



REGULATORY SERVICES COMMITTEE

2 April 2015

REPORT

Subject Heading:

P1448.14 58-60 Station Road , Upminster

Conversion and ground, first and second floor extensions of the existing building to provide A1 and A2 uses on the ground floor with a cycle store and two bin stores and 5 no. residential units on the upper floors. (Application received 29th October 2014, Revised Plans received 28th January 2015)

Ward

Upminster

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Policy context:

Local Development Framework
Development Control Policies
Development Plan Document

National Planning Policy Framework

London Plan

Financial summary:

Not relevant

SUMMARY

This application is for the conversion and extension of an existing unit in Upminster Town Centre for residential and retail purposes. There have been a number of other applications for similar development at the site. Two applications for the redevelopment of the site following demolition of the existing building have been refused. The main issue of concern to members was the scale of the development in Howard Road and the adverse impact this would have on the streetscene. However, a subsequent application for the residential conversion of the main building and a ground floor retail extension was considered to be acceptable by the committee, subject to the prior completion of a legal agreement. The current application reduces the scale of the development along the Howard Road frontage and again proposes the conversion and extension of existing buildings rather than complete redevelopment. On balance Staff consider that this proposal adequately addresses the earlier reasons for refusal and would, therefore, be acceptable, subject to the prior completion of a S106 planning agreement.

RECOMMENDATIONS

1. 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 £4160 subject to indexation. This is based on the creation of 208 square metres of new gross internal floor space.
2. 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 £30,000 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.

That 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 accordance with the approved plans (as set out on page one of this decision notice).

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

3. *Car parking* - No building shall be occupied or use commenced until the car/vehicle parking area shown on the approved plans has been completed, and thereafter, the area shall be kept free of obstruction and available for the parking of vehicles associated with the development

Reason: To ensure that there are adequate parking facilities to serve the development in the interests 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 and hard landscaped areas have 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. *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.

6. *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.

7. *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.

8. *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 that phase 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.

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

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

10. *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.

11. *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 that phase 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.

12. *Pedestrian visibility splays*- Pedestrian visibility splays shall be provided on either side of the access onto Howard Road of 2.1 by 2.1 metre back to the boundary of the public footway. Thereafter the visibility splays shall be permanently retained and kept free from obstruction or objects higher than 0.6 metres within the visibility splay.

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

13. *Restriction of use* - Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) Order 1995 (as amended) the ground floor use hereby permitted shall be A1 or A2 only and shall be used for no

other purpose(s) whatsoever including any other use as set out in Schedule 2, Part 3 of the Order.

Reason: To restrict the use of the premises to one compatible with the surrounding area and to enable the Local Planning Authority to exercise control over any future use not forming part of this application, and that the development accords with the Development Control Policies Development Plan Document Policy DC61.

Informatives

1. *DMO Statement* - Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: No significant problems were identified during the consideration of the application, and therefore it has been determined in accordance with paragraphs 186-187 of the National Planning Policy Framework 2012.

2. *Mayoral CIL* - 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 £4,160 (subject to indexation). 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 and you are required to notify the Council of the commencement of the development before works begin. Further details with regard to CIL are available from the Council's website.

3. *Planning obligation* - The planning obligation required has 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.

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. *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 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 lies within the retail core of Upminster Town Centre. It comprises a three storey building at the end of a parade of mainly retail units. The building continues at three storeys around the corner into Howard Road. The ground floor frontage floor space was originally occupied for A1 (retail); A2 (professional services) and B1 (a) (offices) and the first and second floor for B1 (a) offices. All floors are currently vacant. Along the Howard Road frontage toward the back of the site is a single storey white rendered building occupied by a D1 use (cosmetic clinic) beyond which are residential properties. There is access to the rear of the buildings from Howard Road along a shared roadway and parking space for about 8-10 cars. On-street parking along Howard Road adjacent to the single storey building is restricted to 2 hours, elsewhere it is restricted during morning peaks. On the north side of the site is a three storey rear extension to no. 62 Station Road which is in office use and which shares the same rear access.
- 1.2 The existing Station Road frontage is constructed in red brick with two bay windows at first floor level with a second storey window in the centre. This elevation has an ornamental Dutch gabled parapet in the centre above the second storey window. There is also a plain parapet along the Howard Road frontage. The rear elevations are in yellow brick. The total site area is 0.05 hectares.
- 1.3 On the southern corner of Howard Road is a three/four storey building with A1, A2 and B1 uses on the ground floor with offices above. On the opposite (western) side of Station Road on the corner with Branfill Road are two more recent mixed use developments (Marks and Spencer and Alder Court) which are both four storey with retail on the ground floor with flats above. On the other corner of Branfill Road is Roomes' department store which is three- storey. Most of the remainder of the retail frontage in Station Road is two or three storey.

2. Description of proposal

- 2.1 This is a full application for the conversion and extension of the existing buildings to provide 5no. flats over two floors and A1 (retail) and A2 (professional services) floorspace on the ground floor. The existing single storey building that accommodates the D1 use (cosmetic clinic) along the Howard Road frontage would be retained and a first floor added to accommodate a new residential unit. The existing ground floor would be extended to the rear alongside the single storey building, effectively extending the ground floor development across the whole site width. This would provide an additional 65 square metres of floorspace to the rear of the existing.
- 2.2 The main building would be extended over all three storeys eastwards along Howard Road to provide the entrance and stairs to the flats and new dormers would be provided within the existing front and rear roof elevations. This part of

the development would accommodate four of the five flats. This extension would be in red and yellow brick to match the existing building.

- 2.3 The first floor addition along Howard Road would comprise a mansard style roof and would accommodate a single flat. The existing rendered finish would be replaced with red brick slips to match the main building and the first floor extension tiled. A curved Dutch gabled parapet modelled on that on Station Road is also proposed. Bin and secure cycle storage would be at the rear of the ground floor extension. Car parking for four vehicles would be provided at the eastern end of the building, leaving sufficient space for deliveries to the retail unit. The existing vehicular access would be widened. The parking would be for the residential occupiers. Access to the clinic would be taken from Howard Road as at present.
- 2.4 Due to the proximity of office accommodation in the rear section of the adjoining property that faces onto the application site part of the flat roofed extension would be reduced in height to reduce the loss of natural light to the adjoining windows. The ground floor extension would be set back 0.6 metres from the site boundary.
- 2.5 None of the flats would have balconies or other amenity space provision.

3. **Relevant History**

- 3.1 P0744.13 - The demolition of existing building and construction of new mixed use building with retail use on the ground floor with a cycle store and two bin stores and 7 residential flats on the upper floors. Refused 20/06/2014 – appeal dismissed.
- 3.2 P1010.14 - Demolition of existing building and construction of new mixed use building with retail use on the ground floor with a cycle store and two bin stores and residential units on the upper floors. Refused 02/10/2014.
- 3.3 P1493.14 - Conversion and ground, first and second floor extensions of the existing building to provide A1 and A2 uses on the ground floor with a cycle store and two bin stores and 4 No residential units on the upper floors. Approved subject to prior completion of S106 agreement.

4. **Consultations/Representations**

- 4.1 36 neighbour notification letters have been sent to local addresses. No letters of representation have been received in response.
- 4.2 Thames Water has no comments.
- 4.3 London Fire Brigade (Water Team) is satisfied with the proposals – no additional fire hydrants required.
- 4.4 Essex and Suffolk Water has no objections to the development. New metered water connections should be provided.

- 4.5 London Fire and Emergency Planning Authority is satisfied with the proposals.
- 4.6 Streetcare (Highway Authority) has no objections. Site has a PTAL score of 5 indicating good access to transport facilities so 4 parking spaces acceptable.

5. **Relevant Policies**

- 5.1 Policies CP1 (Housing Supply); CP4 (Town Centres); CP9 (Reducing the need to travel); CP10 (Sustainable Transport); CP15 (Environmental management); CP17 (Design); CP18 (Heritage); DC2 (Housing Mix and Density); DC3 (Housing Design and Layout); DC7 (Lifetime Homes and Mobility Housing); DC33 (Car Parking); DC34 (Walking); DC35 (Cycling); DC36 (Servicing); DC40 (Waste Recycling); DC49 (Sustainable Design and Construction); DC50 (Renewable Energy); DC53 (Contaminated Land); DC61 (Urban Design); DC62 (Access); DC63 (Delivering Safer Places); DC72 (Planning obligations) of the Local Development Framework (LDF) Core Strategy and Development Control Policies Development Plan Document (DPD) are material considerations.
- 5.2 In addition, the Planning Obligations SPD, Residential Design Supplementary Planning Document (SPD), Designing Safer Places SPD, and Sustainable Design and Construction SPD are also material considerations.
- 5.3 Policies 2.15 (Town Centres) 3.3 (increasing housing supply), 3.4 (optimising housing potential); 3.5 (quality and design of housing developments), 4.7 (Retail and Town Centre Development; and 8.2 (planning obligations) of the London Plan and the provisions of the National Planning Policy Framework and the National Planning Practice Guidance are also relevant.

6. **Staff Comments**

Background

- 6.1 This is the fourth application for the development of the site for residential and commercial purposes. Two of the applications involved the redevelopment of the site following demolition of the existing building. Both these applications have been refused, mainly on the grounds that the scale of development in Howard Road would be visually dominant and out of character. The 2013 application was dismissed at appeal not only because of the adverse impact on the streetscene due to the scale of the extension in Howard Road, but also due to the loss of light to the adjoining property. A third application for the conversion and extension of the existing frontage building, including a ground floor retail extension was considered to be acceptable to the committee subject to the prior completion of a legal agreement. This application was for four flats. The current applications do not involve any demolition.
- 6.2 The site lies within Upminster Town Centre where new residential and retail development as part of a mixed-use scheme would normally be considered acceptable. The main issues for consideration are the layout and form of

development, the impact on the character and appearance of the streetscene, impact on amenity, highway and car parking issues.

Principle of the development

- 6.3 The application site lies within an existing town centre within the defined retail core where the redevelopment of a site for retail and residential purposes would be acceptable in principle in accordance with Policy CP1 of the LDF Core Strategy and Development Control Policies DPD and the guidance in the National Planning Policy Framework (NPPF).
- 6.4 The site is in a sustainable location with very good access to public transport given the proximity of Upminster station and local bus services that pass along Station Road. The site is very close to local amenities, including shops, schools, library and public parks. Therefore, subject to an acceptable impact on the character and appearance of the area, the streetscene and the amenities of adjoining occupiers the development can be considered acceptable.

Density/Site Layout

- 6.5 The density of the residential element would be 100 units per hectare or 280 habitable rooms per hectare. The London Plan Housing SPG and LDF Policy DC2 set out densities for new residential development. The densities proposed would be in accordance with the policy and guidance. Therefore, for a town centre development the density proposed is considered acceptable. The SPG also sets minimum floorspace standards for all housing types. The proposed units would meet these standards. However, whilst meeting these layout parameters indicates that the development would be broadly acceptable, account also needs to be taken of the character of the local area and whether the scale of the development is appropriate in terms of its appearance in the local context. Account also needs to be taken of any adverse impact on the amenity of nearby occupiers.

Design/Impact on the streetscene

- 6.6 The application site is in a prominent corner position within Upminster Town Centre and the main building currently makes a positive contribution to the character and appearance of the area. The single storey building along Howard Road is considered to have a neutral effect on the streetscene. There is a contrast in scale between the buildings that make up the retail frontage and the mainly two storey dwellings behind the frontage. The single storey building marks a transition between the taller town centre buildings and those of residential scale to the east.
- 6.7 The buildings in Station Road have a mix of architectural styles, including more recent developments such as those on the west side of the road opposite the application site. The higher buildings also extend behind the main frontage into mainly residential streets, such as Howard Road and Branfill Road. The National Planning Practice Guidance states that good quality design is an integral part of sustainable development. The guidance in the NPPF is that

planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. LDF Policy DC61 requires that new buildings and extensions to existing ones complement or improve the character of the area and respect the scale, massing and height of the surrounding physical context. In refusing planning permission for the earlier applications members had regard to this guidance and judged that the increase in height and scale would be visually dominant harmful to the character and appearance of the area.

- 6.8 The current application seeks to reduce these impacts by limiting the increase in height along the Howard Road frontage. It also retains the existing building along the Station Road frontage with only minor changes in the form of two dormer windows on the second floor. The rear extension to the second floor of the main building would be to a depth of 4.5 metres at its maximum and would be in matching materials. There would be additional windows and additional window sizes in the side elevation and one to the rear. There would also be a new access door to serve the flats. Staff consider that this limited extension would not have a material impact on the appearance of the building from Howard Road or be visually dominant in the streetscene.
- 6.9 The proposed mansard roof extension to the single storey building in Howard Road would provide space for an additional flat. The appearance of the roof has been modified from earlier schemes through the reduction in width and the introduction of a Dutch gable feature, similar in style to that on the front elevation. The roof would appear less bulky than that of previous schemes and would also be one storey lower. There would be four windows in the Howard Road elevation and one in the rear elevation. Whilst the roof form is not typical of the area it would not be dissimilar in shape to that of the main building. The proposal is not judged to be out of character in the local streetscene which has an eclectic mix of architectural styles. Staff consider as a matter of judgement that the proposed first floor extension would be acceptable. However, should members consider that the extension would be out of character and harmful to the character and appearance of the area then this could amount to a material objection to the application.
- 6.10 The proposed ground floor extension to provide retail and financial and professional services would not be readily visible from the street and would, therefore, not have any material impact on the character and appearance of the area. This part of the development is the same as that already considered acceptable by the committee.

Impact on amenity

- 6.11 The proposed development would have some adverse impact on adjoining properties mainly as a result of a loss of daylight and sunlight. The adjoining building at no.62 has a shop on the ground floor with offices above, which extend over three floors in a rear extension. A number of the offices have windows facing onto the application site.

- 6.12 Objections were raised to the by the landlord and occupiers of the building to the earlier applications due to the loss of daylight to these offices. A recent site visit has clarified that none of the rooms potentially affected are in residential use. Policy 61 of the LDF states that planning permission will not be granted where development results in an unacceptable overshadowing or loss of sunlight/daylight. There is no national guidance on loss of light, although 'rights to light' are set out in law. The submission details include a daylight and sunlight report based upon guidance issued by the Building Research Establishment (BRE) in 2011. The guidance states that in residential properties only habitable rooms should be assessed and in non-domestic buildings on rooms where there is an expectation of daylight. The assessment has had regard to the location of the annexe to the rear of no.62 which is close to the boundary of the development site. The assessment concluded that whilst there would be a loss of daylight and sunlight to existing windows, these either served non-habitable rooms, already had restricted light or were very close to the site boundary. The assessment concluded that the development would meet the terms of the guidance.
- 6.13 The assessment was carried out in relation to the earlier applications and now that the rear extension has been reduced by one storey there would be significantly less impact compared to the first two refused applications. The roof of the single storey extension closest to the office units would have a flat roof, part of which would be set back from the boundary to minimise any loss of light. There would be some loss of light as a result of the proposed first floor extension, but this would not be significant given that nearest part of the roof would be over six metres away. The impact on the adjoining building did not amount to a reason for refusal of the early applications and is not considered to be a material objection.
- 6.14 In the appeal decision on the 2013 application the Inspector considered that the three-storey extension would have an unacceptable impact on the living conditions of adjoining occupiers. The current proposal is significantly lower and staff consider, as a matter of judgement, that the impact would be acceptable.
- 6.15 The rear elevation of the main building would be largely unchanged, but there would be a new window at second floor level serving a proposed bedroom. However, this would not result in any significant overlooking or interlooking and would not be significantly different from the existing situation.

Parking and Highway Issues

- 6.16 The proposed development would increase the building footprint compared with the current buildings on site, thereby reducing the area available for car parking. The four spaces would be for future residents only and not for the new ground floor units. For the residential element both the London Plan SPG on housing and the density matrix in LDF Policy DC2 indicate that less than one space per unit would be acceptable given the high public transport accessibility level (PTAL) of 5. The maximum standard for a non-food shop would be between four and five spaces. However, Upminster has other public parking areas nearby for shoppers and staff, including short-term on street parking. No

objections are raised by Streetcare (Highway Authority) to the proposed parking provision, whether it serves the flats or the ground floor units. Given the accessibility of the site to local services and public transport staff consider that the site is in a sustainable location and the proposed level of car parking would be acceptable. The proposed level of parking is the same as for the four unit residential scheme which was considered acceptable. It is also the same as for the refused applications where the level of parking was not one of the reasons for refusal.

- 6.17 During the site visit the agent for the landowner of the adjoining commercial property raised the issue of deliveries and the potential that vehicles could block the shared access road to the rear of the site. Space is provided to allow for deliveries to the rear door, but this could not accommodate a large delivery vehicle. The access is not part of the public highway and is considered to be a private matter between the parties with a right of access. There is currently no delivery space at the rear and it is assumed that most deliveries are made from the public highway, which may continue. Given the size of the unit(s) deliveries are unlikely to be a significant issue.

Other Issues

- 6.18 None of the five flats would have any form of amenity area. LDF policies are not prescriptive in terms of the amount of amenity space that should be provided in residential developments. In town centres it may not always be possible to provide amenity areas for flatted development, especially given the relatively high densities achieved and the constraints posed by redevelopment sites. For this scheme additional amenity space could not be easily accommodated which would meet the criteria for usable space. There are public parks and open spaces reasonably close to the site and staff consider that the provision proposed is acceptable.

Secured by Design

- 6.19 LDF Policy DC63 seeks to ensure that new developments are designed to discourage crime and adopt the principles and practices of the 'Secured by Design' award scheme. The previous comments of the Crime Prevention Design Advisor are that the proposed development has taken these into account and that subject to conditions to cover lighting and security measures the development would be acceptable.

Section 106 Planning Obligations

- 6.20 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".

- 6.21 The proposal is liable to a contribution of £30,000 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 this 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.

7. Mayor's Community Infrastructure Levy (CIL)

- 7.1 All new floorspace is liable for Mayoral CIL, but in assessing the liability account is taken of existing usable floorspace that has been lawfully used for at least six months within the last three years. The existing floorspace has been lawfully used within this period. The new build would amount to 208m² and the CIL rate is £20 per square metre giving a CIL liability of £4,160.

8. Conclusions

- 8.1 The site lies with the retail core area of Upminster Town Centre where the proposed extension and conversion of the existing building to provide for a mixed use with retail on the ground floor is considered acceptable in principle. The main issues relate to the design and scale of the new building works and their impact on the character and appearance of the area. The site is in a prominent end of terrace street corner location and staff consider that, as a matter of judgement the proposed development would not be materially harmful to the character and appearance of the area. The grant of planning permission is recommended accordingly subject to the prior completion of a S106 legal agreement to secure a financial contribution towards local infrastructure costs and appropriate conditions.
- 8.2 However, should members consider that, the proposed mansard roof extension over the existing single storey rear extension, which is the only material difference from the approved scheme, is visually dominant and materially harmful to the character and appearance of Howard Road then there would be a case for refusal.

IMPLICATIONS AND RISKS

Financial implications and risks:

None

Legal implications and risks:

Legal resources will be required to prepare and complete the S 106 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 equality and diversity.

BACKGROUND PAPERS

1. Application form and plans received 29th October 2014. Revised plans received 28th January 2015.