

REGULATORY SERVICES COMMITTEE

5 March 2015

REPORT

Subject Heading:

P1128.14 – 7 Highview Gardens,
Upminster – Demolition of 7 Highview
Gardens and erection of 2 no. semi-
detached houses and 1 detached house
(received 3/09/14, revised 16/02/15)

Ward

Upminster

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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 the demolition of 7 Highview Gardens and the erection of two semi-detached houses and one detached house. Staff consider that the proposal would accord with the residential, environmental and highways policies contained in the Local Development Framework Core Strategy and Development Control Policies Development Plan Document. It is recommended that planning permission be granted subject to conditions and the completion of a Section 106 Legal Agreement.

Councillor Van de Hende requested this application be called to committee, on the grounds that the plan to build three dwellings on the site would be overdevelopment, bulky in the streetscene given the demolition of a bungalow to be replaced by three houses. In addition, the bungalow proposed for demolition is semi-detached, so there are concerns about the linked property and the impact on it. There would also be a loss of amenity (view) for neighbours as this backs onto Upminster Windmill.

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 £5,340, subject to indexation. This is based on the creation of 267 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:

- A financial contribution of £12,000 to be used towards infrastructure costs in accordance with the Planning Obligations Supplementary Planning Document and Policy DC72 of the LDF.
- 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 Agreement, prior to completion of the Agreement, irrespective of whether the agreement is completed.
- The Developer/Owner to pay 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 Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. 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), including the window frames, 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.

3. Details of flank to no.5 – No development, including the demolition of no.7 Highfield Gardens, shall commence until full details of the proposed treatment and appearance of the flank wall of no.5 Highfield Gardens is submitted to and approved in writing by the Local Planning Authority. No part of the development hereby approved shall be occupied until works to the flank wall of no.5 are completed in accordance with the approved details.

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.

4. Accordance with plans - The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans as listed on page 1 of this 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. Also, in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

5. 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 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.

6. 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

7. 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 LDF Development Control Policies Development Plan Document Policy DC61.

8. Cycle storage - Prior to the first occupation 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.

9. Hours of construction – All building operations in connection with demolition, 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. Obscure glazing - The first floor en-suite windows on the flank elevations of the semi-detached dwellings on plots 1 and 2 as shown on the approved

Drawing No. 2014/05/05A shall be permanently glazed with obscure glass to the satisfaction of the Local Planning Authority.

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

11. Boundary fencing – 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. The boundary development 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.

12. Permitted Development - 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 Classes A - E, , (or any order revoking and re-enacting that Order with or without modification) no extensions, roof extensions or alterations shall take place to the dwelling house and no outbuildings shall be erected in the rear garden area of the dwellings, with the exception of ancillary structures up to 10 cubic metres in volume, 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.

13. Soil contamination - (1) Prior to the commencement of any works pursuant to this permission the developer shall submit for the written approval of the Local Planning Authority;
 - a) A Phase I (Desktop Study) Report documenting the history of the site, its surrounding area and the likelihood of contaminant/s, their type and extent incorporating a Site Conceptual Model.

- b) A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the sites ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.
- c) A Phase III (Remediation scheme) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to all receptors must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and procedure for dealing with previously unidentified any contamination. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- d) Following completion of measures identified in the approved remediation scheme mentioned in 1(c) above, a "Verification Report" that demonstrates the effectiveness of the remediation carried out, any requirement for longer-term monitoring of contaminant linkages, maintenance and arrangements for contingency action, must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

- 14. Contamination - 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.

15. Car parking - Before the dwellings hereby permitted are first occupied, the area set aside for car parking shall be laid out and surfaced to the satisfaction of the Local Planning Authority and 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 that the development accords with the Development Control Policies Development Plan Document Policy DC33.

16. Vehicle Access - The necessary agreement, notice or licence to enable the proposed alterations to the Public Highway shall be entered into and completed 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.

17. Wheel washing - No development shall take place until a scheme of vehicle cleansing has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details, which shall be retained for the life of the development. The submitted scheme will provide the following details:

- a) A plan showing where vehicles will be parked within the site, to be inspected for mud and debris and cleaned if required. The plan should show where construction traffic will access and exit the site from the public highway.

- b) A description of how the parking area will be surfaced, drained and cleaned to prevent mud, debris and muddy water being tracked onto the public highway.

- c) A description of how vehicles will be checked before leaving the site, including their wheels, the underside of vehicles, mud flaps and wheel arches.

- d) A description of how vehicles will be cleaned.

- e) A description of how dirty/muddy water be dealt with after being washed off the vehicles.

- f) A description of any contingency plan to be used in the event of a breakdown of the wheel washing arrangements.

- g) A description of how any material tracked into the public highway will be removed.

Should material be deposited in the public highway, then all operations at the site shall cease until such time as the material has been removed in accordance with the approved details.

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. Demolition method statement and construction management plan – Prior to the commencement of the development hereby approved, a demolition method statement and a construction management plan shall be submitted to and approved in writing by the Council. Details shall include control measures for dust, noise, vibration, lighting, delivery locations, restriction of hours of work and all associated activities audible beyond the site boundary to 08:00-18:00 hours Mondays to Fridays and 08:00 – 13:00 hours on Sundays, advance notification to neighbours and other interested parties of proposed works and public display of contact details including accessible phone contact details to persons responsible for the site works for the duration of the works. Approved details shall be implemented throughout the project period.

Reason: To ensure that the amenity of occupiers of surrounding premises is not adversely affected by noise, vibration, dust, lighting or other emissions from the building site.

19. Waste materials – No waste materials should be burnt on the site of the development hereby approved.

Reason: In the interests of neighbouring amenity.

20. Garage - 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) the garage(s)/carport(s) hereby permitted shall be made permanently available for the parking of private motor vehicles and not for any other purpose including living accommodation or any trade or business.

Reason: To provide satisfactory off-street parking at the site, and that the development accords with the Development Control Policies Development Plan Document Policy DC61

21. Precautionary bat survey - An internal survey of the existing dwelling and garage at 7 Highview Gardens, Upminster, including the roof areas for bats must be undertaken by a suitably qualified ecologist to determine any evidence of the presence of bats or use of the dwelling as a bat roost, prior to any demolition works and between May and September. Evidence that the survey has been undertaken in the form of an ecological report including any recommendations shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of demolition of the existing care home. If evidence of bats is found then a licence application will need to be submitted to Natural England. The proposed development shall be implemented in accordance with the approved ecological report, including any recommendations. If at any time during the works, presence of bats is

suspected/identified, works in that area shall cease immediately and an ecologist contacted to enable further appropriate action to be implemented.

Reason: To ensure compliance with the Habitats Regulations and the Wildlife & Countryside Act 1981 (as amended), Chapter 11 of the NPPF and Policies DC58 & DC59 of the LDF.

22. Timing of demolition/vegetation clearance (breeding birds) - Demolition and/or removal of trees, hedgerows, shrubs, scrub or tall herbaceous vegetation shall be undertaken between September and February inclusive. If this is not possible then a suitably qualified ecologist shall check the areas concerned immediately prior to demolition and/or vegetation clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present then the demolition and/or vegetation shall not be removed until the fledglings have left the nest.

Reason: All wild birds, their nests and young are protected during the nesting period under The Wildlife and Countryside Act 1981 (as amended), Chapter 11 of the NPPF and Policies DC58 & DC59 of the LDF.

23. The proposed development shall be implemented in accordance with the Extended Phase 1 Survey dated July 2014 which shall include the following on site measures:

- The provision of 5 bird boxes and 5 bat boxes on trees and around the new dwellings.
- Native and wildlife friendly landscaping including the use of native, fruit and pollen rich species in the proposed landscaping scheme.
- Provision of partially buried log piles to the rear of the proposed gardens.

Reason: In order to protect the conservation status of bats in compliance with the Habitats Regulations and the Wildlife and Countryside Act 1981 (as amended), Chapter 11 of the NPPF and Policies DC58 and DC59 of the LDF.

INFORMATIVES

1. 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 £5,340. CIL is payable within 60 days of commencement of development. A Liability Notice will be sent to the applicant (or anyone else who has assumed liability) shortly. 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: Improvements required to make the proposal acceptable were negotiated and submitted, in accordance with para 186-187 of the National Planning Policy Framework 2012.

3. Following a change in government legislation a fee is now required when submitting details pursuant to the discharge of conditions, in order to

comply with the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations, which came into force from 06.04.2008. A fee of £97 per request is needed.

4. 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.

5. 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.

6. 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.

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.

8. 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 or 0208 217 3813. They are able to provide qualified advice on incorporating crime prevention measures into new developments.

REPORT DETAIL

1. **Site Description:**

1.1 The application site comprises of a single storey semi-detached dwelling with a garage located on the southern side of Highview Gardens, Upminster. Ground levels fall from east to west and from north to south. The rear of the application site consists of a wooded area. The site backs onto the Upminster Windmill, which is Grade II* listed. The surrounding area is characterised by a variety of single and two storey detached and semi-detached dwellings of differing styles.

2. **Description of development:**

2.1 The application seeks full planning permission for the demolition of 7 Highview Gardens and the erection of two semi-detached houses and one detached house. The pair of semi-detached dwellings would have a combined width of 12.8 metres (not including the attached garages), a depth of 10.4 metres and a height of 9 metres with a gabled roof and roof lights. Each semi-detached dwelling has an attached single storey garage and one off street car parking space.

2.2 The detached two storey dwelling would have a width of 6.3 metres (not including the garage), a depth of 11 metres at ground floor and 8 metres at first floor and a height of 9 metres with a gabled roof and roof lights. The dwelling has an attached single storey garage and one off street car parking space.

3. **Relevant History:**

3.1 No relevant planning history.

4. **Consultations/Representations:**

4.1 The application has been advertised in a local newspaper and by way of a site notice as it affects the setting of a listed building. Twenty neighbouring occupiers were notified of the planning application. Thirteen letters of objection were received with detailed comments that have been summarised as follows:

- It is alleged that the site plan is not correct, as the boundary between the new detached house (plot 3) and No. 9 Highview Gardens to the rear finishes where the dotted line "line of boundary wall to be removed" and not further beyond this as shown on the plan.
- Overdevelopment of the plot and intensification of use.
- The proposal will be overbearing and out of scale in terms of its appearance compared with neighbouring properties.
- Loss of trees and woodland that benefits the neighbourhood from a security, privacy, noise and wildlife perspective.
- New developments will only be acceptable within existing settlements.
- Queried if the woodland behind No. 7 Highview Gardens is part of the existing settlement.
- Loss of privacy and overlooking from the proposed Windmill Visitor Centre.

- The siting and visual impact of the proposed development.
- Loss of views (including the woodland and Upminster Windmill).
- The width of the proposed plots would be out of character with those of neighbouring houses.
- It is alleged that the woodland to the rear of the site is part of the Council owned Windmill Green.
- Parking and access.
- It is alleged that there are various inaccuracies in the supporting documentation for this application.
- Impact on neighbouring amenity.
- Highway and pedestrian safety.
- Concerns that No. 5 Highview Gardens would look unbalanced and out of keeping in the streetscene, in the event that the adjoining bungalow is demolished.
- Traffic and congestion.
- The impact of the proposal on the functioning, character, setting and restoration of the Upminster Windmill, which is Grade II* Listed.
- The impact of demolishing No. 7 Highview Gardens on the foundations and thermal efficiency of the attached property.
- The internal party wall of No. 5 Highview Gardens is not weather proof.
- Reference was made to restrictive covenants on No.'s 5 and 7 Highview Gardens, which prevent taller structures being built that would restrict the flow of wind to the mill direct to the rear of these properties.
- Overlooking and loss of privacy from the proposed dwellings.
- Loss of light.
- Traffic, noise and dust pollution during construction works.
- Impact on property value.

4.2 In response to the above, comments regarding loss of privacy and overlooking from the proposed Windmill Visitor Centre are not material planning considerations, as it does not form part of this planning application. Comments regarding property value and loss of views are not material planning considerations. Comments regarding the foundations and internal party wall of No. 7 Highview Gardens are not material planning considerations – they are matters for the parties involved under the Party Wall Act. The insulation to no.7 is covered by the Building Regulations. Covenants are not material planning considerations. There are no Tree Preservation Orders on the application site itself. The woodland to the rear of the application site is not Council owned. Noise, disturbance and wheel washing during construction can be addressed by appropriate planning conditions. A revised plan was submitted, which has amended the site boundary of plot 3 adjacent to No. 9 Highview Gardens. The remaining issues are addressed in the following sections of this report.

4.3 Upminster Windmill Trust– The properties surrounding the Mill Field were built around 1920 and are generally semi-detached houses. An exception was made with a pair of semi-detached bungalows at numbers 5 and 7 Highview Gardens. The bungalows are of unusual design, being wide with little depth. There is also a wide open area at the side of one of them. It is alleged that the design was chosen to limit interference to the wind that was driving the Mill.

There are concerns that the siting of the three houses close together may reduce the capacity to run the Mill after it is restored.

- 4.4 Bonwick Milling Heritage Consultancy – The existing bungalows could well have been designed with wind flow to the mill in mind. Higher buildings on the site would have a negative impact on the wind flow to and away from the windmill sails. To mitigate the effects of interruption of the wind flow, it is suggested that the height of the proposed buildings should be no greater than the ridges of the surrounding semi-detached properties. It is suggested that to mitigate the negative effects, the density of the building on the site is reduced, for example, from 3 to 2 dwellings, with space for air flow in between them.
- 4.5 Ancient Monuments Society – Suggested that more research is carried out to establish the original function, age and interest of the building.
- 4.6 The Society for the Protection of Ancient Buildings (SPAB)- Mills Section – Originally objected to the proposal in October 2014, as it would be likely to have a negative impact on the winding and thus operation of the Upminster Windmill when it is returned to working order. After which, a consultation response was received in December 2014 from Templetech Ltd, which commented on this application on behalf of the Society for the Protection of Ancient Buildings. Doubtful if the proposed development would have a significant additional impact on the Upminster Windmill, although it would be preferable if its roof height were no more than that of the houses on the opposite side of the road. Recommends designating the area around the Upminster Mill as a Protected Village Amenity Area (PVAA), which should include a height restriction that also applies to trees.
- 4.7 English Heritage – This application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.
- 4.8 Crime Prevention Design Advisor – Recommends an informative if minded to grant planning permission.
- 4.9 The Highway Authority has no objections to the proposal and recommends conditions for vehicle access and wheel washing.
- 4.10 Environmental Health – Recommend conditions regarding contamination, a demolition method statement and a construction management plan.
- 4.11 Heritage Officer has no objections to the proposal.

5. **Relevant policies:**

- 5.1 Policies CP1 (Housing Supply), CP2 (Sustainable Communities), CP17 (Design), CP18 (Heritage), DC2 (Housing Mix and Density), DC3 (Housing Design and Layout), DC33 (Car Parking), DC53 (Contaminated land), DC58 (Biodiversity and Geodiversity), DC59 (Biodiversity in new developments), DC61 (Urban Design), DC63 (Delivering Safer Places), DC67 (Buildings of Heritage Interest) and DC72 (Planning Obligations) of the LDF Core Strategy

and Development Control Policies Development Plan Document are also considered to be relevant together with the Design for Living Residential Design Supplementary Planning Document, the Residential Extensions and Alterations Supplementary Planning Document and the Planning Obligation Supplementary Planning Document.

- 5.2 Policies 3.3 (increasing housing supply), 3.4 (optimising housing potential), 3.5 (quality and design of housing developments), 6.13 (parking), 7.1 (building London's neighbourhoods and communities), 7.13 (safety, security and resilience to emergency), 7.4 (local character), 7.8 (Heritage Assets and Archaeology) and 8.2 (Planning obligations) of the London Plan are relevant.
- 5.3 Policies 6 (Delivering a wide choice of high quality homes), 7 (Requiring good design), 11 (Conserving and enhancing the natural environment) and 12 (Conserving and enhancing the historic environment) of the National Planning Policy Framework are relevant.

6. **Staff Comments:**

- 6.1 The issues arising from this application are the principle of development, the impact on the streetscene and the setting and functioning of the adjacent Grade II* listed Upminster Windmill, amenity implications and any highway and parking issues.

6.2 **Principle of Development**

- 6.2.1 Policy DC11 states that where sites which are suitable for housing become available outside the Green Belt, the employment areas, the commercial areas, Romford Town Centre and the district and local centres, the Council will not normally permit their use for other purposes. The location of the site complies with these criteria. The site does not fall within any pertinent policy designated areas as identified in the Local Development Framework Proposals Map. It has been established, in land use terms, that the site is suitable for a housing development, particularly as a dwelling occupies the site and therefore, the principle of a residential use is in accordance with policy criteria. There is no objection in principle to the demolition of 7 Highview Gardens.

6.3 **Density/site layout**

- 6.3.1 The application site covers an area of approximately 0.0876 hectares. For this proposal of three dwellings this equates to a density of 34 dwellings per hectare, which is within the range anticipated by Policy DC2 for housing density, where the advised range for residential development in this part of the borough is 30-65 dwellings per hectare.
- 6.3.2 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.

- 6.3.3 The proposal provides approximately 151, 140 and 146 square metres of amenity space for the dwellings in plots 1, 2 and 3 respectively. Staff are of the view that the proposed rear garden areas for the proposed dwellings are acceptable in terms of area and would provide future occupiers with a useable external space for day to day activities such as outdoor dining, clothes drying and relaxation.

6.4 Design/impact on street/Garden scene

- 6.4.1 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 is compatible with the character of the surrounding area, and would not prejudice the environment of the occupiers and adjacent properties.

- 6.4.2 The street scene of which the subject site forms part is drawn from a variety of single and two storey detached and semi-detached dwellings of differing styles with both hipped and gabled roofs. The width of the existing bungalows at No.'s 5 and 7 Highview Gardens is unusually wide (approximately 16 metres). Due to the width and design of these pairs of bungalows, the demolition of one half is not considered to result in a building which would appear out of character. Visually, the retention of no.5 with a gap to a two storey pair of semi-detached houses would not appear out of character. Details of the finish of the flank of no. 5 would be required by condition.

- 6.4.3 The siting of the proposed semi-detached and detached dwellings is considered to be acceptable, as it would be in general alignment with the slightly staggered front building line of No.'s 5 and 9 Highview Gardens given the bend in the road adjacent to the frontage of plot 3. There would be a separation distance of approximately 2.6 metres between the eastern two storey flank wall of the dwelling in Plot 1 and No. 5 Highview Gardens. There would be a separation distance of approximately 6.4 metres between two storey flank walls of the dwellings in plots 2 and 3. There would be a separation distance of between approximately 4 and 5.8 metres between the western flank of the dwelling in plot 3 and No. 9 Highview Gardens. Given the separation distances outlined above, Staff consider that the siting of the proposed dwellings would contribute to the open and spacious character in the streetscene.

- 6.4.4 Following negotiations with the agent, the plans have been amended to provide greater articulation to the front façade of the dwellings with the provision of a two storey front projection with bay windows and a larger and more integrated gable roof feature. In addition, the windows on the front facades of the dwellings have been aligned. Staff consider that these revisions have enhanced the appearance of the proposed dwellings. It is considered that the proposal would integrate satisfactorily with the streetscene as well as the character and appearance of the surrounding area.

6.5 Listed Building Implications

- 6.5.1 Policy DC67 advises that an application for planning permission will only be allowed where it does not adversely affect a listed building or its setting. Government policy contained within the National Planning Policy Framework advises that there should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be.
- 6.5.2 The Council's Heritage Officer was consulted on this application and advised that the proposed development would have little impact on the Grade II* listed Upminster Windmill or its setting, particularly as the wooded area with trees and planting to the rear of the application site would be retained. In addition, there would be a separation distance of approximately 33 metres between the Upminster Windmill and the north eastern boundary of the rear garden of plot 1. Having regard to these factors the proposal is considered not to harm the setting of the adjacent listed building and to comply with Policy DC67.

6.6 Impact on amenity

- 6.6.1 With regard to amenity issues, consideration should be given to future occupiers of these properties 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.
- 6.6.2 The Residential Extensions and Alterations SPD states that as a general rule, houses can be extended from the rear wall of the original dwelling by up to 4 metres in depth for a semi-detached dwelling. This is to ensure the extension is subordinate to the original dwelling. Any greater depth required should be within an angle of 45 degrees, taken from the 4 metre dimension on the property boundary, in order to ensure a reasonable level of amenity is afforded to neighbouring properties. In this instance, the attached garage of the dwelling in plot 1 would marginally infringe a 45 degree notional line taken from the eastern boundary of the application site, although Staff consider that this would not result in a significant loss of amenity to No. 5 Highview Gardens. When reviewing the merits of this application, consideration was given to the fact that the roof of the garage is hipped, which minimises its bulk and is single storey. Also, the garage has a height of 2.5 metres to the eaves and 3.7 metres to the ridge. In addition, No. 5 Highview Gardens has a flat roofed single storey rear extension, which would help to mitigate the impact of the proposal. Both proposed semi-detached properties have a rear projection of 2.5 metres, which complies with guidance.
- 6.6.3 As there would be a separation distance of approximately 2.6 metres between the eastern flank wall of the dwelling in plot 1 and No. 5 Highview Gardens, the relationship would be equivalent to that created by a 2m set in and permissible depth of a first floor rear extension of 3m for standard semi-

detached properties, therefore it is considered that the proposal would not unacceptably impact on the amenity of No. 5.

6.6.4 No. 9 Highview Gardens has a small ground floor flank window that serves a playroom and is a secondary light source with a window on its front elevation. No. 9 Highview Gardens has a clear glazed door on its flank wall that serves a utility room and is not a habitable room. No. 9 Highview Gardens has a three pane window on its flank that forms part of a single storey rear extension that serves an open plan dining room and kitchen and is a secondary light source with patio doors and windows on its rear façade. It is noted that ground levels fall from east to west and from north to south and as such, No. 9 Highview Gardens is located at a lower ground level than the application site.

6.6.5 Staff consider that the proposed dwelling in plot 3 would not result in a significant loss of amenity to No. 9 Highview Gardens for the following reasons. Firstly, the rear façade of the proposed dwelling at first floor level would be in general alignment with the two storey rear façade of this neighbouring dwelling. The proposed detached dwelling has a single storey rear projection of 2.5 metres, which is less than the 4 metres as per the Residential Extensions and Alterations SPD and has a hipped roof, which minimises its bulk. There would be a separation distance of between approximately 4 and 5.8 metres between the western flank of the dwelling in plot 3 and No. 9 Highview Gardens, which would help to mitigate its impact. No. 9 Highview Gardens does not have any flank windows that serve habitable rooms and are primary light sources. In addition, No. 9 Highview Gardens has a single storey rear extension with a depth of 4.5 metres (approved under application P0250.10), which would help to mitigate the impact of the proposal.

6.6.7 A revised plan was submitted to show the amended site boundary of plot 3 adjacent to No. 9 Highview Gardens, following the removal of a small square shaped parcel of land to the rear of the proposed dwelling. As such, Staff consider that the proposed dwelling in plot 3 may result in some overlooking of the rear garden of No. 9 Highview Gardens, which is not deemed to be unduly harmful to neighbouring amenity, although this is a matter of judgement for Members.

6.6.8 With the exception of No. 9 Highview Gardens, it is considered that the proposed development would not result in any undue overlooking or loss of privacy to neighbouring properties. The detached dwelling in plot 3 does not feature any windows on its western flank. The first floor flank en-suite windows of the semi-detached dwellings in plots 1 and 2 will be obscure glazed by condition. Details of boundary treatments and landscaping will be secured by condition if minded to grant planning permission.

6.7 Highway/parking issues

6.7.1 Each dwelling in plots 1-3 has a single garage and its use for off street car parking provision will be secured by condition if minded to grant planning permission. In addition, there is space for one vehicle on hardstanding to the front of the proposed dwellings, which together with the garages, is sufficient.

The Highway Authority has no objection to the proposal subject to the provision of conditions. It is considered that the proposal would not create any highway or parking issues.

6.8 Other issues

- 6.8.1 Policy DC58 states that biodiversity and geodiversity will be protected and enhanced throughout the borough by not granting planning permissions which would adversely affect priority species/habitats identified either in the London or Havering Biodiversity Action Plans unless the economic or social benefits of the proposals clearly outweigh the nature conservation importance of the site and only then if adequate mitigation measures to secure the protection of the species/habitat can be provided and no alternative site is available.
- 6.8.2 An ecology report was submitted with the application and defined the site as being of low ecological value. All relevant surveys have been undertaken for protected species and priority BAP habitats and at the appropriate time of year. The Council's Regeneration Officer has no objection to the proposal and has recommended three conditions if minded to grant planning permission – one regarding an internal survey of the existing dwelling for bats before any work takes place, one regarding the timing of demolition/vegetation clearance in respect of breeding birds and to secure ecological enhancements within the residential development.
- 6.8.3 An arboricultural report and tree condition survey for the application site was submitted with this application. The Council's Tree Officer has visited the site and placed a Tree Preservation Order (reference TPO 1-15) on the oak and yew trees, which are located in the wooded area outside of the application site.

6.9 Upminster Windmill

- 6.9.1 The Society for the Protection of Ancient Buildings (SPAB)- Mills Section – originally objected to the proposal in October 2014, as it would be likely to have a negative impact on the winding and thus operation of the Upminster Windmill when it is returned to working order. A consultation response was subsequently received in December 2014 from Templetech Ltd, which commented on this application on behalf of the SPAB. It was considered doubtful if the proposed development would have a significant additional impact on the Upminster Windmill, although it would be preferable if its roof height were no more than that of the houses on the opposite side of the road. Staff consider that it is not necessary to designate the area around the Upminster Mill as a Protected Village Amenity Area (PVAA).
- 6.9.2 The agent has submitted a report from a specialist, which concludes that very rarely (6.7% of the overall daylight hours) does the wind blow from the direction of the proposed development towards the windmill, and only in exceptional circumstances will the wind blow from this direction exceed the speed necessary for the mill to operate. The report states that the impact of the proposed development on the wind when blowing from the North West and North-northwest will be limited, the wind from this direction is already

disrupted by the buildings natural/manmade topography and the existing retained trees (which are taller than, and closer to, the windmill than the proposed development. With regard to the previously developed nature of the site, the scale and distance of the development from the windmill, and the existing conditions, it is the specialist's contention that the proposed development is not going to impact on the operation of the windmill. Given the findings of the specialist report, Staff consider that the proposed development would not be unduly harmful to the functioning of the Upminster Windmill.

7. The Mayor's Community Infrastructure Levy

- 7.1 The proposed development is liable for the Mayor's Community Infrastructure Levy (CIL) in accordance with London Plan Policy 8.3, as the proposal is for one new dwelling. The existing dwelling, conservatory and garage with a gross floor area of 154 square metres are being demolished. According to the CIL form the proposed semi-detached and detached dwellings and garages would have a combined gross floor space of 421 square metres. On this basis, the CIL liability equals $421 - 154 = 267$. Therefore, CIL would be payable up to £5,340 (subject to indexation).
 $267 \times \text{£}20 \text{ per sq.m} = \text{£}5,340$.

8. Planning Obligations

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that, "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". Section 70 of the Town and Country Planning Act 1990 sets out the general considerations for Local Planning Authorities in determining planning applications and Section 70(2) requires that, "in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations". Paragraph 2 of the National Planning Policy Framework (NPPF) reiterates this: "Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise".
- 8.2 The proposal is liable to a contribution of £12,000 in accordance with adopted Policy DC72 of the Development Plan and the adopted Planning Obligations SPD. These policies are up to date and accord with Paragraph 12 of the NPPF and the proposal should therefore be determined in accordance with these policies unless material considerations indicate otherwise. Staff have had regard to the Planning Policy Guidance (PPG) relating to the application of a residential unit threshold for infrastructure tariff which advises that no contribution be sought for developments of 10 residential units or less and which is a material consideration however officers consider that greater weight should be accorded to up to date Development Plan Policy and the supporting Planning Obligations SPD. Staff consider that the guidance in the PPG does not immediately supersede current adopted policy as set out in the existing development plan and adopted supplementary planning guidance and

that greater weight should be given to adopted policy within the development plan.

9. Conclusion

9.1 Staff consider the site to be acceptable in principle for residential development. It is considered that the layout and access of the dwellings proposed is compatible with the prevailing character of development within the locality. Staff are of the view that the proposal would provide suitable amenity provision for future occupiers and would have an acceptable relationship to adjoining properties. There are some concerns that the proposed dwelling in plot 3 may result in some overlooking of the rear garden of No. 9 Highview Gardens, which is not deemed to be unduly harmful to neighbouring amenity, although this is a matter of judgement for Members. It is considered that the proposal would not create any parking or highway issues. Staff consider that the proposed development would not be unduly harmful to the functioning or setting of the Grade II* listed Upminster Windmill. There would be a financial contribution of £12,000 towards infrastructure improvements. Subject to the completion of a legal agreement the scheme is considered to be acceptable.

IMPLICATIONS AND RISKS

Financial implications and risks:

None.

Legal implications and risks:

Legal resources are required for the completion of the legal agreement.

There is a risk that the weight accorded to the Development Plan Policy and Supplementary Planning Document on Planning Obligations may be challenged at appeal or through judicial challenge.

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 3/09/2014 and 16/02/15.