



REGULATORY SERVICES COMMITTEE

16 July 2015

REPORT

Subject Heading:

P1136.12 – 1A Hillview Avenue,
Hornchurch

Single storey house - Outline
(Application received 24 June 2012)

Report Author and contact details:

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Policy context:

Local Development Framework
The London Plan
National Planning Policy Framework

Financial summary:

None

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

Havering will be clean and its environment will be cared for
People will be safe, in their homes and in the community
Residents will be proud to live in Havering

[x]
[x]
[x]

SUMMARY

The application was originally reported to Committee on 3 October 2013, where it was resolved to grant permission subject to the completion of legal agreement.

The application was subsequently re-reported to Committee in order to alter the obligation wording in connection with the provision of visibility splays in January 2014. The Committee resolved to approve the application subject to the completion of a satisfactory Section 106 Agreement inclusive of the revised wording.

The revised wording of the S106 Agreement required the adjoining land owners to be party to the agreement and consent to retain appropriate visibility splays on their land in perpetuity. Subsequent to the resolution of the committee in January 2014, the applicant has been engaged in discussions with the adjoining land owners and has not been able to secure their agreement to the relevant clause of the S106 Agreement. The applicant therefore commissioned a further Transport Statement which has been submitted to the LPA in order to try to justify a removal of the need for visibility splays in their entirety.

Thus, the current application is being re-reported to Committee in order to request a new resolution to refuse the application in the absence of a satisfactory Section 106 Agreement securing visibility splays in perpetuity. As with the previous applications reported to committee, the application seeks outline permission for a single storey 2 bedroom dwelling for details regarding access, layout and scale. Landscaping and appearance would be subject to reserved matters.

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 charge would be calculated at the submission of reserved matters application.

That the proposal is unacceptable due to the absence of a satisfactory Legal Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended), to secure visibility splays adjacent to the vehicular access to the site in perpetuity and in respect of a £6000 planning obligation to mitigate the impact of development on local school places.

That Staff be authorised to refuse the application for the following reasons:

- 1) The proposed development would, by reason of the unacceptable layout of the existing vehicular access point and the lack of a legal agreement to secure new and acceptable pedestrian visibility splays in perpetuity, result in highway and pedestrian safety being compromised, contrary to Policies

DC2, DC32 and DC33 of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document.

- 2) In the absence of a mechanism to secure a planning obligation towards the costs of local school places, the new development the proposal is contrary to Policy DC72 of the LDF Core Strategy and Development Control Policies DPD

INFORMATIVES

- 1) The proposal, if granted planning permission on appeal, would be liable for the Mayor of London Community Infrastructure Levy (CIL). Based upon the information supplied with the application, the CIL payable would be determined following the submission of the subsequent reserved matters application. Further details with regard to CIL are available from the Council's website.

REPORT DETAIL

1. Background

- 1.1 The application was originally reported to Committee on 3 October 2013, where it was resolved to grant permission subject to the completion of legal agreement.
- 1.2 The application was re-reported to Committee in January 2014 to seek authority to alter the obligation wording to state that the applicant would enter into a legal agreement together with the adjoining land owners to ensure clear unobstructed visibility splays were retained in perpetuity. The original wording of the obligation from the October 2013 resolution required the applicant to purchase land to provide the visibility splays.
- 1.3 The application has been awaiting the completion of the legal Agreement since the resolution to grant planning permission in January 2014. The applicant has failed to secure the agreement of the adjoining land owners for the visibility splays included in the revised obligation and thus is seeking to gain planning permission for the development without such an obligation attached. To support this new approach, a new Transport Statement produced by Rocke Associates has been submitted for assessment.
- 1.4 The original obligation wording stated the following:

Prior to the first occupation of the proposed dwelling in question, the land to the south-east corner of the adjoining church and the south-west corner of No.1 Hillview Avenue as indicated in the submitted 'Private Access and pedestrian visibility splay plan' and plan number 910/03A, both dated 10

September 2013, to be acquired by the applicant. This is to ensure clear and unobstructed pedestrian visibility splays.

- 1.5 The revised obligation wording stated the following:

Prior to the first occupation of the proposed dwelling in question, the land to the south-east corner of the adjoining church and the south-west corner of No.1 Hillview Avenue as indicated in the submitted 'Private Access and pedestrian visibility splay plan' and plan number 910/03A, both dated 10 September 2013, shall remain as clear and unobstructed pedestrian visibility splays for the lifetime of the development. No obstruction above 0.6 meters in height shall be placed within these visibility splays.

- 1.6 It has not been possible for the applicant to satisfy either of these obligations due to the lack of agreement from the adjoining land owners. The current application to Committee therefore proposes that the obligation is removed from the S106 Agreement entirely.

2. Description of Proposal

- 2.1 This outline planning application requests assessment of access, layout and scale and proposes the demolition of the existing workshop and garages on site and the erection of a replacement 2 bedroom bungalow.
- 2.2 The bungalow would measure at its maximum 8.7m deep by 11m wide, set 5.3m from the common boundary with no. 1 Hillview Avenue and 500mm away from the common boundary with the church. The bungalow is proposed approximately 700mm from the rear boundary and railway embankment. Amenity space towards the rear is approximately 80 square metres.
- 2.3 Access to the site is proposed via the existing 25m long driveway adjoining no. 1 Hillview Avenue. The scheme will make provision for 2 No. parking spaces with one space allowing vehicles to manoeuvre and turn around on site.

3. Relevant History

- 3.1 P1159.11 - Demolition of existing buildings and construction of single storey bungalow (Outline) – Refused

Reason for refusal:

- 1) The proposed development would, by reason of the lack of pedestrian visibility splays, result in highway and pedestrian safety being compromised, contrary to Policies DC2, DC32 and DC33 of the Local Development Framework Development Control Document.
- 3.2 This application was subsequently appealed and the appeal was dismissed on issues regarding the visibility splay adjacent to the vehicular access

point. The Inspector commented that the proposal would be beneficial to the appearance of the site following the removal of two larger outbuildings being the garages and the workshop. The current proposal has the same design and layout as this most recently refused application.

3.3 P1602.09 – Single storey house - Refused – Appeal dismissed

Reason for refusal:

- 1) The proposed development would, by reason of the inadequate turning area and lack of pedestrian visibility splays, result in vehicles leaving the site in reverse gear to the detriment of highway and pedestrian safety, contrary to Policies DC2, DC32 and DC33 of the Local Development Framework Development Control Document.

3.4 P1286.08 - Single storey house (Outline) – Refused – Appeal dismissed

Reasons for refusal:

- 1) The proposed development would, by reason of its backland location, layout and scale, result in a cramped form of over-development, appear out of keeping with the prevailing pattern of development of the surrounding area and be detrimental to the visual character of the area in general, as well as creating a poor quality living environment for future occupiers, contrary to Policies CP17 and DC61 of the Local Development Framework Core Strategy and Development Control Policies Submission Development Plan Document respectively, as well as contrary to the provisions of PPG3.
- 2) The proposed development would, by reason of the inadequate access and parking arrangements on site, result in unacceptable overspill onto the adjoining roads and potential highway hazards to the detriment of highway safety and residential amenity and contrary to Policies DC2 and DC33 of the Local Development Framework Development Control Document.

4. Consultations/Representations

- 4.1 25 neighbouring occupiers were notified of the proposal by individual letter when the planning application was originally submitted in November 2012.
- 4.2 One letter of representation was received from an adjoining resident, objecting to the proposal on the following grounds: parking and highway issues, this is addressed below in paragraph 10. They also commented on a nearby Tesco planning application, this is noted, however it is considered it would not form part of a material consideration in determining this particular outline application.
- 4.3 The adjoining Church commented that they are not against this application but would like to point out that access to the site over church land will not be

accepted by them and that the dwelling and the construction of the dwelling should not impinge on the church or restrict the church and its work. In response to the above comments, the proposed development would not be within their land.

- 4.4 Highway Authority – Comments received that a legal agreement is required to ensure that visibility splays are retained in perpetuity. In the absence of such a legal agreement the application would be unacceptable. Notwithstanding the new transport statement submitted by the applicant, there is no justification for the development to proceed without the visibility splays.
- 4.5 Crime Prevention Design Advisor – No objections subject to a condition that a plan be submitted to comply with a secure by design condition.
- 4.6 London Fire and Emergency Planning authority – The brigade is satisfied with the proposals.
- 4.7 Environmental Health (Pollution) - raise no objection subject to the imposition of a condition requiring the a) A Phase II (Site Investigation) Report AND A Phase III (Risk Management Strategy).

5 Relevant Policies

- 5.1 Policies CP1 (Housing supply), CP17 (Design), DC2 (Housing Mix and Density), DC11 (Non-Designated sites), DC32 (The Road Network), DC33 (Car parking), DC61 (Urban Design), DC63 (Delivering Safer Places), DC69 (Other areas of Special Townscape or Special Character) and DC72 (Planning Obligations) of the Local Development Framework Core Strategy and Development Control Policies Development Plan Documents are material planning considerations. SPD - Designing Safer Places SPD, SPD - Landscaping SPD, SPD - Residential Design SPD and SPD – Planning Obligations. In addition, Policies 3.3 (Increasing Housing Supply), 3.4 (Optimising housing Potential), 3.5 (Quality and Design of Housing Developments), 3.8 (Housing Choice). 6.13 (Parking) and 7.4 (Local character) of the London Plan and Chapters 7 (Requiring good design) and 8 (Promoting healthy communities) of the National Planning Policy Framework are relevant.

6. Staff Comments

- 6.1 The application is presented to Members on the basis that a satisfactory S106 Agreement has not been entered into since the earlier resolution and the applicant now seeks permission for the development without an obligation requiring the retention of visibility splays adjacent to the vehicular access point in perpetuity. The application otherwise remains the same as that reported to Committee in October 2013 and January 2014 with the key issues addressed in the subsequent sections of this report.

7. Principle of Development

- 7.1 Policy DC61 of the LDF Core Strategy states that development shall harness the topographical and ecological character of the site, respond to distinctive local building forms and patterns of development and respect the scale, massing and height of the surrounding physical context, complement or improve the amenity and character of the area through its appearance, materials used, layout and integration with surrounding land and buildings.
- 7.2 The proposal is to demolish two outbuildings being an existing garage and workshop and erection of a new dwelling. The application site is located within an existing residential area and, in land use terms, residential development on the site is acceptable in principle and compliant with Policy CP1 of the LDF. The detailed impacts of this planning application are considered further below.

8. Design, Scale and Impact on Street/Garden scene

- 8.1 The application would comprise the demolition of the existing outbuildings on the site. It is considered that the removal of the existing workshop and garage to be replaced by a single dwelling would be beneficial in appearance of the backland area and no in principle objection is therefore raised to its demolition. The floor area of the two buildings to be demolished in total would be 130 square metres (measured externally), and would be replaced by a dwelling of 79.5 square metres external floor area which is significantly less.
- 8.2 Council policy and guidance seeks to ensure that all new developments are satisfactorily located and are of a high standard of design and layout. In this regard, it is important that the appearance of new developments is compatible with the character of the local street scene and the surrounding area.
- 8.3 In density terms Policy DC2 states that residential densities of this type of development in this part of the borough should be in the range of 30-65 units per hectare. The proposed development would total 29 units per hectare on this 0.034 hectare site.
- 8.4 The character of the surrounding area and more specifically houses along Hillview Avenue is typified by semi-detached houses set in average sized gardens with extensive tree planting to the rear.
- 8.5 From a layout perspective, the existing open frontage of the plot would be retained and the existing workshop and garages demolished in order to accommodate the proposed bungalow.
- 8.6 Although the indicative layout is for a bungalow which would be relatively close in relation to the site boundaries (700mm from the southern boundary and 500mm from the northern boundary with the church), Staff are of the

opinion that the single storey nature of the bungalow would prevent the scheme from appearing cramped and over developed on the site. The southern boundary is defined by an embankment and the railway line which has mature trees and shrub planting and would aid in maintaining an open and spacious character towards the south of the site. The proposal would be located at a sufficient distance from its western and eastern boundaries whilst the majority of the northern boundary is defined by the church's parking area.

- 8.7 Furthermore, the proposed bungalow would be set back from the edge of the highway by approximately 25 metres. For the reasons mentioned above, Staff are of the opinion that in terms of the site density and layout, the proposed bungalow would not detract from the existing character and appearance of this part of Hillview Avenue.
- 8.8 The proposed single storey nature of the bungalow in conjunction with its set back from the edge of the highway would contribute to a level of subservience and in Staff's opinion would not be more harmful to the character and appearance of the street scene compared to the existing two blocks of garages. It is considered that the indicative layout and location of the bungalow on the site is of such that it would not detract from the character of the local area and would therefore be acceptable in this instance.
- 8.9 London Plan standards require that a 2 bedroom dwelling of the form proposed have a minimum internal floor area of 61 square metres. In this case the proposed dwelling would have an internal floorspace of 79.6 square metres, well in excess of the minimum standard.
- 8.10 In terms of the proposed amenity space, the Havering LDF does not prescribe a minimum space standard that should be achieved with the emphasis on quality. In this case it is considered that the proposed private amenity area would be appropriately located and would be of an adequate quality for future occupiers.

9. Impact on Amenity

- 9.1 Policy DC61 of the LDF requires new development not to harm the amenities of adjoining occupiers by reason of noise and disturbance, loss of light, overlooking or other impacts.
- 9.2 The indicative position of the bungalow would be some 12m from the rear main wall of the house at No. 1 Hillview Avenue. The bungalow would however not be directly to the rear of No. 1 and as such, no back-to-back relationship exists. Given the single storey height of the bungalow, Staff are of the opinion that no adverse overlooking is expected to the bedroom window in the rear elevation of this neighbour.
- 9.3 There are no residential properties towards the south or north and the bungalow would be sited some 20 metres from the properties facing Butts

Green Road to the east. The first floors of no's 1 - 7 however are non-residential and used as storage areas serving the ground floor shops. It is therefore not considered that any potential for invasion of privacy or overlooking would occur as a result of the proposed bungalow. In relation to loss of light, the indicative position of the bungalow would be approximately 5.3 metres from the western boundary with No. 1 Hillview Avenue and this separation distance from the boundary in conjunction with the limited height of the bungalow is considered to have no impact on No. 1 in terms of overshadowing.

- 9.4 No overshadowing would occur to any other neighbouring properties and it is therefore not considered that an objection could be substantiated on amenity grounds.

10. Access, Highways/Parking Issues

- 10.1 In respect of car parking, the density matrix contained in Policy DC2 of the LDF advises that 1.5-2 car parking spaces should be provided where new detached houses are proposed within Hornchurch suburban areas.

- 10.2 Despite removing the existing garages, the scheme makes provision for 2 car parking spaces immediately east of the proposed bungalow. Previously, concerns were raised in respect of an insufficient turning area which would not allow for vehicles to be able to manoeuvre on the site without difficulty and vehicles would therefore not be likely to exit the site in forward gear.

- 10.3 One of the main reasons for dismissing the appeal on both planning applications P1286.08 and P1602.09, the Inspector placed emphasis on the need (in accordance with the Manual for Streets) for visibility splays along the edge of the private drive. The Council's guidance is that a 2.1 metre by 2.1 metre visibility splay should be provided on each side of the access in the interest of pedestrian safety. It should be noted that there is currently visibility available at the site access however, as per the Inspector's observation in the conclusion:

"...visibility splays would be needed so as to allow emerging drivers to take proper account of people on the footway. None is provided and so the access would be unsafe. This would be contrary to Planning Policy Guidance 13 Transport. The arrangements for parking and access would be unsatisfactory."

- 10.4 The current visibility splays rely on the absence of obstruction on land belonging to the neighbouring properties on either side of the vehicular access. It is therefore necessary for the adjoining land owners to be party to any legal agreement given that the visibility splays would be located on their land.

- 10.5 The applicant previously indicated willingness to enter into a S106 Agreement to secure the requisite visibility splays in perpetuity. Two variations of the wording for such an obligation have been reported to

committee with a resolution to approve however both variations have proved to be unacceptable to the adjoining land owners. The applicant does not see any reasonable prospect of the adjoining land owners acquiescing to any planning obligation which would restrict the use of their land and as such are seeking planning permission without such an obligation attached. The applicant has attempted to support this through the submission of a fresh Transport Statement from Rocke Associates.

- 10.6 The overarching rationale underpinning the new Transport Statement is that the lawful use of the existing workshop would generate more vehicle movements than would be expected with the proposed dwelling and thus there should be no planning justification to require the visibility splays and planning permission should be granted. This position is based upon the theoretical use of the existing workshop and garages if they were brought back into lawful use and fully occupied.
- 10.7 Staff acknowledge that there is a lawful use and if it were used and occupied as workshop/garages there would be an extant level of traffic movements. It is also acknowledged that if it were brought back into this lawful use then the Council could not exercise any control over the access arrangements. Nevertheless, the proposed development is introducing a new residential use and is seeking to formalise the vehicular access and as such this is subject to planning requirements for new vehicular access points.
- 10.8 Staff consider that whether the theoretical use of the site for its lawful purpose would generate more or less traffic movements than the proposed use is not the key issue and the fundamental point is that the proposed vehicular access could create an unsafe environment for pedestrians and motorists if splays are not secured in perpetuity. This position was clearly set out in the inspectors' decision for the previous appeal in which it was concluded that the lack of visibility splays in perpetuity would be contrary to PPG13. Whilst PPG13 has now been superseded by the NPPF, the established principle remains the same and staff consider that the applicant has not provided any new information which refutes the inspectors view nor overcomes the key outstanding issue of the need to provide visibility splays.
- 10.9 Staff are therefore of the opinion that, in the absence of an appropriate Section 106 Agreement to secure the visibility splays in perpetuity, the application would be contrary to Policy DC32 of the LDF and as such refusal of the application is recommended.

11. Mayoral CIL and Section 106 implications

- 11.1 The proposal would be liable for a Mayoral CIL contribution if there was an increase in the existing Gross Internal Area. Officers have calculated that there would be a net decrease in floor area and as such the development would not attract a CIL payment.

- 11.2 Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regs) states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:
- (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.
- 11.3 Policy DC72 of the Council's LDF states that in order to comply with the principles as set out in several of the Policies in the Plan, contributions may be sought and secured through a Planning Obligation. Policy 8.2 of the Further Alterations to the London Plan states that development proposals should address strategic as well as local priorities in planning obligations.
- 11.4 In 2013, the Council adopted its Planning Obligations Supplementary Planning Document which sought to apply a tariff style contribution to all development that resulted in additional residential dwellings, with the contributions being pooled for use on identified infrastructure.
- 11.5 There has been a recent change to the effect of the CIL Regs in that from 6 April 2015, Regulation 123 of the CIL Regs states that no more than 5 obligations can be used to fund particular infrastructure projects or infrastructure types. As such, the SPD, in terms of pooling contributions, is now out of date, although the underlying evidence base is still relevant and up to date for the purposes of calculating the revised S106 contributions.
- 11.6 The evidence background to the SPD, contained in the technical appendices is still considered relevant. The evidence clearly show the impact of new residential development upon infrastructure – at 2013, this was that each additional dwelling in the Borough has a need for at least £20,444 of infrastructure. Therefore, it is considered that the impact on infrastructure as a result of the proposed development would be significant and without suitable mitigation would be contrary to Policy DC72 of the LDF and Policy 8.2 of the London Plan.
- 11.7 Furthermore, evidence clearly shows a shortage of school places in most parts of the Borough – (London Borough of Havering Draft Commissioning Plan for Education Provision 2015/16-2019/20). The Commissioning report shows need for secondary places and post-16 places which due to their nature would serve all parts of the Borough. The Commissioning report identifies that there is no spare capacity to accommodate demand for primary and early years school places generated by new development. The cost of mitigating new development in respect to all education provision is £8,672 (2013 figure from Technical Appendix to SPD). On that basis, it is necessary to continue to require contributions to mitigate the impact of additional dwellings in the Borough, unless the development is within an area of the Borough where there is a surplus of school places. Previously, in accordance with the SPD, a contribution of £6000 per dwelling was sought. It is considered that this is reasonable when compared to the need arising as a result of the development.

- 11.8 It would therefore be necessary to require a contribution to be used for educational purposes. Separate monitoring of contributions would take place to ensure that no more than 5 contributions are pooled for individual projects. It is considered that a contribution equating to £6000 per dwelling for educational purposes would be appropriate which in this case would represent a contribution of £6000.
- 11.9 Nevertheless, the application is recommended for refusal and as such no legal agreement has been secured to this secure this contribution. The failure to secure such a contribution is therefore recommended as a reason for refusal.

12. Conclusion

- 12.1 The current application is in outline form only, with approval sought for access, layout and scale.
- 12.2 The principle of residential development is acceptable on the site and it is considered by Staff that the access, layout and scale of the proposed bungalow in relation to the plot size is acceptable and would not be detrimental to the character and appearance of the street scene nor would it result in an overdevelopment of the site. It is considered that the development would not have any harmful impact on the amenities of neighbouring dwellings.
- 12.3 The current application has been reported to committee twice previously with resolutions to approve subject to the completion of a Section 106 Agreement securing visibility splays adjacent to the vehicular access point. The wording of the relevant obligation has proved to be unacceptable to the adjoining land owners who are required to be party to the S106. The applicant seeks planning permission for the proposed development without such an obligation however staff consider that the absence of an appropriate legal agreement to secure the visibility splays in perpetuity would render the application unacceptable due to the contravention of Policy DC32 of the LDF. It is therefore recommended that the application is refused.

IMPLICATIONS AND RISKS

Financial Implications and risks:
None directly arising from this application.

Legal Implications and risks:
None

Human Resource Implications:
None

Equalities and Social Inclusion Implications:
None directly arising from this application.

BACKGROUND PAPERS

The plan, application form and supporting documents were received on 7 November 2012. Additional information in the form of a revised Transport Statement was received on 24 April 2015.