPPF.

5.6 Design/impact on street/Garden scene

5.6.1 Council policy and guidance 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. In this case, existing

local character is drawn largely from detached and semi-detached single and two storey dwellings. Many of these dwellings have been previously extended and are each of varying architectural styles and design. To either side of the application site are two storey detached dwellings.

- 5.6.2 In comparison with the previous planning application P1345.11, it is noted that the gabled roof of the dwelling has been replaced with a hipped roof and the height of the dwelling has been reduced from 8.9 metres to 7.9 metres - both of these changes represent modest improvements.
- 5.6.3 No. 119/121 Shepherds Hill is a locally listed dwelling, which currently benefits from an open and spacious setting and is well separated from neighbouring properties. The appeal decision (for application P1345.11) stated that the existing gap fronting Shepherds Hill between No.'s 115 and 119/121, provides a visual break in the street, to the benefit of the area's identified green and spacious character. The proposed development would largely fill its plot, from side to side, and this would eliminate the existing visual break along Shepherds Hill; lead to the proposed development appearing cramped on its plot; and when seen together with the existing dwellings to either side, would create the effect of continuous development, whereby this is not currently the case.
- 5.6.4 The Council's Heritage Officer was consulted for this application, given the impact of the proposal on the setting of an historic asset – 119/121 Shepherds Hill. Staff consider that the dwelling would, by reason of its scale, bulk, mass and position close to the boundaries of the site, appear unduly cramped in the site, harmful to the setting of the locally listed building as well as the character and appearance of the surrounding area contrary to Policies DC61 and DC67.

5.7 **Impact on amenity**

- 5.7.1 With regard to amenity issues, consideration should be given to future occupiers of this property and also the amenity of the occupiers of neighbouring properties. Policy DC61 of the DPD states that planning permission will not be granted where the proposal results in unacceptable overshadowing, loss of sunlight/daylight, overlooking or loss of privacy to existing and new properties.
- 5.7.2 No. 119/121 Shepherds Hill has two ground floor windows on its western flank - one of which is in the original dwelling and the other window forms part of a single storey rear extension. Both windows serve an open plan lounge/dining room and are secondary light sources with windows to the front and rear. It is considered that the proposal would not result in a significant loss of amenity to No. 119/121 Shepherds Hill, as there would be a separation distance of approximately 2.5 metres between the western flank of this neighbouring property and the eastern flank of the proposed dwelling.
- 5.7.3 No. 115 Shepherds Hill has two ground floor flank windows. The first ground floor window serves a hallway, which is not a habitable room. The second window serves a lounge, which is a secondary light source, as there is a

window on the front façade. No. 115 Shepherds Hill has a first floor flank window, which serves a landing and is not a habitable room.

5.7.4 It is considered that the proposal would not result in a significant loss of amenity in terms of loss of light and outlook to No. 115 Shepherds Hill, as there are no primary light sources serving habitable rooms on the flank of this neighbouring property. It is noted that the first floor window on the rear façade of No. 115 Shepherds Hill is obscure glazed and serves a bathroom, which is not a habitable room. In addition, there would be a separation distance of approximately 2.5 metres between the eastern flank of this neighbouring property and the western flank of the proposed dwelling. No. 115 Shepherds Hill has a single storey rear extension, which would partly mitigate the impact of the proposal at ground floor level.

5.7.5 The proposed dwelling would be in general alignment with the front and rear building lines of No.'s 115 and 119/121 Shepherds Hill, which would help to mitigate its impact.

5.7.6 It is considered that the proposal would not result in any undue overlooking or loss of privacy to neighbouring properties, as details of boundary treatment can be secured by condition if minded to grant planning permission. In addition, the ground floor flank stairwell and utility room windows can be obscure glazed and fixed shut with the exception of top hung fanlights. The first floor flank windows serve a bathroom and stairwell and can be obscure glazed and fixed shut with the exception of top hung fanlights if minded to grant planning permission.

5.8 Highway/parking issues

5.8.1 The proposal has provision for two off street parking spaces, which is sufficient. The Highway Authority has no objection to the proposal and recommends conditions regarding cycle storage, pedestrian visibility splays and vehicle access and various informatives if minded to grant planning permission. It is considered that the proposal would not create any highway or parking issues.

5.9 The Mayor's Community Infrastructure Levy

5.9.1 The proposed development is liable for the Mayor's Community Infrastructure Levy (CIL) in accordance with London Plan Policy 8.3. The CIL payment is applicable as the proposal is for a dwelling. According to the CIL form, the new dwelling would have a floor space of 126 square metres. On this basis, the CIL liability would be payable up to £2,508.66 (subject to indexation).

$£20\text{sq.m} \times 126 = £2,520.$

$£2,520 \times 0.9955 = £2,508.66.$

6. Planning Obligations

6.1 In the absence of a legal agreement to secure a financial contribution of £6,000 to be used towards infrastructure costs of new development, the

proposal is contrary to the provisions of Policy DC72 of the LDF and the Havering Planning Obligations Supplementary Planning Document.

7. The Case for Very Special Circumstances

7.1 A statement of very special circumstances has been submitted in support of the application.

- This plot is the only gap in a ribbon development and has become an unsightly tip for fly tipping.
- It would be unacceptable to fence this site off, which would become even more unsightly in the green belt.
- The current owner has now refused to remove any more rubbish from this land.
- The derelict nature of this barren site does not contribute to the green belt but creates an eye sore with an overall negative impact to the area.
- Reference was made to the appeal decision for planning application P0995.12 – Land to the north/rear of the Shepherd & Dog public house, Shepherds Hill. The applicant asserts that this is now typical case law and should be used as part of the current special circumstances to approve the application until the Government change their policy or wording for limited infilling in villages.

7.2 Staff consider that the very special circumstances, in themselves, are not particularly unusual or weigh significantly in favour of the development proposed. It is considered that there are not overriding considerations that outweigh the harm to the open character and appearance of the Green Belt. In response to the negative argument that the current owner has now refused to remove rubbish from the land, there are a number of enforcement provisions including Section 215 of the Town and Country Planning Act 1990 that can be employed to tackle this. Therefore, it is recommended that planning permission is refused.

8. Conclusion

8.1 The proposed construction of a residential dwelling represents inappropriate development in a Green Belt location contrary to national and local planning policies. Inappropriate development is by definition harmful to the character of the Green Belt and the purposes of including land within it. Staff consider that the very special circumstances are not overriding considerations and do not outweigh the harm to the open character and appearance of the Green Belt. It is therefore recommended that planning permission be refused.

8.2 If Members are minded to grant planning permission, Staff suggest that conditions shall be placed that consist of at a minimum: time limit, a landscaping scheme, samples of materials, in accordance with plans, permitted development (including no development and outbuildings under Classes A, B, C, D and E), boundary treatments, obscure glazing to flank windows, flank windows, visibility splays, vehicle access, refuse storage, cycle storage and hours of construction.

IMPLICATIONS AND RISKS

Financial implications and risks:

None.

Legal implications and risks:

None.

Human Resources implications and risks:

None.

Equalities implications and risks:

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

BACKGROUND PAPERS

Application forms and plans received 5/02/2014.

1. The planning application as submitted or subsequently revised including all forms and plans.
2. The case sheet and examination sheet.
3. Ordnance survey extract showing site and surroundings.
4. Standard Planning Conditions and Standard Green Belt reason for refusal.
5. Relevant details of Listed Buildings, Conservation Areas, Article 4 Directions.
6. Copy of all consultations/representations received and correspondence, including other Council Directorates and Statutory Consultees.
7. The relevant planning history.