

Thurrock - An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future

## Planning Committee

The meeting will be held at **7.00 pm** on **21 March 2019**

**Council Chamber, Civic Offices, New Road, Grays, Essex, RM17 6SL**

### Membership:

Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Colin Churchman, Graham Hamilton, Angela Lawrence, David Potter, Gerard Rice, Sue Sammons and Sue Shinnick

Steve Taylor, Campaign to Protect Rural England Representative

### Substitutes:

Councillors Abbie Akinbohun, Clare Baldwin, Garry Hague, Victoria Holloway, Susan Little and Peter Smith

### Agenda

Open to Public and Press

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<b>1 Apologies for Absence</b>	
<b>2 Minutes</b>	<b>5 - 12</b>
To approve as a correct record the minutes of the Planning Committee meeting held on 14 February 2019.	
<b>3 Item of Urgent Business</b>	
To receive additional items that the Chair is of the opinion should be considered as a matter of urgency, in accordance with Section 100B (4) (b) of the Local Government Act 1972.	
<b>4 Declaration of Interests</b>	
<b>5 Declarations of receipt of correspondence and/or any</b>	

**meetings/discussions held relevant to determination of any planning application or enforcement action to be resolved at this meeting**

**6 Planning Appeals 13 - 20**

**7 Public Address to Planning Committee**

The Planning Committee may allow objectors and applicants/planning agents, and also owners of premises subject to enforcement action, or their agents to address the Committee. The rules for the conduct for addressing the Committee can be found on Thurrock Council's website at <https://www.thurrock.gov.uk/democracy/constitution> Chapter 5, Part 3 (c).

**8 18/01760/HHA - The Lodge, Fen Lane, Bulphan, Essex, RM14 3RL (deferred) 21 - 36**

**9 18/01802/FUL - Beauchamp Place, Malvern Road, Grays, Essex, RM17 5TH 37 - 52**

**10 18/01635/FUL - FBS Salvage, Stanhope Industrial Park, Wharf Road, Stanford le Hope, SS17 0AL 53 - 66**

**11 18/00450/OUT - Greenwise nurseries, Vange Park Road, Vange, Essex, SS16 5LA 67 - 94**

**Queries regarding this Agenda or notification of apologies:**

Please contact Wendy Le, Democratic Services Officer by sending an email to [Direct.Democracy@thurrock.gov.uk](mailto:Direct.Democracy@thurrock.gov.uk)

Agenda published on: **13 March 2019**

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# DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF

Breaching those parts identified as a pecuniary interest is potentially a criminal offence

## Helpful Reminders for Members

- *Is your register of interests up to date?*
- *In particular have you declared to the Monitoring Officer all disclosable pecuniary interests?*
- *Have you checked the register to ensure that they have been recorded correctly?*

## When should you declare an interest *at a meeting*?

- **What matters are being discussed at the meeting?** (including Council, Cabinet, Committees, Subs, Joint Committees and Joint Subs); or
- If you are a Cabinet Member making decisions other than in Cabinet **what matter is before you for single member decision?**



Does the business to be transacted at the meeting

- relate to; or
- likely to affect

any of your registered interests and in particular any of your Disclosable Pecuniary Interests?

Disclosable Pecuniary Interests shall include your interests or those of:

- your spouse or civil partner's
- a person you are living with as husband/ wife
- a person you are living with as if you were civil partners

where you are aware that this other person has the interest.

A detailed description of a disclosable pecuniary interest is included in the Members Code of Conduct at Chapter 7 of the Constitution. **Please seek advice from the Monitoring Officer about disclosable pecuniary interests.**

**What is a Non-Pecuniary interest?** – this is an interest which is not pecuniary (as defined) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgement of the public interest.

### Pecuniary

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to be sensitive) disclose the existence and nature of the interest to the meeting

If the Interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register

**Unless you have received dispensation upon previous application from the Monitoring Officer, you must:**

- **Not participate or participate further in any discussion of the matter at a meeting;**
- **Not participate in any vote or further vote taken at the meeting; and**
- **leave the room while the item is being considered/voted upon**

**If you are a Cabinet Member you may make arrangements for the matter to be dealt with by a third person but take no further steps**

### Non-pecuniary

Declare the nature and extent of your interest including enough detail to allow a member of the public to understand its nature



**You may participate and vote in the usual way but you should seek advice on Predetermination and Bias from the Monitoring Officer.**

## Our Vision and Priorities for Thurrock

An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future.

1. **People** – a borough where people of all ages are proud to work and play, live and stay
  - High quality, consistent and accessible public services which are right first time
  - Build on our partnerships with statutory, community, voluntary and faith groups to work together to improve health and wellbeing
  - Communities are empowered to make choices and be safer and stronger together
  
2. **Place** – a heritage-rich borough which is ambitious for its future
  - Roads, houses and public spaces that connect people and places
  - Clean environments that everyone has reason to take pride in
  - Fewer public buildings with better services
  
3. **Prosperity** – a borough which enables everyone to achieve their aspirations
  - Attractive opportunities for businesses and investors to enhance the local economy
  - Vocational and academic education, skills and job opportunities for all
  - Commercial, entrepreneurial and connected public services

## Minutes of the Meeting of the Planning Committee held on 14 February 2019 at 7.00 pm

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**Present:** Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Graham Hamilton, Angela Lawrence, David Potter, Gerard Rice, Sue Sammons and Sue Shinnick

Steve Taylor, Campaign to Protect Rural England Representative

**Apologies:** Councillor Colin Churchman

**In attendance:** Andrew Millard, Assistant Director - Planning, Transport and Public Protection  
Leigh Nicholson, Strategic Lead - Development Services  
Steven Lines, Senior Highway Engineer  
Chris Purvis, Principal Planner (Major Applications)  
Tom Scriven, Principal Planner  
Caroline Robins, Locum Solicitor  
Comfort Onipede, Trainee Solicitor  
Wendy Le, Democratic Services Officer

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Before the start of the Meeting, all present were advised that the meeting may be filmed and was being recorded, with the audio recording to be made available on the Council's website.

### 83. Minutes

The following amendments were requested:

- Councillor Shinnick to be added to the list of 'apologies'; and
- Councillor Holloway to be noted as a substitute for Councillor Shinnick.

The minutes of the Planning Committee held on 10 January 2019 were approved as a correct record subject to the amendments to be made.

### 84. Item of Urgent Business

There were no items of urgent business.

The Chair congratulated the Planning Department on winning the award for the Local Authority Planning Team of the Year category at the Royal Town Planning Institute.

### 85. Declaration of Interests

Councillor Rice declared a non-pecuniary interest on both items as he had received email correspondence from the involved parties.

**86. Declarations of receipt of correspondence and/or any meetings/discussions held relevant to determination of any planning application or enforcement action to be resolved at this meeting**

Members had received an email correspondence from the Corporate Director of Place on application 18/00540/FUL which reminded the Committee that the previous covenants discussed at the last committee meeting on 10 January 2019 were immaterial. However questions around the history of the application could still be asked.

The Committee had also received an email from the applicant for application 18/01760/HHA, The Lodge.

**87. Planning Appeals**

Leigh Nicholson, Strategic Lead of Development Services, provided a brief outline of the report.

**RESOLVED:**

**That the Planning Committee noted the report.**

**88. 18/00540/FUL - Town Centre Car Park, King Street, Stanford le Hope (Deferred)**

Chris Purvis, the Principal Planner, presented the application and informed the Committee that the application had been deferred from the last committee meeting on 10 January 2019 to allow for a petition to be considered. An additional planning obligation, also utilising any other relevant powers, was added in seeking to safeguard the remaining public car park area outside the site but within land owned by the applicant and the access to and from the car park (the blue line indicated on the map).

The Chair opened the item to the Committee for questions.

(Councillor Sue Shinnick was unable to participate or vote on the planning application as she had not been present at the initial planning application hearing).

Steve Taylor, Campaign to Protect Rural England Representative, questioned if the retention of the public car parks would be retained. The Principal Planner confirmed this would be the case as the car park in the blue line would be retained as a planning obligation. Following up, Steve Taylor asked what the process would be if obligations were to change in the future. The Principal Planner answered that a Deed of Modification would be needed to change the planning obligations which would then go through a separate planning process.

In regards to the extra car park spaces, Steve Taylor asked if there was a possibility for adding on a deck below ground. Responding that the car park was at its limit, the Principal Planner went on to say that this had been discussed with the applicant to ensure that there would be enough parking spaces to meet the draft parking standards. Steve Taylor sought clarification on whether a conversation had taken place regarding extending a deck below ground to which the Principal Planner replied that the conversation had not taken place.

Referring to page 33, paragraph 4.12, Councillor Rice queried whether the 35% of affordable units would equate to 17 affordable units. The Principal Planner confirmed that there would be 16 affordable units from the housing scheme. Councillor Rice asked the Officer to check the calculations as he had calculated 17.

Continuing on with questions, Councillor Lawrence questioned whether there would be charging points for electric cars. The Principal Planner answered that the charging points were not within the planning applications but could be considered through a planning condition or through the travel plan. Councillor Lawrence sought confirmation on the number of disabled parking spaces to which the Principal Planner confirmed that there were two.

Going back to the affordable units from the housing scheme, Councillor Rice said that his calculation was 16.45 and he asked if this number would be rounded up to 17 or rounded down to 16. Andrew Millard, Assistant Director of Planning, Transportation and Public Protection, answered that the figure would be rounded down to 16 which was confirmed by the Principal Planner.

Referring to the initial agreement of the car park when it was sold in 2012 and understanding that it was now void; the Chair asked why it was sold off on the provision of 107 car park spaces. He went on to say that the condition had been to retain car park spaces at the time due to the local businesses and asked if this had been a condition of the sale. In answer, the Principal Planner said that the 2012 application had included a car deck which would have provided more car park spaces than the current development would.

Referring to page 33, paragraph 4.10, Councillor Rice questioned if further information on the flood risks had been provided to the Officer yet. Referring to page 47, paragraph 6.50, the Principal Planner said a low flood risk had been identified as the area was in a low risk flood zone. Further information was required for water drainage through a planning condition. Councillor Rice stated that water drainage was important and an adequate system had to be in place.

With no more questions from the Committee, the Chair opened the application up for debate.

Based on the 10 January 2019 Planning Committee meeting, the Chair was aware of the 500 signature petition in which it was clear that the Stanford le

Hope community was not in favour of the planning application. He went on to say that as a Ward Councillor, he had always been vocal in keeping free car park spaces. Understanding that the initial sale of the Stanford le Hope car park had to be ignored due to the fact that the covenants had expired, the Chair commented on the increase in the population of the Stanford le Hope community which would be impacted by a decrease in the amount of free car park spaces. The Chair was open to vote in favour but asked to hear the Committee's views.

Commenting on the difficulty of the planning application, Councillor Rice said the housing scheme would bring in 47 new homes of which 16 would be affordable. There would still be free car park spaces although these would be limited. Councillor Rice went on to say that the car park was a brown field site which allowed for development and Officers had undertaken the relevant investigations including an adequate water drainage system. There were no real objections from the agencies but there were a lot of objections from the local community.

Having weighed up the reasons, Councillor Lawrence stated that she was in objection to the planning application. The local community would be affected by the decreased number of free car park spaces and the housing development would be too big. If there had been more car park spaces available as a result, there would have been no issue. Councillor Lawrence mentioned reading an article on pollution and said that pollution was also caused by people driving round and round areas looking for a car park space.

Steve Taylor agreed the planning application would significantly impact on the town centre and the local businesses. He felt there was still room for negotiation with the developers to develop a deck to increase the number of available car park spaces which had not been discussed. It was an option that should be explored.

Agreeing with Councillor Lawrence on the problems of car parking, Councillor Sammons added that local businesses would suffer as people would not stop at those shops.

The planning application was proposed by the Vice-Chair and seconded by Councillor Rice that the application be approved.

(Councillor Sue Shinnick was unable to participate or vote on the planning application as she had not been present at the initial planning application hearing).

For: (2) Councillors Steve Liddiard (Vice-Chair) and Gerard Rice.

Against: (4) Councillors Tom Kelly (Chair), Angela Lawrence, Sue Sammons and David Potter.

Abstained: (1) Councillor Graham Hamilton.

Due to the outcome of the votes, Andrew Millard stated that an alternative recommendation or motion had to be put forward by the Members opposing the application as per the Constitution. As reasons had to be given for departing from Officer's recommendations, Andrew Millard noted the raised concerns on parking spaces which was detrimental to the vitality of the town centre and the overbearing development of the housing scheme which were considered as material planning considerations and the motion could be based on these. The Locum Solicitor concurred with Andrew Millard's approach.

The Chair submitted a motion that the application was to be rejected based on the detrimental impact that the planning application would have on Stanford le Hope's economy and the scale and overbearing nature of the housing development. The motion was seconded by Councillor Lawrence.

For: (6) Councillors Tom Kelly (Chair), Angela Lawrence, Sue Sammons, David Potter, Steve Liddiard (Vice-Chair) and Gerard Rice.

Against: (0).

Abstained: (1) Councillor Graham Hamilton.

Andrew Millard stated that the final wording of the decision would be cleared with the Chair before the decision would be issued.

**89. 18/01760/HHA - The Lodge, Fen Lane, Bulphan, Essex, RM14 3RL**

Tom Scriven, the Principal Planner advised that the planning application sought permission to develop a single storey side and rear extension. Two planning applications of a similar form had been sought previously and both had been rejected due to the size of the extensions. This application showed a reduction in the size of the proposed designs. However, the extension would still exceed the two reasonably sized rooms test for a proportionate extension in the Green Belt as set out in Policy PMD6 of the Core Strategy. As a result the proposal was considered to represent a disproportionate addition to the original dwelling which would constitute a disproportionate addition in the Green Belt, by definition harmful to openness.

The Chair opened the item up to the Committee for questions to which there were none. The item was opened up for debate.

Noting the previous two rejected applications, Councillor Rice said the applicant was clearly trying to be accommodating and only sought a small extension that would not be seen by the next door neighbour. He thought the applicant was being reasonable as he sought a small diner and utility room. Referring to the planning training provided prior to the Committee meeting, Councillor Rice said he would be in favour of the application as the extensions requested would not be disproportionate to the original building.

Agreeing with Councillor Rice, Councillor Lawrence added that the extension was small which would not affect the Green Belt and would keep to the character of the house design. She felt the personal reasons given by the applicant via email would constitute very special circumstances as the applicant's elderly mother would be moving in so she would not be placed in a care home. The applicant's family would be able to live in harmony with his elderly mother and his children and the extension would not be seen. With all the reasons added up together, Councillor Lawrence felt the Committee should be fair.

Steve Taylor said that the biggest issue of the application was the fact it would extend onto a part of the Green Belt. Policy is quite clearly against developing on the Green Belt. Therefore to allow for this application to develop on the Green Belt would invite issues from concerned parties and other future planning applications within the Green Belt. Permitted development rights were removed when planning permission was granted for the dwelling and previous applications for the extensions had been rejected and should not be overridden.

Sympathising with the applicant, the Chair agreed the application had to be considered in planning terms and whilst the reasons given and the requested extension did not seem unreasonable, the laws of planning still applied. He agreed with Steve Taylor that there needed to be consistency on the approval and rejection of planning applications.

Referring to the planning training prior to the Committee meeting, Councillor Rice said he had been advised to treat each planning application on its own terms and therefore it would not set a precedent. He thought the applicant was reasonable with his third amended application. The extension was not massive and with the reasons given from the planning training, Councillor Rice would use these to depart from the Officer's recommendations.

Disagreeing with the given comments of the Committee, Councillor Hamilton referred to page 63 of the Agenda, where it was stated that the extension was still almost double the size which would be appropriate in the Green Belt. This would still encroach onto the Green Belt and whether it could be seen from the road or not was irrelevant. He agreed with the Officer's comments and recommendations.

Noting the points raised, Andrew Millard provided advice to the Committee in which whether the extension would be seen or not was immaterial. Referring to Steve Taylor's earlier point, Andrew Millard said that all additions to the property had been allowed at the time that it was built. He also stated that the Council's own Core Strategy clearly sets out what would constitute a proportionate addition in the Green Belt. The reasons given by the Committee did not amount to exceptional or the very high bar of very special circumstances which would allow departure from planning policy.

Disagreeing, Councillor Rice proposed a new motion that the application be approved because the extension would not result in disproportionate addition to the original building. Councillor Lawrence seconded the motion.

The Committee moved on to voting of approving the application based on Councillor Rice's motion.

For: (5) Councillors Gerard Rice, Angela Lawrence, Sue Sammons, Sue Shinnick and David Potter.

Against: (3) Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair) and Graham Hamilton.

Abstained: (0).

Referring to the Constitution and taking into consideration the reason for approval, Andrew Millard said the reason was tentative. As a decision was not made, the planning application would be deferred to the next Planning Committee meeting with a report setting out the implications based on the motion proposed.

**The meeting finished at 7.57 pm**

Approved as a true and correct record

**CHAIR**

**DATE**

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Democratic Services at [Direct.Democracy@thurrock.gov.uk](mailto:Direct.Democracy@thurrock.gov.uk)**

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<b>21 March 2019</b>	<b>ITEM: 6</b>
<b>Planning Committee</b>	
<b>Planning Appeals</b>	
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> N/A
<b>Report of:</b> Leigh Nicholson, Strategic Lead of Development Services	
<b>Accountable Assistant Director:</b> Andy Millard, Assistant Director of Planning, Transportation and Public Protection.	
<b>Accountable Director:</b> Steve Cox, Corporate Director of Place	

## Executive Summary

This report provides Members with information with regard to planning appeal performance.

### 1. Recommendation(s)

#### 1.1 To note the report

### 2. Introduction and Background

2.1 This report advises the Committee of the number of appeals that have been lodged and the number of decisions that have been received in respect of planning appeals, together with dates of forthcoming inquiries and hearings.

### 3. Appeals Lodged:

#### 3.1 Application No: 18/01178/HHA

Location: 16 Rowley Road, Orsett

Proposal: Retrospective application for fence with concrete posts

#### 3.2 Application No: 18/01050/HHA

Location: Lyndfield, Orsett Road, Horndon On The Hill

Proposal: First floor side extension

#### 3.3 Application No: 18/01057/HHA

- Location:** 33 Windsor Avenue, Grays
- Proposal:** Double storey rear and side extension and loft conversion with rear dormer and four front roof lights
- 3.4 **Application No:** **18/01513/HHA**
- Location:** 1 Syringa Court, Grays
- Proposal:** Single storey part side and part rear extension
- 3.5 **Application No:** **18/00864/FUL**
- Location:** 18 Melba Gardens, Tilbury
- Proposal:** Single storey detached bungalow, associated hardstanding, boundary fence, bin store and new vehicular access to existing dwelling.
- 3.6 **Application No:** **18/01257/FUL**
- Location:** Old Bank, The Green, Stanford Le Hope
- Proposal:** Conversion from disused bank (use class A2) on part of the ground floor to 2 x two bedroom flats (use class C3)
- 3.7 **Application No:** **18/01313/FUL**
- Location:** Tamarisk, Third Avenue, Stanford Le Hope
- Proposal:** Conversion of detached bungalow into 2x semi-detached dwellings, incorporating extension to roof with front and rear dormer windows and single storey front/side extension (Resubmission of 18/00754/FUL)
- 3.8 **Application No:** **18/00781/HHA**
- Location:** 4 Treetops Close, Grays
- Proposal:** **Construction of new garage**

#### 4. Appeals Decisions:

The following appeal decisions have been received:

- 4.1 **Application No:** **18/00625/FUL**
- Location:** 14 Abbots Drive, Stanford Le Hope

Proposal: New attached dwelling house, extension of dropped kerb and laying of hard standing.

**Decision: Appeal Dismissed**

4.1.1 The Inspector considered the main issues to be the effect of the development on the living conditions of the future occupiers and the character and appearance of the area and the street scene.

4.1.2 The amount of outdoor space provided for the new dwelling would be 28 sq.m, which falls significantly below the requirement of 75 m<sup>2</sup> sq.m for all new dwellings stated in the Council's retained Annex 1 (A1.2) of the Borough Local Plan (1997) (LP). The Inspector agreed with the Council in stating that the result would be an unacceptable standard of accommodation for the future occupiers of the new dwelling and demonstrates that the plot size is insufficient resulting in overdevelopment, which would be contrary to Policies PMD1, PMD2 of the CSTP22 of the Core Strategy and Policies for the Management of Development Plan Document (2015).

4.1.3 In relation to the impact on the street scene, the Inspector commented that by virtue of its scale and layout relative to local context, the proposed dwelling would be appear as an incongruous addition to the street scene on such a prominent corner site. The Inspector went on to state that its scale and massing would result in a cramped appearance, indicative of the limited plot size and this would detract from the current openness of the site, as viewed from Dawlish Drive and Plaistow Close.

4.1.4 The Inspector therefore concluded that the proposed development would result in a harmful effect on the character and appearance of the area and the street scene and would be contrary to CS Policies PMD2 and CSTP22, which amongst other things seeks new development to respect the character and appearance of the surrounding area and to be of high quality design.

4.1.5 The full appeal decision can be found online.

4.2 **Application No: 18/00316/FUL**

Location: 168 Branksome Avenue, Stanford Le Hope

Proposal: Demolition of the existing bungalow and the construction of 7 new dwellings

**Decision: Appeal Dismissed**

4.2.1 The Inspector considered the main issues to be:

- I. The effect on the character and appearance of the area, with particular regard to the degree and form of development proposed and its impact on existing trees and

II. The effect on the living condition of neighbouring occupiers, with particular regard to privacy.

4.2.2 In relation to (I) the inspector found that while the proposal would not harm the preserved trees the proposal would be harmful to the character and appearance of the area, and would materially conflict with the design objectives of policies PMD2, CSTP22 and CSTP23 of the Council's Core Strategy and Policies for Management of Development (CS) and relevant advice within paragraph 127 of the National Planning Policy Framework.

4.2.3 In relation to (II), the Inspector commented that the proposal would not make for a neighbourly form of development. The Inspector noted particular concerns regarding the facing first floor windows within the flank elevations of the proposed dwellings on Plots 1 and 2. There would also be privacy implications for the Plot 6 bungalow's curtilage due to the rear facing first floor windows from the dwelling on Plot 2, whilst the rear garden of No 166 would be overlooked by the first floor rear bedroom windows of the Plot 7 dwelling.

4.2.4 The Inspector concluded that the proposal would also be harmful to the living conditions of neighbouring occupiers, contrary to the amenity objectives of CS policy PMD1.

4.2.5 The full appeal decision can be found online.

4.3 **Application No: 18/00325/PHA**

Location: 521 London Road, South Stifford, Grays

Proposal: Rear extension with a depth of 6 metres from the original rear wall of the property, with a maximum height of 3 metres and eaves height of 2.7 metres.

**Decision: Appeal Allowed**

4.3.1 The Inspector noted that the appellant and the Council did not dispute that the property at 521 London Road is used as a house in multiple occupation (HMO). This is evidenced by an existing lawful use certificate for use of the property by 6 tenants (ref.15/00106/CLEUD) and was also the position at the time of the Inspector's site visit.

4.3.2 As such, the use of the property falls under Class C4 of the Use Classes Order 1987 (as amended) which is "use of a dwellinghouse by not more than six residents as a HMO".

4.3.3 The Council's position was that the proposal cannot be allowed under prior notification as the property is not a C3 dwellinghouse. As such, prior approval cannot be granted and a full planning application would be required. However, the appellant referred to an existing appeal decision ref.

APP/T5150/X/13/2200762 where the Inspector considered whether HMOs could be regarded as dwellinghouses. The appellant referred to case law where the distinctive characteristic of a dwellinghouse is 'its ability to afford to those who use it the facilities required for day-to-day private domestic existence'. Based on the evidence put forward by the appellant, the Inspector considered that the property provided such facilities and so could be regarded as a dwellinghouse. In doing so, the Inspector concluded that the proposal falls within the provisions for permitted development under Schedule 2, Part 1, Class A of the GPDO and allowed the appeal.

4.3.4 The full appeal decision can be found online.

**5. Forthcoming public inquiry and hearing dates:**

**5.1 Application No: 17/00390/CUSE - 17/00076/CLEUD**

Location: Hovels Farm, Vange Park Road

Proposal: Unauthorised use of the land.

Dates: 18 June 2019

**5.2 Application No: 18/00082/FUL**

Location: Malgraves Meadow, Lower Dunton Road, Horndon On The Hill

Proposal: Retention of the existing single storey timber building for use in association with agricultural enterprise at the farm. Removal of flue on roof, removal of biomass burner boiler and associated plumbing and modification of the building front elevation.

Dates: 14 May 2019

**5.3 Application No: 18/00034/BUNWKS**

Location: Police Station, Gordon Road, Corringham

Proposal: Unauthorised works without the benefit of planning permission.

Dates: 21 May 2019

**5.4 Application No: 17/01446/FUL**

Location: The Kings Head, The Green, West Tilbury

Proposal: Change of use of a listed building formerly used as a Public House (A4) to a single 4-bedroom residential dwelling (C3) , including the removal of the recent toilet block extension and redundant outbuildings/sheds and the creation of a new garage as well as associated changes to the hard and soft landscaping (refer to 17/01447/LBC)

Dates: To be confirmed

## 6. APPEAL PERFORMANCE:

6.1 The following table shows appeal performance in relation to decisions on planning applications and enforcement appeals.

	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	
Total No of Appeals	5	0	4	2	0	2	3	1	4	6	3		30
No Allowed	0	0	0	1	0	1	1	0	0	1	1		5
% Allowed													16.6%

## 7. Consultation (including overview and scrutiny, if applicable)

N/A

## 8. Impact on corporate policies, priorities, performance and community impact

8.1 This report is for information only.

## 9. Implications

### 9.1 Financial

Implications verified by: **Laura Last**  
**Management Accountant**

There are no direct financial implications to this report.

### 9.2 Legal

Implications verified by: **Tim Hallam**  
**Deputy Head of Law (Regeneration) and Deputy Monitoring Officer**

The Appeals lodged will either have to be dealt with by written representation procedure or (an informal) hearing or a local inquiry.

Most often, particularly following an inquiry, the parties involved will seek to recover from the other side their costs incurred in pursuing the appeal (known as 'an order as to costs' or 'award of costs').

### 9.3 Diversity and Equality

Implications verified by: **Natalie Warren**  
**Strategic Lead Community Development and Equalities**

There are no direct diversity implications to this report.

### 9.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None.

### 10. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- All background documents including application forms, drawings and other supporting documentation can be viewed online: [www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning). The planning enforcement files are not public documents and should not be disclosed to the public.

### 11. Appendices to the report

- None

#### Report Author:

Leigh Nicholson,  
Strategic Lead of Development Services,  
Place.

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<b>Reference:</b> 18/01760/HHA	<b>Site:</b> The Lodge Fen Lane Bulphan Essex RM14 3RL
<b>Ward:</b> Orsett	<b>Proposal:</b> Single storey side and rear extension

Plan Number(s):		
Reference	Name	Received
224-03	Proposed Site Layout	7th December 2018
224-01	Existing Plans	21st December 2018
224-02	Proposed Plans	21st December 2018
RM14 3RL	Location Plan	21st December 2018
M002	Location Plan	21st December 2018

The application is also accompanied by: - Design & Access Statement	
<b>Applicant:</b> Mr Kevin Knight	<b>Validated:</b> 21 December 2018 <b>Date of expiry:</b> 28 March 2019
<b>Recommendation:</b> Refuse	

## 1.0 Background

1.1 At the meeting of the Planning Committee held on 14 February 2019 Members considered a report on the above proposal. The report recommended that planning permission be refused for reasons based upon the following:

*1. The proposed extension, by reason of its size, represents a disproportionate addition to the dwelling and as a result constitutes inappropriate development in the Green Belt, which is by definition, harmful to openness. There are no very special circumstances which would clearly outweigh the harm to the Green Belt. Therefore the proposal would be contrary to policy PMD6 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (2015) and chapter 13 of the National Planning Policy Framework (2018).*

- 1.2 During debate Members indicated support for the application and the following alternative motion was put forward by Cllr Rice and seconded by Cllr Lawrence

*That the application be approved because the extension would not result in disproportionate addition to the original building.*

- 1.3 In accordance with Chapter 5, part 3, section 7 of the Council's Constitution, the item was deferred to allow Officers to prepare a report outlining the implications of making a decision contrary to the Planning Officer's recommendation and to consider appropriate conditions that could be imposed. A copy of the report presented at the February 2019 meeting is attached as Appendix 1.

## **2.0 ASSESSMENT AND LEGAL CONSIDERATIONS**

- 2.1 As set out in the original report, the Council is required to determine whether the proposal is a proportionate extension to the existing building.

Policy PMD6 sets out the Council's approach to defining proportionate additions to properties in the Green Belt which is based upon a calculation of 'two reasonably sized rooms'. This policy is consistent with the NPPF (2019) and has been supported by the Planning Inspectorate at appeal.

For the purposes of this planning application the original dwelling is as built under planning permission 03/00211/FUL. Members should be aware that the current dwelling is a replacement of an earlier dwelling and when it was re-built the property was enlarged to accommodate two reasonably sized rooms at that time.

The dwelling as it stands represents the original dwelling for the purposes of the NPPF. The property has a total of 7 habitable rooms, amounting to a floorspace of 115.46 sq.m. The two reasonably sized room 'allowance' for this property is 32.98 sq.m.

An extension of up to 32.98 could be considered to be proportionate. However, in this case, the proposed extension would have a total floor area of approximately 76.67 sq.m which is more than twice the size of what is permissible under the Council's Development Plan policies.

Based upon the above, there can be no dispute that the proposal would represent a disproportionate addition to the original building when assessed against the development plan. The matter is not subjective; 76.67 sq.m is over twice the maximum of 32.98 sq.m.

Based upon the above, the proposal is inappropriate development. Substantial weight must be given to this fact.

There are no very special circumstances and it follows that the application, as a

matter of fact and law, must be refused. There are no planning conditions that could be used to make the proposal acceptable in planning terms.

Members must be reminded that the Council's approach to proportionate extensions to dwellings in the Green Belt has, through the application of Policy PMD6 and earlier iterations of this policy in the Local Plan (1997), been fairly and consistently applied for more than 20 years. There are no material considerations that would indicate that Policy PMD6 should be applied differently in respect of this proposal.

If this policy is departed from for this development proposal in the Green Belt, the policy will be extremely difficult to justify and follow in the future. Members are reminded of this committee's statutory responsibilities under sections 70(2) of the Town and Country Planning Act 1990 and 38(6) of the Planning and Compulsory Purchase Act 2004. Here, the Development Plan policy PMD6 is material to the application for planning permission and members' decision must be taken in accordance with the Development Plan unless there are material considerations that indicate otherwise:

Section 70(2) requires of members that, *"In dealing with such an application the authority shall have regard to (a) the provisions of the development plan, so far as material to the application, (b) any local finance considerations, so far as material to the application, and (c) any other material considerations."*

Section 38(6) requires 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."*

Members should note that as a matter of law, the material considerations to be taken into account for the purposes of s 70(2)(c) and 38(6) include the Government's policies on Green Belt development as set out in the National Planning Policy Framework published 24 July 2018 and updated 19 February 2019 – these are analysed in detail in the 14 February 2019 committee report. Officers are of the view that there are no other material considerations that would enable members to approve this development proposal under s 70(2) and 38(6).

The granting of planning permission contrary to the Development Plan where there are no material considerations to justify such a decision would be unsound, unfair, inconsistent and would put the Local Authority at a high risk of a successful legal challenge and of costs being awarded against the Council. Such a decision is also likely to have reputational risks for the Council.

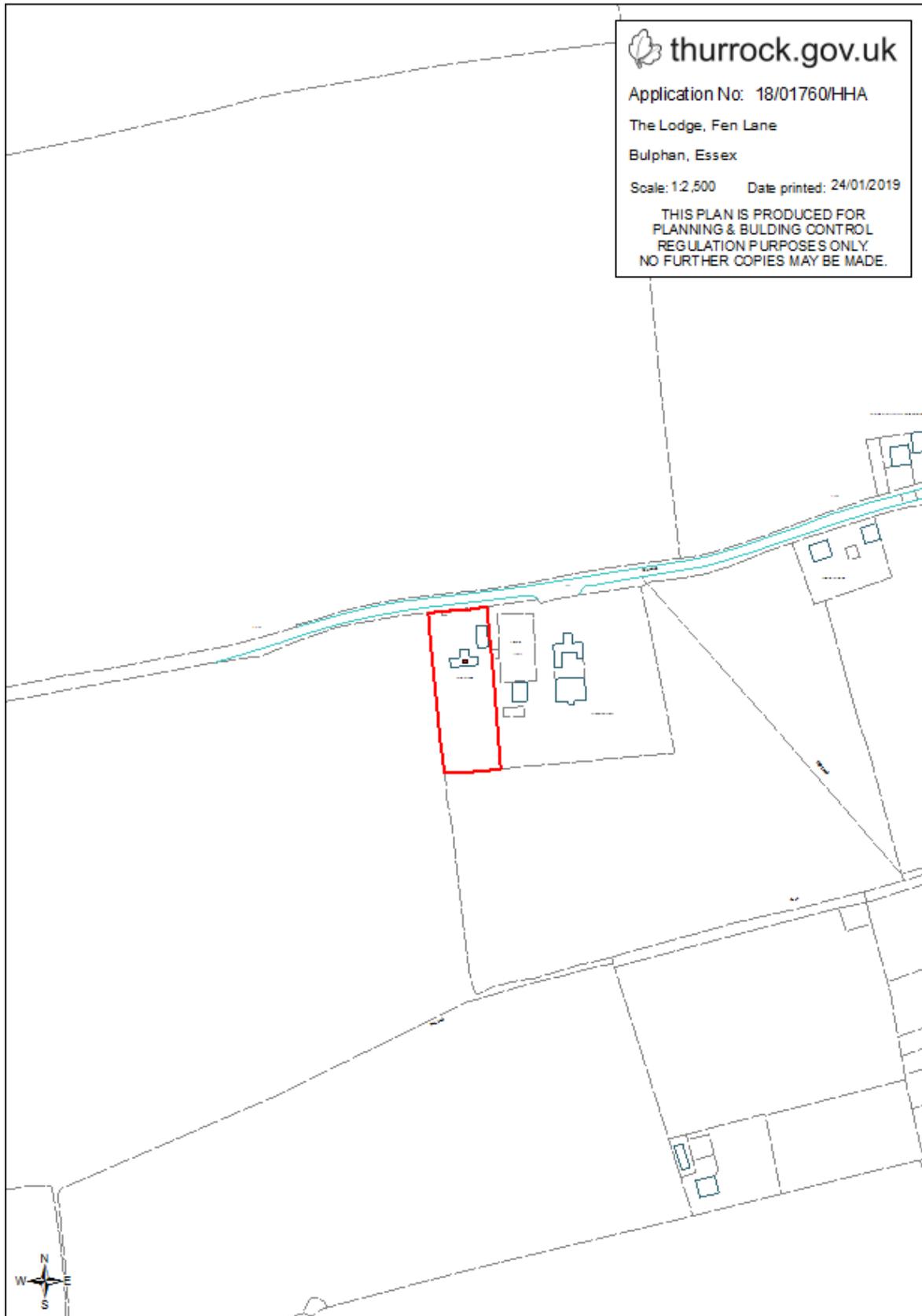
### **3.0 RECOMMENDATION**

- 3.1 The proposal is not in compliance with the Council's Development Plan as a whole and as such the application is recommended for refusal for the following reasons:
1. The proposed extension, by reason of its size, represents a disproportionate addition to the dwelling and as a result constitutes inappropriate development in the Green Belt, which is by definition, harmful to openness. There are no very special circumstances which would clearly outweigh the harm to the Green Belt. Therefore the proposal would be contrary to the Development Plan, specifically policy PMD6 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (2015) chapter 13 of the National Planning Policy Framework (2019).

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

[www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning)



 **thurrock.gov.uk**  
Application No: 18/01760/HHA  
The Lodge, Fen Lane  
Bulphan, Essex  
Scale: 1:2,500    Date printed: 24/01/2019  
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<b>Reference:</b> 18/01760/HHA	<b>Site:</b> The Lodge Fen Lane Bulphan Essex RM14 3RL
<b>Ward:</b> Orsett	<b>Proposal:</b> Single storey side and rear extension

Plan Number(s):		
Reference	Name	Received
224-03	Proposed Site Layout	7th December 2018
224-01	Existing Plans	21st December 2018
224-02	Proposed Plans	21st December 2018
RM14 3RL	Location Plan	21st December 2018
M002	Location Plan	21st December 2018

The application is also accompanied by: - Design & access statement	
<b>Applicant:</b> Mr Kevin Knight	<b>Validated:</b> 21 December 2018 <b>Date of expiry:</b> 15 February 2019
<b>Recommendation:</b> Refuse	

This application is scheduled for determination by the Council's Planning Committee because the application was called in by Cllr. G. W. Rice, Cllr B. Rice, Cllr. C. Baldwin, Cllr. S. Shinnick and Cllr. L. Worrall to consider issues regarding Green Belt Policy in accordance with Part 3 (b) 2.1 (c) of the Council's constitution.

## 1.0 DESCRIPTION OF PROPOSAL

- 1.1 The application seeks planning permission for a single storey side and rear extension.
- 1.2 Two planning applications (18/00898/HHA & 18/01302/HHA) for a similar form of development were refused in August and November 2018. In relation to the

previous schemes there has been a small reduction in the footprint of the extensions and minor changes to the design.

## 2.0 SITE DESCRIPTION

2.1 The application site comprises a four bedroom detached house on land within the Metropolitan Green Belt in Bulphan.

## 3.0 RELEVANT HISTORY

Application Reference	Description of Proposal	Decision
03/00211/FUL	Four bedroom detached dwelling and double garage	Approved
18/00898/HHA	Orangery and side extension	Refused
18/01302/HHA	Side and rear extension	Refused

## 4.0 CONSULTATIONS AND REPRESENTATIONS

4.1 Detailed below is a summary of the consultation responses received. The full version of each consultation response can be viewed on the Council's website via public access at the following link: [www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning)

### PUBLICITY:

4.2 This application has been advertised by way of individual neighbour notification letters and public site notice which has been displayed nearby. No comments have been received.

## 5.0 POLICY CONTEXT

### 5.1 National Planning policy Framework

The NPPF was published on 27th March 2012 and amended on 24th July 2018. Paragraph 10 of the Framework sets out a presumption in favour of sustainable development. Paragraph 2 of the Framework confirms the tests in s.38 (6) of the Planning and Compulsory Purchase Act 2004 and s.70 of the Town and Country Planning Act 1990 and that the Framework is a material consideration in planning decisions. Paragraph 11 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. The following headings and content of the NPPF are relevant to the consideration of the current proposals:

- 2. Achieving sustainable development
- 4. Decision-making
- 13. Protecting Green Belt land

## 5.2 Planning Policy Guidance

In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains a range of subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:

- Design
- Determining a planning application
- Use of Planning Conditions

## 5.3 Thurrock Local Development Framework (as amended) 2015

The Council adopted the “Core Strategy and Policies for the Management of Development Plan Document” in (as amended) in January 2015. The following Core Strategy policies apply to the proposals:

### OVERARCHING SUSTAINABLE DEVELOPMENT POLICY

- OSDP1 (Promotion of Sustainable Growth and Regeneration in Thurrock)<sup>1</sup>

### THEMATIC POLICIES

- CSTP22 (Thurrock Design)
- CSTP23 (Thurrock Character and Distinctiveness)<sup>2</sup>

### POLICIES FOR MANAGEMENT OF DEVELOPMENT

- PMD1 (Minimising Pollution and Impacts on Amenity)<sup>2</sup>
- PMD2 (Design and Layout)<sup>2</sup>
- PMD6 (Development in the Green Belt)<sup>2</sup>

[Footnote: 1New Policy inserted by the Focused Review of the LDF Core Strategy. 2Wording of LDF-CS Policy and forward amended either in part or in full by the Focused Review of the LDF Core Strategy].

## 5.4 Thurrock Local Plan

In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on

an Issues and Options (Stage 1) document and simultaneously undertook a 'Call for Sites' exercise. In December 2018 the Council began consultation on an Issues and Options (Stage 2 Spatial Options and Sites) document.

#### 5.5 Thurrock Design Strategy

In March 2017 the Council launched the Thurrock Design Strategy. The Design Strategy sets out the main design principles to be used by applicants for all new development in Thurrock. The Design Strategy is a supplementary planning document (SPD) which supports policies in the adopted Core Strategy.

#### 5.6 Thurrock Residential Alterations and Extension Design Guide (RAE)

In September 2017 the Council launched the RAE Design Guide which provides advice and guidance for applicants who are proposing residential alterations and extensions. The Design Guide is a supplementary planning document (SPD) which supports policies in the adopted Core Strategy.

### 6.0 **ASSESSMENT**

6.1 The assessment below covers the following areas:

- I. Planning History
- II. Principle of the Development
- III. Design and Appearance
- IV. Impact on Neighbour Amenity

#### I. PLANNING HISTORY

6.2 The existing dwelling was granted planning permission on the basis that it replaced a pre-existing building on the site. Permitted development rights were removed as the dwelling was the maximum size acceptable in this instance. As a result any proposed extensions to the dwelling require planning permission and should be assessed against the Development Plan.

6.3 Members will recall the refusal of application (18/01302/HHA) in November 2018. In resolving to refuse the application the Committee took the view that the proposal would result in inappropriate development in the Green Belt which is by definition harmful to openness. There have been no changes in policy terms which would alter the previous assessment. Very minor amendments have been made to the proposal through a limited reduction in the footprint of the extension and minor changes to the design. The previous decisions made in August 2018 and November 2018 are material considerations which should be afforded substantial weight in the determination of this application.

## II. PRINCIPLE OF DEVELOPMENT

6.4 Under this heading, it is necessary to refer to the following key questions:

1. Whether the proposals constitute inappropriate development in the Green Belt;
2. The effect of the proposals on the open nature of the Green Belt and the purposes of including land within it; and
3. Whether the harm to the Green Belt is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify inappropriate development.

### 1. Whether the proposals constitute inappropriate development in the Green Belt

6.5 The site is identified on the LDF Core Strategy Proposal's Map within the Green Belt where policies CSSP4 and PMD6 apply. Policy CSSP4 identifies that the Council will 'maintain the purpose function and open character of the Green Belt in Thurrock', and policy PMD6 states that the Council will 'maintain, protect and enhance the open character of the Green Belt in Thurrock'. These policies aim to prevent urban sprawl and maintain the essential characteristics of the openness and permanence of the Green Belt in accordance with the requirements of the NPPF.

6.6 Paragraph 133 of the NPPF states that the Government attaches great importance to the Green Belt and that the "fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence." Paragraph 145 states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. The NPPF sets out a limited number of exceptions to this, including:

*c) The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.*

6.7 For the purposes of this planning application the original dwelling is as built under planning permission 03/00211/FUL. This dwelling has a total of 7 habitable rooms, amounting to a floorspace of 115.46 sq.m. The area of two reasonably sized rooms in this case would therefore be 32.98 sq.m. The proposed extension would have a total floor area of approximately 76.67 sq.m (as shown on the submitted ground floor plan). This is more than double the size of what is considered to be a proportionate addition to the building.

6.8 The proposal would not be within the size permissible using the standard set out in Policy PMD6 of the Core Strategy. Therefore it must represent a disproportionate addition and would not fall within the exceptions to inappropriate development as set out in National Planning Policy Framework. The proposal therefore represents inappropriate development in the Green Belt which is by definition harmful to openness contrary to Policy PMD6 and the NPPF.

2. The effect of the proposals on the open nature of the Green Belt and the purposes of including land within it

6.9 Inappropriate development is, by definition, harmful to the Green Belt, but it is also necessary to consider whether there is any other harm to the Green Belt and the purposes of including land therein. In this instance the proposed extensions would increase the overall footprint of the dwelling encroaching further into the site than the existing. This would result in the building appearing more prominent within the Green Belt than the existing and would reduce openness, encroaching further upon the generally open character of the countryside.

3. Whether the harm to the Green Belt is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify inappropriate development.

6.10 Having established the proposal constitutes inappropriate development consideration must be given to whether there are any very special circumstances which clearly outweigh the harm to the Green Belt. Paragraph 144 of the NPPF states that, when considering any planning application, local planning authorities “should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.

6.11 Neither the NPPF nor the Adopted Core Strategy provide guidance as to what can comprise ‘very special circumstances’, either singly or in combination. However, some interpretation of very special circumstances has been provided by the Courts. The rarity or uniqueness of a factor may make it very special, but it has also been held that the aggregation of commonplace factors could combine to create very special circumstances (i.e. ‘very special’ is not necessarily to be interpreted as the converse of ‘commonplace’). However, the demonstration of very special circumstances is a ‘high’ test and the circumstances which are relied upon must be genuinely ‘very special’. In considering whether ‘very special circumstances’ exist, factors put forward by an applicant which are generic or capable of being easily

replicated on other sites, could be used on different sites leading to a decrease in the openness of the Green Belt should not be accepted. The provisions of very special circumstances which are specific and not easily replicable may help to reduce the risk of such a precedent being created. Mitigation measures designed to reduce the impact of a proposal are generally not capable of being 'very special circumstances'. Ultimately, whether any particular combination of factors amounts to very special circumstances will be a matter of planning judgment for the decision-taker.

- 6.12 In this instance no very special circumstances have been put forward by the applicant to justify inappropriate development in the Green Belt. Whilst the application has been accompanied by a design and access statement, this does not outline any very special circumstances. The applicant does however indicate that Brandon Hall (which is adjacent to the application site) is a three storey dwelling with substantial outbuildings spread across the curtilage. The applicant is of the opinion the proposed extension would not appear disproportionate in relation to the adjacent property. Finally, the applicant suggests that other development in the area has taken place which is not modest in scale. These factors do not constitute very special circumstances. It should also be noted that permitted development rights have been removed on the property. As a result there is no permitted development fall-back position which can be relied upon in this instance.
- 6.13 In reaching a conclusion on Green Belt issues, a judgement as to the balance between harm and whether the harm is clearly outweighed must be reached. In this case there is significant harm to the Green Belt with reference to inappropriate development and loss of openness. No factors have been promoted by the applicant as 'very special circumstances'. Having taking into account all Green Belt considerations, it is considered that the identified harm to the Green Belt is not clearly outweighed by any other considerations that might constitute very special circumstances justifying inappropriate development.

## II. DESIGN AND APPEARANCE

- 6.14 The proposed single storey would follow the rear building line and wrap around the corner of the building in an L-shape form. There would be four roof lanterns within the flat roof of the rear element of the extension.
- 6.15 The proposal is considered to be of an acceptable design in relation to the appearance of the existing building complying with Policies PMD2 and CSTP22 of the Core Strategy.

- 6.16 Whilst the design is considered to be acceptable in relation to the existing building this does not outweigh the identified harm to the Green Belt.

### III. IMPACT ON NEIGHBOUR AMENITY

- 6.17 The proposed extension is not considered to be harmful to the occupiers of the neighbouring properties. The proposal accords with Policy PMD1 in this respect, however this does not overcome the objections raised earlier in this report.

## 7.0 CONCLUSIONS AND REASON(S) FOR REFUSAL

- 7.1 This application represents a very similar proposal to that which was refused by the Council's Planning Committee in November 2018. The proposed extension would grossly exceed the limitations set out by Policy PMD6 of the Core Strategy and accordingly represents inappropriate development in the Green Belt which is by definition harmful to openness contrary to Policy PMD6 and chapter 13 of the NPPF. No very special circumstances have been identified that would warrant an exception to local and national planning policies.

## 8.0 RECOMMENDATION

- 8.1 Refuse for the following reasons:

1. The proposed extension, by reason of its size, represents a disproportionate addition to the dwelling and as a result constitutes inappropriate development in the Green Belt, which is by definition, harmful to openness. There are no very special circumstances which would clearly outweigh the harm to the Green Belt. Therefore the proposal would be contrary to policy PMD6 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (2015) and chapter 13 of the National Planning Policy Framework (2018).

### INFORMATIVE(S)

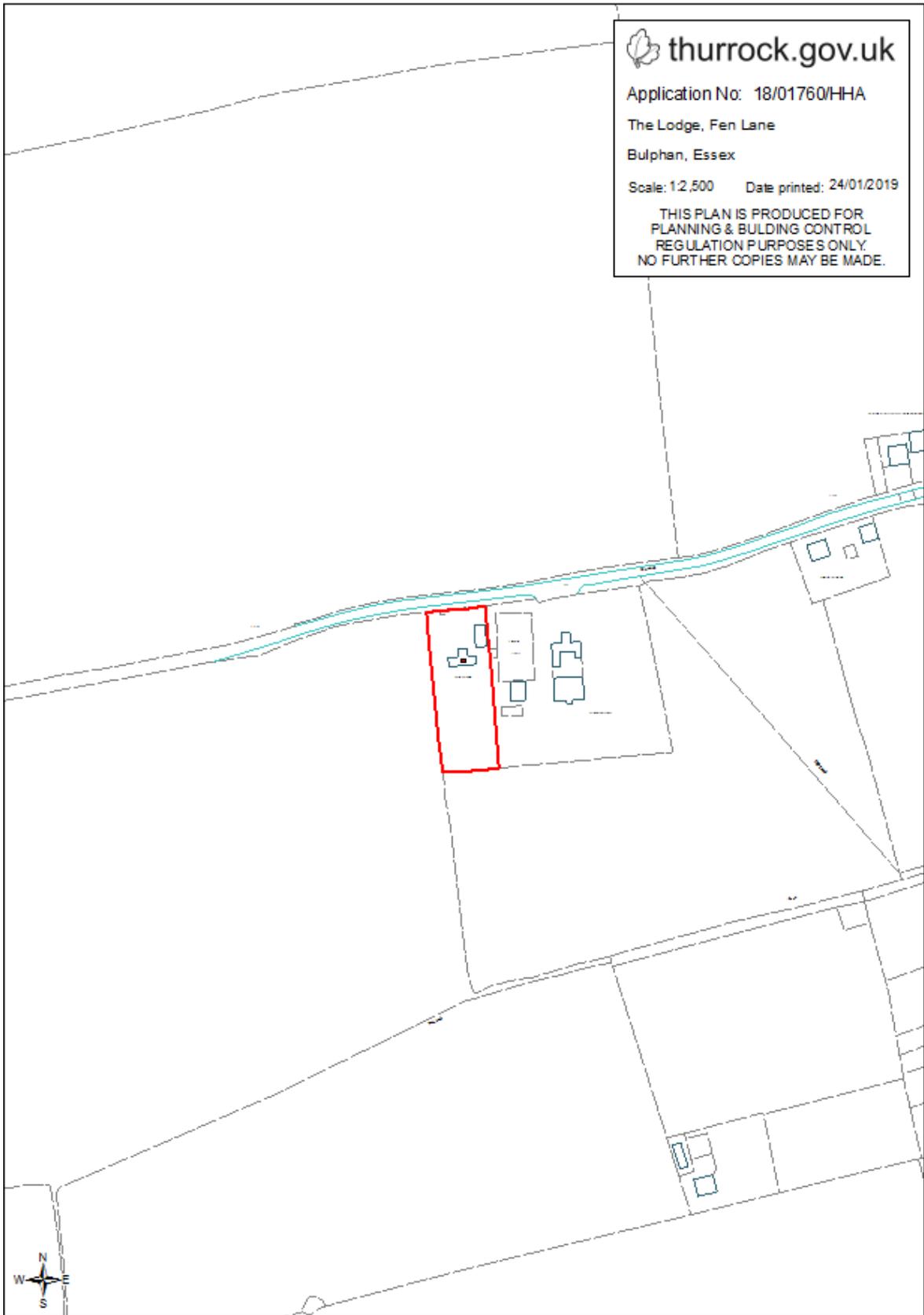
- 1 Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) - Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing with the Applicant/Agent. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

[www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning)



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<b>Reference:</b> 18/01802/FUL	<b>Site:</b> Beauchamp Place Malvern Road Grays Essex RM17 5TH
<b>Ward:</b> Little Thurrock Rectory	<b>Proposal:</b> Use of land to provide 5 pitches for Gypsy / Traveller families a total of 5 mobile homes, 5 touring caravans and 1 dayroom

<b>Plan Number(s):</b>		
Reference	Name	Received
DD01	Location Plan	18th December 2018
DD02	Existing Site Layout	18th December 2018
DD03	Proposed Site Layout	18th December 2018
DD04	Proposed Plans	18th December 2018

The application is also accompanied by: - Cover letter	
<b>Applicant:</b> Mr J O Connor	<b>Validated:</b> 18 December 2018 <b>Date of expiry:</b> 25 March 2019
<b>Recommendation:</b> To Refuse	

The application is scheduled for determination by the Council's Planning Committee because it is a follow up application to one that was previously considered by the Planning Committee.

## 1.0 DESCRIPTION OF PROPOSAL

1.1 This application seeks planning permission for the use of the land for gypsy traveller families. The proposal seeks consent for 5 pitches for the families, comprising 5 mobile homes, 5 touring caravans (although the proposed site plan only shows 3 tourers) and day rooms with associated parking and fencing within the site. In addition, an existing stable building on the site is shown to remain. A fenced off area is proposed behind the properties on Malvern Road and a paddock is proposed in the southern half of the site. Vehicular access is to be taken from

Malvern Road and hard surfacing is proposed to allow access to individual plots.

- 1.2 In terms of layout, the built development is shown behind No 51 – 63 Malvern Road. South of the access to the site the area is shown to be open paddock and grassland.

**2.0 SITE DESCRIPTION**

- 2.1 The site is located on the eastern side of Malvern Road, adjacent to No. 51- 63 Malvern Road and to the south alongside the flank of the No 73 Malvern Road and further south alongside existing open land. To the east of the site runs the A1089. With the exception of the properties on Malvern Road the land around the site is relatively open. The site is designated as being within the Metropolitan Green Belt.
- 2.2 The site is as at a maximum approximately 155 metres in length and 55 metres in width. The site is approximately rectangular in shape.
- 2.3 At the time of drafting this report two mobile homes were found on the site. One of the mobile homes was unoccupied. An existing stable building of rudimental design is also present (this building was not brought onto site by the present occupiers and has been on site for more than 4 years).

**3.0 RELEVANT HISTORY**

Application Reference	Description of Proposal	Decision
13/00574/FUL	Use of land to provide 5 pitches for Gypsy/Traveller families a total of 5 mobile homes, 5 touring caravans and 5 day rooms	Refused – Allowed on appeal, with a 5 year temporary and personal consent to Jul 2020. The permission has lapsed as the named occupiers left the site in mid-2018.

Enforcement Reference	Nature of Complaint	Investigations / Key dates
18/00293/AUNUSE	Possible Traveller Encampment	25.07.2018: Complaint received  24.08.2018: Temporary Stop Notice (TSN) served to prevent any development on site.  28.08.2018: Further site visit showed TSN had been breached.

		31.08.2018: Injunction served to prevent any further development on the land  18.09.2018 – Interim Injunction Served
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#### 4.0 CONSULTATIONS AND REPRESENTATIONS

Detailed below is a summary of the consultation responses received. The full version of each consultation response can be viewed on the Council’s website via public access at the following link: [www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning)

##### PUBLICITY:

This application has been advertised by way of individual neighbour notification letters, press advert and public site notice which has been displayed nearby. One hundred and twenty responses have been received raising objections on the following grounds:

- The site is in the Green Belt
- The proposal would damage the outlook for neighbours
- Possibility of increased crime
- Increase in traffic in Malvern Road
- Unsuitable access along Malvern Road
- Site is visible from Dock Approach Road
- Impact on local wildlife
- Trees removed by previous occupier have not been replaced
- There is a high court injunction on the site
- The previous personal permission was for specific occupiers who have now left
- Value of properties nearby will be reduced
- Developemtn will look unsightly
- Land should be returned to its original condition
- Increase in noise and litter

A letter from the local War Councillor (Leader) has been submitted objecting to the proposals on the following grounds:

- Permission was previously granted on the very special circumstances of the previous occupiers
- The PPTS makes it clear that this form of developemtn is inappropriate in the Green Belt
- Lots of Green Belt in the nearby area is to be lost due to commercial

development around Tilbury

- Access is along Malvern Road which is narrow and unsuitable for large vehicles

#### EDUCATION:

No requirement for contribution given the size of the site.

#### HEALTH AND WELLBEING:

Advice offered, no objection raised.

#### ENVIRONMENTAL HEALTH:

Advice offered, no objection raised.

## 5.0 POLICY CONTEXT

### National Planning Guidance

#### National Planning Policy Framework (NPPF)

- 5.1 The NPPF was published on 27th March 2012 and updated on the 19th February 2019. Paragraph 10 of the Framework sets out a presumption in favour of sustainable development. Paragraph 2 of the Framework confirms the tests in s.38 (6) of the Planning and Compulsory Purchase Act 2004 and s.70 of the Town and Country Planning Act 1990 and that the Framework is a material consideration in planning decisions. Paragraph 11 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. The following headings and content of the NPPF are relevant to the consideration of the current proposals:

7. Requiring good design

9. Protecting Green Belt land

#### Planning Practice Guidance

- 5.2 In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains 42 subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:

- Determining a planning application
- Making an application
- Use of planning conditions

### **Local Planning Policy**

#### Thurrock Local Development Framework (as amended) 2015

- 5.3 The Council adopted the “Core Strategy and Policies for the Management of Development Plan Document” (as amended) in January 2015. The following Core Strategy policies apply to the proposals:

#### Spatial Policies:

- OSDP1 (Promotion of Sustainable Growth and Regeneration in Thurrock)<sup>1</sup>
- CSSP4 (Sustainable Green Belt)

#### Thematic Policies:

- CSTP3 (Gypsies and Travellers)
- CSTP22 (Thurrock Design)<sup>2</sup>
- CSTP23 (Thurrock Character and Distinctiveness)<sup>2</sup>

#### Policies for the Management of Development:

- PMD1 (Minimising Pollution and Impacts on Amenity)<sup>2</sup>
- PMD2 (Design and Layout)<sup>2</sup>
- PMD6 (Development in the Green Belt)<sup>2</sup>

[Footnote: <sup>1</sup>New Policy inserted by the Focused Review of the LDF Core Strategy. <sup>2</sup>Wording of LDF-CS Policy and forward amended either in part or in full by the Focused Review of the LDF Core Strategy. <sup>3</sup>Wording of forward to LDF-CS Policy amended either in part or in full by the Focused Review of the LDF Core Strategy].

#### Thurrock Local Plan

- 5.4 In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an Issues and Options (Stage 1) document and simultaneously undertook a ‘Call for Sites’ exercise. In December 2018 the Council began consultation on an Issues and Options (Stage 2 Spatial Options and Sites) document.

#### Thurrock Design Strategy

5.5 In March 2017 the Council launched the Thurrock Design Strategy. The Design Strategy sets out the main design principles to be used by applicants for all new development in Thurrock. The Design Strategy is a supplementary planning document (SPD) which supports policies in the adopted Core Strategy.

## 6.0 ASSESSMENT

### Background:

6.1 In 2015 two planning permissions were granted upon appeal for a period of 5 years for the use of land as 5 pitches for Gypsy/traveller families comprising a total of 5 mobile homes, 5 touring caravans and 5 day rooms at the site on 24<sup>th</sup> August. Appeals A – E were granted under references APP/M1595/A/13/2208476 / 77 / 78 / 79 / 80 and resulted from the quashing of Enforcement Notices. Appeal F was granted under reference APP/M1595/A/13/2208738 and related to a refused planning application.

6.2 Both permissions were subject to conditions which were in materially similar terms. Importantly Condition 1 stated:

*“1) The use hereby permitted shall be carried on only by the following: Mr and Mrs A and B West, Mr and Mrs P and M Birch, Mr and Mrs J and C Newland, Mr A West junior, Mr and Mrs T and P Penfold, and Mr and Mrs P and R Birch, and their resident dependants, and shall be for a limited period being the period of 5 years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.”*

6.3 The main occupants were Mr. P and Mrs. M Birch and Mr. P and R Birch and their one dependent. There had been visits from other members of the family named within the permission but these were not of long duration. All those named within the personal permissions have now ceased to occupy the site. On 17<sup>th</sup> July 2018 all the occupiers named in the personal permission had left the site. The Council considered that the temporary permission had ceased and there was no permission for the use of the site as a caravan site. The appeal decision from 2015 is a material consideration, however the granting of the personal permission on appeal does not allow the present occupiers to live on the site. Furthermore, the grant of those permissions were based on the very special circumstances case put forward by those occupiers, on the basis of their specific needs. The use for other occupiers, whether they are gypsies, or not, cannot simply be transferred.

6.4 The main issues relating to this are considered to be;

1. Plan designation and principle of development
2. Harm to the Green Belt (Principle and ‘other harm’)
3. Gypsy traveller status, personal circumstances and need for traveller sites
4. Access and parking
5. Residential Impacts
6. Environmental Impacts

## 1. PLAN DESIGNATION AND PRINCIPLE OF DEVELOPMENT

- 6.5 The site is identified on the Core Strategy Proposals Map as being within the Green Belt where policies CSSP4 and PMD6 apply. Policy CSSP4 identifies that the Council will 'maintain the purpose, function and open character of the Green Belt in Thurrock', and Policy PMD6 states that the Council will 'maintain, protect and enhance the open character of the Green Belt in Thurrock'. These policies aim to prevent urban sprawl and maintain the essential characteristics of the openness and permanence of the Green Belt to accord with the requirements of the NPPF.
- 6.6 Paragraph 133 within Chapter 13 of the NPPF states that the Government attaches great importance to Green Belts and that the "fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence." Paragraph 145 states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. The NPPF sets out a limited number of exceptions to this, namely:
- buildings for agriculture and forestry;
  - appropriate facilities for outdoor sport, recreation and cemeteries;
  - proportionate extensions or alterations to a building;
  - the replacement of a building;
  - limited infilling in villages; and
  - the partial or complete redevelopment of previously developed sites whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development
- 6.7 Paragraph 143 of the NPPF states that 'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. Paragraph 144 goes on to state '*when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations*'.
- 6.8 Consideration also needs to be given to Department of Communities and Local Government 'Planning Policy for Traveller Sites' [published in August 2015]. This document sets out the Government's planning policy for traveller sites. The document has been produced to be read in conjunction with the NPPF. Policy E of the document reinforces the guidance within the NPPF and states that Traveller sites, both temporary and permanent, in the Green Belt are inappropriate development which is by definition harmful to it and should not be approved except in very special circumstances.
- 6.9 The proposal is therefore inappropriate development in the Green Belt, and harmful by definition.

## II. HARM TO GREEN BELT (PRINCIPLE AND 'OTHER' HARM)

- 6.10 Having established that the proposal constitutes inappropriate development in the Green Belt, it is necessary to consider the matter of harm. Inappropriate development is, by definition, harmful to the Green Belt, but it is also necessary to consider whether there is any other harm to the Green Belt and the purposes of including land therein
- 6.11 At paragraph 134, the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
- 6.12 With regards to the impact on openness, the proposals would result in the permanent development of the countryside. Members should note that while the site previously benefitted from temporary consents, these have expired.
- 6.13 The permanent development would fail to comply with the requirements of PMD6 of the Core Strategy in principle.
- 6.14 In addition, criteria (iv) of Policy CSTP3 seeks to ensure development would not unacceptably harm the character and amenity of the area and result in an unacceptable visual impact.
- 6.15 The development proposes five plots, each comprising a mobile home, (the application form specifies 5 tourers, though only 3 are shown on the plan), a day room building and the retention of the existing rudimentary building. Hard surfacing would be provided towards the centre of the site and fencing would be required to define areas within the site. Vehicle parking would also take place on the site.
- 6.16 The existing structures and proposed buildings, structures, fencing and surfacing are considered to be urbanising features that fail to integrate into the surrounding rural area. The permanent development would be utilitarian in design and would fail to comply with the requirements of CSTP22 and PMD2 of the Core Strategy.
- 6.17 The NPPF advises that the essential characteristics of Green Belts are their openness and permanence. The introduction of built development combined with the removal of vegetation and the parking of vehicles and caravans would reduce the openness and damage the rural character of the site. The proposal would therefore result in significant harm to the openness and rural character of the area contrary to Policy PMD6 of the Core Strategy and the guidance within the NPPF.
- 6.18 Criteria (ix) of Policy CSTP3 requires the incorporation of adequate landscape strategies where appropriate. No details have been provided in relation to any landscaping. The proposal is considered to have a harmful impact upon the area contrary to policies PMD2, PMD6 and CSTP3 of the Core Strategy.
- 6.19 In conclusion under this heading, the development is considered to be inappropriate development within the Green Belt and further harm is also identified

through the loss of openness arising from the built development and occupation of the site. In accordance with the NPPF, substantial weight should be given to this harm.

### III. GYPSY TRAVELLER STATUS, PERSONAL CIRCUMSTANCES AND NEED FOR TRAVELLER SITES

#### Gypsy Traveller Status and Personal Circumstances

- 6.20 Given the nature of the application, it is necessary to firstly establish whether this development relates to a bona fide Gypsy/Traveller site before considering the applicant's case in more detail.
- 6.21 The information provided by the applicant as part of the formal submission is very limited. There is no specific detail as to the status of the occupiers, their health needs, their education needs, details of their travelling pattern or details of any links to the area.
- 6.22 For the purpose of planning policy, the definition of 'Gypsies and Travellers' is detailed within Annexe 1 of the Planning Policy for Traveller Sites. This definition is as follows;
- "Persons of nomadic habit of life whatever their race or origin, including such persons who on the grounds only of their own or their own family's or dependents' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."*
- 6.23 There is no information submitted with the application to demonstrate the current occupants' recent travelling habits. In addition there is nothing to explain any travelling habits for potential occupiers. Officers have visited the site during the enforcement process and planning application process and through discussions with the current occupiers they would appear to be following a nomadic lifestyle.
- 6.24 There is no evidence to suggest the current occupiers, who are listed as applicants are not gypsies. Based on the very limited details submitted in this application and discussions, there is some evidence that the occupants are of a nomadic lifestyle. Accordingly, for the purposes of assessing the application the applicants should be considered to have gypsy traveller status. No details are available as to potential other occupiers.
- 6.25 The applicant has not indicated that there are specific family ties in this Borough, nor have they made it clear where they have most recently been in occupation nor why they have had chosen to locate on this site.
- 6.26 There are three children on the site: one of school age, one who could attend nursery school and one a baby. The Council's Traveller Welfare Officer has

visited the site and has worked with the family to complete education forms for schools. No information has been put forward from the applicants in this regard.

- 6.27 The educational needs of the occupants are of course important in terms of the Council's core aims and objectives to make Thurrock a great place for learning. The Council has considered the best interests of the children in the determination of the application, but alone it is not considered to be a determinative factor in the consideration of the application. In addition, there has been no evidence to show why the occupiers, or other potential occupiers need to be located on this site. It is considered that this matter would carry little weight in the determination of the application.

#### Need for Traveller sites

- 6.28 'Planning Policy for Traveller Sites' (August 2015) states that Local Planning Authorities should set pitch targets within their Local Plan. Policy CSTP3 (of the amended 2015 Core Strategy) details the approach of the Council to gypsy and traveller accommodation within the Borough and sets out a target of 87 additional pitches for the Plan period to 2026 (the Core Strategy was originally adopted in December 2011).
- 6.29 The Thurrock GTAA, Need Summary Report, of January 2018 indicates a need for 10 additional pitches for Gypsy and Traveller households that meet the planning definition, 38 additional pitches for households that may meet the definition and 37 for households that do not meet the planning definition up to 2033.
- 6.30 The requirements of the GTAA will be addressed through the new Local Plan. This will allow for planned provision in the Borough.
- 6.31 In determining the current application the Council must be satisfied that there is a clear need for the site and that the number of pitches involved cannot be met by an existing authorised site. In this case, the proposal would provide accommodation to persons who, due to the paucity of information provided, do not have ties with family members currently residing in the Borough. The information provided does not provide a convincing case to justify the development in this location, or indeed anywhere within the Borough. Furthermore, this site was not designated as a Gypsy site within the Site Specific Allocations DPD – Issues and Options. Therefore, this element of Policy CSTP3 is not considered to be complied with.
- 6.32 Policy H 'Determining planning applications for traveller sites' contained within the Planning policy for traveller sites (August 2015) requires, amongst other things, the Local Planning Authority to consider the existing local level of provision and need for sites and the availability of alternative accommodation for the applicants. There are no known available sites within the Borough where two pitches would be available within Council owned sites. However this does not justify the development in this Green Belt location.

6.33 A Ministerial Statement from the Local Government Minister published in July 2013 is of relevance to this case. Under the heading 'Protecting the Green Belt' this statement reiterates the position set out within the NPPF that inappropriate development in the Green Belt should not be approved except in very special circumstances. The statement continues:

*"The Secretary of State wishes to make clear that, in considering planning applications, although each case will depend on its facts, he considers that the single issue of unmet demand, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the green belt and other harm to constitute the 'very special circumstances' justifying inappropriate development in the green belt."*

6.34 Therefore, the issue of whether or not there is a shortfall in the supply of traveller sites on its own will be unlikely to comprise very special circumstances to justify inappropriate development in the Green Belt. Very little weight should therefore be afforded.

6.35 In conclusion under this heading and based on the information provided, the personal circumstances of the occupiers of the site, do not when taken in isolation or collectively constitute very special circumstances that would clearly outweigh the harm arising as a result of its inappropriateness nor the harm to the openness and rural character of the Green Belt. The Ministerial Statement reinforces the fact that unmet demand alone is unlikely to outweigh harm to the Green Belt. It follows that the application should attract a recommendation of refusal on this basis.

#### IV) RESIDENTIAL IMPACTS

6.36 Criteria (iii) of Policy CSTP3 seeks to ensure the proposal would not unacceptably impact upon the safety and amenity of the occupants and neighbouring uses. The development is located in close proximity to the rear boundaries of properties, particularly Nos 51 - 63 and the side boundary of 73 Malvern Road. These are two storey properties which would have previously enjoyed views over an open area of countryside.

6.37 In allowing the previous appeal, the Planning Inspector considered the issue of neighbour amenity, she noted (para 108) that *"Subject to a condition controlling their layout, the caravans need not cause any harmful overlooking of the adjoining dwellings or gardens"*, that (para 111) in relation to views for neighbours she accepted that the caravans would be visible *"but not to the extent of unacceptably compromising the living conditions of adjacent occupiers"* and that (para 113.) *"I also find that the activity on the site would not give rise to any unacceptable noise"*. Whilst the comments of the neighbours are noted it is considered that an objection on amenity grounds would be difficult to substantiate given the Inspector's previous conclusions.

## V) HIGHWAY IMPACTS

- 6.38 Criteria (vi) and (vii) of Policy CSTP3 seeks to ensure the proposal would have safe and convenient access to the road network and would not cause significant hazard to other road users. The policy also seeks to ensure that there are sufficient areas for the parking and turning of vehicles within the site.
- 6.39 Adequate parking and turning space would be available within the site for occupiers and visitors accessing the site. In allowing the previous appeal the Inspector found that it was not demonstrated “that the development would have severe residual cumulative effects. [and that] The traveller site would have sufficient and suitable access” (para 106). Accordingly, no objection is raised on highways grounds.

## VI) ENVIRONMENTAL IMPACTS

- 6.40 Criteria (viii) of Policy CSTP3 requires sites to have adequate services provided, such as water, power, sewerage and drainage, and waste disposal. The site at present has septic tanks on site, these were used by the previous occupiers.
- 6.41 The site is located within a sewered area and whilst the use of septic tanks is not ideal in areas where main sewers are available, it would be difficult to object to the proposal on these grounds at this time.

## 7.0 CONCLUSIONS AND REASON(S) FOR REFUSAL

- 7.1 The proposed development is inappropriate development in the Green Belt which is by definition harmful. In addition, the proposed development is considered to be an unacceptable urbanising feature which is harmful to the openness and would erode the rural character of the Green Belt. Substantial weight should be given to any harm to the Green Belt.
- 7.2 The development would seriously conflict with Policy PMD6 of the Core Strategy, the NPPF and Policies E and H of Planning Policy for Traveller Sites (August 2015). The circumstances of the applicants and their needs have been carefully considered however it is not considered that these factors outweigh the harm caused to the Metropolitan Green Belt together with the other harm identified. No very special circumstances therefore exist to enable an exception to policy to be made in this instance.
- 7.3 The applicant has failed to justify the need for the proposed development in this location; the proposal would, if permitted, result in the urbanisation of this rural site, resulting in the provision of gypsy traveller accommodation causing significant harm to the character and appearance of this rural area contrary to Policy CSTP3 of Thurrock's Core Strategy.

- 7.4 The proposed development, by reason of the development proposed would affect the rural character of the area and would poorly integrate into the area contrary to Policies, PMD2, PMD6 and CSTEP22 of the Core Strategy.

## 8.0 RECOMMENDATION

REFUSE for the following reason(s):

1. Policy PMD6 of Thurrock's Core Strategy and Policies for Management of Development states that, within the Green Belt, permission will not be granted for new development unless it meets the requirements and objectives of government guidance. Paragraph 133 of the National Planning Policy Framework states that the Government attaches great importance to Green Belts, with the fundamental aim of the Green Belt policy to prevent urban sprawl by keeping land permanently open. Paragraph 143 states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Policy E: 'Traveller sites in the Green Belt' contained within Planning Policy for Traveller Sites published by Department of Communities and Local Government in August 2015 reinforces the guidance within NPPF and states that Traveller sites, both temporary and permanent, in the Green Belt are inappropriate development which is by definition harmful to it and should not be approved except in very special circumstances.

The proposed development is inappropriate development in the Green Belt which is by definition harmful. In addition, the proposed development is considered to be an unacceptable urbanising feature which is harmful to the openness and rural character of the Green Belt. The proposal is therefore also contrary to Policy PMD6 of the Core Strategy, the National Planning Policy Framework and Policy E of Planning Policy for Traveller Sites (August 2015).

The information put forward by the applicant has been carefully considered, but does not amount to the very special circumstances that would be required to enable an exception to policy to be made in this instance.

2. Policy H of the Planning Policy for Traveller Sites published by Department of Communities and Local Government in August 2015 requires the assessment of the level of provision and need for traveller sites, availability of alternative accommodation, the personal circumstances of the applicant, allocation of pitches in the development plan and consider needs of all travellers not only those with local connections.

Policy E of the national traveller site policy also states that allocation of sites for travellers should be identified through the plan making process and not in response to a planning application.

The circumstances of the applicants have been fully assessed. However, the designation of the site within the Metropolitan Green Belt and the harm arising as a result of the development carries significant weight in the consideration of the application. On balance, the circumstances of the applicants and their needs do not outweigh the harm to the Metropolitan Green Belt together with the other harm identified in other reasons for refusal in this decision notice.

3. Policy CSTP3 of Thurrock's Core Strategy and Policies for Management of Development aims to support proposals that seek to ensure the standard of the existing approved Gypsy and Traveller sites in the Borough is progressively improved and upgraded. Policy CSTP 3 deals with proposals for new or extensions to existing Gypsy and Traveller Sites which are considered against the 10 criteria listed within the policy.

Policy PMD2 of the Core Strategy requires that all design proposals should respond to the sensitivity of the site and its surroundings and must contribute positively to the character of the area in which it is proposed and should seek to contribute positively to local views, townscape, heritage assets and natural features and contribute to the creation of a positive sense of place.

Policy CSTP22 of the Core Strategy indicates that development proposals must demonstrate high quality design founded on a thorough understanding of, and positive response to, the local context.

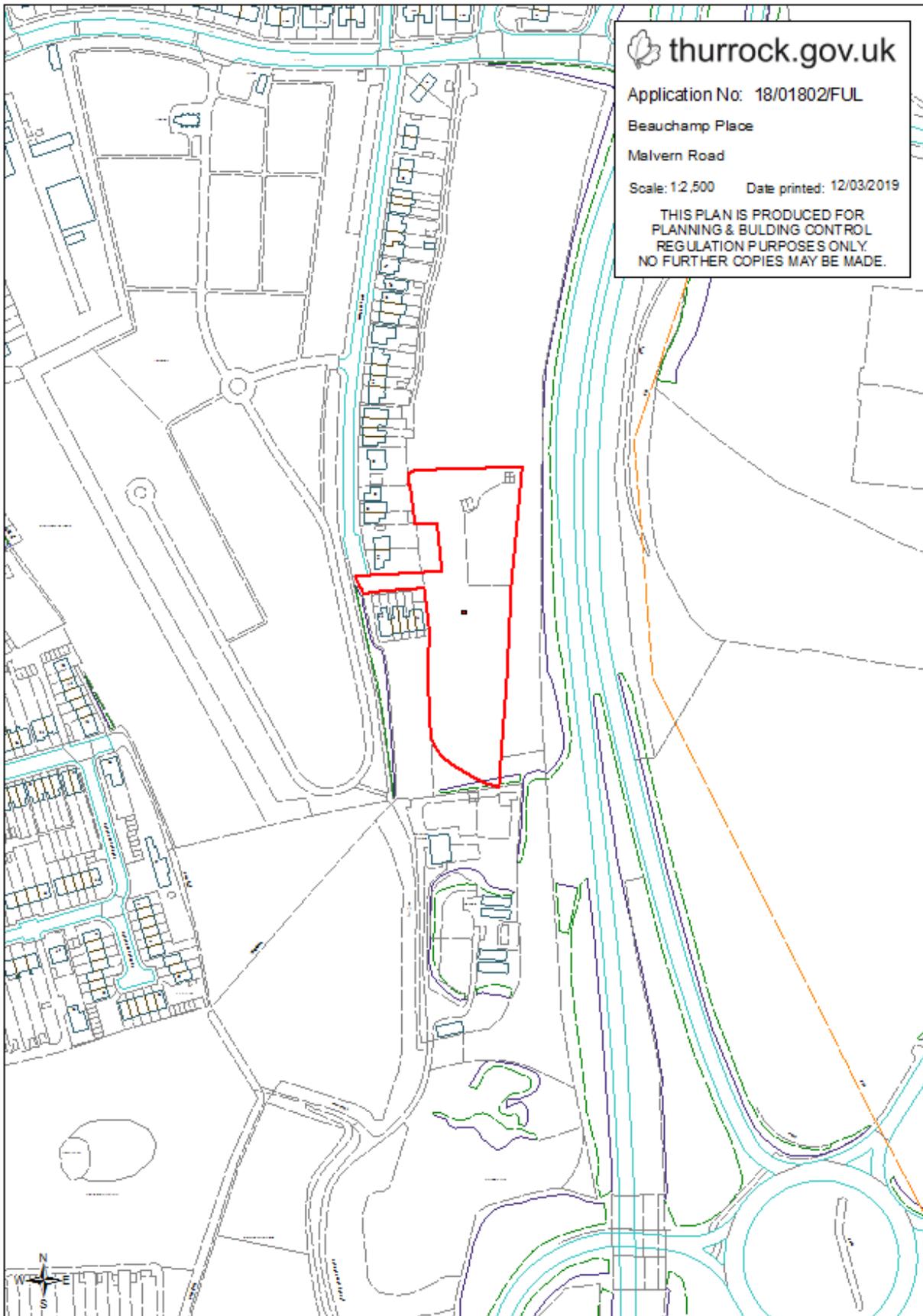
The application site was not a site allocated for Gypsy and Traveller accommodation with the Site Specific Allocations and Policies Development Plan Document (DPD) - Issues and Options.

Furthermore, the proposal fails to comply with the criteria with Policy CSTP3 for new sites for Gypsy and Traveller Accommodation with the Borough. The applicant has failed to justify the need for the proposed development in this location and the proposal would result in the urbanisation of this rural site, resulting in a gypsy traveller site which would cause significant harm to the character and appearance of the rural area contrary to Policies CSTP3 and PMD2 and CSTP22 of the Thurrock Core Strategy and Policies for Management of Development (as amended) 2015.

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

[www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning)



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<b>Reference:</b> 18/01635/FUL	<b>Site:</b> FBS Salvage Stanhope Industrial Park Wharf Road Stanford Le Hope Essex SS17 0AL
<b>Ward:</b> Stanford Le Hope West	<b>Proposal:</b> Construction of flexible industrial units (B1(c)) with associated new access road and parking, sewage treatment and new incoming services.

<b>Plan Number(s):</b>		
Reference	Name	Received
18-01-01A	Location Plan	12th November 2018
18-01-02	Proposed Site Layout	12th November 2018
18-01-03	Site Layout	12th November 2018
18-01-04	Proposed Floor Plans	12th November 2018
18-01-05	Proposed Site Layout	12th November 2018
18-01-06	Roof Plans	12th November 2018
18-01-07	Sections	12th November 2018
18-01-08	Sections	12th November 2018
18-01-09	Proposed Elevations	12th November 2018

The application is also accompanied by: - Design & Access Statement	
<b>Applicant:</b> Mr L Wiggins	<b>Validated:</b> 13 November 2018  <b>Date of expiry:</b> 28 March 2019 (extension of time agreed with applicant)
<b>Recommendation:</b> Approve, subject to conditions.	

This application is scheduled for determination by the Council's Planning Committee because the application has been called in by Cllr. S. Hebb, Cllr A. Jefferies, Cllr. G. Collins, Cllr. A. Anderson and Cllr. A. Watkins to consider potential loss of amenities and overshadowing of residential dwellings in accordance with Part 3 (b) 2.1 (c) of the

Council's constitution.

## 1.0 BACKGROUND AND DESCRIPTION OF PROPOSAL

1.1 This application seeks planning permission to construct a two storey commercial building featuring 6 workshop bays; three bays would be used fabrication workshops, the remaining would provide space for a mill shop, saw shop and storage facility. The building is proposed by the applicant to expand the Stanford Coachworks business which is presently located opposite the site.

## 2.0 SITE DESCRIPTION

2.1 The application site is found within the Stanhope Industrial Estate which is allocated as a Secondary Commercial and Industrial Area in the Council's Core Strategy. The site is currently used for open storage of vehicles in support of the existing vehicle conversion business opposite the site (Stanford Coachworks).

2.2 The site is enclosed with a metal security fence and surfaced with a permeable crushed hard base for hardstanding and traffic.

## 3.0 RELEVANT PLANNING HISTORY

3.1 The following table provides the planning history:

Application Reference	Description of Proposal	Decision
00/00037/FUL	Use of land for storage of motor vehicles	Approved
02/00192/OUT	Erection of building for the purpose of tyre shredding. Overnight parking of lorry. Vehicle de-pollution.	Approved
03/00282/REM	Erection of building for purpose of tyre shredding and vehicle de-pollution, overnight lorry parking	Approved
04/00888/OUT	Proposed facility for the manufacture of rubber matting from re-cycled tyres.	Refused

## 4.0 CONSULTATION AND REPRESENTATIONS

4.1 Detailed below is a summary of the consultation responses received. The full version of each consultation response can be viewed on the Council's website via public access at the following link: [www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning)

#### 4.2 PUBLICITY:

This application has been advertised by way of individual neighbour notification letters and public site notice which has been displayed nearby. One representation has been received which makes the following comment:

- Objects on the grounds of noise, light, air quality and waste pollution.
- Concern raised in relation to the potential impacts of the proposal on Stanford Wharf Nature Reserve (SWNR) and the adjacent SPA.

#### 4.3 ENVIRONMENTAL HEALTH :

No objection subject to conditions.

#### 4.4 HIGHWAYS :

No objection subject to conditions.

#### 4.5 ARCHAEOLOGICAL ADVISOR :

No objection with condition.

#### 4.6 ROYAL SOCIETY FOR THE PROTECTION OF BIRDS (RSPB):

The RSPB raised an objection to the proposal. They requested that the applicant needs to provide the Council with sufficient information for them to undertake a Habitats Regulations Assessment (HRA) as the application site lies within 40 metres of Stanhope Wharf RSPB reserve and within 500m of the Thames Estuary and Marshes Special Protection Area (SPA).

#### 4.7 NATURAL ENGLAND:

Natural England has raised no objection to the development but a number of recommendations have been made for conditions to be put in place. The initial screening of this consultation indicates that one or more Impact Risk Zones have been triggered by the proposed development. This focuses specifically on the possible effects of foul drainage arrangements on the SSSI/SPA. A detailed note has been provided that gives specific guidance on what is permitted to be discharged. However they have advised that the Council's Ecology Advisor should be consulted for advice.

#### 4.8 LANDSCAPE AND ECOLOGY ADVISOR :

No objection subject to conditions.

## 5.0 POLICY CONTEXT

5.1 The NPPF was published on 27th March 2012 and updated on the 19th February 2019. Paragraph 10 of the Framework sets out a presumption in favour of sustainable development. Paragraph 2 of the Framework confirms the tests in s.38 (6) of the Planning and Compulsory Purchase Act 2004 and s.70 of the Town and Country Planning Act 1990 and that the Framework is a material consideration in planning decisions. Paragraph 11 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. The following headings and content of the NPPF are relevant to the consideration of the current proposals:

- 2. Achieving sustainable development
- 4. Decision-making
- 6. Building a strong, competitive economy
- 12. Achieving well-designed places

### 5.2 Planning Policy Guidance

In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains a range of subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:

- Design
- Determining a planning application
- Natural Environment
- Noise
- Use of Planning Conditions

### 5.3 Local Planning Policy

### 5.4 Thurrock Local Development Framework (as amended) 2015

The Council adopted the “Core Strategy and Policies for the Management of Development Plan Document” in (as amended) in January 2015. The following Core Strategy policies apply to the proposals:

## OVERARCHING SUSTAINABLE DEVELOPMENT POLICY

- OSDP1 (Promotion of Sustainable Growth and Regeneration in Thurrock)<sup>1</sup>

#### SPATIAL POLICIES

- CSSP2 (Sustainable Employment Growth)

#### THEMATIC POLICIES

- CSTP6 (Strategic Employment Provision)
- CSTP19 (Biodiversity)
- CSTP22 (Thurrock Design)

#### POLICIES FOR MANAGEMENT OF DEVELOPMENT

- PMD1 (Minimising Pollution and Impacts on Amenity)<sup>2</sup>
- PMD2 (Design and Layout)<sup>2</sup>
- PMD7 (Biodiversity, Geological Conservation and Development)<sup>2</sup>
- PMD8 (Parking Standards)<sup>3</sup>

[Footnote: <sup>1</sup>New Policy inserted by the Focused Review of the LDF Core Strategy. <sup>2</sup>Wording of LDF-CS Policy and forward amended either in part or in full by the Focused Review of the LDF Core Strategy. <sup>3</sup>Wording of forward to LDF-CS Policy amended either in part or in full by the Focused Review of the LDF Core Strategy].

### 5.5 Thurrock Local Plan

In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an Issues and Options (Stage 1) document and simultaneously undertook a 'Call for Sites' exercise. In December 2018 the Council began consultation on an Issues and Options (Stage 2 Spatial Options and Sites) document.

### 5.6 Thurrock Design Strategy

In March 2017 the Council launched the Thurrock Design Strategy. The Design Strategy sets out the main design principles to be used by applicants for all new development in Thurrock. The Design Strategy is a supplementary planning document (SPD) which supports policies in the adopted Core Strategy.

## 6.0 **ASSESSMENT**

The material considerations for this application are as follows:

- I. Principle of the development
- II. Design and Layout
- III. Traffic Impact, Access and Car Parking
- IV. Landscape
- V. Impact Upon Ecology and Biodiversity
- VI. Other Matters

#### I. PRINCIPLE OF THE DEVELOPMENT

- 6.1 The site forms part of a designated Secondary Employment Area in the Core Strategy. The use of the site for small scale industrial units and storage (use classes B1/B8) is therefore acceptable in principle.
- 6.2 In accordance with paragraph 11 of the NPPF the proposal should be considered in the context of the principle of sustainable development. It is acknowledged that the site is located within a sustainable location in relatively close proximity to other industrial units.
- 6.3 The applicant has indicated that it is expected that 20 jobs would be created by the development, expanding an existing business in Thurrock thereby complying with the Council's objectives to promote job growth in this part of the Borough.
- 6.4 Accordingly the proposal is acceptable in principle and in accordance with Policies CSSP2 and CSTP6 of the Core Strategy.

#### II. DESIGN AND LAYOUT

- 6.5 The proposed building would measure 55.2m in width by 8m in depth by 7.8m in height with a flat roof.
- 6.6 A service road would run along one side of the site serving a parking apron in front of each bay with a turning head and further parking at the end.
- 6.7 The proposal would include three fabrication workshops, a mill workshop, a saw workshop and a storage facility. Each unit would include a mezzanine floor.
- 6.8 The proposed buildings are typical of many such commercial buildings throughout the commercial parts of the Borough and subject to the approval of details of materials via condition the development is considered to be acceptable given the location.
- 6.9 Given the above the proposal is considered to comply with the requirement of policies PMD1, PMD2, CSTP22 and CSTP23.

#### III. LANDSCAPING

- 6.10 The proposed site plan indicates that there is adequate scope for landscaping and screening. The full details of this could be secured by condition in the event of a grant of planning permission.
- 6.11 The detailed landscaping scheme would need to consider some additional planting along the southern boundary with the nature reserve. This would ensure an effective screen to this area.

#### IV. TRAFFIC IMPACT, ACCESS AND CAR PARKING

- 6.12 The proposed development is only to be used ancillary to the main business of Stanford Coachworks and the Council's Highways Officer has raised no objection to the proposal on this basis.
- 6.13 However, any sub-letting of units to third party will require submission of a Transport Assessment for consideration by the Highway Authority.
- 6.14 The proposed access and parking is considered to be acceptable and would accord with the requirements of Policy PMD8.

#### V. IMPACT UPON ECOLOGY AND BIODIVERSITY

- 6.15 No land on the application site forms part of any statutory internationally or nationally designated site. However, the edge of the proposed development is approximately 450m from Mucking Creek, the closest point to the Special Protection Area (SPA). The fabrication works would be carried out within the workshops which would be located further away from the nature reserve.
- 6.16 The application site is located close to internationally and nationally designated sites (Thames Estuary and Marshes SPA and Ramsar site). European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations').
- 6.17 In considering the European site interest, the local planning authority, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that the proposals may have. The Habitat Regulations, which are a UK transposition of EU Directives relating to the conservation of natural habitats, flora and fauna and specifically wild birds, apply to certain designated sites including Special Protection Areas (SPA) and Ramsar sites. Of particular relevance to this application, regulation 61 of the Habitats Regulations requires, inter-alia, that:

*Before deciding to give any permission for a plan which:*

- (a) is likely to have a significant effect on a European Site (either alone or in combination with other plans or projects), and*  
*(b) is not directly connected with or necessary to the management of that site*

*The competent authority must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.*

- 6.18 Natural England has been consulted on this application because of the proximity of the proposed development to the SPA. Natural England have raised no objection to the development but a number of recommendations have been made for conditions to be put in place regarding foul and surface water drainage in order to ensure the development would not adversely affect the Great Crested Newt mitigation ponds within the adjacent nature reserve.
- 6.19 The consultation response received from the RSPB (summarised at paragraph 4.6 above) objects to the application on the grounds that the RSPB considers that insufficient information has been presented to enable the Council to undertake a full Habitats Regulations Assessment. Notwithstanding the content of this objection, the comments received from Natural England (the statutory consultee for planning applications affecting the natural environment) which do not have a holding objection on the proposal provide a detailed commentary on the Habitats Regulations. The conclusion of Natural England, cited at paragraph 6.8, is that the local planning authority rely on the advice of the of The Council's Landscape and Ecology advisor.
- 6.20 The Council's Landscape, Ecology and Arboriculture advisor has raised no objection to the proposal as it is considered that the proposed operations should not result in any activities that would on their own or in combination result in any disturbance to 'qualifying' species associated with the SPA.
- 6.21 It is therefore recommended that the local planning authority formally determine that, on the basis of the information available, the proposed development will not have a likely significant impact on a European site either alone or in combination with other plans or projects.

## VI. OTHER MATTERS

- 6.22 The proposed commercial workshops and construction are sufficiently distant from the closest residential receptors that they will be unaffected by workshop activities.
- 6.23 The RSPB and DP World London gateway port has objected to the proposal and indicated that a Habitats Regulation Assessment should be required.

6.24 However, in the absence of any objection from Natural England nor the Council's Landscape, Ecology and Arboriculture advisor is considered that the proposed development would not have any significant effects on the qualifying interest of the SPA either alone or in-combination. Therefore it is considered that a request for a Habitats Regulation Assessment would be unreasonable in this instance.

6.25 There is already security lighting within the industrial park. The applicants recognise the need for any additional lighting to be designed to minimise light spillage outside of the site boundary. The details of the proposed lighting should be confirmed by condition.

**7.0 CONCLUSIONS**

7.1 The principle of the development is considered to be sound, matters of detail are also considered to be acceptable. The proposal is therefore recommended for approval.

**8.0 RECOMMENDATION**

8.1 Recommendation A:

That the local planning authority formally determine pursuant to regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended), and on the basis of the information available, that the development proposed will not have a likely significant effect on a European site either alone or in combination with other plans or projects.

8.2 Recommendation B:

Approve, subject to the following conditions:

**Time limit**

1. The development hereby permitted must be begun not later than the expiration of 3 years from the date of this permission.

REASON: In order to comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

**Plans**

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Plan Number(s):		
Reference	Name	Received
18-01-01A	Location Plan	12th November 2018

18-01-02	Proposed Site Layout	12th November 2018
18-01-03	Site Layout	12th November 2018
18-01-04	Proposed Floor Plans	12th November 2018
18-01-05	Proposed Site Layout	12th November 2018
18-01-06	Roof Plans	12th November 2018
18-01-07	Sections	12th November 2018
18-01-08	Sections	12th November 2018
18-01-09	Proposed Elevations	12th November 2018

REASON: For the avoidance of doubt and in the interest of proper planning.

**Detail/sample materials**

- Notwithstanding the information on the approved plans, no development shall commence above ground level until written details or samples of all materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved.

REASON: In the interests of visual amenity and to ensure that the proposed development is satisfactorily integrated with its surroundings in accordance with Policy PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD – Focused Review [2015].

**Hours of work**

- No construction works in connection with the development shall take place on the site at any time on any Sunday or Bank / Public Holiday, nor on any other day except between 08.00 to 18.00 hours on Monday to Friday and 08.00 to 13.00 hours on Saturdays with no work on Sundays and Bank holidays.

Unless in association with an emergency or the prior written approval of the local planning authority has been obtained. If impact piling is required, these operations shall only take place between the hours of 0900 - 1800 hours on weekdays.

REASON: In the interest of protecting surrounding residential amenity and in accordance with Policy PMD1 of the Adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development DPD [2015].

**Construction Environmental Management Plan [CEMP]**

- No construction works shall commence until a Construction Environmental Management Plan [CEMP] has been submitted to and approved in writing by the

local planning authority in writing. The CEMP should contain or address the following matters:

- (a) Wheel washing and sheeting of vehicles transporting loose aggregates or similar materials on or off site,
- (b) Measures to reduce dust,
- (c) Details of a procedure to deal with any unforeseen contamination, should it be encountered during development;
- (d) Details of security lighting layout and design; and
- (e) Contact details for site managers including information about community liaison including a method for handling and monitoring complaints.

Works on site shall only take place in accordance with the approved CEMP.

REASON: In order to minimise any adverse impacts arising from the construction of the development in accordance with policy PMD1 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015].

### **Archaeology**

6. No demolition/development [or preliminary groundworks] shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

REASON : To ensure that investigation and recording of any remains takes place prior to commencement of development in accordance with Policy PMD4 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015].

### **Details of lighting**

7. Prior to the commencement of development above ground level the details of the means of external lighting shall be submitted to and agreed in writing with the local planning authority. The details shall include the siting and design of lighting together with details of the spread and intensity of the light sources and the level of luminance. The lighting shall be installed in accordance with the agreed details prior to first operational use of the development and retained and maintained thereafter in the agreed form, unless otherwise agreed in writing by the local planning authority.

REASON: In the interests of ecology and biodiversity and to ensure that the development can be integrated within its immediate surroundings in accordance with Policies PMD1 and PMD2 and PMD7 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015].

### **Surface/Foul Water Drainage**

8. No development shall commence until a surface / foul water management strategy has been submitted to and approved in writing by the local planning authority. The strategy shall be prepared according to Annex B (Septic tanks and treatment plants) of Natural England's guidance and shall include details of the means of connection, phasing of provision and capacity of the receptor system. The foul and surface water drainage systems shall be constructed in accordance with the approved strategy and maintained thereafter in accordance with it. There shall be no occupation of any building in the relevant phase of development until the approved foul water drainage system is in place.

REASON : To ensure the incorporation of an appropriate drainage scheme and to avoid pollution of the water environment and to minimise flood risk in accordance with policies PMD1 and PMD15 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015].

### **Soft and Hard Landscaping Scheme**

9. No development shall take place above ground level until full details of the provision and subsequent retention of both hard and soft landscape works on the site have been submitted to and approved in writing by the local planning authority. These details shall include:
- 1) Details of proposed schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers/densities.
  - 2) Details of the planting scheme implementation programme, including ground protection and preparation, weed clearance, stock sizes, seeding rates, planting methods, mulching, plant protection, staking and/or other support
  - 3) Details of the aftercare and maintenance programme

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development unless otherwise agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation

Hard Landscape works

- 4) Details of walls with brick types, construction design and dimensions
- 5) Details of paved surfacing, with materials finishing and edgings

The hard landscape works shall be carried out as approved prior to the first use/ occupation of the development hereby approved and retained and maintained as such thereafter.

REASON : To secure appropriate landscaping of the site in the interests of visual amenity and the character of the area in accordance with policies CSTP18 and PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015].

**Light Industrial Use only**

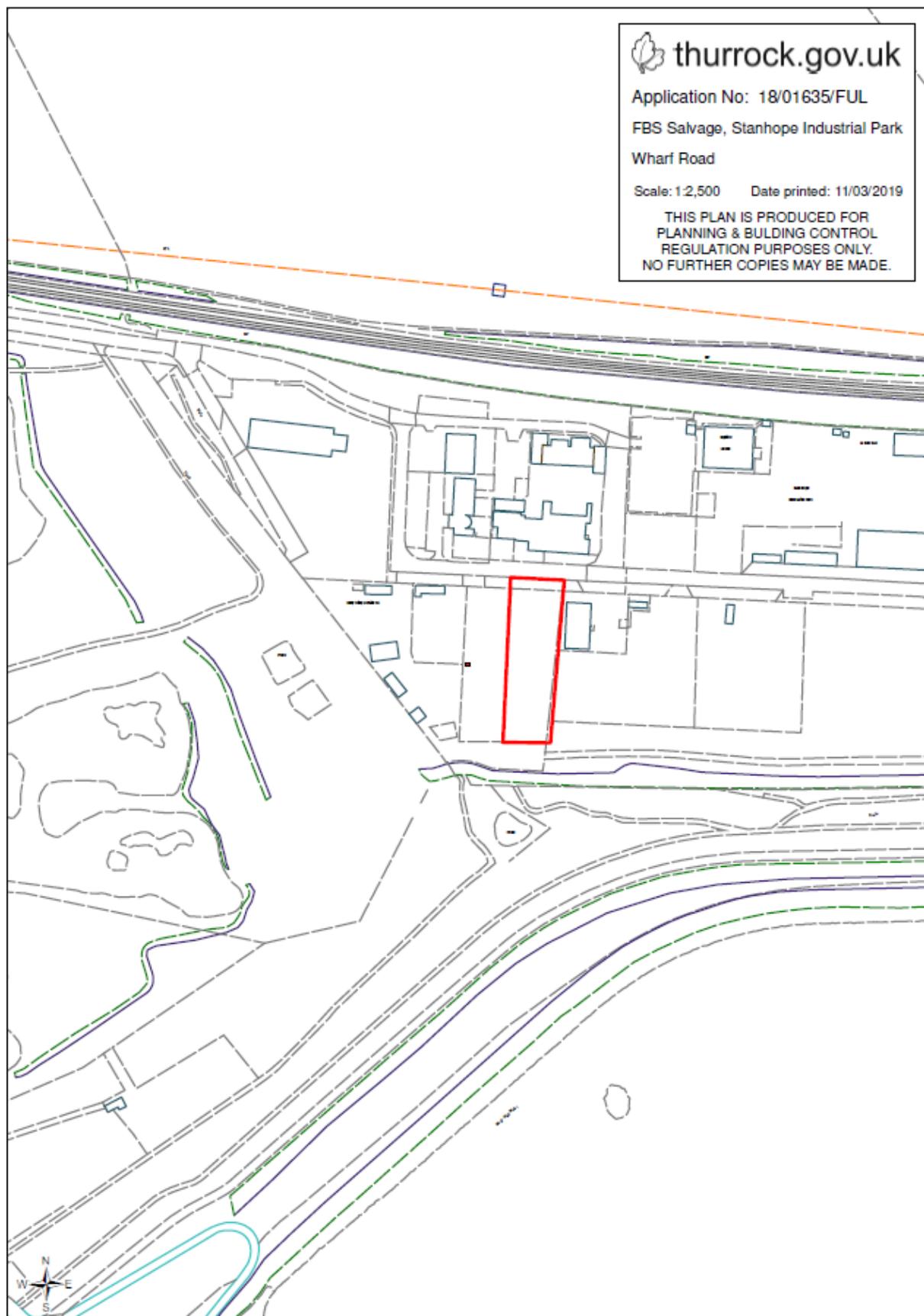
10. The development hereby permitted shall be used solely for purposes falling within the Class B1[c] of the Schedule to the Town & Country Planning [Use Classes] Order 1987 [as amended] ancillary to the use of the existing coachworks and for no other purpose [including any other purpose in Class B1 of the Schedule to the Town & Country Planning [Use Classes] Order 1987 [as amended], or any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order with or without modification].

Reason: The impact of the development has been assessed on the basis of the information submitted with this application. The use of the proposed development as part of a separate commercial operation could have highway and amenity implications which would require the submission of additional information to allow this to be fully assessed.

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

[www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning)



<b>Reference:</b> 18/00450/OUT	<b>Site:</b> Greenwise Nurseries Vange Park Road Vange Essex SS16 5LA
<b>Ward:</b> Corringham And Fobbing	<b>Proposal:</b> The erection of up to 31 custom-build homes (Use Class C3). All matters reserved, with the exception of access from Vange Park Road.

<b>Plan Number(s):</b>		
Reference	Name	Received
001	Location Plan	26th March 2018

<p>The application is also accompanied by:</p> <ul style="list-style-type: none"> <li>- Design and Access Statement and Design Code</li> <li>- Flood Risk Assessment and SUDs Strategy</li> <li>- Scope of Works</li> <li>- Statement of Community Engagement</li> <li>- Transport Statement</li> <li>- Planning Statement</li> </ul>	
<b>Applicant:</b> Mr Mark Romero	<b>Validated:</b> 3 April 2018 <b>Date of expiry:</b> 13 September 2018 (extension of time agreed with applicant)
<b>Recommendation:</b> Approve	

The application is scheduled for determination by the Council's Planning Committee because the proposal represents a departure from the Development Plan.

## 1.0 DESCRIPTION OF PROPOSAL

- 1.1 This application seeks outline planning permission (with all matters reserved with the exception of access) for the development of the site for up to 31 custom-build homes. The scheme would allow the infrastructure for the units (i.e. connections to utilities, road access) to be provided by the developer, and occupiers would have an opportunity to build a home of their design (within parameters) on their chosen plot.
- 1.2 Access to the site would be provided close to the existing vehicle access and an indicative layout has been provided showing a central spine road running north to south through the site. The spine road would terminate

with a T style junction with a cluster of houses in the north eastern corner of the site. A similar cluster of houses would be located in the south eastern corner of the site. The remainder of the units would be set either side of the main spine road, which would be planted to create a boulevard style street scene.

1.3 The application includes a 'Design Code' to set parameters for the units. The Code includes details regarding:

- Boundary treatment: range of soft planting and screen fences/walls;
- Setback dimensions: range dependent upon plots, up to 11.5m for larger plots;
- Landscape dimensions: specific areas identified for planting;
- Building heights (ridges and eaves): height limitation of 9.6m (eaves) for all dwellings;
- Definition of front door zone: specific areas identified to front of house;
- Parking arrangement: varies between shared, communal and on-plot;
- Frontage arrangement: parking area set out;
- Materials: a palette of materials to be used across all plots is provided.

**2.0 SITE DESCRIPTION**

2.1 The application site is a roughly rectangular area of land on the north-west side of Vange Park Road, north of the A13 and close to the boundary of Thurrock and Basildon. The site lies within the Green Belt.

2.2 The site measures 2.45 hectares and is presently used for the storage of building materials including skips, vehicles, and containers. Access to the site is presently obtained via Vange Park Road.

2.3 The site has a lawful development certificate for growing plants and retail sales of plants, the importation of plants and retail sale of plants, the use of land for storage and display for sale of garden material and garden equipment and for the display and sale of building materials and other materials in the open.

**3.0 RELEVANT HISTORY**

Application Reference	Description of Proposal	Decision
91/00086/FUL	Change of use from Nursery to Garden Centre.	Refused
94/00439/FUL	Four greenhouses	Approved
04/01251/LDC	Existing use of the building hatched on the attached plan dated 29 Nov 2004 for sale of books, video, music tapes and compact discs between the	Approved

	business hours of 8am -5pm Mon-Fri, 8am - 4pm Sat and 10am - 4pm Sun.	
04/01470/LDC	Existing use of building for manufacturing purposes.	Withdrawn
05/00495/LDC	Existing use of building for manufacturing process (B1).	Refused
07/00318/TTGFUL	Stationing of a mobile home for residential purposes and associated hard standing for a temporary period of three years.	Refused
07/00317/TTGFUL	Retention of storage building for a temporary period of three years.	Withdrawn
07/01198/FUL	Stationing of a mobile home for residential purposes and associated hard standing for a temporary period of three years.	Refused
10/00470/LDC	The use of the land for growing plants and retail sale thereof together with importation of plants and retail sale of plants. The use of land for storage and display for sale of garden material and garden equipment predominantly in the open. Use of land for storage and display for sale of building materials and other general materials un-related to garden, predominantly in the open. Use of land for general storage of building and other materials predominantly in the open together with all associated buildings.	Deemed Lawful

#### 4.0 CONSULTATIONS AND REPRESENTATIONS

4.1 Detailed below is a summary of the consultation responses received. The full version of each consultation response can be viewed on the Council's website via public access at the following link: [www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning)

##### PUBLICITY:

This application has been advertised by way of individual neighbour notification letters, press advert and public site notice which has been displayed nearby.

- Thirty seven 'postcards' have been submitted supporting to the proposals. The postcard appears to have been distributed to nearby neighbours to complete if they agree with the wording, which states "An outline planning application has bene submitted to Thurrock Council to clean up the site and

provide up to 31 bespoke custom built properties. If approved, this exciting project would be the first of its kind in Thurrock and set a benchmark for custom build in the Borough.

- Four letters have been submitted in support of the proposals, citing tidying up of the land, the lack of housing and citing failure of national government policy for housing building.
- One letter has been received objection on the basis of the access to the site and the additional traffic resulting.

#### HOUSING:

- 4.2 Commuted sum required in lieu of affordable housing provision.

#### FLOOD RISK MANAGER:

- 4.3 No objection.

#### HIGHWAYS:

- 4.4 No objections.

#### ENVIRONMENTAL HEALTH:

- 4.5 No objections, subject to conditions.

#### NATURAL ENGLAND:

- 4.6 No objection.

#### FLOOD RISK MANAGER:

- 4.7 No objections.

#### LANDSCAPE AND ECOLOGY ADVISOR:

- 4.8 No objections subject to conditions.

#### EDUCATION:

- 4.9 A contribution towards local education facilities is required.

## 5.0 POLICY CONTEXT

### **National Planning Guidance**

National Planning Policy Framework (NPPF)

- 5.1 The NPPF was published on 27th March 2012 and a revised version published in July 2018. The revised version applies to the determination of this application. Paragraph 11 of the Framework sets out a presumption in favour of sustainable development. Paragraph 2 of the Framework confirms that that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise and that the Framework is a material consideration in planning decisions. Paragraph 11 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.
- 5.2 The following sections of the NPPF are relevant to the consideration of the current proposals:
2. Achieving sustainable development
  3. Plan-making
  4. Decision-making
  5. Delivering a sufficient supply of homes.
  6. Building a strong, competitive economy
  8. Promoting healthy and safe communities
  12. Achieving well-designed places
  13. Protecting Green Belt land
  14. Meeting the challenge of climate change, flooding and coastal change
  15. Conserving and enhancing the natural environment

#### Planning Practice Guidance

- 5.3 In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains 42 subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:
- Design
  - Determining a planning application
  - Flood Risk and Coastal Change
  - Natural environment
  - Open space, sports and recreation facilities, public rights of way and local green space
  - Planning obligations
  - Travel plans, transport assessment and statements in decision making
  - The use of planning conditions

#### **Local Planning Policy**

Thurrock Local Development Framework (as amended) 2015

- 5.4 The Council adopted the “Core Strategy and Policies for the Management of Development Plan Document” in 2015. The following Core Strategy policies apply to the proposals:

Spatial Policies:

- CSSP1 (Sustainable Housing and Locations);

Thematic Policies:

- CSTP1 (Strategic Housing Provision)
- CSTP2 (The Provision of Affordable Housing)
- CSTP22 (Thurrock Design)
- CSTP23 (Thurrock Character and Distinctiveness)<sup>2</sup>

Policies for the Management of Development:

- PMD1 (Minimising Pollution and Impacts on Amenity)<sup>2</sup>
- PMD2 (Design and Layout)<sup>2</sup>
- PMD6 (Development in the Green Belt)
- PMD8 (Parking Standards)<sup>3</sup> and
- PMD16 (Developer Contributions)<sup>2</sup>

[Footnote: <sup>1</sup>New Policy inserted by the Focused Review of the LDF Core Strategy. <sup>2</sup>Wording of LDF-CS Policy and forward amended either in part or in full by the Focused Review of the LDF Core Strategy. <sup>3</sup>Wording of forward to LDF-CS Policy amended either in part or in full by the Focused Review of the LDF Core Strategy].

### Thurrock Local Plan

In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an Issues and Options (Stage 1) document and simultaneously undertook a ‘Call for Sites’ exercise. Consultation on an Issues and Options (Stage 2 Spatial Options and Sites) document commenced in December 2018.

### Thurrock Design Strategy

In March 2017 the Council launched the Thurrock Design Strategy. The Design Strategy sets out the main design principles to be used by applicants for all new development in Thurrock. The Design Strategy is a supplementary

planning document (SPD) which supports policies in the adopted Core Strategy.

### Thurrock Residential Alterations and Extension Design Guide (RAE)

In September 2017 the Council launched the RAE Design Guide which provides advice and guidance for applicants who are proposing residential alterations and extensions. The Design Guide is a supplementary planning document (SPD) which supports policies in the adopted Core Strategy

## **6.0 ASSESSMENT**

6.1 With reference to process, this application has been advertised as being a major development and as a departure from the Development Plan. Any resolution to grant planning permission would need to be referred to the Secretary of State under the terms of the Town and Country Planning (Consultation) (England) Direction 2009 with regard to the proposed quantum of development within the Green Belt. The Direction allows the Secretary of State a period of 21 days (unless extended by direction) within which to 'call-in' an application that a Local Planning Authority is minded to approve for determination via a public inquiry. In reaching a decision as to whether to call-in an application, the Secretary of State will be guided by the published policy for calling-in planning applications and relevant planning policies.

6.2 The application is assessed under the following headings:

- I. The Principle of the Development and the Impact upon the Green Belt
  - II. Design and Layout and Impact upon the Area
  - IV. Landscape and Visual Impact
  - V. Open Space, Green Infrastructure and Landscaping
  - VI. Impact upon Ecology and Biodiversity
  - VII. Flood Risk and Drainage
  - VIII. Impact upon Amenity
  - IX. Viability and Planning Obligations
- I. THE PRINCIPLE OF THE DEVELOPMENT AND THE IMPACT UPON THE GREEN BELT

6.3 Under this heading, it is necessary to refer to the following key questions:

1. Whether the proposals constitute inappropriate development in the Green Belt;
2. The effect of the proposals on the open nature of the Green Belt and the purposes of including land within it; and

3. Whether the harm to the Green Belt is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify inappropriate development.

1. Whether the proposals constitute inappropriate development in the Green Belt

6.4 The site is identified on the LDF Core Strategy Proposals Map as being within the Green Belt where policies CSSP4 and PMD6 apply. Policy CSSP4 identifies that the Council will 'maintain the purpose function and open character of the Green Belt in Thurrock', and Policy PMD6 states that the Council will 'maintain, protect and enhance the open character of the Green Belt in Thurrock'. These policies aim to prevent urban sprawl and maintain the essential characteristics of the openness and permanence of the Green Belt.

6.5 Paragraph 133 within Chapter 13 of the NPPF states that the Government attaches great importance to Green Belts and that the *"fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence."* Paragraph 145 states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. The NPPF sets out a limited number of exceptions to this, namely:

- buildings for agriculture and forestry;
- the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages;
- limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development; or – not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to

meeting an identified affordable housing need within the area of the local planning authority

- 6.6 The site, due to its planning history, which includes the lawful development certificate for the use as a garden nursery, is considered to fall within the NPPF definition of Previously Developed Land (PDL). However, the proposed development of 31 houses would result in an increased built form which would also be spread across a wider area than the current sporadic use of the site. As a matter of judgement, the proposal would create substantial harm to the openness of the Green Belt. Consequently, the proposals comprise inappropriate development with reference to the NPPF and policy PMD6.

2. The effect of the proposals on the open nature of the Green Belt and the purposes of including land within it

- 6.7 Having established that the proposals are inappropriate development, it is necessary to consider the matter of harm. Inappropriate development is, by definition, harmful to the Green Belt, but it is also necessary to consider whether there is any other harm to the Green Belt and the purposes of including land therein.

- 6.8 Paragraph 134 of the NPPF sets out the five purposes which the Green Belt serves as follows:

- a. to check the unrestricted sprawl of large built-up areas;
- b. to prevent neighbouring towns from merging into one another;
- c. to assist in safeguarding the countryside from encroachment;
- d. to preserve the setting and special character of historic towns; and
- e. to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

- 6.9 In response to each of these five purposes:

*a. to check the unrestricted sprawl of large built-up areas*

- 6.10 The site is located in a relatively isolated location, to the south of the town of Basildon (outside the Borough) close to sporadic established properties, some of a 'Plot Land' style nature. For the purposes of the NPPF, the site is considered to be outside of any 'large built up areas'. It would not therefore result in the sprawling of an existing built up area, but it would nonetheless represent the addition of new urban form on the site.

*b. to prevent neighbouring towns from merging into one another*

- 6.11 The development would not conflict with this Green Belt purpose.

*c. to assist in safeguarding the countryside from encroachment*

- 6.12 Given that the site constitutes PDL the proposal would not result in encroachment in the countryside or conflict with this Green Belt purpose.

*d. to preserve the setting and special character of historic towns*

- 6.13 As there are no historic towns in the immediate vicinity of the site, the proposals do not conflict with this defined purpose of the Green Belt.

*e. to assist in urban regeneration, by encouraging the recycling of derelict and other urban land*

- 6.14 The development could occur in an urban area and so the development does not assist in urban regeneration. It is however recognised that the site constitutes PDL and the development proposal would serve to redevelop the site for new housing in the Borough. On balance, it is not considered that the proposal would conflict with this purpose.

- 6.15 In light of the above analysis, it is considered that the proposals would not necessarily conflict with the 5 purposes of including land in the Green Belt. However, matters of “other harm” are considered elsewhere in the report.

3. Whether the harm to the Green Belt is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify inappropriate development

- 6.16 "Very special "circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Some interpretation of very special circumstances has been provided by the Courts. The rarity or uniqueness of a factor may make it very special, but it has also been held that the aggregation of commonplace factors could combine to create very special circumstances (i.e. 'very special' is not necessarily to be interpreted as the converse of 'commonplace').

However, the demonstration of very special circumstances is a 'high' test and the circumstances which are relied upon must be genuinely 'very special'. In considering whether 'very special circumstances' exist, factors put forward by an applicant which are generic or capable of being easily replicated on other sites, could be used on different sites leading to a decrease in the openness of the Green Belt.

The provisions of very special circumstances which are specific and not easily replicable may help to reduce the risk of such a precedent being created. Mitigation measures designed to reduce the impact of a proposal are generally not capable of being 'very special circumstances'.

- 6.17 With regard to the NPPF, paragraph 143 states that '*inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances*'. Paragraph 144 goes on to state that, when considering any planning application, local planning

authorities “*should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations*”.

6.18 The Planning Statement sets out the applicant’s very special circumstances which are assessed below:

a. Previously Developed Land with Lawful Open Storage Uses

6.19 The applicant considers that the lawful use of land for growing plants and retail sales of plants, the importation of plants and retail sale of plants, the use of land for storage and display for sale of garden material and garden equipment and for the display and sale of building materials and other materials in the open should be afforded significant weight in the determination of the application. They note that there are no restrictions on vehicle movements entering or leaving the site, or relating to the quantum of material being stored on site.

Consideration

6.20 It is accepted the site can be lawfully used for the activities described above. The site has been active for a number of years but the scale of the use is relatively low key. There are few buildings on the site and materials are largely stored in the open. Whilst it is clearly not preferable to have open storage on a site in the Green Belt it is accepted that the use is lawful and that the use could be carried on. The Certificate of Lawfulness (10/00470/LDC, issued in 2010) certifies the legality of the existing uses on the site, for a mixed composite use which includes the storage of general materials, as well as a garden nursery use. The certificate relates to specifically identified uses and does not allow free, uncontrolled use of the land, although the certificate does not limit the extent of the various component uses, for example the amount or extent of any building materials, provided the use of the site remains in a composite use as expressed in the wording of the certificate.

6.21 The details submitted during the application show that the use of the land has diminished over time since the LDC was issued. The total sales for the last financial year come to around £24,000. For a site of this size, this is considered to be a small return however this does not mean that the site could not increase in terms of scale and activity.

The consideration in this case is to compare the fall-back position (i.e. what the applicant can do without any fresh planning permission) with what would happen as a result of the permission.

6.22 In terms of weighing the fall-back in the planning balance, the consideration must be firstly, whether there is a fall-back use, secondly whether there is a likelihood or real prospect of it occurring and thirdly if the answer to the second question is “yes” a comparison must be made between the two

positions.

- 6.23 It has already been established that the use has not ceased and there is the lawful ability to carry it on. In relation to the prospect of it continuing, there has not been any evidence provided to show that the use would increase in scale, if the use were to continue, but under the certificate of lawfulness description and parameters, it could. In its present form there is relatively little impact on the Green Belt and surrounding area however the owner could legitimately establish additional stock piles of 'other materials' on the site and allow vehicles to run in and out of the site unrestricted. This could lead to significant harm to the amenity of neighbours and harm to the Green Belt.
- 6.24 The very nature of open storage and retail sales means that the impact on openness at any one time would vary. However the LDC does allow for significant expansion, continuous activities and disturbance to local residents. It is against the basis of the LDC that the applicant considers the proposed development to have less than substantial harm on the Green Belt.
- 6.25 In conclusion under this heading, it is considered that this factor should be given significant weight in the determination of the application as a very special circumstance.

*b. The provision of Custom-Build Housing*

- 6.26 The applicant states the NPPF makes it clear that LPAs should plan for people who want to build their own homes; that in the UK custom house building is relatively low; that government targets for 100,000 self-build homes in 10 years equates to 107 per LPA for the next 5 years and that the proposal is unique as the first custom-build proposal in Thurrock. They continue that as of February 2018 there were 43 people on the register for the custom build houses in the Borough and there is no provision in the current Core Strategy for custom build. The applicant indicates significant weight should be provided in the determination of the application. The applicant provides details from a site in Great Dunmow (appeal ref: APP/C1570/A/14/2223280) where the Inspector in allowing the appeal noted there had been "little opportunity for self-builders in recent years" and that demand existed for self-build evidenced by the self-build register maintained by the Council. And further, accordingly, "the provision of custom/self – build housing [should be afforded] significant weight".

Consideration

- 6.27 The provision of custom-build homes is a specific market area which government guidance seeks to develop and it is acknowledged that the Core Strategy does not presently provide any sites specifically for this purpose.
- 6.28 The Council is currently preparing a new Local Plan which will factor this type of housing as part of the allocations. It is not clear whether the developer has considered any other sites prior to putting this one forward; however, given the

recent appeal decision in a similar, local planning authority, the government drive to encourage varied forms of housing and the lack of a 5 year supply, it is considered that this matter can be attributed significant weight in the determination of the application.

*c. The provision of Affordable Housing:*

- 6.29 The application was originally submitted with a policy compliant 35% of the units (10) to be provided as Custom-Build Affordable units. It was considered by the applicant this should be afforded significant weight.

Consideration

- 6.30 Through the application process the Council's Housing Team have warned that registered Housing providers have expressed reluctance to be involved in the project because of it being a niche area of the housing market. The applicant has since offered to make a commuted off-site payment in lieu of on-site provision. The applicant still considers this should be afforded significant weight, and cites the "very significant weight" given to the provision of affordable housing at appeal in May 2018 (in relation to application 15/01354/OUT – Land at Little Thurrock Marshes – a scheme comprising up to 280 units).
- 6.31 Whilst it is acknowledged this is a recent appeal decision, the site referred to would have provided just under 100 units. That site was close to built up areas of the Borough and the provision would have been on site, helping to create a balanced community. The application in contrast is providing a commuted sum, which would be spent outside the site and would not ensure that a balanced community is provided on the site. As such, this factor should be afforded moderate weight in the current proposal as the proposals would make a policy compliant provision but the outcome would not result in a mixed community within the development site.

*d. Providing a High-Quality Design / Place making*

- 6.32 The applicant states, that although in outline form, the submitted 'Design Code' (which would be a condition in the event of permission being granted) would ensure that features such as boundary treatments, landscaping, frontage arrangements and materials would ensure the development when built would be high quality and that the large building plots would provide a mix of housing that is not well provided for in the Borough. The applicant indicates that the Design Code provides a great deal of detail and that at the Bata Field site in East Tilbury (APP/M9565/A/09/2114804) the design quality was afforded weight. [Bata Field is immediately adjoined the East Tilbury Conservation Area].

Consideration

- 6.33 The Council has recently adopted the Thurrock Design Strategy and

Residential Alterations and Extensions guide; these put good design at the heart of all development proposals. The NPPF also highlights good design as being indivisible from good planning. Good design should be a given in any proposal.

- 6.34 The Council's Urban Design Advisor has reviewed the documents submitted with the application and advises that although she supports the principle of the scheme the Design Code as submitted does not go far enough to explore a novel or unique approach to delivering housing, the document does not talk about the type of place that would be created or what kind of community it is intending to build and that the proposal makes little attempt to create a central and useable community space.
- 6.35 Accordingly, this factor is afforded only limited weight in the consideration of the proposal.

e. *The Role of the Application Site within the Green Belt*

- 6.36 The applicant considers the site to be a geographically defined area [on the basis of the lawful use of the site], where there is no possibility of the merging of towns. The applicant also considers that as there is no historic setting and the lack of any options for regeneration within the existing settlement due to tightly drawn boundaries mean there is little possibility of other development. The applicant also notes that the Council is looking through the new Local Plan process to release strategic areas of Green Belt land to meet housing supply needs and that Basildon Council, in its Draft Local Plan have identified a site North and South of London Road Vange, for approximately 615 new homes. The applicant considers therefore the proposal would not significantly undermine the 5 purposes of the Green Belt.

Consideration

- 6.37 Legislation requires Local Planning Authorities to determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise. Green Belt boundaries should only be altered through the Local Plan process. Accordingly no weight is attributed to this allegedly very special circumstance.

f. *Ability for the Site to Positively Contribute Towards Housing Land Supply:*

- 6.38 The applicant refers to NPPF requirements regarding 5 year housing land supply and the requirement for a 20% buffer where there has been persistent underachievement measured against the 5-year target. The Strategic Housing Market Assessment (SHMA) for South Essex (May 2016) identifies that the objectively assessed housing needs in Thurrock range between 919 to 973

dwellings per annum for the period 2014-2037. The Council's latest Five Year Housing Land Supply Position Statement (July 2016) identifies a supply of between 2.5 to 2.7 years when compared to the housing requirement.

- 6.39 The applicant states that the Council's failure to deliver a 5-year housing land supply has been widely accepted by many, including the Planning Inspectorate and the Secretary of State. The applicant states that the contribution towards delivery of housing and a lack of a five year housing land supply was afforded significant weight with the Little Thurrock Marshes application (ref 15/01534/OUT).

#### Consideration

- 6.40 Government advice through the PPG in Paragraph: 034 Reference ID: 3-034- 20141006 states: '*Unmet housing need (including for traveller sites) is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt*'. Therefore, whilst significant weight should be attached to the provision of new housing this factor alone is unlikely to constitute very special circumstances.
- 6.41 Members are aware that the appeal against the Council's decision to refuse application 15/01534/OUT was dismissed by the Planning Inspectorate. The Council's housing land supply formed a large part of the Public Inquiry (held in May 2018). In dismissing the appeal, the Inspector gave very significant weight to the market and affordable housing provision that the (280 unit) scheme would provide, but found that the harm to the Green Belt was not clearly outweighed by this, and other factors presented by the applicant.
- 6.42 Policy CSTP1 requires the dwelling mix for new residential developments to be provided in accordance with the latest [May 2016] Strategic Housing Marketing Assessment [SHMA] and the update Addendum [May 2017]. The SHMA sets out the housing need and mix requirements for the Borough but also the wider context of South Essex.
- 6.43 The SHMA identifies the predominant need for 3 bedroom semi-detached and terraced houses and 1 and 2 bedroom flats. The proposed development would provide 11 x 3 bedroom houses and 16 x 4 bedroom dwellings (though it should be noted the proposal is in outline form). This matter should be afforded moderate weight.

#### g *Linkages to London Gateway Port and Logistics Park and Thames Enterprise Park*

- 6.44 The applicant refers to the on and off-site employment opportunities generated by London Gateway. The applicant refers to a net labour supply figure (for 2011) of

16,000 people in Thurrock and suggests that the majority of new jobs at London Gateway will be occupied by people from outside of the Borough. The applicant considers that there is a risk that the economic benefits of London Gateway (employee income) will be lost from Thurrock. The applicant refers to a potential imbalance between housing and employment growth and cites the Bata Field appeal decision (ref: 09/50045/TTGOUT) where the Planning Inspector attached “moderate weight” to the location of the Bata site near to London Gateway and recognised the synergies between employment and housing opportunities. The potential for future employment creation at the former Coryton oil refinery site is also highlighted by the applicant and the creation of 5,000 jobs. The residential development on the application site could offer advantages in reducing commuting distances for employees, retaining economic benefits in Thurrock, reducing in- commuting and thereby reducing congestion.

#### Consideration

- 6.45 This factor formed part of the applicant’s case for very special circumstances for the planning appeal at the Bata Field site, where the applicant argued that the proximity of Bata Field to London Gateway and the Port of Tilbury sites meant that new housing could support employment growth at those locations.
- 6.46 The current application site is located some 9.7km miles to the north-west of London Gateway, whereas Bata Field is some 4.7km to the south-west. Both locations can be considered to be within the reasonable catchment of potential employees for the London Gateway site. However, the potential link between employment growth and new housing seems to be based on geographical proximity rather than a deliberate attempt to link employment and housing growth through, for instance, improvements to transport linkages.
- 6.47 The links between the current application site and London Gateway / Thames Enterprise Park should be treated as incidental (i.e. there is no guarantee that occupiers of the proposed residential development would be employees at either the London Gateway or Coryton sites). Nevertheless, the Planning Inspector at the Bata Field inquiry concluded that “moderate weight” should be attached to this consideration. As the current application site is reasonably well located in relation to employment potential it is concluded that this factor attracts limited weight in the balance of considerations (this factor is afforded less weight than in the Bata Fields application as the site is more distant and would provide less units).

#### *h* The Sustainability of the Site

- 6.48 With reference to the three dimensions of sustainable development set out in the NPPF, the applicant considers that the proposals offer:
- *Social*: the proposals would provide greater involvement from end occupiers that would bring about diversity and choice in new homes and

the proposal would provide a mix of homes not usually seen in the Borough.

- *Economic:* the proposals would provide new homes, additional funding the Council in the form of Council tax and ongoing resident expenditure in the local area.
- *Environmental:* the proposals would remediate a site that has been used for open storage which has been the case for 27 years, offering the opportunity for biodiversity enhancements.

Consideration:

6.49 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and paragraph 7 describes the three dimensions of sustainable development as economic, social and environmental. There is no doubt that, if approved, the proposals would deliver a number of benefits under these headings as described by the applicant. Limited weight should be given to these factors.

Summary of Very Special Circumstances

6.50 The table below provides a summary of the Very Special Circumstances and the weight that is attributed to them in assessing the planning balance for the whether the principle of the development is acceptable:

<b>Summary of Green Belt Harm and Very Special Circumstances</b>			
<b>Harm</b>	<b>Weight</b>	<b>Factors Promoted as Very Special Circumstances</b>	<b>Weight</b>
Inappropriate Development	Substantial	Fall-back position	Significant weight
Reduction in the openness of the Green Belt	Substantial	Provision of custom-build housing	Significant weight
		Provision of offsite affordable housing [NB. The provision of custom build affordable housing was originally proposed, but superseded following consultation response]	Moderate weight
		High quality design and placemaking	Limited Weight

		Role of the application site in the Green Belt	No weight
		Ability to positively contribute towards housing land supply	Moderate weight
		Linkages to London Gateway and Logistics Park and Thames Enterprise Park	Limited weight
		The sustainability of the site	Limited weight

6.51 As ever, in reaching a conclusion on Green Belt issues, substantial weight should be given to any harm to the Green Belt, a 'Very special circumstances will not exist unless the potential harm to the Green Belt by reason of any inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations . In this case there is harm to the Green Belt purposes with reference to inappropriate development and loss of openness.

6.52 Taking into account all Green Belt considerations, the matters is very finely balanced, but Officers are of the opinion that the harm to the Green Belt is clearly outweighed by the accumulation of factors described above, so as to amount to the very special circumstances necessary to justify inappropriate development.

II DESIGN AND LAYOUT

6.53 The application has been submitted in outline form, with details of the access point only for consideration. If approved, the proposal would be subject to a 'Design Code' which would govern the main parameters of the buildings and the specific materials to be used on each plot.

6.54 Although not a matter for full consideration under this outline application, it is considered that an appropriate site layout could be achieved. As a discrete topic (aside from the Green Belt and wider landscape issues) it is considered that the design and layout of the site could be acceptable. The Design Code would ensure properties would be of an appropriate scale and use materials which would not have a detrimental impact on the local area. In design terms the proposals would be in accordance with Policies PMD2 and CSPT22 of the Core Strategy.

III LANDSCAPE AND ECOLOGY

6.55 Policy PMD7 indicates that proposals will be required to demonstrate that any significant biodiversity habitat or geological interest of recognised local value is retained and enhanced on-site and recognises that the Council is

committed to ensuring that all designated biodiversity sites such as SSSI, Local Wildlife Site and Local Nature Reserves are protected.

- 6.56 The site is immediately adjacent to part of the Basildon Meadows SSSI. Part of the woods forming the northern and part of the western boundary are designated as a Local Wildlife Site. The plans show a 10m buffer to the northern end of the site between the proposed built development and the SSSI.
- 6.57 In relation to ecology matters, the Council's Ecology Advisor suggests that the buffer to the northern end of the site should be widened to 15m, which could be achieved via condition given that the application is submitted in outline form, if permission were to be granted.
- 6.58 The application site slopes down from the northern part of the site toward Vange Park Road. Although not raising any specific issues in terms of landscape impact, the Landscape advisor notes that the layout is quite formal compared to the existing pattern of development in the area and suggests it is important that the final layout responds appropriately to the location.

#### IV ACCESS, TRAFFIC IMPACT AND PARKING

- 6.59 The Council's Highways Officer raises no objection to the principle of the development on this site subject to conditions. Accordingly, subject to conditions, the proposal is considered to comply with Policies PMD8, PMD9, and PMD10.

#### V FLOOD RISK AND SITE DRAINAGE

- 6.60 The site is outside of Flood Risk Zone 3, but is in excess of 1ha. A Flood Risk Assessment (FRA) has accordingly been provided with the application. The Council's Flood Risk Manager has reviewed this document and is satisfied with it subject to conditions relating to the provision of a drainage strategy. Accordingly the proposal complies with Policy PMD15.

#### VI AFFORDABLE HOUSING AND CONTRIBUTIONS

- 6.61 Policy CSTEP2 seeks the provision of 35% affordable housing and policy PMD16 seeks planning obligations through S106 agreement (as appropriate) to mitigate the impact of development.
- 6.62 As set out elsewhere in this report, the applicant originally committed to 35% affordable housing on site however through the application process it has become apparent that owing to the specialist nature of the housing product a commuted off-site contribution would be more appropriate. The applicant has agreed to a commuted off site payment.

6.63 The Council's Education Team advise a financial contribution is required to mitigate the impact of the development on primary and secondary school provision in the locality. The Council's Infrastructure Requirement List identifies extensions to a primary schools and secondary schools in Corringham and Stanford le Hope. The applicant has agreed to a contribution towards local education facilities.

6.64 In light of the above, the proposal would comply with Policy PMD16 and CSTP2.

## **7.0 CONCLUSIONS AND REASON(S) FOR APPROVAL**

7.1 The principal issue for consideration in this case is the assessment of the proposals against planning policies for the Green Belt and whether there are very special circumstances which outweigh harm such that a departure from normal policy can be justified. The proposals are 'inappropriate development' in the Green Belt and would lead to a loss of openness. Substantial weight should be attached to this harm in the balance of considerations.

7.2 The applicant has cited factors to suggest there are very special circumstances to justify the proposed development within the Green Belt. It is a finely balanced case and on balance, given the combination of factors and weight identified above and it is concluded that the case for very special circumstances outweighs the harm to the Green Belt described above.

7.3 Matters of detail in relation to design, highways flood risk are acceptable or could be detail with by conditions where required.

## **8.0 RECOMMENDATION**

8.1 Approve planning permission subject to:

A: Referral to the Secretary of State (Planning Casework Unit) under the terms of the Town and Country Planning (Consultation) (England) Direction 2009, and subject to the application not being 'called-in' for determination;

B: Completion of legal agreement to secure offsite contributions for affordable housing and towards local education facilities and

C: Conditions

### **Submission of Outstanding Reserved Matters (Compliance with Design Code)**

1 The development shall be carried out in accordance with plans and particulars relating to the layout, scale, appearance, and the landscaping of the site (hereinafter called "the reserved matters"), for which approval shall be obtained from the local planning authority in writing before any development is

begun. The development shall be carried out fully in accordance with the details as approved.

For the avoidance of doubt the reserved matters should comply with the details contained in the document “Greenwise Nursery: Design and Access Statement and Design Code” Date 21 March 2018

**Reason:** The application as submitted does not give particulars sufficient for consideration of the reserved matters.

**Time limit for the submission of the outstanding Reserved Matters**

- 2 Application for the approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

**Reason:** To comply with the requirements of Section 92(2) of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

**Time limit for the commencement of Outline Planning Permission**

- 3 The development hereby permitted shall be begun within two years from the date of the final approval of the reserved matters. The development shall be carried out as approved.

**Reason:** To comply with the requirements of Section 92(2) of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

**Plans List**

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans:

<b>Plan Number(s):</b>		
Reference	Name	Received
001	Location Plan	26th March 2018

**Reason:** For the avoidance of doubt and to ensure that the development is carried out in accordance with the details as approved with regard to policies PMD1 and PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015].

### Details of Materials/Samples to be submitted

- 5 No development shall commence [above ground level] until written details or samples of all materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved.

**Reason:** In the interests of visual amenity and to ensure that the proposed development is integrated with its surroundings in accordance with policy PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015].

### Surfacing Materials

- 6 No development shall commence [above ground level] until details of the surfacing materials to be used within roads, driveways, car parking areas, paths and any other hardstanding areas shown on the approved plans have been submitted to and agreed in writing by the local planning authority. The surfacing materials of the development shall be implemented in accordance with the details as approved.

**Reason:** In the interests of visual amenity and character of the area to ensure that the proposed development is integrated with its surroundings in accordance with policy PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015].

### Surface Water Drainage Scheme

- 7 No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority.

The scheme should include but not be limited to:

- Limiting discharge rates to 1 in 1 year greenfield rate for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor

changes to the approved strategy. The scheme shall subsequently be implemented prior to occupation

**Reason:** To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site in accordance with Policy PMD15 of the Thurrock Core Strategy

#### **Reduction in off-site flooding**

- 8 No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

**Reason:** To ensure the proposal does not increase flood risk elsewhere and does not contribute to water pollution in accordance with Policy PMD15 of the Thurrock Core Strategy.

#### **Surface Water Maintenance Plan**

- 9 No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

**Reason:** To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk in accordance with Policy PMD15 of the Thurrock Core Strategy.

#### **Yearly Logs**

- 10 The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

**Reason:** To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk in accordance with Policy PMD15 of the Thurrock Core Strategy.

#### **Ecological Survey**

- 11 No development shall take place including any demolition or clearance works, until a comprehensive ecological survey of the site has been undertaken to ascertain if any protected species are present. The results of the survey shall be submitted to and approved in writing by the local planning authority along with details of the provision and implementation of ecological mitigation/translocation to protect any protected species if found to be present. The development shall be carried out and completed in accordance with the approved mitigation/translocation scheme.

**Reason:** In order to ensure that the interests of ecology and biodiversity or protected species are addressed in accordance with policy PMD7 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015].

### **Construction Environmental Management Plan [CEMP]**

- 12 No [demolition or] construction works shall commence until a Construction Environmental Management Plan [CEMP] has been submitted to and approved in writing by the local planning authority in writing. The CEMP should contain or address the following matters:

- (a) Hours of use for the construction of the development
- (b) Hours and duration of any piling operations,
- (c) Vehicle haul routing in connection with construction, remediation and engineering operations,
- (d) Wheel washing and sheeting of vehicles transporting loose aggregates or similar materials on or off site,
- (e) Details of construction any access or temporary access, and details of temporary parking requirements;
- (f) Road condition surveys before demolition and after construction is completed; with assurances that any degradation of existing surfaces will be remediated as part of the development proposals. Extents of road condition surveys to be agreed as part of this CEMP
- (g) Location and size of on-site compounds [including the design layout of any proposed temporary artificial lighting systems];
- (h) Details of any temporary hardstandings;
- (i) Details of temporary hoarding;
- (j) Details of the method for the control of noise with reference to BS5228 together with a monitoring regime;
- (k) Measures to reduce vibration and mitigate the impacts on sensitive receptors together with a monitoring regime;
- (l) Measures to reduce dust with air quality mitigation and monitoring;
- (m) Measures for water management including waste water and surface water discharge;
- (n) A method statement for the prevention of contamination of soil and groundwater and air pollution, including the storage of fuel and chemicals;
- (o) Details of a procedure to deal with any unforeseen contamination, should it be encountered during development;

- (p) A Site Waste Management Plan,
- (q) Details of security lighting layout and design;
- (r) Details of spill kits for machine operators, interceptors/bunds and safe storage protocols for chemicals on site, avoiding storage in the 10m buffer area adjacent to the SSSI and
- (s) Contact details for site managers including information about community liaison including a method for handling and monitoring complaints.

Works on site shall only take place in accordance with the approved CEMP.

**Reason:** In order to minimise any adverse impacts arising from the construction of the development in accordance with policy PMD1 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015].

### **Soundproofing/Noise Insulation**

- 13 Prior to the commencement of development a scheme to assess the noise impact from the A13, and the scrapyards to the south west of the site upon the dwellings shall be submitted to and approved in writing by the Local Planning Authority, which shall propose appropriate measures so that all habitable rooms will achieve 'good' internal levels as specified by BS8233:1999. The scheme shall identify and state the glazing specifications for all the affected windows, including acoustic ventilation, where appropriate. The noise insulation measures and specification shall be implemented within the residential units prior to first occupation of the development and shall be permanently retained as approved thereafter.

**Reason:** To protect the amenities of future residential occupiers and to ensure that the development can be integrated within its immediate surroundings in accordance with Policy PMD1 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015].

### **Asbestos**

- 14 Development shall be carried out strictly in accordance with the details contained in the Asbestos survey "Former Ardale School Elvin Close: Refurbishment/Demolition survey for Asbestos, 18.09.14" by J England Environment Services.

At such time as the buildings are fully accessible, an update to the survey shall be carried out and the updated survey, and recommendations, shall be submitted to the Local Planning Authority for approval. Thereafter demolition of the buildings shall take place strictly in accordance with the details approved.

### **Contamination – In accordance with approved details**

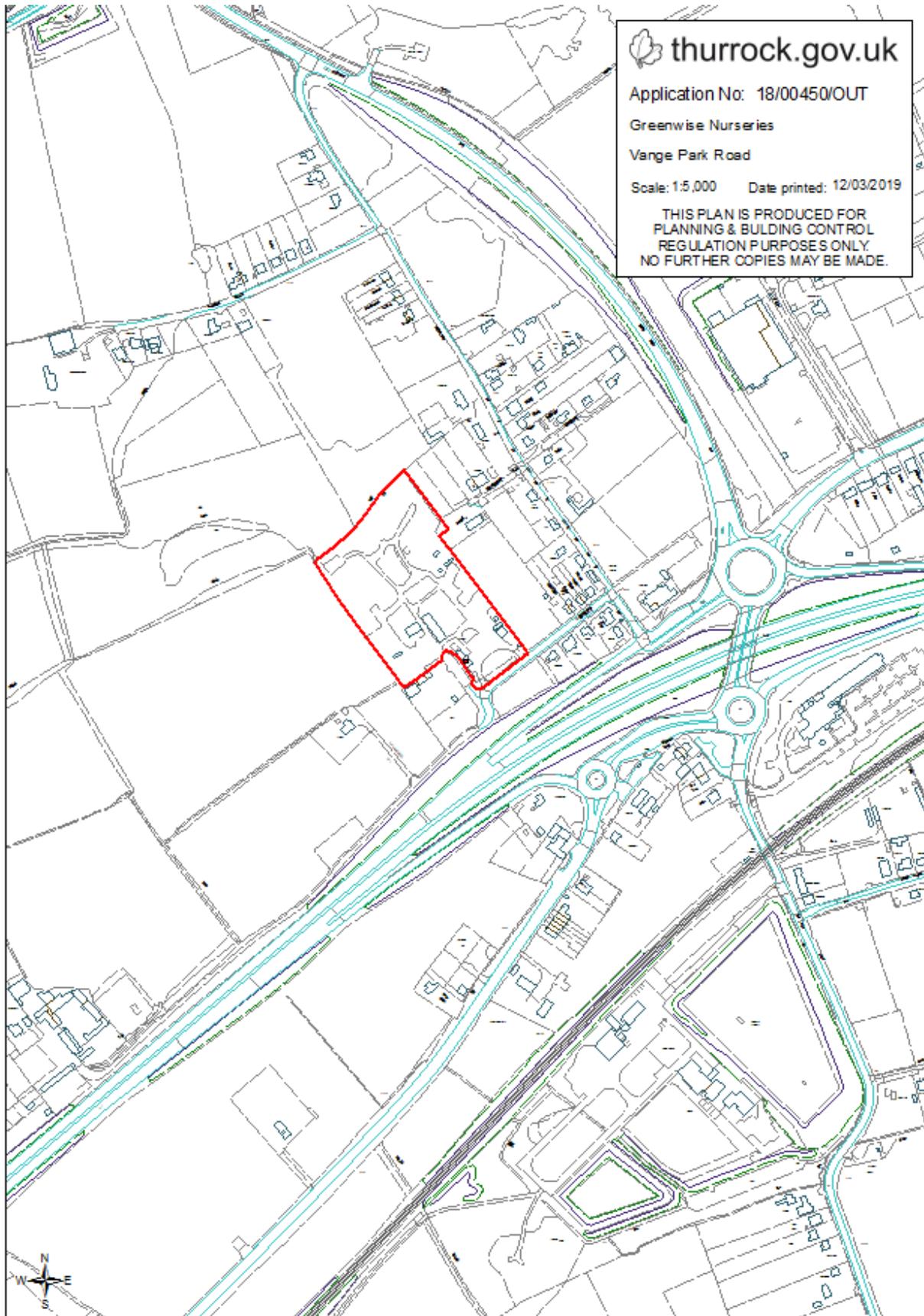
- 15 Development shall be carried out in accordance with the details and methodologies contained in the document “Proposed Scope of Works for a Phase 2 Environmental Investigation as Greenwise Nursery, Vange Park Road, Vange, Thurrock Essex, SS16 5LAfor Mark Romero” by Contaminated Land Solutions.

**Reason:** To protect the water environment and in the interests of future occupiers in accordance with policy PMD1 of the adopted Thurrock Core Strategy and Policies for the Management of Development [2015].

#### **Unforeseen Contamination**

- 16 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 the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with. Such agreed measures shall be implemented and completed prior to the first occupation of any parts of the development.

**Reason:** To protect the water environment and in the interests of future occupiers in accordance with policy PMD1 of the adopted Thurrock Core Strategy and Policies for the Management of Development [2015].



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