



# REGULATORY SERVICES COMMITTEE

23 October 2014

# REPORT

**Subject Heading:**

P0819.14 Land Adjacent to Hilldene Avenue, Hilldene Close and Bridgewater Road, Harold Hill, Romford.

Demolish filling station console building and canopy, remove hardstandings and erect 12no. two-storey semi-detached and terraced dwellings and 9no. self-contained flats in a three-storey apartment block, construct bin and cycle stores, lay out parking and amenity areas and form new vehicular accesses onto Hilldene Close, Hilldene Avenue and Bridgewater Road.

Revised Plans received 09/07/2014

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**Policy context:**

Local Development Framework  
Development Control Policies  
Development Plan Document

National Planning Policy Framework

London Plan

**Financial summary:**

Not applicable

## 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 checked="" 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 planning application was considered at the 4<sup>th</sup> September 2014 meeting of the committee when it was resolved that the proposal was unacceptable as it stood but would be acceptable subject to the applicant entering into a Legal Agreement to secure an infrastructure contribution of £126,000. The applicant has requested an additional clause in the agreement relating to the discharge of part of an earlier agreement relating to the site. Staff consider the clause acceptable and seek the Committee's approval for its inclusion.

### 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 £126,000 to be paid prior to the commencement of the development, to be used towards infrastructure costs in accordance with the Policy DC72 of the LDF Core Strategy and Development Control Policies Development Plan Document and the Planning Obligations Supplementary Planning Document.
- 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.
- Subject to payment of the Council's reasonable legal costs associated with any deed of Variation that on the grant of planning permission pursuant to planning

reference P0819.14 and the payment of the infrastructure contribution of £126,000 following the commencement of that development, the council and the owner/developer of the application site under planning reference P0819.14 agree to enter into a Deed of Variation pursuant to section 106A of the Town and Country Planning Act 1990 to discharge the planning obligation contained in a S106 agreement dated 24 January 2013 and a subsequent deed of variation dated 6 August 2013 (the Deeds), so that the obligations contained in the Deeds shall not be binding on the owner of Parcel A in respect of the payment of the infrastructure contribution of £126,000 for the avoidance of doubt in the event that the owner/developer commences development of phase 3 of the original permission (P1276.12) and pays the infrastructure contribution of £126,000 prior to commencement of development pursuant to any planning permission subsequently granted under Planning Reference P0819.14 the Council and the owner/developer agree to enter into a Deed of Variation under Section 106A of the Town and Country Planning Act 1990 of the Section 106 relating to Planning reference P0819.14 to discharge the requirement to pay the infrastructure contribution of £126,000.

That the Head of Regulatory Services 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 accord 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.

3. *Car parking* - Before the buildings hereby permitted are first occupied, the areas set aside for car parking shall be laid out and surfaced. The parking areas shall be retained permanently thereafter for the accommodation of vehicles visiting the site and shall not be used for any other purpose.

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

4. *Materials* - The development hereby permitted shall not be commenced until samples of all materials to be used in the external construction of the buildings has been submitted to and approved in writing by the Local Planning Authority. 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 in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

5. *Landscaping* - The development hereby permitted shall not be commenced until a detailed scheme for the hard and soft landscaping of the site has been submitted to and approved in writing by the Local Planning Authority. 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 LDF Development Control Policies Development Plan Document Policy DC61.

6. *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.

7. *Cycle storage* - Prior to completion of the development 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 and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC36.

8. *Boundary treatment* - The development hereby permitted shall not be commenced until details of proposed boundary treatment have been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment shall be installed prior to occupation of the development and retained thereafter in accordance with the approved plans.

Reason: In the interests of privacy and amenity and to accord with Policies DC61 and DC63 of the LDF Development Control Policies Development Plan Document.

9. *Secured by Design* - The development hereby permitted shall not be commenced until details of the measures to be incorporated into the development demonstrating how the principles and practices of the Secured by Design scheme have been included have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, and shall not be occupied or used until written confirmation of compliance with the agreed details has been submitted to and approved in writing by the LPA.

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 and DC63 of the LDF Development Control Policies Development Plan Document.

10. *External lighting* - The development hereby permitted shall not be commenced until a scheme for the lighting of external areas of the development, including any access roads, has been 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 approved scheme shall then be implemented in strict accordance with the agreed details prior to the first occupation of the development and retained thereafter.

Reason: In the interests of highway safety and amenity. Also in order that the development accords with Policies DC32 and DC61 of the LDF Development Control Policies Development Plan Document.

11. *Biodiversity* - The development hereby permitted shall not be commenced until details have been submitted showing how the development will comply with the recommendations set out in Section 6.2 of the submitted site Ecological Assessment, carried out by MLM Environmental dated 18th October 2012. The development shall then be carried out in accordance with the approved details.

Reason: In order to ensure that the proposed development has an acceptable impact on biodiversity and in order that the development accords with the LDF Development Control Policies Development Plan Document Policies DC58 and DC59.

12. *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.

13. *Wheel washing* - The development hereby permitted shall not be commenced until details of wheel scrubbing/wash down facilities to prevent mud being deposited onto the public highway during the construction works has been 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.

14. *Construction methodology* - The development hereby permitted shall not be commenced until a scheme has been 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 authority; siting and design of temporary buildings;
- g) scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies;
- h) 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 with the LDF Development Control Policies Development Plan Document Policy DC61.

15. *Land contamination* - The development hereby permitted shall not be commenced until the developer has submitted for the written approval of the Local Planning Authority (the Phase I Report having already been submitted to the Local Planning Authority):

- a) A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the site ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.

b) A Phase III (Risk Management Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. The report will comprise two parts:

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

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

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

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

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

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

16. *Archaeology* - A) No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme for investigation which has been submitted to and approved in writing by the Local Planning Authority.

B) No development or demolition shall take place other than in accordance with the Written Scheme of Investigation approved under Part A).

C) The Development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Part A) and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.

Reason: Heritage assets of archaeological interest survive on the site. The planning authority wishes to secure the provision of archaeological investigation and the subsequent recording of the remains prior to development (including historic building

recording) in accordance with the recommendations given by the Borough and in the NPPF.

17. *Sustainability* – The development hereby permitted shall not be occupied 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 4 rating. The development shall be carried out in full accordance with the agreed Sustainability Statement. Within 6 months of the final occupation of any residential unit 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 Policy DC49 of the LDF Development Control Policies Development Plan Document.

18. *Renewable energy* - The renewable energy system for the development shall be installed in accordance with details previously submitted to and agreed in writing by the Local Planning Authority and shall be made operational prior to the residential occupation of the development. Thereafter, it shall be permanently retained.

Reason: In the interests of energy efficiency and sustainability in accordance with Policy DC50 of the LDF Development Control Policies Development Plan Document.

19. *No additional flank windows* - Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no window or other opening (other than those shown on the submitted and approved plan,) 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.

20. *Removal of 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 order revoking and re-enacting that Order with or without modification), no development shall take place under Classes A, B, C or E, 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.

21. *Stopping up of Highway* – Prior to the commencement of the development hereby permitted an application to stop up that part of the application site which comprises



adopted highway shall be submitted to the Council as Highway Authority and no development pursuant to this planning permission shall be carried out on that part of the application site which comprises adopted highway until and unless a stopping up order is confirmed by the Council as Highway Authority or the Secretary of State (on appeal) as appropriate.

Reason: To ensure that the impact of the proposed development in respect of public highway has been fully considered prior to any development commencing.

*22 Footway Provision* - Prior to commencement of development the owner/developer shall complete a Section 38 agreement under the Highways Act 1980 with the Council as Highway Authority, dedicating as footway the area in the location set out in drawing reference PG-100 Revision C along the western side of Hilldene Close and that prior to first occupation of the development the owner/developer shall construct the footway to adoptable standard of a minimum of 2 metres from kerb to back of footway and maintain it to an adoptable standard throughout the period of construction of the Development.

Reason: In the interests of highway safety and to maintain pedestrian access along Hilldene Close in accordance with policies DC32 and DC34 of the LDF Development Control Policies Development Plan document.

*23. Pedestrian visibility splays* – Pedestrian visibility splays shall be provided on either side of the access onto Hilldene Close of 2.1 by 2.1 metre 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.

## INFORMATIVES

1. Secured by Design - In promoting the delivery of safer, stronger, sustainable places the Local Planning Authority fully supports the adoption of the principles and practices of the Secured by Design Award Scheme and Designing against Crime. Your attention is drawn to the free professional service provided by the Metropolitan Police Designing Out Crime Officers for North East London, whose can be contacted via [DOCOMailbox.NE@met.police.uk](mailto:DOCOMailbox.NE@met.police.uk) or 0208 217 3813 . They are able to provide qualified advice on incorporating crime prevention measures into new developments.

2. Changes to the public highway - The Highway Authority requires the Planning Authority to advise the applicant 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. If a new or amended access is 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. 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 & Engineering on 01708 433750 to commence the relevant approval process. Unauthorised work on the highway is an offence.

3. Highway legislation - The granting of planning permission does not discharge the requirements of the New Roads and Street Works Act 1991 or 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.

4. Temporary use of the highway - If any 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.

5. Highways stopping up process - Before any works take place on the area which is currently public highway, it should be stopped up under S247 of the Town & Country Planning Act 1990. The developer should allow time for the process to be completed within its programme as there are statutory notices required.

6. 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 paragraphs 186-187 of NPPF.

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. Planning application P0819.14 for 21 new dwellings was considered by the Committee at its 4<sup>th</sup> September 2014 meeting. Planning permission has previously been granted for a similar redevelopment of the land as part of a three phase scheme (this being Phase 2) for 100 new dwellings that forms part of the Council's *Living Ambitions* estate regeneration programme for Harold Hill.
2. The Committee resolved to grant planning permission subject to the prior completion of a S106 planning obligation to secure an infrastructure contribution of £126,000 in accordance with the Planning Obligations SPD and LDF Policy DC72. The Head of Regulatory Services was authorised to

complete the agreement and, following its completion issue planning permission subject to the conditions set out in the recommendation to this report.

3. As part of the process of completing the agreement the applicant has requested an additional clause. This seeks to ensure that the applicant would not be liable for the £126,000 infrastructure contribution in respect of Phase 3 in circumstances where the owner or developer of that phase defaults due to financial insolvency. The applicant currently has no involvement in the redevelopment of Phase 3.
4. The S106 agreement in respect of the original planning permission (P1276.12) required the infrastructure contribution of £600,000 to be paid as a single sum. A subsequent variation was signed allowing this to be paid on a phased basis. The Phase 1 contribution of £348,000 has already been paid and the current applicant would be liable for the Phase 2 contribution of £126,000 under the S106 agreement the subject of this report. The additional clause sought would release the current applicant from any liability for the Phase 3 contribution in the circumstances set out in in paragraph 3, save for in the event that the applicant subsequently commences development of that Phase. Staff consider that whilst the circumstances described are unlikely to occur the request is not unreasonable. There would be no additional financial implications for the Council. It is recommended that the Committee agrees to the additional clause.

## IMPLICATIONS AND RISKS

**Financial implications and risks:** None

**Legal implications and risks:** Legal resources will be required to prepare and complete 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 and is designed to meet Lifetime Homes criteria. The development accords with the objectives of the Harold Hill Ambitions programme, which seeks to promote equality of opportunity to all residents of the Borough.

## BACKGROUND PAPERS

1. 1. Application forms and plans received 6th June 2014; revised plans received 9th July 2014.
2. Draft S106 Planning obligation.