

Appendix



Application Reference:

P1533.23

Location:

Former Miniature Golf Club, Hall Lane
Upminster

Ward

Cranham

Description:

Variation of Condition No. 1 (Accordance with plans) of reserved matters approval ref: P0112.22 dated 19/10/2022 to substitute the approved plans. (Application for reserved matters seeking approval of appearance, landscaping, layout and scale pursuant to Condition 1 (replacing drawing numbers) of Outline Planning Permission (P0248.19) dated 16 September 2021 for the demolition of all buildings and structures on site, and redevelopment of the site providing up to 37 residential dwellings, creation of a new highway access, public open space and landscaping and related infrastructure. Details are provided to satisfy Conditions 12, 13, 14, 15, 16, 26 and 30 of the Outline Planning Permission.)

Case Officer:

Habib Neshat

Reason for Report to Committee:

A Councillor call-in has been received which accords with the Committee Consideration Criteria

Members of the Strategic Planning Committee have approved the outline and the reserved matters applications, hence the application for the variation is brought to the attention of the same committee.

1 BACKGROUND

- 1.1 An outline planning application was approved by Havering's Strategic Planning Committee (SPC) in July 2020 subject to conditions and a section 106 legal agreement to change the use of land and to develop the site to provide 37 dwelling. At the reserved matters stage, the scheme was revised to incorporate 35 dwellings, approved by the SPC in October 2022.
- 1.2 The approved scheme incorporates 35 dwellings that are set along a centrally located access road with areas of public open space at either end of the site.

2 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- 2.1 It is considered that the management and the maintenance of the amenity spaces by a management company would be a much more effective and efficient way of maintaining the open amenity space within the site. The proposed informal play space would also allow a range of recreational and play opportunity suitable for a range of age groups. It is also considered the provision of formal play facilities in a more accessible place such as a local park would be preferable. Subject to appropriate conditions and terms of the lease the council would be able to ensure public access to the amenity spaces would be maintained.

3 RECOMMENDATION

- 3.1 That the Committee resolve to approve reserved matters subject to:

The completion of a Deed of Variation to the original legal agreement to secure the following planning obligations: “

- Off-site affordable housing provision
- Carbon Offset payment
- Financial contribution of £120,000 for improvements to Upminster Hall Playing Fields
- Public access rights to open space provided within the development
- Satisfactory maintenance of all open space and other common areas within the development including any facilities/furniture provided as part of the common/public areas.
- 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.
- 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.

And In addition to the above,
The provision of additional £55,000 financial contribution to the enhancement of the local public amenity space.

Legal Costs, Administration and Monitoring

A financial contribution (to be agreed) to be paid by the developer to the Council to reimburse the Council's legal costs associated with the preparation of the planning obligation and a further financial obligation (to be agreed) to be paid to reimburse the Council's administrative costs associated with monitoring compliance with the obligation terms.

3.2 That the Director of Planning is delegated authority to negotiate the legal agreement indicated above and that if not completed by the 31st October 2024 the Director of Planning is delegated authority to refuse planning permission or extend the timeframe to complete the legal agreement and grant approval.

3.3 That Director of Planning has delegated authority to issue the planning permission subject to the completion of the legal agreement and conditions to secure the following matters:

Conditions

1. In accordance with approved plans (condition to make specific reference to plans number as a result of this application),
2. Removal of permitted development rights under Part 2 Class A (controlling means of enclosure).

4. Site and background

4.1 The site is located on the east side of Hall Lane, approximately 3.5 hectares in size. Until a few years ago the site comprised a pitch and putt and miniature golf course, incorporating a kiosk building. The site is largely enclosed by the rear gardens of the dwellings in Hall Lane, The Fairway, Holden Way and Ingrebourne Gardens.

4.2 The development is currently underway to implement the planning permission. The approved scheme incorporates vehicular and pedestrian access that cuts through the middle of the site with the majority of the houses facing the access. The scheme has retained a significant number of trees, with the more mature trees now subject to Tree Preservation Order.

- 4.3 The approved amenity space to the front of the development, in part incorporated a formal playground facilities. Under the current scheme, all amenity spaces would be owned, managed and maintained at the council's cost.

5 PROPOSAL AND LOCATION DETAILS

- 5.1 The proposed amendment to the scheme only relates to the public amenity spaces as follows;

1. The replacement of the formal play space to the front of the site with an informal play space.
2. The transfer of the responsibility of the management, maintenance of the public open spaces from the Council to the developers.

6. Planning History

- 6.1 The following planning decisions are relevant to the application:

1. P0248.19: Outline planning application for the demolition of all buildings and structures on site, and redevelopment of the site providing up to 37 residential dwellings, creation of a new highway access, public open space and landscaping and related infrastructure. – Approval with conditions and S106 legal agreement 16th September 2021.
2. P0112.22: Reserved matters application (35 dwelling) has been approved, for the appearance, landscaping, layout and scale pursuant to Condition 1 of Outline Planning Permission (P0248.19) dated 16 September 2021 for the demolition of all buildings and structures on site, and redevelopment of the site providing up to 37 residential dwellings, creation of a new highway access, public open space and landscaping and related infrastructure. Details are provided to satisfy Conditions 12, 13, 14, 15, 16, 26 and 30 of the Outline Planning Permission.
3. P0552.23 application refused to “vary condition 1 of the reserved matters approval in order to amend the boundaries of plots 32, 34 and 35 so as to create a new plot 36 adjacent to plot 32. The subsequent appeal to this decision was dismissed on 14th June, 2024.”

7 CONSULTATION RESPONSE

LOCAL REPRESENTATION

- 7.1 A total of 90 neighbouring properties were notified about the application and invited to comment.

7.2 4 representations have been received from the neighbours, raising the following concerns;

- The site has been substantially developed already. By not leaving a drainage area of public space it will lead to flooding. In addition too much traffic straight onto Hall Lane.
- Over developed and not the original agreement. Unfair to remove more green space that is desperately needed for drainage it will result in land issues
- Play space was originally agreed and should be retained
- Concern with parking and traffic,
- This is money saving exercise
- There should be no building to the front
- The amenity space may be gated off and may not be available for the public

Supporting comments

- One letter of support has been provided, explaining “We support these proposals which we think will be beneficial, particularly the maintenance proposals which will save Council taxpayers money.”

Non-material representations

7.3 A number of issues raised by the objectors, which refer to, impact on highways condition, loss of drainage and the loss of greenery. These are not relevant to the scheme, as the principle of the development has been agreed and the proposal would not result in the loss of drainage or greenery. With respect to other issues, in particular the fear of loss of public amenity space to the public, or the impact of loss of playground facilities, are expressed in the material planning consideration section below.

Internal consultees;

Public Realm Manager: the proposal would be agreeable so long as it covers 100% of the management/maintenance costs. The proposed play facilities would be best located at an alternative site with greater public accessibility such as a local park.

Property Services: granting a lease on peppercorn rent would likely to be the best approach, with the developer covering entirely all the maintenance costs of the amenity space. Further, the developer would need to pay our legal and surveyor costs for negotiating a lease if that option should be exercised.

Cranham Ward Councillors would like to make the following observations in relation to this application:

The land was agreed to be maintained as a public open space. The applicants' proposal for us to enter into a lease agreement has the potential for additional requests to be submitted, including the addition of a gate at the front of the site and the powers and accessibility denied to the general public. We therefore do not approve of a lease agreement, resulting in the public space being Council maintained.

The current proposal for natural play, has failed to maximise on natural play profiling. In its place they are providing a garden, with emphasis on planting, wild flowers, bee friendly planting. Whilst this is admiral, it has limited natural 'play' opportunities for children in accordance with planning consent and the idea of natural play:

- *Rocks and boulders*
- *Trees and tree stumps*
- *Loose materials*
- *Digging spaces*
- *Water features*
- *Natural shelters*
- *Small hills, mounds or berms*
- *Sensory gardens*

In relation to the £55k being offered, and the transfer of formalised play opportunities to the Hall Lane Playing Fields, we want proactive negotiations undertaken with the relevant council officers. We need to secure the best offer for the benefit of the children within the Cranham/Upminster Wards and it is currently unclear as how this figure has been arrived at.

Therefore on these grounds we oppose the current application as currently presented and request the application be called in, only if officers are mindful to grant approval. Our preference is for further discussions to take place over the £55k, the refusal of the leasing of the land and a revisit of the natural 'play' offer.

8 MATERIAL PLANNING CONSIDERATIONS

- 8.1 The principle of the development has already been agreed for the redevelopment of the site to provide 35 dwelling including associated access and significant degree of accessible public amenity space. Further, conditions with respect to original outline planning permission at reserved matter stage including; 12 (Car Parking), 13 (Site Levels), 14 (Refuse and Recycling), 15

(Cycle Storage), 16 (Road/Carriageway/Footway Details), 26 (Boundary Treatments) and 30 (Drainage Strategy) have been discharged.

8.2 The proposal would not affect the design, layout or the total number of the dwellings, the drainage strategy or the boundary of the plot, the footprint or height. In particular the proposal would maintain the amount of the public amenity space in terms of area approved.

8.3 The proposal in details include;

1. Physical changes to the open space

The proposal would replace the formal play space to the front of the site with an informal play space. In the current scheme the formal play space would include playground facilities, whereas the informal play space would incorporate large glacial play boulders, grass mounds, seating and ornamental planting as the main feature. The applicant has also pledged to contribute a further £55,000 over and above the agreed £120,000 to further enhancement of play facilities in the local area.

2. Management of the Open Space

The proposal is the developers to take responsibility for the management of the public open spaces and meet the cost of the maintenance through setting up a responsible company which would place a service charge on the residents for the maintenance of the works estimated circa £80,000 per annum. In order to achieve this, the council would give a long lease, with restrictive terms, to the developers but retains its freehold interest.

8.4 With respect to the proposed physical alteration, it is considered the provision of the play facilities in a more accessible location, such as a public park would be a better strategy to meet the needs and the aspirations of the local neighbourhood. This has been confirmed by the Council's Manager of public realm. The decision on where the play facilities would be provided would be made by the public realm team. The fund would however be expected to be used within the close proximity to the development site.

8.5 The proposed informal play space would allow a better range of recreation and play opportunity for a greater range of ages and ability.

8.6 It is important to stress that the open space will remain open to the general public as has always been intended. This would be secured through the terms of the lease and clauses in s.106. Further, a condition is recommended that there shall be no more boundary enclosure or gates other than those already approved.

8.7 The management of the public open amenity spaces by a private company would be an appropriate approach in this instance. The proposal to meet the cost of the maintenance of the amenity space through a service charge would achieve a more efficient and effective maintenance of the space in line with the aspiration for the development.

Highways

- 8.8 It is considered the proposed variation would have no additional consequences on the highways condition over and above what has already been approved.

Environmental and Climate Change Implications

- 8.9 It is considered the proposed variation would have no additional bearing upon on the Environmental and Climate Change Implications over and above what has already been approved.

Financial and Other Mitigation

- 8.10 A full s106 agreement was secured as part of the outline planning permission. The present reserved matters application was also controlled by the s106 agreement, and none were amended or varied by the reserved matter submission. In summary the following obligations have been secured:

- Off-site affordable housing provision
- Carbon Offset payment
- Financial contribution of £120,000 for improvements to Upminster Hall Playing Fields
- Public access rights to open space provided within the development
- Satisfactory maintenance of all open space and other common areas within the development including any facilities/furniture provided as part of the common/public areas.
- 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.
- 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.

- In addition to the above, the provision of further £55,000 financial contribution to the enhancement of the local public amenity space.

The proposal would attract the following Community Infrastructure Levy contributions:

- £ 1,385,848.48 LB Havering CIL
- £ 277,169.69 Mayoral CIL towards Crossrail

Given the development has already started all CIL payment to the sum of £1,663,018.18 has already been paid by the developer and received in full.

Other financial implication;

8.11 The proposal would also result in the saving of approximately £80,000 maintenance cost annually.

9. Equalities

9.1 The Equality Act 2010 provides that in exercising its functions (which includes its role as Local Planning Authority), the Council as a public authority shall amongst other duties have regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

9.2 For the purposes of this obligation the term “protected characteristic” includes:
- age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

9.3 Policy CG1 of the London Plan also seeks to support and promote the creation of an inclusive city to address inequality. In view of the stakeholders affected by the development proposals, the most significant impacts in this case relate to the protected characteristics of age, disability and gender. It is considered that there would be no communities falling under the list of “protected characteristics” that would be significantly or unduly harmed by the proposals.

9.4 Therefore in recommending the application for approval, officers have had regard to the requirements of the aforementioned section and Act and have concluded that a decision to grant consent for this proposed development would comply with the Council’s statutory duty under this important legislation. In light of the above, the proposals are considered to be in accordance with national regional and local policy by establishing an inclusive design and providing an environment which is accessible to all.

Conclusions

10.1 All other relevant policies and considerations have been taken into account. Planning permission should be granted for the reasons set out above. The details of the decision are set out in the recommendation section.