

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 **6.00 pm** on **6 June 2019**

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

Membership:

Councillors Tom Kelly (Chair), Mike Fletcher (Vice-Chair), Colin Churchman, Angela Lawrence, David Potter, Gerard Rice, Sue Sammons, Sue Shinnick and Gary Byrne

Steve Taylor, Campaign to Protect Rural England Representative

Substitutes:

Councillors Chris Baker, Daniel Chukwu, Abbie Akinbohun, Garry Hague, Victoria Holloway and Susan Little

Agenda

Open to Public and Press

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	<p>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).</p>	
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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

Agenda published on: **29 May 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 25 April 2019 at 7.00 pm

Present: Councillors Tom Kelly (Chair), Graham Hamilton, Angela Lawrence, Abbie Akinbohun (arrived 19.20 as a substitute for Steve Liddiard), Sue Little (substitute for Colin Churchman), David Potter, Gerard Rice, Sue Sammons and Sue Shinnick

Steve Taylor, Campaign to Protect Rural England Representative

Apologies: Councillors Colin Churchman and Steve Liddiard.

In attendance: Andrew Millard, Assistant Director - Planning, Transport and Public Protection
Tim Hallam, Deputy Head of Law and Governance
Jo Miles, Independent Legal Representative
Matthew Ford, Chief Engineer
Navtej Tung, Strategic Transportation Manager
Oliver Thursby, Trainee Engineer
Leigh Nicholson, Strategic Lead - Development Services
Chris Purvis, Principal Planner
Tom Scriven, Principal Planner
Matthew Gallagher, Principal Planner
Sarah Williams, School Capital and Planning Project Manager
Wendy Le, Democratic Services Officer

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.

99. Minutes

Regarding item 98 – planning application 18/00450/OUT Greenwise Nurseries, in the minutes, Councillor Rice questioned if the application had received a response from central government yet. In consulting with the Assistant Director of Planning, Transport and Public Protection, Andrew Millard, the Chair answered that no response had come back yet but the application had been sent.

The minutes of the Planning Committee held on 21 March 2019 was approved as a correct record.

100. Item of Urgent Business

There were no items of urgent business.

101. Declaration of Interests

The Chair declared a pecuniary interest on item 12 – planning application 17/00723/DVOB as he was an employee of DP World Development so would be unable to chair on that item and would be vacating the meeting upon the hearing of the item. He went on to mention that a Chair would need to be elected when the Committee came onto that item to chair that specific item due to the Vice-Chair's absence as well.

102. 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

The Chair had received an email regarding agenda item 10 – application number 19/00267/FUL Silver Springs from an individual.

The Chair and Councillor Rice had received an email regarding agenda item 10 – application number 19/00267/FUL Silver Springs from the Agent representative for objectors to the application, Barton Willmore.

103. Planning Appeals

The report was presented by Leigh Nicholson, Strategic Lead for Development Services.

The Committee was satisfied with the report.

RESOLVED:

That the Planning Committee noted the report.

104. 17/01668/OUT Development Land East of Caspian Way and North and South of London Road, Purfleet, Essex

Presented by Matthew Gallagher, Principal Planner, the application outlined the planning issues raised by the proposals for the redevelopment of land in the centre of Purfleet which was known as 'Purfleet Centre'. He mentioned the late email that was sent by the Agent representative for objectors to the application, Barton Willmore.

Regarding point 13.35, page 146 of the agenda, from the 10th and 11th line down, the Principal Planner said that from the sentence beginning 'Planning conditions could...' was 'will' rather than 'could' as condition L9 in Appendix 1 covered this point. In the same paragraph, the food retail floor space would be 2,750 sq. m. (gross) and other retail floor space would be as set out in the paragraph.

On point 18.13 on pages 170 and 171 of the agenda, the Principal Planner said this referred to an anticipated application for a 3G pitch for Harris

Riverside Academy. The Principal Planner confirmed that an application had already been received and this application was also referred to within the planning history section (4) of the report as the last entry on page 66.

The Principal Planner also gave a summary of the following details within the application:

- Not less than 10% of the residential dwellings proposed would be affordable;
- Railway facilities and the station would be upgraded and moved to allow the town centre infrastructure to take place;
- Railway lines and platforms would remain uninterrupted;
- 4 new crossings would be implemented over the railway lines;
- The 2011 application previously submitted had proposed mixed use of the site and had been approved following referral to the Secretary of State;
- The northern part of the site was Botany Quarry which was currently in industrial use and discussions were being undertaken on buying parts of the site that was not owned by the Council;
- Proposed demolition plans if approved included commercial buildings within Botany Quarry and at the International Timber site and some vacant residential terraces near London Road;
- Harris Riverside Academy was brought forward as a separate application and was already under construction following approval in 2017; and
- There was a reserved matters submission for zone 1A that proposed the 61 residential dwellings which was currently under consideration.

Key planning considerations outlined by the Principal Planner included:

- Purfleet was one of the 5 regeneration hubs identified by the Council's Core Strategy;
- There would be community and commercial uses within a new local centre. A sequential test had been undertaken in accordance with Government guidance and conditions were recommended to mitigate the impact of the proposed local centre on existing town centres, as set out in appendix 1, point L10 on page 260 of the agenda;
- The material planning considerations raised by the proposals were outlined within the report. It was noted that the Environment Agency would remove their outstanding objection if the recommended conditions were agreed;
- An independent viability consultant had confirmed that the scheme was not financially viable, but the applicant would be prepared to accept a lower financial return; and
- A mechanism had been agreed for binding future landowners of the site with Section 106 (s106) obligations because the Council (as the main landowner) would not be able to enter into a s106 agreement with itself as local planning authority. Recommended planning conditions would also mitigate the impacts of the proposals.

The application was recommended for approval subject to referral to the Secretary of State, planning conditions and a s106 agreement. As the applicant does not control land within the site the recommendation also included a mechanism to ensure that s106 obligations were enforceable. The recommendation also referred to delegation being passed to the Assistant Director for Planning, Transport and Public Protection to finalise conditions and the s106 agreement.

The Chair opened the item up to the Committee for questions.

(Councillor Akinbohun was unable to participate or vote on the item under Constitution rules in Chapter 5, part 3, paragraph 13.5 as she had not been present at the start of the item).

Mentioning that 35% was the Thurrock planning policy target needed for affordable housing, Councillor Little noted that the application would have 10% of affordable units and questioned what type of units from the 10% would be for Thurrock's residents. She noted that 80% would be flats and 20% would be houses. The Principal Planner answered that Thurrock's Core Strategy sought 35% of affordable housing subject to viability. In addition, the National Planning Policy Framework (NPPF) required major planning applications to provide a minimum of 10% of affordable home ownership. The heads of terms for the s106 agreement secured a minimum 10% of affordable home ownership subject to viability and the consideration of costs such as significant infrastructure costs, had to be taken into account in bringing forward the development. He went on to say that if the site was left to a volume house builder, there was the possibility that the site would not be developed. However, the Applicant and the Council as landowner was prepared to accept a lower level of financial return and expected an increase in value over the construction of the development. The 35% figure of affordable housing quoted was correct but the Core Strategy and NPPF both outlined that brownfield sites were often more difficult and costly to develop due to factors such as construction costs in getting the site operational. Purfleet Centre would be delivered over an approximate 16 year timespan.

Councillor Little asked whether the 10% given for affordable housing could be negotiated. She went on to ask if there would be homes for the elderly as this was not mentioned within the report and Thurrock was an aging population. Referring to Appendix 2, the Principal Planner said that 10% was the minimum affordable housing provision and that 3% of affordable housing were reserved for wheelchair users with 10% of affordable housing as HAPPI Homes. As Purfleet Centre would be a long build, a series of viability reviews would be independently assessed over time which provided the potential to increase the provision of affordable homes beyond the 10% secured at this stage, especially if the financial return was higher than predicted.

Councillor Rice raised the same concerns on the 10% of affordable homes given and noted that would give a figure of 285 homes to Thurrock. He went on to say that within the s106, the Committee must insist that as part of the

conditions on the planning application, Thurrock Council had full nomination rights to those 285 homes to ensure Thurrock's 8,000 people on the waiting list for homes were given priority. Referring to the Agent representative for the objectors, Councillor Rice mentioned that the industrial site in Botany Quarry would result in job losses. He questioned whether the Council had a duty to relocate these workers.

On the matter of the minimum of 285 affordable homes, the Principal Planner replied that it was worth noting the 2012 planning permission given was still live so did not secure the 285 figure as a minimum. However, he stated that the minimum amount of affordable homes had increased because of the proposals from the Purfleet Centre planning application. Pages 297 and 298 of the agenda referred to the nomination agreements within the s106 heads of terms and the Council's housing officer were involved in ongoing discussions with the Applicants on the matter of affordable housing.

Regarding the existing industrial uses in Botany Quarry, the Principal Planner said that the proposals of Purfleet Centre would create a potential 2,200 jobs as a whole representing a net increase above existing jobs on the site. The Applicants did not own any land within the site and the Council, as a development partner, owned approximately 50 – 60% of the total site area. In order to secure the third party land holdings to enable development of the site, the Council, in its capacity as landowner, and Applicant would need to continue to engage in discussions with the landowners which were a separate negotiation to the consideration of the planning application and did not fetter the ability of the local planning authority as decision maker on the planning application. The Principal Planner went on to explain that any applicant could apply to build on land not owned by them, provided the right notification was served. The application before Committee fell to be considered on its planning merits. Although landowners and businesses would be affected by the implementation of the proposed development on Botany Quarry, the question of land ownership and acquisition negotiations were separate matters which did not fetter the Committee from making a decision on the merits of the application.

As the Council was a major landowner in Botany Quarry, Councillor Rice questioned whether the Council could help to relocate the businesses that would be lost if the landowners sold their land to the Council. Councillor Rice continued on to say that the Council had contacts and knew of other businesses such as Port of Tilbury and should be able to arrange an alternative for those workers working within the businesses in Botany Quarry. He asked if this was a condition or a detail that could be detailed in within s106. Councillor Rice went on to say that the detail on housing nominations must be addressed and the Council should avoid the housing association opening up the affordable homes to all applicants. Therefore Thurrock must have the sole housing nomination rights for their residents on the waiting list.

Agreeing, the Chair said Thurrock had to ensure that local residents were given the affordable housing units. On the matter of jobs within Botany Quarry, the Chair asked how the jobs there could be protected. Andrew

Millard answered that a nomination agreement was included in the s106 heads of terms. In regards to the relocation of the businesses and workers in Botany Quarry, this was not a part of the planning process so could not be drafted into the s106 terms.

The Chair questioned whether the Committee could express a willingness that the businesses in Botany Quarry could be relocated within the Borough or if they could be given priority in a new location. Andrew Millard answered that this could not be formally contained within legal agreement or planning conditions but could be mentioned within the minutes of the Planning Committee meeting.

Councillor Hamilton agreed with the points on housing nominations raised. He went on to say that it was the first time he had heard of an Applicant willing to risk a lower financial return and asked if this would be a cause of concern. Although the application submitted was an outline of the proposals, the Principal Planner explained that it was more than an intention to build on the site. The application was for permission as contained within the report. The details on affordable housing nominations were referred to on pages 297 – 298 of the agenda.

The Chair invited the registered Speakers to address the Committee.

Agent Representative for Objectors, Andrew Wilford, presented his statement in objection to the application.

Ward Councillor, Councillor Holloway, presented her statement in support of the application.

PCRL Representative and Chairman of Purfleet-on-Thames Community Forum, John Rowles, presented his statement in support of the application.

The Chair opened the item up for debate to the Committee.

The Chair said the project of Purfleet Centre had been 'in the making for many years' with media coverage. There had been a concern on whether the film studio would be implemented and deliverable if the application was to be approved but this was not a material planning consideration. He went on to say that it was good to hear the positive comments from the Ward Councillor and from John Rowles who was a pillar of the community. With the comments given on the percentage of affordable homes, the Council had to ensure that full priority was given to Thurrock's residents on the waiting list. There was also a cause of concern on the businesses situated within the Botany Quarry because of the potential job losses.

Councillor Rice felt the scheme was exciting and had lived in Borough for a long time but Purfleet had always been the forgotten part of the Borough. Central government had set Thurrock with the target of 32,000 homes to be built and the scheme would provide 2,850 homes and it would be good to see Purfleet regenerated. Councillor Rice went on to say that he would be

supporting the application provided that Thurrock had sole housing nomination rights to the affordable homes. He supported the Chair in relocating the businesses and workers situated within Botany Quarry and said the Council should be looking to protect those jobs.

Mentioning the Purfleet Centre site visit that took place on 23 April 2019, Councillor Shinnick said the scheme should be supported to enable Purfleet to move toward regeneration.

Councillor Little also said the scheme should be supported but if there was a chance that Thurrock could get more than 10% of affordable houses from the scheme, then the chance should be taken. With the businesses within Botany Quarry, the Council should look to retain or relocate these businesses within Thurrock.

Councillor Hamilton said he was swayed by John Rowles' statement as it was rare for a member of the community to support major projects similar to Purfleet Centre. He went on to say that as the proposals within the application were an outline, the design could change but the community should not be denied of the progress of regeneration.

Expressing further concern on the businesses within Botany Quarry, the Chair hoped that the workers within those businesses would get the support they needed from the Applicants and from the Council. He stated that those workers were welcome to approach Councillors for help if needed.

Moving on to the Officer's recommendation to grant outline planning permission, it was proposed by Councillor Gerard Rice and seconded by Councillor Sue Shinnick. The Chair moved onto voting.

(Councillor Akinbohun was unable to vote on the item under Constitution rules in Chapter 5, part 3, paragraph 13.5 as she had not been present at the start of the item.)

For: (8) Councillors Tom Kelly (Chair), Angela Lawrence, Sue Sammons, Graham Hamilton, David Potter , Gerard Rice, Sue Shinnick and Sue Little.

Against: (0)

Abstained: (0)

Application 17/01668/OUT Development Land East of Caspian Way and North and South of London Road, Purfleet, Essex was granted outline planning permission subject to the recommendations at pages 219-22 of the agenda.

(The Chair allowed for a short break of the meeting at 20.47 to allow members of the public and relevant officers to leave the meeting who had been present for application 17/01668/OUT.)

(The meeting recommenced at 20.53.)

105. 19/00219/FUL Barvills Farm, Princess Margaret Road, East Tilbury, RM18 8PA

Presented by Tom Scriven, Principal Planner, the application sought to demolish two agricultural buildings to the north of the site. In place of this, it was proposed that 3 detached, 4 bedroom dwellings would be erected with associated open cart lodges, hardstanding and vehicle access road and landscaping with proposed access to be from Station Road to the south of the site.

The site was on Green Belt and as the site did not constitute previously developed land, this was considered to be inappropriate development on the Green Belt in line with the National Planning Policy Framework. There were also no very special circumstances that would outweigh the harm to the Green Belt. The application was recommended for refusal.

The Chair opened the item up to the Committee for questions.

Noting the cowshed and herding unit within the photos shown in the presentation of the report, Councillor Little queried whether these were considered to be a 'footprint' of the site and if it would be a part of the proposals to be built. The Principal Planner answered that the current buildings on the site were not listed and the applicants were relying on the removal of these to enable their planned dwellings to be built.

Steve Taylor, Campaign to Protect Rural England Representative, asked the end date for the solar farm that was located behind the site. The Principal Planner replied that solar farms were given temporary permission on land which was for around 25 years. The solar farm behind the site had been in place around 2015.

The Chair opened the item up to the Committee for debate.

Mentioning the proposed Lower Thames Crossing (LTC), Councillor Rice said the proposed service area for the LTC was proposed to be 1000 yards from Barvills Farm. He went on to say that by central government legislation, Thurrock needed to build 32,000 homes and despite the approved application of the previous item heard (17/01668/OUT Purfleet Centre) that would give 2,850 homes, Thurrock would still be short on the given figure of 32,000. Councillor Rice continued on to say that Thurrock's land supply was just over a year when it should be 5 years. The proposal of the homes on Barvills Farm should be seized as the proposed LTC service station may be 1000 yards away and from the report, there had been no objections especially noting Natural England and Landscape and Ecology Advisor which would be the case used to allow the Committee to depart from Council policy.

Continuing on, Councillor Rice said that the Committee may need to pass planning applications similar to Barvills Farm and allow building to commence

on Green Belt. Homes were needed and this application was proposing 3 dwellings and the Committee had to bear in mind that the proposed LTC service station may be 1000 yards away.

Disagreeing with Councillor Rice's comments, Councillor Little did not agree with building on the Green Belt and said the figure of 32,000 homes to be built in Thurrock was not a correct figure. Regarding the proposed LTC service station, that was surmise and could or could not happen. Thurrock should protect their Green Belt and although the proposed dwellings were a nice idea, it was the wrong place and the wrong time.

As Ward Councillor for East Tilbury, Councillor Sammons said she would approve this application because there had been a lot of construction work around the area including in a Conservation Area. It was 3 proposed dwellings whereas the current construction work taking place were for more homes.

Agreeing, Councillor Lawrence said the proposed 3 dwellings would improve the area and balance out its character. She went on to say that there was confusion between green fields and Green Belt sites and that as central government looked at the White Paper every year, in 5 years' time, what was currently Green Belt may not be in the future.

Regarding the cowshed and herding unit, Steve Taylor said the buildings were just cowsheds and was not an opportunity to add on to the existing floor space with its removal. The site was not previously developed land, it was farm land. Referring to the LTC comments, Steve Taylor went on to say that the LTC proposal was irrelevant as it couldn't be predetermined what may or may not happen. Conservation areas and the Green Belt were two different terms and the consideration of applications within these areas would be different. In this case, the proposal would be harmful to the Green Belt.

The Chair said the Committee needed to consider whether the application would be harmful to the Green Belt and there were many more sites similar to Barvills Farm where applications could potentially be submitted to the Council. The Committee heard just a few of these as some of these needed to come before the Planning Committee. The Chair expressed concern on approving these type of applications on the Green Belt because if it the Committee became consistent in approving, it would be 'open season' on Thurrock's Green Belt.

Councillor Hamilton agreed with the Chair and said Thurrock may end up with no Green Belt. He would not be supporting the application.

Councillor Akinbohun said she would be supporting the application as it would develop the area and provide more housing.

Moving onto the Officer's recommendation for refusal of the application, this was proposed by the Chair and seconded by Councillor Hamilton. The Chair moved onto the vote.

For: (4) Councillors Tom Kelly (Chair), Councillor Graham Hamilton, Councillor Sue Little and Councillor Sue Shinnick.

Against: (4) Councillors Gerard Rice, David Potter, Sue Sammons and Angela Lawrence.

Abstained: (1) Councillor Akinbohun

With a tie in the votes, the Chair had the casting vote (in accordance with the Constitution Chapter 5, part 2, paragraph 5.2) which was voted for refusal of the application.

Application 19/00219/FUL Barvills Farm, Princess Margaret Road, East Tilbury, RM18 8PA was refused.

(The Planning Committee agreed to suspend standing orders for the rest of the evening to allow the rest of the agenda to be completed).

106. 19/00267/FUL Silver Springs, High Road, Fobbing, SS17 9HN

The Principal Planner, Tom Scriven, outlined the planning application which proposed the demolition of Inglefield and the erection of 6 detached dwellings with associated access road, landscaping and amenity space. The application also proposed side and rear extensions to the host dwelling Silver Springs. The site was located on the Green Belt and a large proportion was currently open garden land. As a result a significant proportion of the site could not be considered to be previously developed land. Even if the site was considered to be previously developed land, it would have a greater impact upon openness than the existing development on the site. Therefore the proposal was considered to be inappropriate development that would cause harm to the openness of the Green Belt. The circumstances put forward with the application were not considered to constitute very special circumstances which would clearly outweigh the harm to openness.

Since the publication of the agenda, an additional letter of objection had been received from a neighbour whilst there had been an additional letter of support from the applicant. The matters raised within the letter of objection had already been covered within the Officer Report. The letter of support was primarily concerned with the weight afforded to the very special circumstances submitted with the application. Having reviewed this letter it was considered that the appropriate weight had been afforded to these circumstances. Therefore, the application was recommended for refusal as set out in the agenda.

The Chair opened the item up to the Committee for questions.

Regarding the current construction, Thames View Farm, that was taking place on the other side of High Road, the Chair questioned how Thames View Farm had been approved for building and why the current application of Silver

Springs was recommended for refusal. The Principal Planner explained that Thames View Farm had been identified within the Site Allocations Development Plan Document which was covered in points 6.23 – 6.26 of the report. This was a consideration in the determination of the Thames View Farm application but had never been adopted. As a result this allocation no longer carried any weight. In addition Silver Springs did not fall within this draft allocation and the situation on the two sites was different as Thames Farm was a small holding whilst the Silver Springs site was open garden land.

The Chair questioned if there was an avenue for the applicant to apply for allocation if the application was to be refused. The Principal Planner answered that this was part of the Local Plan process and the case could be put forward that the site could be requested to be released from the Green Belt for allocation in the future Local Plan. This was a process that was outside of the consideration of a planning application. The Chair went on to ask if the applicant could apply immediately or would they have to wait for the revised Local Plan to develop. The Principal Planner said that the consultation on the Local Plan had recently closed but Andrew Millard added that the appropriate way to consider changes to the Green Belt was through the Local Plan process and not through a series of ad hoc planning applications. The current call for sites had closed but sites could still be put forward to the Council for consideration in the Local Plan at any time.

Raising concerns on setting a precedent, Councillor Hamilton said the Committee was already seeing an example of a previously approved application being used to support a similar application on a neighbouring site..

Councillor Lawrence commented that an area near the site did not appear to be Green Belt. Mentioning that she had used Google Earth to view the site, there was a scrap yard 500 yards away from the back of the houses on High Road. The Chair reminded the Committee that green fields should not be confused with Green Belt. The site was within the Green Belt and therefore should be considered against relevant Green Belt policy. Councillor Lawrence went on to say that a row of lovely houses would give a better landscape than the scrap heap that was behind the row of current houses along High Road.

Noting Councillor Lawrence's comments, Councillor Rice suggested a site visit as the Committee had not been aware of a scrap heap situated within the open garden space. It would be difficult to make a decision without seeing the site and considering the approved building that was taking place on Thames View Farm next door to the site which was the Silver Springs application.

The Chair invited the registered Speakers to address the Committee.

Ward Councillor, Councillor Huelin, presented her statement in objection to the application.

Anthony Davis, a representative for a Resident, presented his statement in objection to the application.

James Willey, the Applicant, presented his statement in support of the application.

The Chair opened the item to the Committee for debate.

Following Councillor Rice's proposal of the site visit, Councillor Shinnick seconded the site visit. The reasons for the site visit were to enable the Committee to see what was on the proposed site as Google Earth showed a scrap yard 500 yards from the back of the houses and also to view how the site differed to the approved Thames View Farm site.

The Chair moved the Committee onto the vote for a site visit.

For: (8) Councillors Tom Kelly, Gerard Rice, Abbie Akinbohun, David Potter, Sue Sammons, Sue Shinnick, Sue Little and Angela Lawrence.

Against: (1) Councillor Graham Hamilton.

Abstained: (0)

The application 19/00267/FUL Silver Springs, High Road, Fobbing, SS17 9HN was deferred to a later Committee meeting once a site visit had taken place.

107. 19/00271/FUL Land Adj A13 A1306 and to front of 191-235 Purfleet Road, Aveley, Essex

Presented by Chris Purvis, Principal Planner, the application sought full planning permission for the erection of a new warehouse and distribution centre with relevant facilities to accommodate staff and users of the warehouse. The proposal would use the newly created access point from Purfleet Road and a 'left-in' access from London Road along with landscaping, boundary and drainage treatment.

Table 3.4 within the report pointed out the differences between this current application and the previous application that had been heard at the Planning Committee in September 2018. This application was larger than that application but smaller than the approved outline/reserved matters application which were all live consents. The current application demonstrated improvements in terms of design, benefits to the Borough in terms of economic growth and job creation. The site is well linked to the nearby strategic road network for the A13 and M25 from the Wennington Interchange for HGVs. The application was recommended for approval subject to the planning conditions and obligations stated within the report

The Chair opened the item up to the Committee for questions.

Councillor Little noted the number of available HGV parking spaces and questioned whether these were private or open to all HGVs. The Principal Planner answered that the number of available HGV parking spaces were less than the previous application but the application includes provision for

van movements and that these were proposed to be on either side of the site. The previous application included HGV docking on 3 sides of the building. Councillor Little went on to ask if there would be cafes and toilets for people using the site. The Principal Planner confirmed that there were welfare facilities located within the buildings and enough to cater for staff and other users.

Noting the scale of the proposed warehouse and distribution centre, Steve Taylor wondered whether there was an opportunity for the local businesses from Botany Quarry (that was mentioned in the earlier application of the evening 17/01668/OUT Purfleet Centre) to relocate to this site. The Principal Planner replied that the applicant had an end user for the proposed site. The Chair commented that Steve Taylor's suggestion was good and one to bear in mind.

Councillor Lawrence said that planning permission had already been granted on the first application from September 2018 and the Applicant must have noted it was not big enough at the time. She sought more detail on point 6.29 of the report as the noise impact description seemed vague. The Principal Planner explained that noise control through the construction process could be managed through a Construction Environmental Management Plan planning condition on big construction projects. The Applicant would need to provide measures to the Council on how the site would be managed.

Regarding piling works, Councillor Lawrence asked when piling would begin and at what times of the day. The Principal Planner answered that the application was going through the consultation process and the conditions of piling were set out in points 19 and 20 on page 382 of the report and would form part of the Construction Environmental Management Plan.

Noting the 7m bund with a 2m high acoustic to be constructed above the site, Councillor Lawrence questioned if this would be installed before construction took place. The Principal Planner explained that this was a landscape implementation and may not be installed before construction happened. However, it would be in place before the site was fully operational. Councillor Lawrence stated that this was not sufficient. On point 6.30, she asked how much room there was for expansion. If the warehouse was built, there would be increased traffic with vehicle movements and more fumes. She thought the proposal should move onto a bigger site as it would affect the residents nearby. Regarding layout, the Principal Planner said that the plan showed the development would occupy all of the site and appeared to have been designed to its maximum capacity within the site. The previous application proposed a 24 hour movement and this application would be the fall back. This application also proposed a larger landscape bund which would reduce the noise levels for surrounding residents.

On the landscape bund, Councillor Rice asked whether it could be incorporated into the s106 agreement as a condition that the bund be installed before construction began. With piling, there should be set times implemented such as between the hours of 8.30 to 17.00 to make life more comfortable for

nearby residents. Councillor Rice went on to say that on the last application, there had been discussion on planting big trees in front the site to provide a screen between the site and homes. He was concerned that with construction works, there would be lights constantly on along with noise that came with construction and asked if it could be incorporated into the conditions of the application that the bund be implemented first. The Principal Planner answered that there was a condition in regards to landscape implementation which was upon occupation of development. It would be down to the Agent to accept the condition. Regarding the detail for piling and hours of operation for construction works, the Principal Planner said the hours would be discussed and agreed upon.

Commenting on the constant HGV movements that would result from the use of the warehouse from Grays, Councillor Hamilton asked whether the entrance into the road from the roundabout could be widened. The Principal Planner explained that any HGVs from Grays could use the A13 to access the site and if they came via London Road then they would need to use the Wennington roundabout to the access the 'left in' access on London Road. As this application had less parking spaces for HGVs, there would be more vehicle movement from vans and small vehicles than HGVs.

The Chair invited the register Speakers to address the Committee.

Alastair Bird, the Agent of the Applicant, presented his statement in support of the application.

The Chair opened the item up to the Committee for debate.

Councillor Rice thought the words from the Agent were encouraging where it was said that the bund could be installed first before construction began and the native species that would be planted along the road. He went on to say that the fact that the built warehouse would create a lot of jobs was significant and thought that the Applicant had provided enough detail for the Committee to approve the application.

Councillor Lawrence said residents and the environment had to be considered as there would be constant vehicle movement along the road.

The Chair said that the application was recommended for approval from Officers and if the application was approved, he hoped it would be the last time seeing this application.

Moving onto the Officer's recommendation of approval subject to conditions, it was proposed by the Chair and seconded by Councillor Sue Shinnick. The Chair moved onto the vote.

For: (7) Councillors Tom Kelly (Chair), Graham Hamilton, David Potter, Gerard Rice, Sue Shinnick, Abbie Akinbohun and Sue Little.

Against: (2) Councillors Angela Lawrence and Sue Sammons.

Abstained: (0)

Application 19/00271/FUL Land adjacent A13 A1306 and to front of 191 – 235 Purfleet Road, Aveley, Essex was approved subject to conditions.

Before moving onto the next item, the Chair asked for nominations for a Member to chair the next item.

Councillor Shinnick nominated Councillor Rice. Councillor Rice seconded.

There were no other nominations and the vote across the Committee was unanimous.

108. 17/00723/DVOB - DP World Development, London Gateway, Stanford Le Hope

The Chair excused himself due to his declared pecuniary interest on this application. Councillor Rice took over as Chair.

The Principal Planner, Matthew Gallagher, presented the application which sought to modify an existing s106 planning obligation associated with the London Gateway Logistics Park Local Development Order (the LDO). It was recommended that the existing s106 agreement be varied in accordance with the table as set out at Annex 1 to the report.

The Committee was satisfied with the report.

The Committee moved onto the vote on the Officer's recommendations.

For: (8) Councillors Rice, Abbie Akinbohun, David Potter, Sue Sammons, Sue Shinnick, Sue Little, Graham Hamilton and Angela Lawrence.

Against: (0)

Abstained: (0)

Application 17/00723/DVOB DP World Development, London Gateway, Stanford le Hope was approved.

The meeting finished at 10.20 pm

Approved as a true and correct record

CHAIR

DATE

**Any queries regarding these Minutes, please contact
Democratic Services at Direct.Democracy@thurrock.gov.uk**

6 June 2019	ITEM: 6
Planning Committee	
Planning Appeals	
Wards and communities affected: All	Key Decision: Not Applicable
Report of: Leigh Nicholson, Interim Assistant Director – Planning, Transport and Public Protection.	
Accountable Assistant Director: Leigh Nicholson, Interim Assistant Director – Planning, Transport and Public Protection.	
Accountable Director: Andy Millard, Interim Director – 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: 18/01761/FUL**

Location: 15 Alfred Road, Aveley

Proposal: Erection of two storey dwelling.

3.2 **Application No: 18/01027/FUL**

Location: Downwell Demolition Ltd, Newcastle House, Oliver Close

- Proposal: Two-storey side extension to form training room & further office space
- 3.3 Application No: 18/00155/LBC**
- Location: 7 Hollow Cottages, London Road, Purfleet
- Proposal: Erection of a rear glass conservatory
- 3.4 Application No: 18/01803/HHA**
- Location: 61 King Edward Drive, Grays
- Proposal: Hip to gable roof extension, three front rooflights, insertion of new windows to the northern flank elevation and alteration to the roof including a first floor rear extension with Juliet balcony.
- 3.5 Application No: 18/01802/FUL**
- Location: Beauchamp Place, Malvern Road, Grays
- Proposal: Use of land to provide 5 pitches for Gypsy / Traveller families a total of 5 mobile homes, 5 touring caravans and 1 dayroom
- 3.6 Application No: 18/01610/FUL**
- Location: 246 Heath Road, Chadwell St Mary
- Proposal: Proposed two storey infill extension to south east corner of scheme approved under ref. 16/01166/FUL (Proposed change of use from hostel to residential (Use Class C3) to form 2 new dwellings with associated external reconfigurations to both dwellings)
- 3.7 Application No: 18/00811/OUT**
- Location: Land Adjacent Gunning Road Newburgh Road And Globe Industrial Estate, Towers Road, Grays
- Proposal: Outline planning application for four houses, detached garage, access, associated hardstanding, improved sports pitch and play equipment. To include determination of the matters of access, landscaping, layout and scale (matters relating to appearance reserved)
- 3.8 Application No: 18/01319/HHA**

Location: 41 St Georges Avenue, Grays, Essex, RM17 5XB

Proposal: Two storey side extension and single storey rear and front extension including porch and garage conversion.

3.9 Application No: 19/00043/OUT

Location: 40 High Road Fobbing Essex SS17 9HN

Proposal: Outline planning permission with all matters (except for scale) reserved for construction of 4 detached single storey dwellinghouses (affordable) with associated parking

3.10 Application No: 18/01817/HHA

Location: 22 Claudian Way, Chadwell St Mary, Essex, RM16 4QB

Proposal: Single storey rear extension

4. Appeals Decisions:

The following appeal decisions have been received:

4.1 Application No: 18/01178/HHA

Location: 16 Rowley Road, Orsett

Proposal: Retrospective application for fence with concrete posts

Decision: Appeal Dismissed

Summary

4.1.1 The main issue under consideration in this appeal was the impact of the proposal upon the character of the area and pedestrian and highway safety.

4.1.2 The Inspector commented that the residential estate is characterised by its openness, where open grass verges, low railing and hedges are common. The Inspector found the proposed fence to be unacceptable, commenting that it's siting, height and materials make it visually intrusive. The Inspector found the fence to dominate the corner plot detracting from the openness of the area, an essential defining characteristic that helps to give the area a sense of place.

4.1.3 In relation to highway and pedestrian impacts, the Inspector noted that sight visibility splays would enhance the visibility for drivers and pedestrians and that this would satisfactorily address the second reason for refusal.

4.1.4 Notwithstanding the highway and pedestrian impacts, the Inspector dismissed the appeal, commenting that the development harms the character and appearance of the host property and the surrounding area, contrary to policies CST22 and PMD2 of the Core Strategy and Policies for Management of Development (as amended) adopted in January 2015 and the NPPF.

4.1.5 The full appeal decision can be found online.

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

Location: The Kings Head 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)

Decision: Appeal Allowed
Application for costs refused

Summary

4.2.1 The Inspector considered the main issue to be the current and future potential of the appeal site as a community facility and the effect of its loss.

4.2.2 The public house was designated as an Asset of Community Value (ACV) in December 2016. At the hearing the appellant and Council agreed that the public house is not commercially viable (based upon the findings of the appellant's viability report which are broadly agreed with the viability report prepared on behalf of the Council).

4.2.3 The key area of dispute between the appellant, the Council and interested parties was whether it would be viable for a community group to run the public house. West Tilbury Community Pub Ltd (WTCPL) had been established as a community group and was represented at the hearing.

4.2.4 An assessment was made as to the operating costs as well as the repairs to fixtures and fittings in order to make the public house operational. The Inspector concluded that the report (submitted on behalf of WTCPL) did not provide sufficient evidence that the public house could be run by a community group in a viable manner.

- 4.2.5 The Inspector agreed that the loss of the public house would have a negative effect on local community facilities. There would also be conflict with CS Policy CSTP10 as noted above and it would not comply with NPPF paragraphs 83(d) and 92(c). However, the Inspector considered the degree of negative effect would be tempered by the fact that the public house is not viable as a commercial venture. The Inspector could only afford moderate weight to the negative effects and policy conflict.
- 4.2.6 The Inspector also afforded moderate weight to the provision of one additional dwelling to the 5 year housing supply shortfall, while it would also secure the refurbishment and long-term use of a listed building.
- 4.2.7 In conclusion, the Inspector stated that it had not been demonstrated that the appeal site has current or future potential as a community facility. The effect of its loss and the conflict with CS Policy CSTP10, while negative he argued, would not be sufficient to dismiss the appeal when weighed against the benefits of the proposed development. Therefore, the Inspector concluded, this indicates that planning permission should be granted in this instance and allowed the appeal.
- 4.2.8 The Appellant also submitted an application for an award for costs on the basis of procedural and substantive matters. The Inspector found no unreasonable behaviour leading to wasted or unnecessary expense in relation to procedural or substantive matters and refused the appeal for costs.
- 4.2.9 The full appeal decision can be found online.

4.3 **Application No: 18/01131/PIP**

Location: Green House, Robinson Road, Horndon On The Hill, Essex, SS17 8PU

Proposal: The application site seeks Permission in Principle for two detached 3/4 bedroom bungalows on the front part, of what forms a larger site, located on the south side of Robinson Road.

Decision: Appeal Dismissed

Summary

- 4.3.1 The Inspector considered the main issue to relate to the principle of development based upon the location, land use and amount of development.
- 4.3.2 The construction of new buildings is inappropriate in the Green Belt unless it would meet the exceptions criteria set out in paragraph 145 of the Framework. One of the exceptions is limited infilling in villages.

4.3.3 Whilst there is existing residential development along Robinson Road, the Inspector did not consider this location to have the characteristics of a village, therefore he did not consider the site would constitute infilling within a village. As such, the proposal would not fall within the exception criteria and therefore the proposal, by definition, would be inappropriate development.

4.3.4 The Inspector found that the proposal would be inappropriate development in the Green Belt as defined by the Framework. The Inspector concluded that other considerations raised by the Appellant held little weight and did not clearly outweigh the harm, which is the test that they have to meet. The proposed development would, by definition, be harmful to the Green Belt, harm which the Framework indicates should be given substantial weight.

4.3.5 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: 18/01802/FUL

Location: Beauchamp Place, Malvern Road, Grays

Proposal: Use of land to provide 5 pitches for Gypsy / Traveller families a total of 5 mobile homes, 5 touring caravans and 1 dayroom

Dates: 6 August 2019 (3 days)

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	3												3
No Allowed	1												1
% Allowed													33.3%

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. 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

Interim Assistant Director of Planning, Transport and Public Protection

Place

6 June 2018	ITEM: 7
Planning Committee	
2018/19 Planning Performance Report	
Wards and communities affected: All	Key Decision: Not Applicable
Report of: Leigh Nicholson, Interim Assistant Director of Planning, Transport and Public Protection	
Accountable Assistant Director: Leigh Nicholson, Interim Assistant Director of Planning, Transport and Public Protection	
Accountable Director: Andy Millard, Interim Director of Place	

Executive Summary

In 2018/19 Thurrock maintained its position as one of the fastest, most accessible and proactive planning services in the Country. Through developing strong relationships with the development industry, forward thinking and commercial awareness, the Service continues to drive investment and growth in the Borough.

This report provides Members with an overview of the past year in terms of the performance of the Service.

1. Recommendation(s)

1.1 To note the report

2. Performance in 2018/19

2.1 In 2018/19, 801 planning applications were determined and 76% of those applications were approved. During the period, the Authority also maintained its position within the top 1% of Local Planning Authorities in the Country (339 Authorities in total) in terms of the timeliness of decisions made.

2.2 The performance and approach of the Local Planning Authority continues to be one of the primary factors that developers take into account when deciding whether to invest in a particular location. Indeed, significant investment can either be attracted or deterred by these factors. Sustaining a position so highly in the national tables places Thurrock in an extremely good position to attract investment from outside of the Borough

whilst also providing homeowners and existing business within the Borough with confidence.

- 2.3 Much of the continued success of the team can be attributed to the proactive and professional culture within the Development Management Team and, in particular, the robust pre-application advice service offered.
- 2.4 Through pre-application discussions, applicants are able to hone and develop their schemes with input from the planning officer, Members and relevant teams, leading to the submission of better quality schemes that are 'right first time'. Through pre-application discussions officers and applicants are also able to negotiate head of terms for s.106 agreements prior to the submission of the application and are also able to agree conditions at an earlier stage, again providing developers with confidence and stability to make commercial decisions.
- 2.5 The service continues to work closely with local planning agents to develop new initiatives to suit the ever changing needs of the customer. Through Planning Performance Agreements (PPA's) the Planning Service allows applicants to set their own timescales for extensive pre-application dialogue and provision can be made for a wide range of topic specific meetings, workshops and Member briefings.

3. The value of planning decisions to Thurrock

- 3.1 The economic benefit of positive planning decisions stretches well beyond initial building works. New homes and commercial development brings people, spending, council tax, business rates and drives the market to provide further development. Taking all together, the positive decisions made in 2018/19 translate to over £56 million to Thurrock's economy. This is a product of 113,835 sq.m of commercial floor space, 1151 new homes and 1179 new jobs.
- 3.2 Furthermore, in the same period the Planning Service negotiated and secured £3,043,336 through s.106 agreements to provide essential infrastructure to mitigate the impact of new development in the Borough. These capital projects are vital in ensuring that the Borough is not burdened by new development but rather it can flourish. The s.106 agreements secured a range of packages including education provision, healthcare facilities, new recreation spaces and highway infrastructure.

4. Design Quality and Place Making

- 4.1 It is vital that new development in the Borough is of the highest design quality and the Planning Service is committed to shape schemes to create quality places in Thurrock and challenge schemes that do not meet the standard.
- 4.2 During 2018/19 the Planning Service continued its relationship with Design

Council a number of development proposals being taken through the Thurrock Design Review Panel. The design review process continues to be valuable to applicants as it exposes their schemes to a panel of industry experts who are able to help shape and refine schemes alongside the planning officers, prior to submission. Through pre-application dialogue and involvement with Design Council, the Planning Service is demonstrably improving the quality of place and enhancing the attractiveness of Thurrock as a place to live and invest.

5. Commercialization of the Service

- 5.1 During 2018/19, the Planning Service continued its Managed Service arrangement with Brentwood Borough Council, whereby the Service provides management support to Brentwood's Development Management team. The relationship has continued to be successful, resulting in an improved service at Brentwood (both in terms of quality and performance) and by providing an income stream for Thurrock which protects jobs and services locally.
- 5.2 Crucially, these trading opportunities offer a way by which the Service can positively contribute to the Council's wider financial Strategy, without having to cut jobs and services locally.

6. Conclusion

- 6.1 2018/19 saw the Planning Service continue to perform to a high level recognized by MHCLG performance tables as being amongst the very highest performing authorities in the Country. Through a modern and progressive approach to development management the team has maintained its strong track record and has secured significant investment within the Borough, contributing £56 million toward the Thurrock economy.
- 6.2 Furthermore, by championing design quality, the Service is demonstrably changing perceptions of the Borough. The track record and reputation of the Service has also created commercial opportunities to expand and strengthen the Service for the benefit of Thurrock's residents and businesses.

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

N/A

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

- 8.1 No direct impacts arising from this report, but more widely the Service makes a significant contribution to the delivery of the Council's growth and regeneration ambitions.

9. Implications

9.1 Financial

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

The planning approvals in 2018/19 translate to over £56 million to Thurrocks economy. In the same period, £3,043,336 was secured through s.106 agreements to provide essential infrastructure to mitigate the impact of new development in the Borough. These capital projects are vital in ensuring that the Borough is not burdened by new development but rather it can flourish.

9.2 Legal

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

There are no legal implications to this report.

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 planning documents including application forms, drawings and other supporting documentation can be viewed online: www.thurrock.gov.uk/planning.

11. Appendices to the report

- None

Report Author:

Leigh Nicholson

Interim Assistant Director of Planning, Transport and Public Protection
Place

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Reference: 19/00267/FUL	Site: Silver Springs High Road Fobbing SS17 9HN
Ward: Corringham And Fobbing	Proposal: Demolition of Inglefield, part single/part two storey front, side and rear extensions with front balcony to Silver Springs and construction of six detached houses to rear with associated access road, landscaping and amenity space

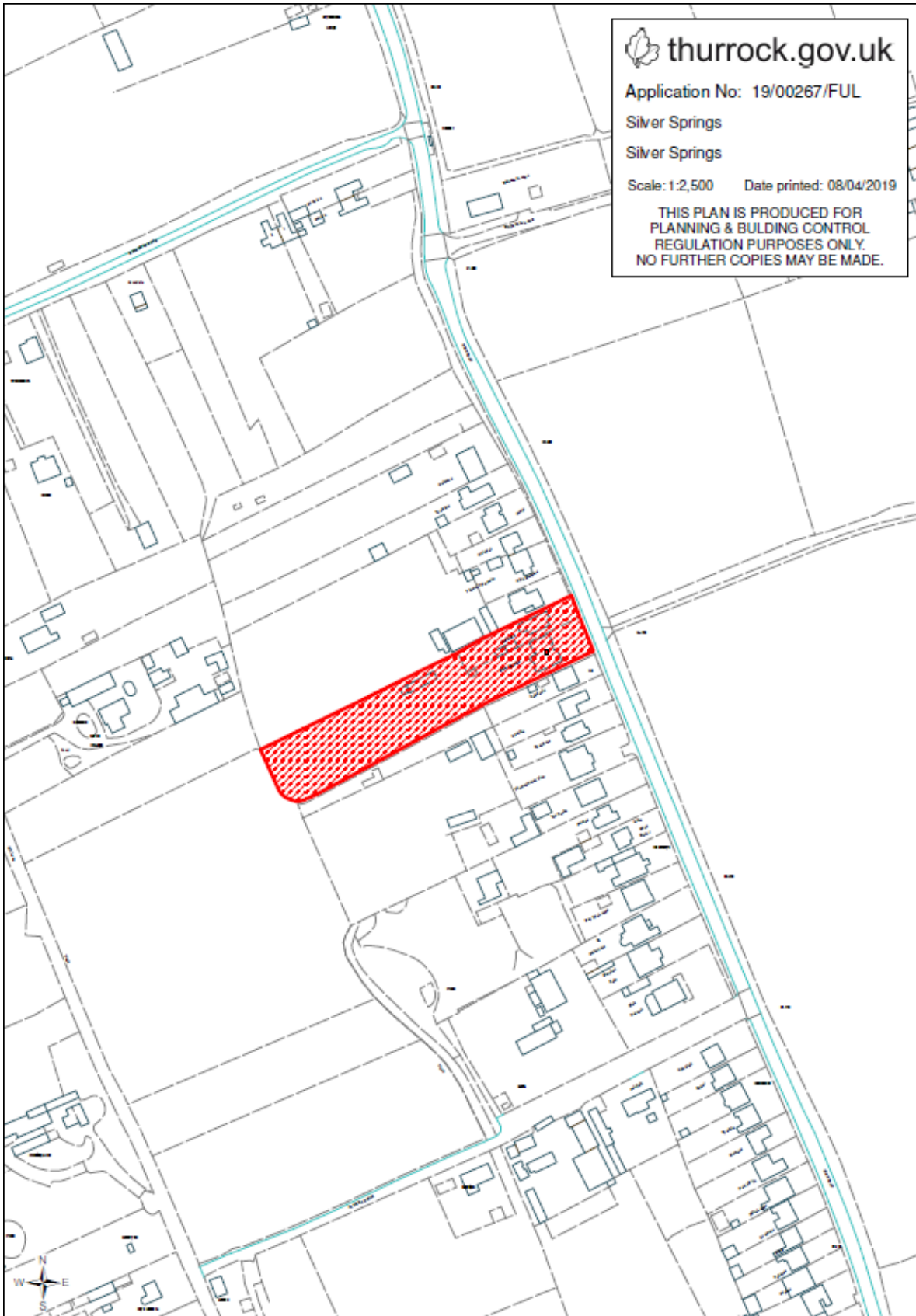
Plan Number(s):		
Reference	Name	Received
	Tree Protection Plan	20 February 2019
1634-01	Location Plan	20 February 2019
1634-05	Existing Elevations	20 February 2019
1634-06	Existing Floor Plans	20 February 2019
1634-08	Proposed Floor Plans	20 February 2019
1634-09	Proposed Elevations	20 February 2019
1634-11	Proposed Studio	20 February 2019
1634-97	Existing Site Layout	20 February 2019
1634-98D	Proposed Site Plan	5 April 2019
1634-99D	Proposed Roof Plans	5 April 2019
1634-100	House Type A – Plot 1	20 February 2019
1634-101	House Type B – Plot 2	20 February 2019
1634-102A	House Type A Handed Plot 3	4 March 2019
1634-103A	House Type A Handed Plot 4	4 March 2019
1634-104	House Type C – Plot 5	20 February 2019
1634-105	House Type D – Plot 6	20 February 2019
1634-106	Proposed Street Scene	20 February 2019
1634-107	Bell Mouth Junction Plan	20 February 2019
1634-108	Swept Path Analysis	20 February 2019
1634-150C	Vehicle Access to Front of Site	5 April 2019

The application is also accompanied by: <ul style="list-style-type: none"> - Arboricultural Report - Transport Statement
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Applicant: c/o Smart Planning		Validated: 20 February 2019	
		Date of expiry: 7 June 2019 (Extension of time agreed with applicant)	
Recommendation: Refuse			

1.0 BACKGROUND

- 1.1 Consideration of this application was deferred at the 25 April 2019 Planning Committee meeting to enable a site visit to take place. Members were due to visit the site prior to the 6 June 2019 Planning Committee meeting.
- 1.2 A copy of the report presented at the 25 April 2019 meeting is attached.
- 1.3 The application remains recommended for refusal for the reasons outlined in the attached report.



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Planning Committee 25.04.2019	Application Reference: 19/00267/FUL
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Reference: 19/00267/FUL	Site: Silver Springs High Road Fobbing SS17 9HN
Ward: Corringham And Fobbing	Proposal: Demolition of Inglefield, part single/part two storey front, side and rear extensions with front balcony to Silver Springs and construction of six detached houses to rear with associated access road, landscaping and amenity space

Plan Number(s):		
Reference	Name	Received
	Tree Protection Plan	20 February 2019
1634-01	Location Plan	20 February 2019
1634-05	Existing Elevations	20 February 2019
1634-06	Existing Floor Plans	20 February 2019
1634-08	Proposed Floor Plans	20 February 2019
1634-09	Proposed Elevations	20 February 2019
1634-11	Proposed Studio	20 February 2019
1634-97	Existing Site Layout	20 February 2019
1634-98D	Proposed Site Plan	5 April 2019
1634-99D	Proposed Roof Plans	5 April 2019
1634-100	House Type A – Plot 1	20 February 2019
1634-101	House Type B – Plot 2	20 February 2019
1634-102A	House Type A Handed Plot 3	4 March 2019
1634-103A	House Type A Handed Plot 4	4 March 2019
1634-104	House Type C – Plot 5	20 February 2019
1634-105	House Type D – Plot 6	20 February 2019
1634-106	Proposed Street Scene	20 February 2019
1634-107	Bell Mouth Junction Plan	20 February 2019
1634-108	Swept Path Analysis	20 February 2019
1634-150C	Vehicle Access to Front of Site	5 April 2019

The application is also accompanied by: - Arboricultural Report
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- Transport Statement	
Applicant: c/o Smart Planning	Validated: 20 February 2019 Date of expiry: 26 April 2019 (Extension of time agreed with applicant)
Recommendation: Refuse	

This application is scheduled for determination by the Council's Planning Committee because the application was called in by Cllr. G. Rice, Cllr. J. Potheary, Cllr. S. Liddiard, Cllr. O. Gerrish and Cllr. B. Rice to consider the proposal against Green Belt policy.

1.0 DESCRIPTION OF PROPOSAL

- 1.1 This application seeks planning permission for the demolition of an existing dwelling (Inglefield) and the erection of six detached houses with associated access road, landscaping and amenity space. The application also proposes side and rear extensions to the host dwelling (Silver Springs).
- 1.2 Access to the development would be provided at the northern corner of the site; the new entrance would lead to the rear of the site where six detached dwellings would be laid out in a cul-de-sac arrangement.
- 1.3 The proposed houses would all be two storey dwellings with regular roof styles and proportions which exhibit traditional design features. Each dwelling would have either private off street parking or garages and parking.

2.0 SITE DESCRIPTION

- 2.1 The site comprises approximately 0.55 Ha and is to the north of the village of Fobbing. The village is characterised by a single dwelling deep linear pattern of development.
- 2.2 The site is located on the western side of High Road and is occupied by a single dwellinghouse with a large grassed garden area to the rear. The site is located within the Green Belt forming part of an Established Residential Frontage.

3.0 RELEVANT HISTORY

Application reference	Description	Decision

Planning Committee 25.04.2019		Application Reference: 19/00267/FUL
16/01242/FUL	Seven detached houses comprising one replacement dwelling, six new dwellings with access road, landscaping and amenity space.	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

PUBLICITY:

4.2 This application has been advertised by way of individual neighbour notification letters and public site notice which has been displayed nearby. There has been seven comments of objection. The objections raised are:

- Impact of development upon the Green Belt;
- Impact of development upon the character of the village;
- Loss of Privacy;
- Scheme represents overdevelopment;
- Greenfield site / not previously developed land.

4.3 ARCHAEOLOGY:

No objection.

4.4 BRITISH PIPELINE ASSOCIATION:

No objection.

4.5 ENVIRONMENTAL HEALTH:

No objection.

4.6 ESSEX AND SUFFOLK WATER:

No objection.

4.7 HIGHWAYS:

No objection.

4.8 LANDSCAPE AND ECOLOGY:

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No objection, subject to conditions.

5.0 POLICY CONTEXT

National Planning Guidance

5.1 National Planning Policy Framework (NPPF)

The NPPF was published on 27 March 2012 and amended on 19 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:

5. Delivering a sufficient supply of homes
11. Making effective use of land
13. Protecting Green Belt land

5.2 Planning Practice 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
- Use of Planning Conditions

5.3 Local Planning Policy

Local Planning Policy Thurrock Local Development Framework (2015)

The “Core Strategy and Policies for Management of Development Focused Review: Consistency with National Planning Policy Framework Focused Review” was adopted by Council on the 28 February 2015. The following policies apply to the proposals:

Spatial Policies:

- CSSP1 (Sustainable Housing and Locations);
- OSDP1 (Promotion of Sustainable Growth and Regeneration in Thurrock)¹

Thematic Policies:

- CSTP1 (Strategic Housing Provision)
- CSTP2 (The Provision of Affordable Housing)
- CSTP19 (Biodiversity)
- CSTP22 (Thurrock Design)
- CSTP23 (Thurrock Character and Distinctiveness)²

Policies for the Management of Development:

- PMD1 (Minimising Pollution and Impacts on Amenity)²
- PMD2 (Design and Layout)²
- PMD6 (Development in the Green Belt)²
- PMD7 (Biodiversity, Geological Conservation and Development)²
- PMD8 (Parking Standards)³
- PMD9 (Road Network Hierarchy)

[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. ³Wording of forward to LDF-CS Policy 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.

6.0 **ASSESSMENT**

6.1 The principal issues to be considered in the determination of this application are:

- I. Principle of development and impact upon the Green Belt
- II. Access, traffic and highway impacts
- III. Site layout and design
- IV. Landscape and ecology
- V. Amenity and neighbours
- VI. Developer contributions

I. PRINCIPLE OF DEVELOPMENT AND IMPACT UPON THE GREEN BELT

6.2 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

6.3 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

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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.

- 6.4 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 143 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. The NPPF sets out a limited number of exceptions and the current proposal does not fall within the listed exempt categories.
- 6.5 The proposal would introduce six new detached dwellings and extensions to the host property. The proposal would clearly have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. 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

- 6.6 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.
- 6.7 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.

- 6.8 In response to each of these five purposes:

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

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6.9 The site is located along the main road in Fobbing. 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

6.10 The development would not conflict with this Green Belt purpose.

C. to assist in safeguarding the countryside from encroachment

6.11 With regard to the third Green Belt purpose, the proposal would involve built development on what is currently an open and undeveloped part of the site. It is therefore considered that the proposal would constitute an encroachment of built development into the countryside in this location; the construction of six houses would constitute material harm to the openness character of the Green Belt. The development would consequently conflict with this purpose.

D. to preserve the setting and special character of historic towns

6.12 Fobbing is a historic village but the proposal is not within an area which has special character. Therefore, 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

6.13 In general terms, the development could occur in the urban area and, in principle; there is no spatial imperative why Green Belt land is required to accommodate the proposals. The proposed development is inconsistent with the fifth purpose of the Green Belt.

6.14 In light of the above analysis, it is considered that the proposals would be contrary to purposes c and e of the above listed purposes of including land in the Green Belt. Substantial weight should be afforded to these factors.

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

6.15 Neither the NPPF nor the Adopted Core Strategy provide guidance as to what can comprise 'Very Special Circumstances', either singly or in combination. However,

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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'. Ultimately, whether any particular combination of factors amounts to very special circumstances will be a matter of planning judgment for the decision-taker.

6.16 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*".

6.17 The Design & Access Statement sets out the applicant's Very Special Circumstances which are assessed below:

a) Lack of 5 years housing supply

6.18 The applicant has argued that the Council's lack of 5 year housing supply is a very special circumstance which should be afforded weight.

Consideration

6.19 The Council acknowledges that there is presently a lack of 5 year housing supply. However the NPPG advises that 'unmet housing need 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' (Paragraph 034 Reference ID: 3-034-20141006).

6.20 The current proposals would provide a limited benefit in contributing towards addressing the shortfall in the supply of new housing as set out in Core Strategy policy delivery targets and as required by the NPPF. The matter of housing delivery contributes towards very special circumstances and should therefore be accorded significant weight in the consideration of this application. However, as noted above, this single issue on its own cannot comprise the very special circumstances to

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justify inappropriate development, and as such, for such circumstances to exist this factor must combine with other considerations.

b) £200,000 financial contribution towards affordable housing

- 6.21 Whilst the threshold for provision of affordable housing is 10 of more houses, the applicant has put forward a pledge to contribute £200,000 towards affordable housing within the borough.

Consideration

- 6.22 The Council has no policies which would allow for contributions which are not required to be paid for affordable housing. Additionally, the Council's Housing Development Manager has confirmed this level of financial contribution would equate approximately one affordable housing unit which would be of negligible benefit to the borough.
- 6.23 In light of the above, it follows that the arguments based upon a voluntary affordable housing contribution cannot be given any weight in the determination of this application.

c) The residential development to the rear of Thames View Farm adjacent to the site

- 6.24 Under this heading the applicant has argued that the granting of planning permission for residential development on the adjacent site at Thames View Farm should be considered a very special circumstance.
- 6.25 The adjacent site was identified as a potential housing site in the January 2013 draft Site Allocations Development Plan Document (SSADPD). The applicant has stated that given that the land at Hill Crest and Thames View was found to be suitable for allocation, and in the context of a housing land supply shortage, it is logical to presume that a larger site would have been welcomed and found to be equally suitable.

Consideration

- 6.26 The planning application at Thames View Farm related to a site that was included in the January 2013 SSADPD and this combined with a number of factors, tipped the balance towards allowing approval of the application. The fact that the adjacent site gained planning permission in 2015 does not mean that this site should automatically obtain planning permission. This site has never been included within the SSADPD and is therefore fundamentally different to Thames View Farm. The case for the Thames View Farm development was also based on the former usage of the site as a small-holding and the buildings on the site, this is very different to an open rear garden area which the site at Silver Springs consists of. This factor

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should therefore be afforded no weight in the consideration of this planning application.

d) Provision of executive homes constructed to a high standard

- 6.27 The applicant states that the development would deliver high quality, larger homes in the Borough for which there is a need and they would retain/attract captains of industry to the area.

Consideration

- 6.28 Whilst the Council expects all new development to be of the highest quality, there is no identified need within the Core Strategy or the Council’s Housing Needs Survey specifically for larger homes. The provision of larger houses which would be constructed to a high standard is not considered a VSC as there is no particular reason why these houses should be in Green Belt rather than a brownfield site. Accordingly, this factor should be given no weight in the determination of the application as a Very Special Circumstance.

e) Increased ecological value of the site

- 6.29 The applicant has stated they would accept a condition to ensure the ecological value of the site is improved. They consider that the ecological improvements that could be gained on the site constitute a VSC.

Consideration

- 6.30 It is not accepted that the ecological value of an open site free of built form could be improved by building six detached dwellings. The Council’s Landscape and Ecology Advisor notes in their consultation response ‘*Overall the development continues to provide little space for new planting or private amenity space*’. Accordingly, this factor should be given no weight in the determination of the application as a Very Special Circumstance.
- 6.31 A summary of the weight which has been placed on the various Green Belt considerations is provided below:

Summary of Green Belt Harm and Very Special Circumstances			
Harm	Weight	Factors Promoted as Very Special Circumstances	Weight
Inappropriate	Substantial	Lack of 5 years housing	Significant

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development		supply	weight
Reduction in the openness of the Green Belt			
Conflict (to varying degrees) with a number of the purposes of including land in the Green Belt – purposes a, c and e.		£200,000 towards affordable housing	No weight
		Residential development next door	No weight
		Provision of executive homes which are well constructed	No weight
	Increase ecological value of site	No weight	

6.32 As ever, 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 harm to the Green Belt with reference to inappropriate development and loss of openness. Several factors have been promoted by the applicant as ‘Very Special Circumstances’ and it is for the Committee to judge:

- i. the weight to be attributed to these factors;
- ii. whether the factors are genuinely ‘very special’ (i.e. site specific) or whether the accumulation of generic factors combine at this location to comprise ‘very special circumstances’.

6.33 Each circumstance put forward by the applicant attempts to redress that balance in favour of the development. In accordance with the NPPF, the harm has to be *clearly* outweighed by Very Special Circumstances. Taking into account all Green Belt considerations, Members are advised that the case associated with this development proposal falls some considerable way short of constituting genuine very special circumstances and it follows that the application should be refused. There are no planning conditions that could be used to make the proposal acceptable in planning terms.

II. ACCESS, TRAFFIC AND HIGHWAY IMPACTS

6.34 The proposal would make suitable off street parking provision for all the units and access to the High Road in accordance with Council standards, subject to conditions.

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- 6.35 The proposed access is to rationalise the accesses into one junction which will serve the original house and the additional units. The Highways Officer has stated this is acceptable and would not harm road safety.

III. SITE LAYOUT AND DESIGN

- 6.36 This part of the High Road is not characterised by any particular property style or design. The immediate location presents a wide variety of properties, in terms of age, design, use of materials and size and scale.
- 6.37 The proposed extensions to Silver Springs fronting the High Road would be located between a chalet/single storey dwellings. The proposed extensions would remodel the house and create a double gable ended frontage to which no objection is raised. The design and scale of the proposed extensions are considered to be appropriate as it is suitably related in both size and design terms to the adjacent properties on the High Road. As the site is within Established Residential Frontage (ERF) Core Strategy policy PMD6 provides some relaxation of normal Green Belt Policy without harm to the objectives of the Green Belt. This only applies to the main house within a Green Belt site.
- 6.38 A new cul-de-sac would be created which would be accessed from the north of the site adjacent to a new house which would front onto the High Road. The cul-de-sac would consist of six new detached dwellings. Within the mid-section of the site the four properties would have the principal elevation facing northwards and the two properties to the rear of the site would have a principal elevation facing eastwards.
- 6.39 In terms of private amenity space, the proposed dwellings would all have a private rear garden. All the garden sizes are all over 100 sq m, which meets the Council's space standard requirements.
- 6.40 These proposed dwellings and garages have been designed to a standard style and the overall design approach is considered to be acceptable. The careful use of materials could ensure a high quality finish. Subject to suitable conditions, it is considered that the external appearance of the proposed buildings could be acceptable.

VI. LANDSCAPE AND ECOLOGY

- 6.41 The application is supported by an arboricultural report which confirms that the trees on the site (primarily around the boundaries) can be retained as part of the scheme. Three trees have been identified to be removed if permission were granted. These comprise two Category B and one category C trees. The Council's Landscape and Ecology Advisor has stated these '*trees are to the rear of the*

existing house and their removal would not significantly affect the amenity of the area. Plot 5 is closest to the boundary hedge and trees; however there are no windows of habitable rooms facing these which should reduce the post-development pressure on these trees. The offsite oak T6 however is likely to require ongoing management to reduce the effects of shading on Plots 1 & 2 given their proximity to this tree'. The Landscape and Ecology Advisor has not raised a specific objection to the scheme but has warned that the development would provide little space for meaningful planting.

V. AMENITY AND NEIGHBOURS

- 6.42 Neighbours have raised concern in relation to the impact of the new dwellings on their outlook and amenity. Whilst it is true that the dwellings that are proposed on this site would be a change from the existing scenario, there is no right to an outlook under planning law. Accordingly an objection on these grounds could not be substantiated.
- 6.43 The new properties would be suitably distant from neighbours not to impact on the amenities that nearby occupiers presently enjoy. The houses would be set out so as not to impact on one another. Policy PMD1 is considered to be satisfied in this regard.
- 6.44 Notwithstanding the above, neighbour objections based upon the development of the Green Belt support the conclusions reached in section I of this report.

VI. DEVELOPER CONTRIBUTIONS

- 6.45 Policy PMD16 indicates that where needs would arise as a result of development; the Council will seek to secure planning obligations under Section 106 of the Town and Country Planning Act 1990 and any other relevant guidance. The Policy states that the Council will seek to ensure that development proposals contribute to the delivery of strategic infrastructure to enable the cumulative impact of development to be managed and to meet the reasonable cost of new infrastructure made necessary by the proposal.
- 6.46 There are no planning contributions or affordable housing required as the proposal falls short of the central government threshold of 10 units. The NPPG guidance indicates that for developments of 10 units or less, and which have a maximum combined gross floor space of no more than 1000sq.m affordable housing or tariff style contributions should not be sought.
- 6.47 The site is within the Essex Coast RAMS zone of influence and therefore it would be necessary for the LPA to secure a contribution towards mitigation of the effects of recreational disturbance on Thames Estuary and Marshes SPA. In the event that

the application were being recommended favourably such a contribution could be secured via an appropriate legal agreement.

7.0 CONCLUSIONS AND REASONS FOR REFUSAL

- 7.1 The proposed development represents an inappropriate form of development within the Green Belt which is harmful by definition. The development would result in further harm by introducing built development where there is presently none; the dwellings, garages and hard surfacing would represent urbanising features which would be visually damaging to the countryside and undermining to the openness of this part of the countryside.
- 7.2 The applicant has not advanced any factors which would amount to very special circumstances that could overcome the harm that would result by way of inappropriateness and the other harm identified in the assessment. There are no planning conditions that could be used to make the proposal acceptable in planning terms. The development is clearly contrary to Policy PMD6 of the Core Strategy and guidance contained in the NPPF. Refusal is therefore recommended.

8.0 RECOMMENDATION

- 8.1 To Refuse for the following reasons:

Reason:

- 1 The proposed development, by reason of its scale, siting and location would result in inappropriate development in the Green Belt which is by definition harmful. In addition, the development would also cause loss of openness due to the siting and substantial increase in the scale of the buildings proposed on the site. The circumstances put forward by the applicant do not constitute very special circumstances to justify inappropriate development in the Green Belt. The proposal is therefore contrary to Policy PMD6 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) and the National Planning Policy Framework 2019.

Informative:

- 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

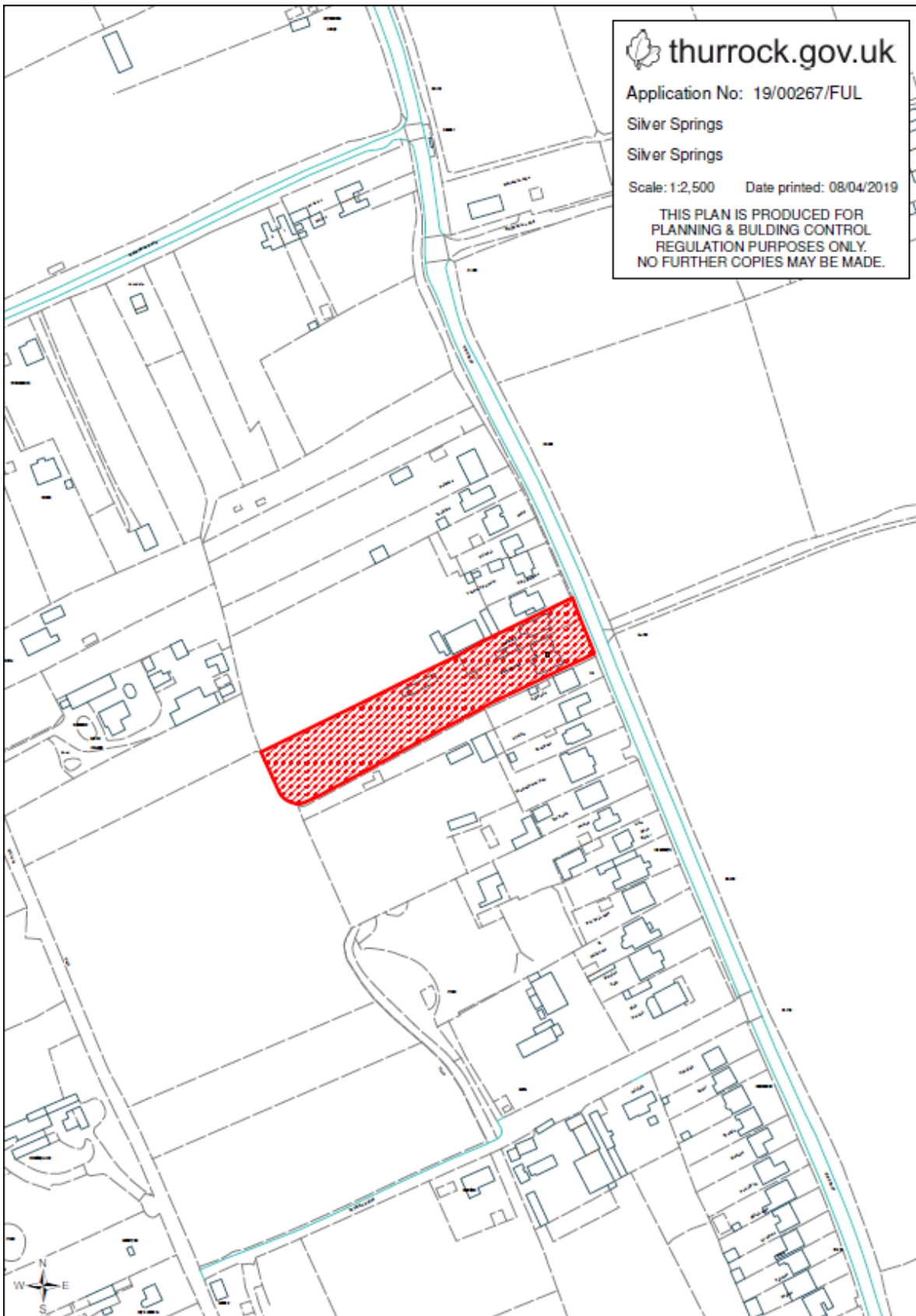
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harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

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



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Reference: 19/00379/FUL	Site: Montrose 168 Branksome Avenue Stanford Le Hope SS17 8DE
Ward: The Homesteads	Proposal: Demolition of the existing bungalow and the construction of 5 new dwellings with associated access road, hardstanding, landscaping and two vehicular access points (resubmission of 18/00316/FUL Demolition of the existing bungalow and the construction of 7 new dwellings)

Plan Number(s):		
Reference	Name	Received
1564/01	Site Location Plan	12 March 2019
1564/02	Existing Block Plan	12 March 2019
1564/P03 Rev A	Proposed Block Plan	14 May 2019
1564/P04	Proposed Plot 1	12 March 2019
1564/P05	Proposed Plot 2	12 March 2019
1564/P06	Proposed Plot 3	12 March 2019
1564/P07	Proposed Plot 4	12 March 2019
1564/P08	Proposed Plot 5	12 March 2019
1564/P09	Existing & Proposed Street Scenes	12 March 2019

The application is also accompanied by:

- Arboricultural Report
- Design & Access Statement
- Highways Note

Applicant:

Mr D Darby

Validated:

12 March 2019

Date of expiry:

7 June 2019 (Extension of time agreed with applicant)

Recommendation: Refuse

This application is scheduled for determination by the Council's Planning Committee because the proposal represents a similar scheme to an earlier

application (reference 18/00316/FUL) which was recently determined by the Planning Committee.

1.0 DESCRIPTION OF PROPOSAL

1.1 This application seeks planning permission to demolish the bungalow at no.168 Branksome Avenue and construct a cul-de-sac of five detached dwellings. All dwellings would have first floor accommodation in the roof space. The development would comprise 4 x four bedroom and 1 x three bedroom properties.

1.2 Two properties would be located on the frontage of Branksome Avenue. One would be served by a new vehicular access point. The cul-de-sac road would then run between these properties into the rear of the site. The remaining three properties would face towards one another around the turning head at the rear of the site.

1.3 This application is a resubmission of an earlier application (reference 18/00316/FUL) which was refused by the Council’s Planning Committee in June 2018 for the following reasons:

- Principle of infilling within The Homesteads
- Overlooking to 166, 170 and 172 Branksome Avenue
- Proximity to preserved trees

2.0 SITE DESCRIPTION

2.1 The site comprises 0.2 ha within The Homesteads ward in Stanford Le Hope. The site is an ‘L’ shape, fronting Branksome Avenue and then including land beyond the rear of no 170 Branksome Avenue. There is residential development on all sides.

3.0 RELEVANT PLANNING HISTORY

Application reference	Description	Decision
18/00316/FUL	Demolition of the existing bungalow and the construction of 7 new dwellings	Refused and dismissed on appeal (PINS reference APP/M1595/W/18/3207492

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

4.2 PUBLICITY:

This application has been advertised by way of a site notice and individual neighbour notification letters. There have been nine letters of objection. The objections raised are:

- Proposal is contrary to Local Plan policy H11 and CS policies PMD1, PMD2 and CSTP22 in failing to respond to the sensitivity of the site and its surroundings and to contribute positively to the character of the local context and surroundings;
- Contrary to NPPF paragraph 70 protecting private gardens;
- Cramped and over-developed;
- Unacceptable impacts to immediate neighbours, particularly loss of privacy and outlook as well as some loss of light;
- Planning Inspectors have decided that similar proposals would unacceptably harm the environmental quality of the precinct. Previous application dismissed on appeal;
- Site is not a brownfield site;
- Out of keeping;
- Sewerage and drainage;
- Additional impact on dentists and GPs;
- Impacts of construction.

Other concerns which are not material to the consideration of the application include impacts to property values, reduced security to no.172 from adjacent rear gardens, civil covenants restricting each parcel of land to a single dwelling and damage to underground perforated piping system from use of diggers.

4.3 ARCHAEOLOGY:

No objection.

4.4 ENVIRONMENTAL HEALTH:

No objection, subject to conditions.

4.5 HIGHWAYS:

No objection subject to conditions and s106 agreement.

4.6 LANDSCAPE AND ECOLOGY ADVISOR:

No objection.

5.0 POLICY CONTEXT

5.1 National Planning Policy Framework (NPPF)

The NPPF was published on 27 March 2012 and amended on 19 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:

- 5. Delivering a sufficient supply of homes
- 11. Making effective use of land

5.2 Planning Policy Guidance

In March 2014 the Department for Communities and Local Government (now known as Ministry of Housing, Communities and Local Government) 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 Local Planning Policy Thurrock Local Development Framework (as amended) 2015

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

SPATIAL POLICIES

- CSSP1 (Sustainable Housing and Locations)

THEMATIC POLICIES

- CSTP1 (Strategic Housing Provision)
- CSTP22 (Thurrock Design)
- CSTP23 (Thurrock Character and Distinctiveness)²

POLICIES FOR MANAGEMENT OF DEVELOPMENT

- PMD1 (Minimising Pollution and Impacts on Amenity)²
- PMD2 (Design and Layout)²
- PMD8 (Parking Standards)³
- PMD9 (Road Network Hierarchy)
- PMD16 (Developer Contributions)²

Note: 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. ³Wording of forward to LDF-CS Policy 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. The Council consulted on an Issues and Options (Stage 2 Spatial Options and Sites) document earlier this year.

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.

6.0 ASSESSMENT

6.1 The principal issues to be considered in the determination of this application are:

- I. Principle of the Development
- II. Design and Layout
- III. Amenity and Impact of Development
- IV. Impact upon Protected Trees
- V. Traffic Impact, Access and Car Parking
- VI. Other Matters

I. PRINCIPLE OF THE DEVELOPMENT

6.2 The site is identified in the Adopted Interim Proposals Map accompanying the LDF Core Strategy (2011) and Focused Review (2015) as part of the Homesteads Ward. Core Strategy Policy CSTP23 protects residential precincts such as The Homesteads where the original spacious pattern of development has been eroded by significant infilling and backland development.

6.3 Policy H11 of the Thurrock Borough Local Plan 1997 is not a saved policy but provides a good background to the situation – that the Homesteads ward was the subject of rapid house building in the 1960-1980s, which dramatically altered the character of the area. Specifically, the Homesteads ward has suffered with extensive infilling and subdivision of large private gardens.

6.4 The policy then refers to Annexe A9 which is saved and relevant as it links to Core Strategy Policy CSTP23. The Annexe restricts development which would harm the character of The Homesteads. This Annexe recognised the importance of retaining the original character of The Homesteads against further infilling and backland development.

6.5 The application site is not identified in Annexe 9 as one where development would be acceptable and the current proposal represents development of the character the policy seeks to guard against. There is therefore a fundamental and in-principle objection to intensification of use of this site and the proposed backland development.

6.6 The previous application for seven houses (18/00316/FUL) was refused by the Council's Planning Committee and later dismissed at appeal.

In dismissing the appeal, the Planning Inspector determined that "*the extent of the encroachment, the intended layout and intensity relative to the existing*

development pattern, and the degree of hardstanding required would be in stark contrast and incongruous with the prevailing circumstances.”

The Inspector concluded: *“the development would be an untypical form and intensity of development at odds with the area’s composition. I thereby conclude that 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.”*

- 6.7 Whilst the number of units would decrease by two from the previous application, the principle of the proposed development remains unacceptable. Therefore, the proposal, due to the loss of this spacious plot within the Homesteads, would be harmful to the character of the area and therefore contrary to policies PMD2, CSTP22 and CSTP23 of the Core Strategy and guidance in the NPPF.

II. DESIGN AND LAYOUT

- 6.8 The proposed dwellings would be generally designed to a high standard and each dwelling would be of its own character. There is no objection to the form, height, detailing or indicative materials palette. However, the positives of the scheme in terms of design do not overcome the harm that would be caused to the character and appearance of this part of the Homesteads.

III. AMENITY AND IMPACT OF DEVELOPMENT

- 6.9 The bedroom windows on the rear of Plots 3 and 4 would overlook the private garden at no.172 Branksome Avenue at a distance of 15m. Under the earlier scheme, this distance was less than 10m and the Inspector deemed the relationship unacceptable. The increased separation distance in the current scheme is considered to remedy this matter. There would be no loss of outlook, overbearing impact, and no unacceptable overshadowing due to the relative positions of the buildings and path of the sun.

IV. IMPACT UPON PROTECTED TREES

- 6.10 The Council’s Landscape and Ecology officer has confirmed that concerns raised under the earlier scheme have been adequately addressed by the current proposal. The reduction in the number of dwellings within the site means that it has been possible to move the dwelling on plot 5 further from the protected oak tree. This should ensure that there are no adverse effects on the tree. The pine situated in No.170, which is close to the boundary, would still require management to allow the construction of a dwelling at plot

1. This would not be significant so long as the work is undertaken sympathetically. The revised scheme would permit some additional tree and shrub planting which would help enhance the appearance of the site. The site does not contain any habitat features that would be suitable for supporting protected species. As a result the proposal is considered to be acceptable in terms of the impact upon TPO trees and ecology.

V. TRAFFIC IMPACT, ACCESS AND CAR PARKING

6.11 The scheme proposes an access for the main cul-de-sac and two individual access for the properties fronting Branksome Avenue. The Council's Highway Officer has raised no objection and as such, the development is considered to comply with policy PMD9 in terms of highway safety and access.

6.12 Policy PMD8 and the Council's draft Parking Standards requires 2 spaces per dwelling and 2 visitor spaces for the level of development proposed but allows for an increase to 3 spaces for four bedroom dwellings.

In this instance, each property would be allocated two car parking spaces. The site would provide 12 parking spaces overall with no visitor parking. This level of provision is similar to that which was considered acceptable in the assessment of the previous application. Insufficient parking was not a reason for refusal on the previous application and the Council's Highway Officer has not objected to the current proposal. Similarly, the Inspector did not raise any concerns regarding this in the consideration of the appeal. In light of the above, and given that the development is for a smaller number of dwellings with a relatively similar number of parking spaces per unit, it is considered, on balance, that the level of parking would be acceptable.

6.13 The Council's Highway Officer has suggested that a financial contribution could be sought from the developer to fund a Traffic Regulation Order (TRO) which could be used to introduce yellow lining on Branksome Avenue to prevent vehicles parking close to the access point. However, a legal agreement to secure a financial contribution towards a TRO was not requested during the consideration of the previous application and it did not represent a reason for refusal. Furthermore, the Planning Inspectorate did not raise any concerns in relation to obstruction of the junction during the consideration of the earlier appeal. Given the current proposal is for a smaller number of dwellings it is considered unreasonable to introduce the lack of a legal agreement towards a TRO as a reason for refusal at this time.

VI. OTHER MATTERS

6.14 Policy PMD16 states that where needs would arise as a result of development; the Council will seek to secure planning obligations under

Section 106 of the Town and Country Planning Act 1990 and any other relevant guidance. The Policy states that the Council will seek to ensure that development proposals contribute to the delivery of strategic infrastructure to enable the cumulative impact of development to be managed and to meet the reasonable cost of new infrastructure made necessary by the proposal.

- 6.15 There are no planning contributions or affordable housing required as the proposal falls short of the central government threshold of 10 units or more. As discussed above the Council's Highway Officer has requested a contribution towards a TRO in order to mitigate the impact of parking close to the access point. However this was not requested in the consideration of the previous application and did not represent a reason for refusal. The proposal is for a smaller number of dwellings with similar access and parking arrangements. Therefore, in this instance it would not be reasonable to require such a legal agreement or to introduce this as a new reason for refusal.
- 6.16 The site is within the Essex Coast RAMS zone of influence and therefore it would be necessary for the LPA to secure a contribution towards mitigation of the effects of recreational disturbance on Thames Estuary and Marshes SPA. In the event that the application were being recommended favourably such a contribution could be secured via an appropriate legal agreement.

7.0 CONCLUSIONS AND REASONS FOR REFUSAL

- 7.1 The proposed development would result in the intensive development of a site within the Homesteads Ward. Policy CSTP23 protects the particular character and overdevelopment of sites within such identified residential precinct particularly when a proposal relates to backland development. The current plot is spacious with a large rear garden which contribute towards the identified special character of the area. The proposal would therefore encroach into a large area of open garden space to the rear of properties on Branksome Avenue Third. This leads to an in principle objection to development of the site due to the adverse impact it would have upon the special character of the Homesteads Ward contrary to policy CSTP23.
- 7.2 In addition to the in principal objection to the intensive development of the Homesteads Ward the proposal would also result in the over development of the site and have a significant adverse impact upon the general character of the area. As a result the proposal would be contrary to policies CSTP22 and PMD2 of the Core Strategy and the NPPF.

8.0 RECOMMENDATION

8.1 To Refuse for the following reasons:

- 1 The application site is found within a part of the Homesteads precinct that is characterised by dwellings located on road frontages set in large grounds at a low density. The development of five dwellings in a cul de sac layout within this single residential plot would appear cramped, overdeveloped and out of keeping with the prevailing character of the area. Consequently the development would undermine the open character of the area, contrary to policies PMD2, CSTP22 and CSTP23 of the Core Strategy and guidance in the NPPF.

Informative(s):

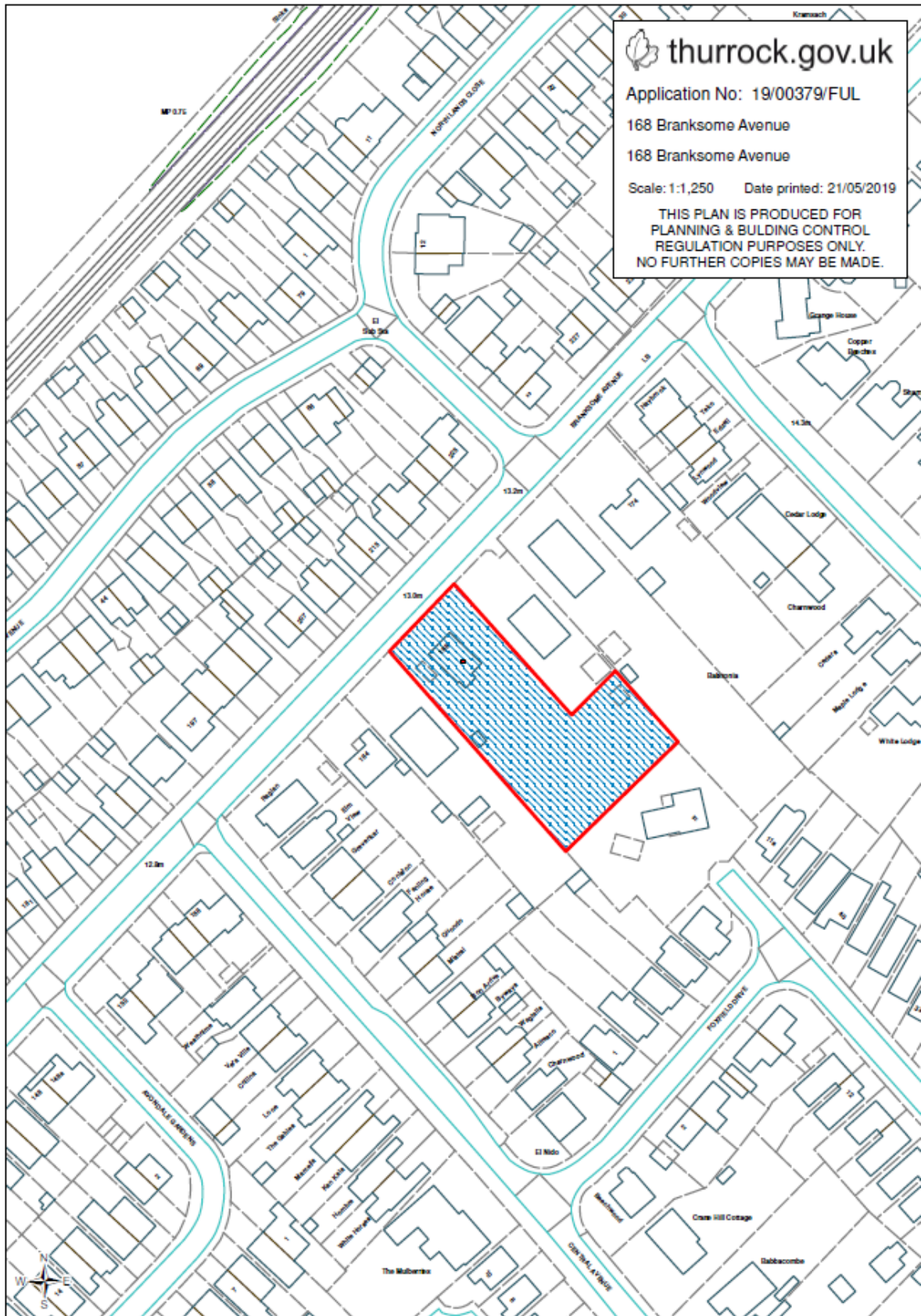
- 1 Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) - Positive and Proactive Statement:

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



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Reference: 19/00269/FUL	Site: 53 - 55 Third Avenue Stanford Le Hope Essex
Ward: The Homesteads	Proposal: Nine dwellings with associated access road, hardstanding, landscaping and bike stores following the demolition of two existing detached bungalows.

Plan Number(s):		
Reference	Name	Received
P14	Proposed Cycle Store	20th February 2019
P15	Existing Plans No.53 Third Avenue	20th February 2019
P16	Existing Plans No.55 Third Avenue	20th February 2019
P1 Rev A	Location Plan	20th February 2019
P2 Rev B	Existing Block Plan	20th February 2019
P3 Rev H	Proposed Block Plan	15th May 2019
P4 Rev B	Proposed Plans Plot 1	20th February 2019
P5 Rev B	Proposed Plans Plot 2	20th February 2019
P6 Rev A	Proposed Plans Plot 3	20th February 2019
P7 Rev B	Proposed Plans Plot 4	20th February 2019
P8 Rev C	Proposed Plans Plot 5	20th February 2019
P9 Rev B	Proposed Plans plots 6-9	20th February 2019

The application is also accompanied by: <ul style="list-style-type: none"> - Arboricultural Report - Highways Note - Technical Note (Highways) 	
Applicant: Mr D Darby	Validated: 20 February 2019 Date of expiry: 10 June 2019 (Extension of time agreed with applicant)
Recommendation: Refuse	

This application is scheduled for determination by the Council's Planning Committee because a similar application (reference 18/01228/FUL) was previously

due to be determined by the Planning Committee but was withdrawn before the meeting.

1.0 BACKGROUND AND DESCRIPTION OF PROPOSAL

1.1 The key elements of the proposals are set out in the table below:

Site Area (Gross)	0.29 ha						
Height	8.2 - 8.7m ridge height						
Units (All)	Type	1- bed	2- bed	3- bed	4- bed	5- bed	TOTAL
	Houses	0	0	2	5	2	10
Car parking	Houses: 9 Total allocated: 18 spaces (Average of per unit – 2) Total Visitor: 2 spaces (Average per unit – 0.2) Total: 20						
Amenity Space	Minimum: 93 sq.m Average: 111.2 sq.m Maximum: 143 sq.m						
Density	31 units per ha						

1.2 This is an application for planning permission for nine detached dwellings with associated access road, hardstanding, landscaping and bike stores following the demolition of two existing detached bungalows.

1.3 This is an amended scheme following the withdrawal of previous application 18/01228/FUL. In relation to the previous application, the primary change is a reduction in the number of units from 10 to 9. The siting of the proposed dwellings has also been amended, this is most noticeable along the Third Avenue frontage where these now have a similar set back to existing dwellings on this part of the road. The design of the dwellings has also been amended with the previous pitched roof design replaced with a hipped roof. The previously proposed dormers have now been omitted.

1.4 The proposal would be made up of 2 three bed units, 5 four bed units and 2 five bed units. Three of the dwellings would be positioned in a similar area to the existing bungalows facing onto Third Avenue. There would be an access road which would be located between Plots 2 and 3 which would provide access to the remaining plots to the rear. Two dwellings would be located on either side of this access road with the final four dwellings, made up of two semi-detached pairs, sited at the end of the access road towards the rear of the site. Parking areas would be provided to the front or side of all the units.

2.0 SITE DESCRIPTION

2.1 The application site relates to two separate plots of land both of which contain detached bungalows with rooms in the roof. These dwellings are to the south west side of Third Avenue which is within a residential area of Stanford-le-Hope. Both existing dwellings benefit from large rear gardens which back onto a block of garages located off Rose Valley Crescent. The site has a total area of 0.29 hectares and is surrounded to the side and rear by residential dwellings, garages and gardens.

2.2 The site is within the Homesteads ward within Stanford-le-Hope. This is a designated residential precinct which is identified as being an area where character is a key issue. The Homesteads ward is identified as being intensively developed in the past and therefore proposals for backland development must be very carefully considered.

2.3 The site is approximately 800m from the central shopping area in Corringham and 1.7km from the centre of Stanford-le-Hope and 2km from the station. There are protected (TPO) trees towards the front boundary of the site.

3.0 RELEVANT PLANNING HISTORY

3.1 The relevant planning history is as follows:

Reference	Description	Decision
18/01228/FUL	Ten detached dwellings with associated access road, additional access, hardstanding, landscaping and bike stores following the demolition of two existing detached bungalows.	Withdrawn

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

4.2 PUBLICITY:

This application has been advertised by way of individual neighbour notification letters and public site notice which has been displayed nearby. 18 letters of objection were received in relation to this application. The issues raised can be summarised as follows:

- Loss of light;
- Loss of privacy;
- Loss of view;
- Air/Light/Noise Pollution;
- Noise from construction;
- Traffic/parking from construction;
- Damage to nearby buildings;
- Flood risk and surface water;
- Access to the site;
- Parking;
- Traffic;
- Highway safety;
- Refuse collection;
- Emergency service access;
- Overdevelopment in the Homesteads area;
- Impact upon the character of the area;
- Contrary to policy;
- Loss of green space;
- Impact on community facilities;
- Impact on drains;
- Impact on infrastructure;
- Removal of trees;
- Impact on TPO trees;
- Impact on ecology;
- Similar application in the area refused;
- Lack of need for dwellings of this size;
- Lack of affordable housing contribution;
- Precedent for development.

4.3 ANGLIAN WATER:

No comment. Below threshold for response.

4.4 ENVIRONMENTAL HEALTH:

No objection subject to conditions.

4.5 HIGHWAYS:

No objection subject to conditions and s106 agreement.

4.6 HOUSING:

No comment. Below threshold for affordable housing.

4.7 LANDSCAPE AND ECOLOGY ADVISOR:

No objection subject to conditions and RAMS contribution.

5.0 POLICY CONTEXT

5.1 National Planning policy Framework

The NPPF was published on 27 March 2012 and most recently amended on 19 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
5. Delivering a sufficient supply of homes
11. Making effective use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change

5.2 Planning Policy Guidance

In March 2014 the Department for Communities and Local Government (now known as Ministry of Housing, Communities and Local Government) 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
- Flood Risk and Coastal Change
- Planning obligations
- Transport evidence bases in plan making and decision taking
- Travel plans, transport assessments and statements in decision-taking
- Tree Preservation Orders and trees in conservation areas
- Use of Planning Conditions

5.3 Local Planning Policy

5.4 Thurrock Local Development Framework (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)¹

SPATIAL POLICIES

- CSSP1 (Sustainable Housing and Locations)

THEMATIC POLICIES

- CSTP1 (Strategic Housing Provision)
- CSTP22 (Thurrock Design)
- CSTP23 (Thurrock Character and Distinctiveness)²

POLICIES FOR MANAGEMENT OF DEVELOPMENT

- PMD1 (Minimising Pollution and Impacts on Amenity)²
- PMD2 (Design and Layout)²
- PMD8 (Parking Standards)³
- PMD9 (Road Network Hierarchy)
- PMD10 (Transport Assessments and Travel Plans)²
- PMD15 (Flood Risk Assessment)²
- PMD16 (Developer Contributions)²

RETAINED POLICIES FROM LOCAL PLAN 1997

- H11 (Infill Development: Backland Development and Residential Precincts)

[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. 3Wording 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

- 5.5 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. The Council consulted on an Issues and Options (Stage 2 Spatial Options and Sites) document earlier this year.

Thurrock Design Strategy

- 5.6 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

- 6.1 The material considerations for this application are as follows:

- I. Principle of the development
- II. Design and Layout and Impact upon the Area
- III. Traffic Impact, Access and Car Parking
- IV. Flood Risk and Drainage
- V. Effect on Neighbouring Properties
- VI. Ecology and Landscaping
- VII. Other Matters

I. PRINCIPLE OF THE DEVELOPMENT

- 6.2 The site is identified in the Adopted Interim Proposals Map accompanying the LDF Core Strategy (2011) and Focused Review (2015) as part of the Homesteads Ward. Core Strategy Policy CSTP23 protects residential precincts such as The Homesteads where the original spacious pattern of development has been eroded by significant infilling and backland development.
- 6.3 Policy H11 of the Thurrock Borough Local Plan 1997 is not a saved policy but provides a good background to the situation – that the Homesteads ward was the subject of rapid house building in the 1960-1980s, which dramatically altered the

character of the area. Specifically, the Homesteads ward has suffered with extensive infilling and subdivision of large private gardens.

- 6.4 The policy then refers to Annexe A9 which is saved and relevant as it links to Core Strategy Policy CSTP23. The Annexe restricts development which would harm the character of The Homesteads.
- 6.5 In accordance with the above, the Council has strived to protect the spacious plots that characterise the Homesteads ward. The current plots are spacious with large rear gardens which contribute towards the identified special character of the area. The proposal would result in 9 dwellings on the site including a significant amount of backland development which would encroach into a large area of open garden space to the rear of properties on Third Avenue and Rose Valley Crescent. This leads to an in principle objection to development which would result in an intensive backland development which would specifically conflict with the aims to protect remaining spacious plots within this area. Policies PMD2 and CSTP22 seek to protect the character of an area and contribute to the positive sense of place through the application of high quality design and the proposal would therefore be contrary to these policies as well as CSTP23.

II. DESIGN AND LAYOUT AND IMPACT UPON THE AREA

- 6.6 The proposed dwellings would be of a relatively uniform traditional hipped roof design. There is some variation in the appearance of the dwellings as a number include two storey front and rear projections. There is also variation in the materials to be used with a mix of facing brick and weatherboarding along with tiled roofs. The eaves and ridge height of the dwellings would be relatively similar across the proposed development with a maximum ridge height of approximately 8.7m. There is some variation in the scale and bulk which is primarily due to the differing width of some of the buildings and the extent of the various front and rear projections.
- 6.7 There are a mix of house types and designs in the area including detached, semi-detached and terraced properties. These are generally of traditional design with hipped or pitched roofs and follow a relatively uniform forward building line. The proposal includes three detached dwellings located along the frontage with Third Avenue. In considering the previous application there were concerns that these would project forward of the building line on this side of Third Avenue. In conjunction with the bulk and mass of these buildings it was considered this would appear overly dominant and incongruous in the street scene resulting in significant harm to its character. The amended scheme has set this row of properties further back in the street scene in order to correspond with the existing building line. The mass and bulk of the buildings has also been reduced primarily through

amendments to the roof design. As a result it is considered that in isolation the appearance within the immediate street scene would not be unacceptable.

- 6.8 However, in addition to the properties along the Third Avenue frontage there would be a central access road between plots 2 and 3 which would provide access to the six dwellings located within what is currently garden space for the existing dwellings. Two dwellings would be located alongside the access road with a further four located at the end of this road towards the rear of the site. Whilst these dwellings would not be immediately visible in the street scene they would encroach into an area of land which is currently open and forms part of the general open character to the rear of properties on this particular part of Third Avenue. Whilst it is acknowledged that some areas of garden space has previously been encroached upon this is identified as a specific issue in policy H11 and renders these remaining open areas even more important. The proposal would introduce dwellings of significant scale and mass within a cramped layout resulting in the overdevelopment of the site. The requirement for access and parking would exacerbate this issue resulting in an area that is dominated by significant amounts of hardstanding around the proposed buildings. Therefore, as a result of the siting and extent of the development it is considered that the proposal would result in the overdevelopment of the site, appearing as an incongruous features within an open area which makes an important contribution to the character of the Homesteads ward.
- 6.9 Given the above the proposal is considered to result in a significant adverse impact upon the general character of the area contrary to policies PMD2, CSTP22 and CSTP23 and the National Planning Policy Framework 2018.
- 6.10 Each dwelling would be of a sufficient size to provide a suitable living environment for future occupiers. There would be suitable levels of privacy for future occupiers.

III. TRAFFIC IMPACT, ACCESS AND CAR PARKING

- 6.11 The proposal would utilise three existing vehicular crossovers in order to provide access to the parking areas of plots 1 and 3 and the access road which would be created towards the centre of the site. Access to Plot 2 would be via a side access onto the central access road. The Council's Highway Officer has raised no objection to the scheme but has suggested that a financial contribution should be sought from the developer to fund a Traffic Regulation Order (TRO) which could be used to introduce measures to prevent vehicles parking obstructing the access points. Subject to a legal agreement securing a financial contribution towards a TRO in the location, no objection is raised and the proposal is considered acceptable with regards to highway safety and capacity.

- 6.12 The proposal includes a total of 18 allocated parking spaces along with 2 visitor spaces. The site is identified as being within an area of medium accessibility, as set out in the Council's Draft Parking Standards, due to its relative proximity to Corringham Town Centre. In such locations there is a requirement for 1.5 to 2.0 spaces per dwelling with 0.25 spaces per dwelling provided as visitor or unallocated spaces. The standards also state that for houses for 4 or more bedrooms an additional parking space will be permitted which would take these houses up to 3 spaces although it is not indicated that this is a requirement.
- 6.13 The proposal would provide two allocated spaces per dwelling. Seven of the dwellings would have 4 or more bedrooms which would trigger the allowance for an additional parking space for each of these units. However, the guidance within the parking standards only indicates that this would be permitted and not that it is a specific requirement. With regards to the visitor/unallocated parking the proposal would provide 2 parking spaces which equates to 0.22 spaces per unit which is marginally below the requirement of 0.25 spaces. The Council's Highway Officer has raised no objection to this level of provision and it follows that there is insufficient grounds to substantiate a refusal based on a lack of visitor parking. Therefore whilst the concerns of residents regarding parking are noted it is considered, in this instance that the level of parking provision would be acceptable and therefore the proposal complies with the requirements of policy PMD8.
- 6.14 With regards to cycle and refuse storage there is adequate space indicated for these to the side and rear of the proposed dwellings. Details of the cycle storage have been provided with the application and it is considered that these would be appropriate and provide the necessary level of storage for each dwelling.
- 6.15 Information has been provided with the application in relation to refuse collection including a swept path analysis which demonstrates that a refuse vehicle could access the site. This would allow for refuse collection to be from the front of each property which is considered to be appropriate.

IV. FLOOD RISK AND DRAINAGE

- 6.16 The application does not constitute a major application for the purposes of considering the drainage implications. However the principle of a suitable surface water drainage strategy was established in the consideration of a previous application. Given the proposal results in a similar level of built form along with the concerns raised by residents regarding surface water in the area it would be appropriate to impose a condition on any permission requiring the submission of the final details of a surface water drainage scheme.

V. EFFECT ON NEIGHBOURING PROPERTIES

- 6.17 Plots 1-3 would be in a relatively similar location to the existing properties on the site. They would not breach the 60 or 45 degree angles to the nearest front or rear facing habitable room windows of the neighbours. Whilst it is acknowledged that there would be some additional views to the rear at a high level this is not unusual in an urban residential environment and given the level of existing mutual overlooking would not result in a significant loss of privacy from these dwellings. These plots do include side facing windows at first and second floor level which could overlook neighbouring properties. However, these windows serve non-habitable rooms and could be conditioned to be obscure glazed in order to restrict any overlooking.
- 6.18 Plot 4 would be sited away from the rear boundary of No.1 Rose Valley Crescent. Given the separation distance between Plot 4 and the rear of No.1 it is not considered that this would result in an overly dominant or overbearing impact upon this neighbour.
- 6.19 Plots 5 would be sited towards the south east side of the site although it would be set off this boundary by a minimum of 8.5m. Whilst it would be visible from neighbouring properties, particularly number 51A Third Avenue, it is considered that this retained separation distance is sufficient to ensure that there is no significant loss of light or overbearing impact upon this neighbour. With regards to privacy this plot only has one window at first floor level in the rear elevation facing this neighbours garden. This would serve a non-habitable room and therefore could be conditioned to be obscure glazed to ensure there is no significant overlooking.
- 6.20 Plots 6 to 9 are located to the rear of the site a significant distance from the neighbours on Third Avenue. Plot 9 would be set in from the boundary with No.51a. It would also be of hipped roof design and the previously proposed dormers have been omitted. Given the separation distance to the boundary along with the fact that the primary impact would be towards the rear of this neighbours garden it is considered there would not be an overly dominant or overbearing impact upon this neighbours garden space.
- 6.21 With regards to the impact of Plot 9 on privacy the proposal includes side facing windows at first floor level which could be conditioned to be obscure glazed and fixed shut. There would be some views from the front facing windows of Plot 9 towards No.51A, however given the angle and distance of these views it is considered that this would not result in a significant loss of privacy.
- 6.22 In terms of Plot 6 this would be separated from the nearest neighbours on Rose Valley Crescent by an access road and given the retained separation distance of approximately 16.7m to the rear of this neighbour it is considered that there would not be a significant loss of light or overbearing impact upon these neighbours. Plot 6 does include a side facing windows facing these neighbours, however this could

be conditioned to be obscure glazed and fixed shut in order to ensure there is no significant loss of privacy.

- 6.23 To the rear of the site is a block of garages and it is considered that given the separation distance to the nearest properties beyond there would not be a significant loss of light, overbearing impact or loss of privacy to neighbours to the rear.
- 6.24 The proposal would result in an increase in vehicular movements to and within the site. There would also be some additional disturbance due to the siting of properties within a currently open area. However, whilst it is acknowledged that this would impact upon neighbours it is considered that this would be compatible with the residential use of the surrounding area. As such this would not represent a reason for refusal.

VI. ECOLOGY AND LANDSCAPING

- 6.25 There are two trees which are subject to Tree Preservation Orders (TPO) located within the front gardens of the existing properties. Both are mature Oaks; while it is noted that the tree at No.53 is smaller and has been subject to works in the past both significantly contribute to the amenity of the street scene. The Council's Landscape and Ecology Advisor was consulted on the application and noted that the proposed dwellings have been repositioned further from these trees than the previous application. He also noted that the arboricultural report contains a number of measures to reduce adverse impacts on the trees. As a result he advised that the proposal should not further affect the trees provided the measures outlined in the report were undertaken. Therefore a condition would be recommended on any planning permission requiring compliance with the arboricultural method statement, including ensuring adequate supervision of any works within the RPA.
- 6.26 The site is within the Essex Coast RAMS zone of influence and therefore it would be necessary for the LPA to secure a contribution towards mitigation of the effects of recreational disturbance on Thames Estuary and Marshes SPA. In the event that the application were being recommended favourably such a contribution could be secured via an appropriate legal agreement.

VII. OTHER MATTERS

- 6.27 Policy PMD16 states that where needs would arise as a result of development; the Council will seek to secure planning obligations under Section 106 of the Town and Country Planning Act 1990 and any other relevant guidance. The Policy states that the Council will seek to ensure that development proposals contribute to the delivery of strategic infrastructure to enable the cumulative impact

of development to be managed and to meet the reasonable cost of new infrastructure made necessary by the proposal.

- 6.28 It is not possible to secure any planning contributions or affordable housing provision in this instance because the proposal falls short of the central government threshold of 10 units or more. The Council's Highway Officer has stated a contribution would be necessary towards a Traffic Regulation Order (TRO) to introduce the waiting or parking restrictions around the entrance to the site. This would be necessary in relation to the proposal given the concerns around the safety of the access if parking were to occur immediately next to the access point. In the event that planning permission were to be granted a legal agreement would be necessary to secure a contribution towards the TRO. Given the other concerns regarding the proposal the legal agreement has not been sought in this instance.
- 6.29 Concerns regarding the impact of construction works are noted. Whilst this would not represent a reason for refusal it is considered that if planning permission were to be granted it would be appropriate to impose a condition regarding a Construction Environmental Management Plan in order to limit the level of disturbance to neighbours during construction works.
- 6.30 Issues over the loss of a view, damage to the highway/drains/nearby buildings are not material planning considerations.
- 6.31 The previous removal of unprotected trees, whilst regrettable would not have required permission and cannot be taken into account in the determination of this application.
- 6.32 Concerns have been raised regarding the setting of a precedent for development in the area. Every application is considered on its own merits against relevant planning policy and therefore the determination of this application would not necessarily set a precedent. The development would however permanently erode two large plots within the Homesteads, as discussed above.
- 6.33 Concerns have been raised regarding the impact upon drains, however Anglian Water advised on the previous application for 10 dwellings that there is adequate capacity to accommodate the development.
- 6.34 Whilst comments regarding the impact upon community facilities and infrastructure are noted it is considered that a scheme of this size is unlikely to have a significant additional impact. The proposal would fall below the threshold for a contribution towards infrastructure and therefore it would be unreasonable to impose such a requirement on any planning permission.

- 6.35 Comments have been raised regarding the impact upon ecology on the site and the impact that clearance works have had. Again whilst this clearance work may be regrettable there is nothing in planning terms to prevent this being carried out prior to an application being made. In addition the Council's Landscape and Ecology Advisor has raised no objection to the proposal on ecology grounds.

7.0 CONCLUSIONS AND REASONS FOR REFUSAL

- 7.1 The proposed development would result in the intensive development of a site within the Homesteads Ward. Policy CSTP23 protects the particular character and overdevelopment of sites within such identified residential precinct particularly when a proposal relates to backland development. The current plots are spacious with large rear gardens which contribute towards the identified special character of the area. The proposal would therefore encroach into a large area of open garden space to the rear of properties on Third Avenue and Rose Valley Crescent. This leads to an in principle objection to development of the site due to the adverse impact it would have upon the special character of the Homesteads Ward contrary to policy CSTP23.
- 7.2 In addition to the in principal objection to the intensive development of the Homesteads Ward the proposal would also result in the over development of the site and have a significant adverse impact upon the general character of the area. As a result the proposal would be contrary to policies CSTP22 and PMD2 of the Core Strategy and the NPPF.

8.0 RECOMMENDATION

- 8.1 Refuse for the following reason:

- 1) The proposed development, by reason of the subdivision and overdevelopment of these existing generous residential plots in the Homesteads Ward, an area in which spacious gardens are a particularly valuable character trait, would result in a significant adverse impact upon this identified character area. The proposal thereby conflicts with the aims and intentions of policies CSTP22, CSTP23 and PMD2 of the Core Strategy 2015.

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 determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant/Agent the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to liaise with the Applicant/Agent to discuss the best

course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

Documents:

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

<http://regs.thurrock.gov.uk/online-applications>

Reference: 18/01830/OUT	Site: Land Adjacent Bulphan By-Pass and Church Road Bulphan Essex
Ward: Orsett	Proposal: Outline planning permission with all matters (except for access) reserved for development comprising 116 residential units with associated amenity space and parking, three retail units, public house, strategic landscaping and noise attenuation buffer

Plan Number(s):		
Reference	Name	Received
15.2944/M001	Location Map	28 December 2018
15.2944/M002 A	Site Location Plan	28 December 2018
15.2944/M003 A	Aerial Plan	28 December 2018
8.431-P-200 C	Indicative Masterplan	8 March 2019

The application is also accompanied by: <ul style="list-style-type: none"> - Ecological Appraisal - Flood Risk and Drainage Strategy - Noise Assessment - Planning, Design and Access Statement - Transport Assessment 	
Applicant: Quadrant Land Developments Ltd	Validated: 8 January 2019 Date of expiry: 7 June 2019 (Extension of time agreed with applicant)
Recommendation: Refuse planning permission	

This application has been scheduled for determination by the Council's Planning Committee because the application represents a departure from the Development Plan which would require referral to the Secretary of State (in accordance with Chapter 5, Part 3 (2) 2.1 of the Council's Constitution).

1.0 DESCRIPTION OF PROPOSAL

- 1.1 This application seeks outline planning permission with all matters (except for access) reserved for development comprising 116 residential units with associated amenity space and parking, three retail units, public house, strategic landscaping and noise attenuation buffer.
- 1.2 A single point of access to the site would be provided from Church Road in between 4 and 5 Manor Cottages close to the junction with Brentwood Road utilising what appears to be the part of the side garden of no. 4 Manor Cottages.
- 1.3 An indicative masterplan has been provided which illustrates the provision of open space and drainage attenuation at the south-western corner of the site, with planting to the southern, eastern and western boundaries. The developable area is defined as 3.99Ha with an indicative housing / tenure split of:

<u>Market Housing</u>	
1-2 bed	27 units
3-bed	34 units
4+ beds	9 units
TOTAL	70 units (60%)
<u>Affordable Housing</u>	
1 bed	18 units
2-bed	11 units
3-bed	12 units
4-bed	5 units
TOTAL	46 units (40%)

- 1.4 The indicative masterplan also shows a terrace of 3 no. shop units (Class A1 retail) with a total gross internal floorspace of 180 sq.m. and a single Class A4 unit (drinking establishment) of 200 sq.m. gross internal floorspace.
- 1.5 Indicative building heights would be two-storey or two-storey with roofspace accommodation. The indicative masterplan suggests a layout incorporating detached, semi-detached and short terraces of dwellings.

2.0 SITE DESCRIPTION

- 2.1 The application site currently comprises an open field located to the west of the A128 Bulphan By-Pass. The site in its entirety covers an area of 7.2 hectares and is currently used for the grazing of horses. The site is open with no buildings apart from an open-sided field shelter. To the north are existing residential properties on

Church Road. To the south is an open arable field. To the east is the A128 Bulphan Bypass and beyond that the recently completed residential development of Bonham Grange comprising 19 detached dwellings.

- 2.2 Immediately to the west of the site is Bulphan Village Hall and recreation ground, with the built-up area of Bulphan further west.
- 2.3 All of the site is within the Metropolitan Green Belt, as defined by the adopted Core Strategy policies map. The south-western part of the site is within the medium risk flood zone (Zone 2) and a 'main river' (as defined by the Environment Agency) forms the south-western boundary of the site.

3.0 RELEVANT HISTORY

<u>Application Reference</u>	<u>Description of Proposal</u>	<u>Decision</u>
19/00021/SCR	Environmental Impact Assessment (EIA) screening opinion for development comprising 116 residential units with associated amenity space and parking, three retail units, public house, strategic landscaping and noise attenuation buffer	Environmental Impact Assessment not required
14/00877/FUL	Erection of a new build house.	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

PUBLICITY:

- 4.2 This application has been advertised by way of individual neighbour notification letters sent to approximately 86 properties, public site notice and a newspaper advertisement. The application has been advertised as a major development and as a departure from the development plan. As total of 76 representations have been received objecting to the application. Approximately 38 of these representations are either anonymous or provide incomplete details of names and addresses. The concerns raised are summarised below:

- Impact of development upon the Green Belt;

- Impact of development upon the character of the village;
- Scheme represents overdevelopment;
- Greenfield site / not previously developed land;
- Lack of infrastructure (schools, health facilities);
- Increase in traffic;
- Vehicular access would be dangerous;
- Ecology – slow worms at the site; and
- Drainage at the site.

The following consultation responses have been received:

4.3 ANGLIAN WATER:

No objection, subject to conditions.

4.4 ARCHAEOLOGY:

No objection.

4.5 BRITISH PIPELINE AGENCY:

No objection.

4.6 CADENT:

No objection.

4.7 EDUCATION:

No response received.

4.8 EMERGENCY PLANNING:

No objection, subject to conditions.

4.9 ENVIRONMENT AGENCY:

No objection.

4.10 ENVIRONMENTAL HEALTH:

No objection, subject to conditions.

4.11 ESSEX AND SUFFOLK WATER:

No objection.

4.12 FLOOD RISK MANAGER:

No objection.

4.13 HIGHWAYS:

Recommend refusal.

4.14 HIGHWAYS ENGLAND:

No objection.

4.15 HOUSING:

No objection.

4.16 LANDSCAPE & ECOLOGY:

Recommend refusal.

4.17 NATURAL ENGLAND:

No objection, subject to RAMS payment.

4.18 NHS:

No objection, subject to S106 payment.

4.19 PUBLIC HEALTH:

Provide general comments referring to open space, air quality, design and infrastructure.

5.0 POLICY CONTEXT

National Planning Guidance

5.1 National Planning Policy Framework (NPPF)

The revised NPPF was published on 24 July 2018 (and subsequently updated with

minor amendments on 19th February 2019). The NPPF sets out the Government's planning policies. Paragraph 11 of the Framework sets out a presumption in favour of sustainable development. This paragraph goes on to state that for decision taking this means:

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date¹, granting permission unless:*
 - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed²; or*
 - ii *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

¹ *This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites ...*

² *The policies referred to are those in this Framework relating to: habitats sites and/or SSSIs, land designated as Green Belt, Local Green Space, AONBs, National Parks, Heritage Coast, irreplaceable habitats, designated heritage assets and areas at risk of flooding or coastal change. As the proposals include an element of residential development, paragraph 11(d) is also relevant to a degree in respect of the five year supply of deliverable housing. The Council's most recently published figure for housing land supply (July 2016) refers to a supply of between 2.5 to 2.7 years and it is to be expected that this figure has reduced as completions on large development sites has progressed. However, as the site is within the Green Belt the 'tilted balance' in favour of granting permission is not engaged. Paragraph 2 of the NPPF 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. The following chapter headings and content of the NPPF are particularly relevant to the consideration of the current proposals:*

- 2. Achieving sustainable development

4. Decision-making
5. Delivering a sufficient supply of homes.
6. Building a strong, competitive economy
7. Ensuring the vitality of town centres
8. Promoting healthy and safe communities
9. Promoting sustainable transport
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

5.2 National Planning Practice Guidance (NPPG)

In March 2014 the Department for Communities and Local Government (now known as Ministry of Housing, Communities and Local Government) 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 include:

- Design
- Determining a planning application
- Flood risk and coastal change
- Natural Environment
- Planning obligations
- Use of Planning Conditions

5.3 Local Planning Policy

Local Planning Policy: Thurrock Local Development Framework (2015)

The “Core Strategy and Policies for Management of Development Focused Review: Consistency with National Planning Policy Framework Focused Review” was adopted by Council on the 28 February 2015. The following policies apply to the proposals:

Overarching Sustainable Development Policy:

OSDP1 (Promotion of Sustainable Growth and Regeneration in Thurrock).

Spatial Policies:

- CSSP1 (Sustainable Housing and Locations);

- CSSP4 Sustainable Green Belt.

Thematic Policies:

- CSTP1 (Strategic Housing Provision)
- CSTP2 (The Provision of Affordable Housing)
- CSTP7 (Network of Centres)
- CSTP15 (Transport in Greater Thurrock)
- CSTP19 (Biodiversity)
- CSTP22 (Thurrock Design)
- CSTP23 (Thurrock Character and Distinctiveness).

Policies for the Management of Development:

- PMD1 (Minimising Pollution and Impacts on Amenity)
- PMD2 (Design and Layout)
- PMD5 (Open Spaces, Outdoor Sports and Recreational Facilities)
- PMD6 (Development in the Green Belt)
- PMD7 (Biodiversity, Geological Conservation and Development)
- PMD8 (Parking Standards)
- PMD9 (Road Network Hierarchy)
- PMD10 (Transport Assessments and Travel Plans)
- PMD13 (Decentralised, Renewable and Low Carbon Energy Generation)
- PMD15 (Flood Risk Assessment)
- PMD16 (Developer Contributions)

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. The Council consulted on an Issues and Options (Stage 2

Spatial Options and Sites) document earlier this year.

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.

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. Access, Traffic Impact and Parking
- III. Design and Layout and Impact upon the Area
- IV. Flood Risk and Drainage
- V. Planning Obligations

I. PRINCIPLE OF DEVELOPMENT AND 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 to accord with the requirements of the NPPF.
- 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 143 states that *"inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."* At paragraph 145 the NPPF sets out a limited number of exceptions where the construction of new buildings could be acceptable. The current proposal for residential development does not fall within the categories which are exceptions to the presumption against inappropriate development. Consequently, it is a straightforward matter to conclude that the proposals comprise inappropriate development with reference to the NPPF and Core Strategy policy.

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

- 6.6 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.
- 6.7 As noted above, paragraph 133 of 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 being described as their openness and their permanence. Although this is an application for outline planning permission, it is clear from the submitted indicative masterplan that built development and accompanying curtilages etc. would occupy a large part of the site. The proposals would comprise a substantial amount of new built development in an area which is predominantly open, apart from a small open-sided field shelter. Therefore, it is considered that the amount and scale of development proposed would significantly reduce the openness of the site. As a consequence the loss of openness, which is

contrary to the NPPF, should be accorded substantial weight in the consideration of this application.

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 outside the boundary of the village of Bulphan. For the purposes of the NPPF, the site is considered to be outside of any 'large built up areas'. At a broader geographic scale the nearest large built-up areas are located at Laindon to the north-east, Stanford-le-Hope / Corringham to the south-east, Grays to the south and South Ockendon to the south-west. The proposed development would represent the addition of significant new urban form on the site but it not considered that the proposals would significantly harm the purpose of the Green Belt in checking the unrestricted sprawl of large built-up areas.

b. to prevent neighbouring towns from merging into one another

6.11 As noted above, at a broad geographic scale the site and the village of Bulphan is a relatively isolated settlement, with the larger towns (Grays, South Ockendon etc.) to the east, south and west located some distance away. For example, Laindon (to the north-east) and South Ockendon (to the south-west) are separated by approximately 7km. In this context the development of the site development would not conflict with this Green Belt purpose to any substantial degree.

c. to assist in safeguarding the countryside from encroachment

6.12 With regard to the third Green Belt purpose, the proposal would involve built development on what is currently an open and undeveloped site of 7.2 ha. The term "countryside" can conceivably include different landscape characteristics (e.g. farmland, woodland, marshland etc.) and there can be no dispute that the site comprises "countryside" for the purposes of applying the NPPF policy test. It is therefore considered that the proposal would constitute an encroachment of built

development into the countryside in this location. The development would consequently conflict with this Green Belt purpose.

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

- 6.13 Bulphan is a village but the proposal is not within an area which has special historic character. Therefore, 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 In general terms, the development could occur in the urban area and, in principle; there is no spatial imperative why Green Belt land is required to accommodate the proposals. The proposed development is inconsistent with the fifth purpose of the Green Belt. Therefore, the development of this Green Belt site as proposed might discourage, rather than encourage urban renewal. Members will be aware that a new Local Plan for the Borough is being prepared and it is recognised that the release of some Green Belt land may be required in order to meet future growth. Indeed, the existing adopted Core Strategy (policy CSSP1) recognises the scenario of some Green Belt release. Although the new Local Plan may well identify locations for the release of Green Belt land, the document is at a very early stage and cannot be afforded weight in the decision-making process.

- 6.15 In light of the above analysis, it is considered that the proposals would clearly be harmful to openness and would be contrary to purposes (c) and (e) of the above listed purposes of including land in the Green Belt. Substantial weight should be afforded to these factors.

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 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. 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.

- 6.17 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 (emphasis added) outweighed by other considerations*".
- 6.18 The Planning Design & Access Statement sets out the applicant's Very Special Circumstances which are assessed below:

a) *Tangible contribution of 116 residential units in context of five year housing supply deficit of a mix in accordance with identified housing need.*

The applicant has argued that the Council's lack of 5 year housing supply and the contribution of 116 dwellings is a factor contributing to the very special circumstances required to justify inappropriate development which should be afforded weight.

Consideration

- 6.19 The adopted Core Strategy (as amended) (2015) sets out the Council's targets for the delivery of new dwellings. Policy CSTP1 states that between April 2009 and March 2021, 13,550 dwellings are required to meet the overall minimum target of 18,500 dwellings (2001 -2021). In addition, provision is made for a further 4,750 dwellings between 2021 -2026. This is a total of 18,300 for the period 2009-2026, equating to an average of 1,076 dwellings per annum. Paragraph 59 of the NPPF sets out the objective of significantly boosting the supply of housing. In order to achieve this objective, it includes a number of provisions including the need for local authorities to identify and update a supply of specific deliverable sites sufficient to provide 5 years' worth of housing. Paragraph 73 of the NPPF also requires that the 5 year supply should be increased by either a 5% or a 20% buffer. The purpose is to ensure choice and competition in the market for land, but the additional purpose of the latter figure is to provide a realistic prospect of achieving the planned supply.

6.20 The most up-to-date analysis of the Borough’s housing land supply is provided in the Thurrock Local Plan Five Year Housing Land Supply Position Statement (July 2016). This statement notes that *“the dwelling requirement set out in the Core Strategy is now considered to be out of date”*. Instead, the South Essex Strategic Housing Market Assessment identifies a range of objectively assessed need for Thurrock of between 919 and 973 dwellings per annum (2014 base date). Using this range the requirement for new dwellings is:

		Lower	Upper
A	Thurrock Objectively Assessed Need	919	973
B	Thurrock annual housing requirement 2016 – 2021 (A x 5 years)	4,595	4,865
C	Thurrock annual housing requirement 2016 – 2021 including 20% buffer (B plus 20%)	5,514	5,838
D	2 year residual housing requirement 2014 to 2016	895	1,003
E	Total Thurrock Council annual housing requirement 2016 – 2021 (C + D)	6,409	6,841
F	Annual Thurrock Council annual housing requirement 2016 – 2021 (E ÷ 5)	1,282	1,359

The Statement also assesses the supply of deliverable housing in the next 5 years (2016/17 to 2020/21) and concludes that there is a supply of between 2.5 and 2.7 years. As this published figure is somewhat out of date and as it is known that delivery on a number of consented sites has progressed, the actual 5 year supply will currently be less than published in 2016.

6.21 Nevertheless, former Local Government Minister Brandon Lewis stated in July 2013 that that the "single issue" of unmet demand for housing or traveller sites would be unlikely to justify otherwise inappropriate development in the Green Belt. Furthermore, a revision to PPG dated 6th October 2014 (under reference ID: 3-034-20141006) states that *“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.”*

6.22 In dismissing the appeal against the refusal of planning permission for residential development at a Green Belt site on Little Thurrock Marshes in 2018 (ref. 15/01354/OUT) the Inspector noted under the heading of housing provision:

“The evidence indicates that the council cannot demonstrate a 5 year supply of deliverable housing sites against the most up-to-date assessment of housing need. Its past record of delivery is very poor and, even though this may now be improving,

it was agreed that there is only a supply of some 2.5-2.7 years. This is clearly a serious shortfall when considered against the Framework's objective of boosting significantly the supply of housing ... The Planning Practice Guidance indicates that unmet housing need on its own would be unlikely to outweigh the harm to the GB. Nevertheless, the weight to be provided to this benefit is a matter of planning judgement. Thurrock is a local authority tightly constrained by the GB and the evidence suggests that its housing requirement will not be able to be met solely on brownfield sites. The council is currently undertaking a GB assessment as part of the evidence base to its new Local Plan. However, this is still at an early stage and therefore cannot be relied on to address housing needs at the present time ... Bearing all of the above points in mind, the overall provision of market ... housing is a benefit of very significant weight".

- 6.23 The current proposals would provide a benefit in contributing towards addressing the shortfall in the supply of new housing as set out in Core Strategy policy delivery targets and as required by the NPPF. The matter of housing delivery contributes towards very special circumstances and should therefore be accorded significant weight in the consideration of this application. However, as noted above, this single issue on its own cannot comprise the very special circumstances to justify inappropriate development, and as such, for such circumstances to exist this factor must combine with other considerations.
- 6.24 *b) Provision of 40% on-site affordable housing of a mix in accordance with identified housing need, this exceeding LPA policy requirement of 35%.*

Consideration

Core Strategy policy CSTP2 (The Provision of Affordable Housing) states that in order to address the current and future need for affordable housing in Thurrock, the Council will seek the minimum provision of 35% of the total number of residential units built to be provided as affordable housing. It is worth emphasising that this policy refers to a minimum provision of 35% affordable housing, and in this respect the 'offer' of 40% may not be exceptional. However, Members of the Committee will be aware of the difficulties in delivering affordable housing allied to financial viability issues. Nevertheless, no financial viability appraisal accompanies this application.

- 6.25 The South Essex Strategic Housing Market Assessment identifies a range of objectively assessed housing need for Thurrock of between 919 and 973 dwellings per annum (using a 2014 base date). If the minimum 35% affordable housing figure is applied to objectively assessed housing need (919-973 dwellings) an annual range of 322-341 affordable housing units is obtained. A summary of

affordable housing completions in Thurrock for recent years of available data is provided in the table below:

Period	AH completions	Total completions on sites liable to A/H provision	% AH
2011/12	28	332	8.4%
2012/13	138	363	38.0%
2013/14	76	266	28.6%
2014/15	105	296	35.5%
2015/16	99	611	16.2%
Five Year Total	446	1,868	23.9%

6.26 The data in the above table shows that there have been two recent years within which the percentage of affordable housing completions on sites liable to provide affordable has met the minimum 35% policy target. However, the five-year trend between 2011/12 and 2015/16 is that the proportion of affordable housing completions on sites liable to deliver affordable housing is, at 24%, well below the minimum 35% policy target.

6.27 Within the context of the average under-delivery of affordable housing on eligible sites over the past five years, and the wider context of an historic under supply of housing (compared to Core Strategy policy targets and more recent objectively assessed need) it is considered that the proposals would make a sizeable contribution towards the delivery of affordable housing. This factor weighs in favour of the proposals and should be afforded positive weight in the balance of considerations.

6.28 In dismissing the Little Thurrock Marshes appeal last year (referred to above), the Inspector considered the applicant’s intended provision of 35% affordable housing (a total of 98 dwellings in that case) and concluded:

“The evidence also indicates that there is a serious shortfall of affordable housing against identified needs and that this is getting worse year-on-year. The proposal would include 35% affordable housing, which accords with the provisions of policy CSTEP2 in the CS ... the overall provision of market and affordable housing is a benefit of very significant weight.”

Consequently the provision of on-site affordable housing can be given significant weight in the Green Belt balance.

6.29 c) All dwellings to high sustainability standard exceeding building regulations.

Consideration

Policies PMD12 (Sustainable Buildings) and PMD13 (Decentralised, Renewable and Low-Carbon Energy Generation) are relevant to the proposals. Policy PMD12 requires new residential development to achieve a level 4 rating under the Code for Sustainable Homes (CSH) and major non-residential development to achieve appropriate BREEAM standards. However, following a technical housing standards review the Government withdrew the CSH in April 2015 and compliance with the Code can no longer be required through a planning permission. Part L (conservation of fuel and power) of the Building Regulations is still applicable.

- 6.30 Policy PMD13 of the Core Strategy sets targets for the provision of decentralised, renewable and low-carbon energy generation but the application provides no information regarding the intention to comply with this policy.
- 6.31 The applicant's intention to exceed Building Regulation requirement is welcomed. However, this intention is not evidenced with reference to a sustainability or energy appraisal. This factor is not particularly site-specific and could be cited as a consideration amounting to very special circumstances on many other sites. Accordingly, this factor attracts no weight in the balance of Green Belt considerations.
- 6.32 *d) Increased ecological value of the site which is currently of low ecological value.*

Consideration

Both the NPPF and Core Strategy Policy PMD7 require, when determining planning applications, that local planning authorities aim to conserve and enhance biodiversity by applying a number of principles including the encouragement of opportunities to incorporate biodiversity in and around developments.

- 6.33 An Ecological Appraisal accompanies the submission which includes reference to both proposed mitigation and enhancement measures. Enhancement measures include:
- enhancement of existing hedgerows;
 - creation of wildflower meadows;
 - tree and shrub planting; and
 - provision of bat and bird boxes.
- 6.34 Comments received from the Council's landscape and ecology advisor note that the site currently has low ecological value but it is unclear how much real biodiversity

gain would be achieved with the indicative landscape masterplan. Furthermore it is likely that any greenspace that is provided would have to be maintained in a 'tidy' condition due to the proximity of housing. Most of the areas indicated as part of the landscape are narrow strips around perimeters and the watercourse across the site.

- 6.35 A judgement has to be made as to whether the proposals go beyond mitigating the impact of the development. In any case, as national and local policies encourage biodiversity enhancement and given the uncertainty as to the value of the proposed enhancement this factor should only attract very limited weight in assessing whether very special circumstances exist.
- 6.36 *e) Provision of community facilities including three shop units and a public house in response to acute deficit of such facilities in Bulphan.*

Consideration

The applicant refers to paragraph 92 of the NPPF which states that to provide the social, recreational and cultural facilities the community needs, planning policies and decisions should (inter-alia):

Plan positively for the provision and use of shared spaces, community facilities (such as local shops ... public houses ...) and other local services to enhance the sustainability of communities and residential environmental environments.

However, paragraph 92 would not override the presumption against inappropriate development in the Green Belt set out elsewhere in the NPPF. No evidence has been presented to demonstrate a need for, or financial viability of the proposed retails and public house use. For information, the former Bulphan Post Office and Stores (located at the Church Road / Albert Road) junction has ceased trading.

- 6.37 Paragraph 86 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses (which includes retail uses and pubs) which are neither in an existing centre nor in accordance with an up to date plan. Main town centre uses should be located in town centres, then in edge of centre locations, and only if suitable sites are not available should out of centre sites be considered. Although the sequential approach need not be applied to "small scale rural development", the fact that Bulphan is not a defined town, local or neighbourhood centre and the lack of evidence that the uses are needed or viable means that no weight should be attached to this consideration.
- 6.38 *f) inclusion of Bulphan as a potential Village Expansion (up to 1,500 homes) in the Thurrock Local Plan Issues and Options (Stage 2) document, July 2018.*

As mentioned above, the Inspector considering the appeal at Little Thurrock Marshes last year noted that:

“ ...The council is currently undertaking a GB assessment as part of the evidence base to its new Local Plan. However, this is still at an early stage and therefore cannot be relied on to address housing needs at the present time ...”

It is currently estimated that a further consultation for the draft Local Plan will be undertaken in 2021, which will at that time identify a spatial strategy identifying sites as appropriate. The fact that Bulphan was included (amongst others) as a potential village expansion in the recent Issues and Options consultation attracts no weight as a consideration contributing towards the case for very special circumstances.

6.39 A summary of the weight which has been placed on the various Green Belt considerations is provided below:

Summary of Green Belt Harm and Very Special Circumstances			
Harm	Weight	Factors Promoted as Very Special Circumstances	Weight
Inappropriate development	Substantial	Lack of 5 years housing supply	Significant weight
Reduction in the openness of the Green Belt			
Conflict (to varying degrees) with a number of the purposes of including land in the Green Belt – purposes c and e.		Provision of on-site affordable housing	Significant weight
		Dwellings built to a high sustainability standard	No weight
		Increased ecological value of the site	Very limited weight
		Provision of community facilities	No weight
		inclusion of Bulphan as a potential Village Expansion in the Thurrock Local Plan Issues and Options (Stage 2) document	No weight

6.40 As ever, in reaching a conclusion on Green Belt issues, a judgement as to the balance between harm and whether the harm is clearly (emphasis added) outweighed must be reached. In this case there is harm to the Green Belt with

reference to inappropriate development (i.e. harm by definition), loss of openness and harm to Green Belt purposes (c) and (e). Several factors have been promoted by the applicant as considerations amounting to the 'very special circumstances' necessary to justify inappropriate development and it is for the Committee to judge:

- i. the weight to be attributed to these factors;
- ii. whether the factors are genuinely 'very special' (i.e. site specific) or whether the accumulation of generic factors combine at this location to comprise 'very special circumstances'.

6.41 In accordance with the NPPF, the harm has to be *clearly* outweighed by factors so as to amount to very special circumstances. Taking into account all Green Belt considerations, Members are advised that the considerations promoted by the applicant fall some considerable way short of constituting very special circumstances and it follows that harm is not clearly outweighed and that the application should be refused. There are no planning conditions that could be used to make the proposal acceptable in planning terms.

II. ACCESS, TRAFFIC IMPACT AND PARKING

6.42 Chapter 9 of the NPPF generally refers to the promotion of sustainable transport and at paragraph 103 it is stated that:

"... significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes ..."

When considering development proposals, paragraph 108 of the NPPF seeks to ensure that: (a) appropriate opportunities to promote sustainable transport can be taken up; (b) safe and suitable access to the site can be achieved for all users; and (c) significant impacts on the transport network (capacity and congestion) or highways safety can be mitigated to an acceptable degree. Development should only be refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

6.43 The site is not located with a reasonable or convenient distance of any railway station and Bulphan village has only very limited access to bus routes. The no. 265 (Grays-West Horndon) provides one service only on Monday, Wednesday and Friday and the no. 565 provide 4no. a.m. services only. Bulphan is not served by dedicated cycle links, although the lanes south and west of the village (Fen Lane / Church Lane) provide local on-road cycle links. However, in summary the site cannot be described as in a sustainable location which offers access to a range of

transport modes. It is highly likely that any future occupiers of the development would be heavily reliant on the private car as a means of transport.

- 6.44 The application is accompanied by a Transport Assessment (TA) which concludes that (i) satisfactory access can be provided in accordance with Essex Design Guide standards (ii) car parking can be provided in accordance with local guidance and (iii) additional trips generated by the development can be accommodated on the local network without harm to highway safety. Consideration of the principle of access to the site is considered below. With reference to car parking, the TA refers to standards produced by the Essex Planning Officers Association. Members may be aware that the Council's draft 'Parking Standards and Good Practice' (2012) is based on the Essex document though adapted for Thurrock. As layout is a reserved matter the quantum of car parking is not for consideration at this time. However, without prejudice to the principal Green Belt considerations in this case, it is considered that adequate car parking could be secured by planning condition if planning permission were to be granted. Consideration of trip generation from the development is set out below.
- 6.45 Comments received from the highways officer refers to the lack of options for sustainable transport modes in Bulphan (referred to above). With regard to the proposed access arrangements, a single point of access is proposed from Church Road which, although not a classified road (an 'A' or 'B' road) is described in the Core Strategy as a 'Level 2 urban road'. The point of access would be located approximately 30m to the west of the Church Lane / A128 junction. Core Strategy policy PMD9 (Road Network Hierarchy) applies and sets a number of criteria for proposed new accesses on routes. Part (1) of the policy refers to all road levels (including Church Road) and only permits new accesses where:
- i. there is no possibility of safe access taken from an existing or proposed lower category road
 - ii. the design of the development minimises the number of accesses required.
 - iii. the development makes a positive contribution to road safety or road safety is not prejudiced.
 - iv. the development preserves or enhances the quality of the street scene.
 - v. the development avoids causing congestion as measured by link and junction capacities.
 - vi. measures are taken to mitigate all adverse air quality impacts in or adjacent to Air Quality Management Areas.
 - vii. the development will minimise adverse impacts on the quality of life of local residents, such as noise, air pollution, and the general street environment.
 - viii. the development will make a positive contribution to accessibility by sustainable transport.

These criteria are relevant to the proposed access.

- 6.46 Part (2) of PMD9 refers to Level 1 (Corridors of Movement) is applicable to the A138 east of the site and states at (i) “... *development served by side roads connecting to a Corridor of Movement will only be permitted where it can be demonstrated that the Corridor of Movement will not be adversely affected in terms of highways safety and traffic capacity.*” The highways officer notes that the proposed access is only a short distance from the Church Lane / A128 junction and is not supported on highways grounds with reference to Policy PMD9. However, the PMD9 policy test is whether or not there is an adverse effect on highways safety and capacity. Members will be aware that the A128 is a busy north-south link road subject to 50 mph speed limit. The Church Road junction is a staggered crossroads with potential conflicts between right turn movements out of Church Road and traffic on the A128.
- 6.47 The applicant’s TA provides an assessment of traffic generated by the proposals and impacts on the A128 junction which concludes that the ratio of flow to capacity and queue lengths would worsen, although the impact is not considered to be severe. The requirements of the NPPF are that development should only be refused on highways grounds if there would be “*an unacceptable impact on highways safety, or the residual cumulative impacts (after mitigation) on the road network would be severe*”. There is a difference of opinion between the highways officer and the applicant on the significance of the impact in this case. It is notable however that no highways objections were raised to the planning application for the Pieris Place residential planning application (ref. 14/01406/OUT) involving access on to Church Road a short distance to the east of the A128 junction. In any case, what is beyond dispute is that the site is in a location poorly served by sustainable modes of transport and is therefore at odds with the policy intentions of the NPPF set out above.

III. DESIGN AND LAYOUT AND IMPACT UPON THE AREA

- 6.48 The matters of appearance, landscaping, layout and scale are reserved for future approval and the masterplan drawing accompanying the submission only provides an illustration of how the site could be developed should outline planning permission be granted. Without prejudice to the Green Belt issues which are of paramount importance (above) for a development of this this size it would be reasonable to require submission and approval of a design code to guide development. In addition to the spatial implications on the Green Belt mentioned above, comments from the landscape and ecology advisor refer to the location of the site in the Bulphan Fenland local Landscape Character Area, characterised by an open, flat and low-lying landscape. It is considered that the proposed development, including the proposed landscaping indicated on the masterplan,

would impact negatively on this character contrary to policies CSTP23 and PMD2 of the Core Strategy and paragraph 170 of the NPPF.

IV. FLOOD RISK AND DRAINAGE

- 6.49 The majority of the site is located within the low risk Flood Zone (Zone 1), however the south-western corner is at medium risk of flooding (Zone 2). Comments received from the Environment Agency raise no objections and the Council's flood risk manager raises no objections subject to planning conditions. The applicant's indicative masterplan suggested that amenity space and a drainage attenuation basin would be located within Zone 2, with built development restricted to Zone 1. The proposed uses within Zone 2 are 'water compatible' with reference to the Sequential Test (aimed at steering new development to areas with the lowest risk of flooding) is it considered that the Test is passed in this case. Consequently, there are no objections on the grounds of flood risk.

V. AFFORDABLE HOUSING & PLANNING OBLIGATIONS

- 6.50 Policy CSTP2 seeks the minimum provision of 35% affordable housing and policy PMD16 seeks planning obligations through S106 agreement (as appropriate) to mitigate the impact of development.
- 6.51 The applicant's proposals include the provision of 40% on-site affordable housing in compliance with the minimum requirements of policy CSTP2. Comments received from the Council's housing officer express a preference for a high proportion (90%) of one and two-bedroom units. This could be secured via a s.106 legal agreement in the event of approval.
- 6.52 The Infrastructure Requirement List (IRL) identifies potential extensions to existing primary and secondary schools to accommodate the demands created by new development (IRL refs. 0115, 0334, 0427 and 0442). Members are advised of a recent revision to NPPG which refers to the funding of school places through developer contributions (ref. ID: 23b-007-20190315).
- 6.53 The IRL also identifies the upgrading and enhancement of the Orsett surgery as a project. NHS England calculates the level of financial contribution required to mitigate the impacts of the development on local healthcare to be £45,747.
- 6.54 The site is within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) zone of influence and therefore it would be necessary for the local planning to secure a contribution towards mitigation of the effects of recreational disturbance on Thames Estuary and Marshes SPA. In the event that the application were being recommended favourably, such a contribution could be secured via an appropriate legal agreement in addition to the other financial contributions listed above.

6.55 A development of 116 dwellings as proposed would require appropriate mitigation of the impacts generated, principally on increased demands for healthcare and education, but also the RAMS contribution referred to above. However, given the overriding Green Belt considerations applicable to this case and the fact that there is a clear conflict with established local and national policies negotiations with the applicant for a potential s106 agreement to secure mitigation have not been pursued.

7.0 CONCLUSIONS AND REASONS FOR REFUSAL

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

7.2 The applicant has cited a number of factors which are promoted by them as outweighing harm and constituting the very special circumstances necessary to justify inappropriate development. The weight which can be attached to these factors is considered in detail in the paragraphs above. It is only the contribution towards housing supply, including affordable housing, which can be afforded significant weight. On their own these factors do not clearly outweigh harm and this position has been set out by Ministers and by Inspectors at appeal. The proposals are therefore contrary to national and local planning policies for the Green Belt

7.3 The site is not in a location well served by sustainable modes of transport and is considered to be contrary to the intentions of the NPPF of promoting sustainable transport and concentrating development at sustainable locations. The vehicular access to the site is close to the existing Church Road / A128 junction and the Council's Highways Officer has raised an objection to the proposal based on Core Strategy policy. However, as a matter of judgement, and based on the conclusions of the TA, it is not considered that there would be severe impacts on the road network which is the NPPF policy test. Nevertheless, the fact that the site is not served by sustainable modes of transport weighs against the proposal.

7.4 In addition to harm to the spatial designation of the site as Green Belt, it is also considered that there would be harm to landscape character.

7.5 There are no planning conditions that could be used to make the proposal

acceptable in planning terms. The development is clearly contrary to the Core Strategy and national policies contained in the NPPF. Consequently it is recommended that planning permission is refused.

8.0 RECOMMENDATION

Refuse planning permission for the following reasons:

- 1 The application site is located within the Green Belt, as identified on the Policies Map accompanying the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015). National and local planning policies for the Green Belt set out within the NPPF and Thurrock Local Development Framework set out a presumption against inappropriate development in the Green Belt. The proposals are considered to constitute inappropriate development with reference to policy and would, by definition, be harmful to the Green Belt. It is also considered that the proposals would harm the openness of the Green Belt and would be contrary Green Belt purposes (c) and (e) as described by paragraph 134 of the NPPF. It is considered that the identified harm to the Green Belt is not clearly outweighed by other considerations so as to amount to the very special circumstances required to justify inappropriate development. The proposals are therefore contrary to Part 13 of the NPPF and Policies CSSP4 and PMD6 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended) 2015).
2. The proposed development, by reason of its Green Belt location and remote position in relation to sustainable modes of transport would fail to meet the environmental dimension of sustainable development and would be contrary to the promotion of sustainable transport and paragraphs 103 and 108 of the NPPF.
3. The development of the site as suggested by the Indicative Masterplan would have a significant adverse effect on the local landscape character contrary to paragraph 170 of the NPPF and policies CSTP23 and PMD2 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended) 2015).

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

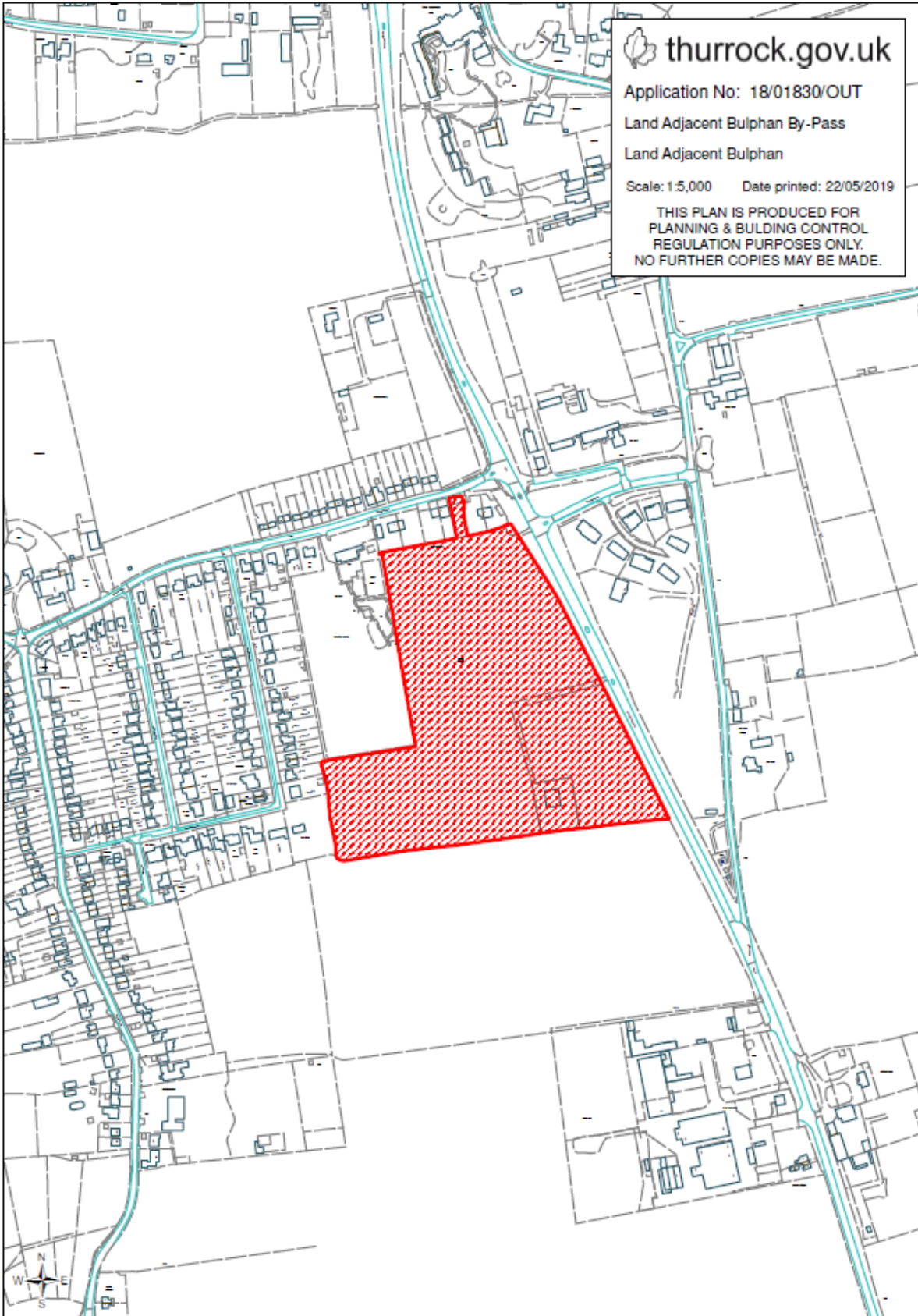
The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant/Agent the opportunity to consider the harm caused and

whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to liaise with the Applicant/Agent to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

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



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Reference: 19/00265/FUL	Site: Ivy Wall House Billet Lane Stanford Le Hope Essex SS17 0AR
Ward: Stanford Le Hope West	Proposal: Demolition of existing dwelling house and ancillary buildings and the construction of a new residential development consisting of 19 dwellings, new vehicle access, parking, amenity space, landscaping along with other associated development

Plan Number(s):		
Reference	Name	Received
795.001 Rev. 00	As Existing Site Location Plan	20 February 2019
795.201 Rev.00	Proposed Site Plan	20 February 2019
795.203 Rev.00	House Type 1	20 February 2019
795.204 Rev.00	House Type 2	20 February 2019
795.205 Rev.00	Apartment Block	20 February 2019
795.206 Rev.00	Streetscenes	20 February 2019

The application is also accompanied by: <ul style="list-style-type: none"> - Planning Statement – Phase 2 Planning - Design and Access Statement – DAP Architecture - Preliminary Ecological Assessment – Ethos - Arboricultural Implication Assessment (AIA) – Sharon Hosegood Associates - Transport Statement – Ardent - Flood Risk & Surface Water management Statement- Ardent 	
Applicant: Mr John Saunders	Validated: 21 February 2019 Date of expiry: 7 June 2019 (Extension of time agreed with applicant)
Recommendation: Refuse planning permission	

This application is scheduled for determination by the Council’s Planning Committee because the application was called in by Cllr. G. Rice, Cllr. J. Potheary, Cllr. S. Liddiard, Cllr. O. Gerrish and Cllr. B. Rice (in accordance with Part 3 (b) 2.1 (d)(i) of the Council’s constitution) to consider the proposal against Green Belt policy.

1.0 DESCRIPTION OF PROPOSAL

1.1 This application seeks planning permission for the demolition of all existing buildings on the site and the construction of 19 residential units and associated development (comprising access, parking and turning areas, bin storage, fencing and garden areas) at the site known as Ivy Wall House.

1.2 The proposed development would comprise short rows of terrace style houses located within and along the site frontage and a single apartment block that together would contain a total of 19 residential units consisting of 2, 3 and 4 bedroom units. Each dwelling would have either private off street parking or garages and parking.

1.3 Table 1 below summarises some of the main points of detail contained within the development proposal:

Site Area (Gross)	0.36 ha						
Height	2.5 storey houses and two storey flat block						
Units (All)	Type (ALL)	1-bed	2-bed	3-bed	4-bed	TOTAL	
	Houses	0	0	13	2	15	
	Flats	0	4	0	0	4	
	TOTAL	0	4	13	2	19	
Car parking	34 spaces						
Amenity Space for houses	All houses would have access to a private garden, minimum size 50 sq.m to maximum size 120 sq.m						
Flats	Communal amenity space.						
Density	52 units per ha for the whole site						

2.0 SITE DESCRIPTION

- 2.1 The application site is situated on the southern side of Billet Lane approximately 70m east of its junction with Adams Road. The site is approximately rectangular in shape with a frontage of 50m and a depth of 90m with an overall site area of approximately 0.36Ha. The topography of the site is generally level and the site is located in the low risk flood zone (Zone 1).
- 2.2 Set within private established gardens which are behind a 1.8m high wall, and towards the rear (south) of the site is a large two-storey dwelling house that is externally finished with facing brickwork and a plain tiled roof. In addition to the dwelling house, there are several outbuildings on-site and a swimming pool located close to the eastern boundary.
- 2.3 The site has a single vehicle crossover along Billet Lane which provides access into the site. Off street parking is located on the hard-paved areas of the site towards the front of the dwelling house. Extensive vegetation is located throughout the site including hedgerows and large mature trees along the boundaries which alongside the wall helps to contain the site from outside views. A Tree Preservation Order ref. 25/1984 protects a number of trees on-site.
- 2.4 The northern side of Billet Lane opposite the site is defined by established post-war housing that mainly consists of two-storey semi-detached and detached dwellings. Surrounding the application site to the south, east and west are large open recreational fields used by a number of sporting clubs including Stanford Wanders Football Club and a Lawn Bowls Club. The Crooked Billet public house building is located to the south-east (rear) of the site with an associated car parking area immediately to the east.
- 2.5 Land on the southern side of Billet Lane, including the application site and adjoining uses are within the Metropolitan Green Belt.

3.0 RELEVANT HISTORY

Reference	Description	Decision
73/00079/OUT	Detached bungalow	Refused
82/00103/OUT	Bungalow and garage	Refused
86/00016/FUL	Change of use to rest home - internal alterations and side extension	Approved

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

PUBLICITY:

4.2 This application has been advertised by way of individual neighbour notification letters sent to 14 surrounding properties, press advert and public site notice which has been displayed nearby. The application has been advertised as a major development and a departure from the development plan. Eight letters of objections have been received citing the following concerns:

- Lack of infrastructure (schools, doctors, hospitals and surgeries);
- Increase in traffic;
- Lack of parking;
- Increased pollution;
- Overlooking;
- Out of character;
- Increase in noise;
- Litter/smells;

The following consultation replies have been received:

4.3 ANGLIAN WATER:

No objection, with conditions.

4.4 ARCHAEOLOGY:

No objection, with conditions.

4.5 EDUCATION:

No objection with s106 contribution.

4.6 ENVIRONMENTAL HEALTH:

No objection, with conditions.

4.7 FLOOD RISK MANAGER:

Holding objection on the grounds of inadequate information.

4.8 HIGHWAYS:

Further information required relating to parking layout, cycle parking, sight lines and junction spacing.

4.9 LANDSCAPE & ECOLOGY:

The site has low ecological value although a planning condition is required for a bat survey. A contribution towards Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) is required. The density of the development affords little opportunity for new planting.

5.0 POLICY CONTEXT

National Planning Guidance

5.1 National Planning Policy Framework (NPPF)

The revised NPPF was published on 24 July 2018 (and subsequently updated with minor amendments on 19 February 2019). The NPPF sets out the Government's planning policies. Paragraph 11 of the Framework sets out a presumption in favour of sustainable development. This paragraph goes on to state that for decision taking this means:

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date¹, granting permission unless:*
 - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed²; or*
 - ii *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

¹ *This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites ...*

² *The policies referred to are those in this Framework relating to: habitats sites and/or SSSIs, land designated as Green Belt, Local Green Space, AONBs, National Parks, Heritage Coast, irreplaceable habitats, designated heritage assets and areas at risk of flooding or coastal change.*

As the proposals include an element of residential development, paragraph 11(d) is also relevant to a degree in respect of the five year supply of deliverable housing. The Council's most recently published figure for housing land supply (July 2016) refers to a supply of between 2.5 to 2.7 years and it is to be expected that this figure has reduced as completions on large development sites has progressed. However, as the site is within the Green Belt the 'tilted balance' in favour of granting permission is not engaged. Paragraph 2 of the NPPF 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. The following chapter headings and content of the NPPF are particularly relevant to the consideration of the current proposals:

2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes.
8. Promoting healthy and safe communities
9. Promoting sustainable transport
12. Achieving well-designed places
13. Protecting Green Belt land
15. Conserving and enhancing the natural environment

5.2 National Planning Practice Guidance (NPPG)

In March 2014 the Department for Communities and Local Government (now known as Ministry of Housing, Communities and Local Government) 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
- Planning obligations

- Use of Planning Conditions

5.3 Local Planning Policy

Local Planning Policy Thurrock Local Development Framework (2015)

The “Core Strategy and Policies for Management of Development Focused Review: Consistency with National Planning Policy Framework Focused Review” was adopted by Council on the 28 February 2015. The following policies apply to the proposals:

Overarching Sustainable Development Policy:

OSDP1 (Promotion of Sustainable Growth and Regeneration in Thurrock).

Spatial Policies:

- CSSP1 (Sustainable Housing and Locations);
- CSSP4 Sustainable Green Belt.

Thematic Policies:

- CSTP1 (Strategic Housing Provision)
- CSTP2 (The Provision of Affordable Housing)
- CSTP15 (Transport in Greater Thurrock)
- CSTP19 (Biodiversity)
- CSTP22 (Thurrock Design)
- CSTP23 (Thurrock Character and Distinctiveness).

Policies for the Management of Development:

- PMD1 (Minimising Pollution and Impacts on Amenity)
- PMD2 (Design and Layout)
- PMD5 (Open Spaces, Outdoor Sports and Recreational Facilities)
- PMD6 (Development in the Green Belt)
- PMD7 (Biodiversity, Geological Conservation and Development)
- PMD8 (Parking Standards)
- PMD9 (Road Network Hierarchy)
- PMD13 (Decentralised, Renewable and Low Carbon Energy Generation)
- PMD16 (Developer Contributions)

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. The Council consulted on an Issues and Options (Stage 2 Spatial Options and Sites) document earlier this year.

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.

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 principal issues to be considered in the determination of this application are:

- I. Principle of development and impact upon the Green Belt
- II. Access, traffic and highway impacts
- III. Site layout and design
- IV. Landscape and ecology
- V. Amenity and neighbours
- VI. Developer contributions
- VII. Other matters

I. PRINCIPLE OF DEVELOPMENT AND 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 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.

6.5 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 143 states that "*inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*". At paragraph 145 the NPPF sets out a limited number of exceptions where the construction of new buildings could be acceptable. Paragraph 145 (d) refers to "*the replacement of a building, provided the building is in the same use and not materially larger than the one it replaces*" as being appropriate. However, the replacement buildings are clearly substantially larger in both footprint and volume to the existing situation. Therefore, the current proposal for residential development does not fall within the categories which are exceptions to the presumption against inappropriate development. Consequently, it is a straightforward matter to conclude that the proposals comprise inappropriate development with reference to the NPPF and Core Strategy policy..

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

6.6 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.

- 6.7 As noted above, paragraph 133 of 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 being described as their openness and their permanence. It is clear from the site layout plan that built development, accompanying curtilages etc. and parking areas would occupy the vast majority of the site. The proposals would comprise a substantial amount of new built development on a site currently occupied by a single dwelling with ancillary outbuildings. Therefore, it is considered that the amount and scale of development proposed would significantly reduce the openness of the site. As a consequence the loss of openness, which is contrary to the NPPF, should be accorded substantial weight in the consideration of this application.
- 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 on the southern side of Billet Lane which forms the edge of the built-up area at the south-east of Stanford-le-Hope. Stanford-le-Hope, which merges with Corringham north of the A1014, can reasonably be described as a large built-up area (in combination with Corringham). The proposal would represent a considerably more intensive form of built development than the existing single dwelling and a harmful addition of new urban form on the site. As Billet Lane forms a clear boundary between the built-up area to the north and open land to the south it is considered that development of the site as proposed would harm the Green Belt purpose of checking the unrestricted sprawl of large built-up areas, albeit to a modest degree.
- b. to prevent neighbouring towns from merging into one another*
- 6.11 There is no town located to the south or south-east of Stanford-le-Hope and consequently development would not conflict with this Green Belt purpose.

c. to assist in safeguarding the countryside from encroachment

- 6.12 With regard to the third Green Belt purpose, the proposal would involve more intensive built development (19 dwellings) on what is currently a single dwelling and associated residential curtilage. It is therefore clear that the level of development proposed would encroach upon the countryside in this location and would constitute material harm to the openness character of the Green Belt.

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

- 6.13 Stanford Le Hope is not a historic town and the proposal is not within an area which has special character. Therefore, 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 In general terms, the development could occur in the urban area and, in principle; there is no spatial imperative why Green Belt land is required to accommodate the proposals. The proposed development is inconsistent with the fifth purpose of the Green Belt. The development of this Green Belt site as proposed could discourage, rather than encourage urban renewal. Members will be aware that a new Local Plan for the Borough is being prepared and it is recognised that the release of some Green Belt land may be required in order to meet future growth. Indeed, the existing adopted Core Strategy (policy CSSP1) recognises the scenario of some Green Belt release. Although the new Local Plan may well identify locations for the release of Green Belt land, the document is at a very early stage and cannot be afforded weight in the decision-making process.
- 6.15 In light of the above analysis, it is considered that the proposals would be contrary to purposes (a), (c) and (e) of the above listed purposes of including land in the Green Belt. Substantial weight should be afforded to these factors.

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 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. 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.

6.17 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 Paragraph 7.45 of the applicant's Planning Statement sets out the applicant's case for very special circumstances which are assessed below:

a) *The proposal cannot be tested against a fully up-to-date Local Plan.*

Consideration

The Council originally adopted the LDF Core Strategy in 2011 but this was updated to ensure compliance with the NPPF and amended in 2015. The Core Strategy policies referring to the Green Belt are up to date and consistent with the NPPF. The proposal can therefore be tested against relevant local and national policies for the Green Belt and this assessment is provided above. This factor should be given no positive weight in the balance of considerations.

b) *The emerging draft Local Plan has far to go before its adoption after making an uncertain start.*

Consideration

As above, the local and national planning policies for the Green Belt are up to date. The Council is currently working on a new Local Plan and has recently consulted on the Issues and Options (Stage 2 Spatial Options and Sites) document. No

decisions have been made in relation to new housing sites and Green Belt release. However, this does not fetter the local planning authority from reaching an informed decision on the current proposal based on established Green Belt planning policies.

- c) *The Council has only a 2.5 - 2.7 year land supply and will require many more homes than those with planning permission to provide a 5 year housing land supply.*

Consideration

The Council acknowledges that there is presently a lack of 5 year housing supply. However the NPPG advises that 'unmet housing need 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' (Paragraph 034 Reference ID: 3-034-20141006).

The current proposals would provide a limited benefit in contributing towards addressing the shortfall in the supply of new housing as set out in Core Strategy policy delivery targets and as required by the NPPF. The matter of housing delivery contributes towards very special circumstances and should therefore be accorded significant weight in the consideration of this application. However, as noted above, this single issue on its own cannot comprise the very special circumstances to justify inappropriate development, and as such, for such circumstances to exist this factor must combine with other considerations.

- d) *The proposal meets with The Three Dimensions of Sustainable Development as set out in paragraph 7 of the Framework.*

Consideration

Paragraph 8 of the NPPF defines economic, social and environmental objectives for achieving sustainable development. Although the proposals would introduce some economic and social advantages (such as the introduction of any new population, including additional spending in the local economy) these factors do not outweigh the environmental objective of, inter-alia "*protecting and enhancing our natural ... environment*". The proposals cannot be said to meet all three dimensions and only limited weight should be given to this factor.

- e) *The proposals, furthermore, provide a positive use for the site which will contribute to housing supply in a district which has a significant need for new homes and no opportunity to increase supply in the short-term other than*

through beneficial windfalls such as the application site. The Council does not have a five-year land supply and has failed to identify and then meet the full, objectively assessed needs for market and affordable housing in the housing market area.

Consideration

This argument largely repeats (c) above and, in light of the above analysis, the contribution towards housing supply is afforded significant weight.

f) The site is brownfield (previously developed land) in a sustainable location. The Council's emerging Local Plan strategy, echoed by the Planning White Paper, is to prioritise previously developed over open Green Belt land. The NPPF seeks to prioritise the use of previously developed land.

Consideration

The definition of 'Previously Developed Land' at Annex 2 of the NPPF states:

“Previously developed land:

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

This definition specifically excludes “*land in built-up areas such as residential gardens*”. As the site is in the Green Belt it could not reasonably be described as comprising land within a large built up area. Nevertheless, paragraph 145 (d) is applicable and referred to above. No weight should be attached to this factor.

g) There is limited harm to the Green Belt by definition but there is no additional substantial harm;

Consideration

The analysis above concludes that there is definitional harm, harm to openness and harm to Green Belt purposes (a) (c) and (e). It is not agreed that harm is "limited". This factor attracts no weight.

h) The planning system according to the NPPF should be looking favourably on proposals for sustainable development, and to leave this brownfield site and develop other Green Belt land ahead of it, when it can positively contribute to sustainable development both through the economic activity of construction itself and through the fact that new homes here means less on the Green Belt elsewhere, fails to embrace the spirit of sustainable development.

Consideration

The presumption in favour of sustainable development (paragraph 11 of the NPPF) does not apply to "*the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed*" including Green Belt. The applicant seems to consider that by developing this site other Green Belt sites will be protected. As the site is, de-facto, in the Green Belt this argument is counter-intuitive and attracts no weight.

i) The application includes 4 affordable homes within a Borough that is short of affordable homes.

Consideration

Core Strategy policy CSTP2 (The Provision of Affordable Housing) states that in order to address the current and future need for affordable housing in Thurrock, the Council will seek the minimum provision of 35% of the total number of residential units built to be provided as affordable housing. It is worth emphasising that this policy refers to a minimum provision of 35% affordable housing. The applicant refers to the provision of 4 affordable units equating to 21% of the total number of units. The proposals are therefore not policy compliant and the application is not accompanied by a financial viability report to test the level of affordable housing which the development could sustain. Although the provision of some affordable housing is welcome, it is not known whether 4 units is appropriate or whether the proposals could sustain policy compliant affordable housing. Consequently it is not possible to conclude on this point.

6.19 A summary of the weight which has been placed on the various Green Belt considerations is provided below:

Summary of Green Belt Harm and Very Special Circumstances			
Harm	Weight	Factors Promoted as Very Special Circumstances	Weight
Inappropriate development	Substantial	a) No up to date Local Plan to test application against	No weight
Reduction in the openness of the Green Belt		b) Draft Local Plan timeline not certain	No weight
Conflict with a number of the purposes of including land in the Green Belt – purposes (a) (c) and (e).		c) Lack of 5 years housing supply	Significant weight
		d) Meets three dimensions of sustainable development – par 7 NPPF	Limited weight
		e) Housing supply	Significant weight (as per c) above)
		f) site is previously developed land	No weight
		g) No substantial harm to Green Belt	No weight
		h) Sustainable development	No weight
		i) Four affordable units	No

	provided	conclusion can be reached
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6.20 As ever, in reaching a conclusion on Green Belt issues, a judgement as to the balance between harm and whether the harm is clearly (emphasis added) outweighed must be reached. In this case there is harm to the Green Belt with reference to inappropriate development (i.e. harm by definition), loss of openness and harm to Green Belt purposes (a) and (e). Several factors have been promoted by the applicant as considerations amounting to the 'Very Special Circumstances' necessary to justify inappropriate development and it is for the Committee to judge:

- i. the weight to be attributed to these factors;
- ii. whether the factors are genuinely 'very special' (i.e. site specific) or whether the accumulation of generic factors combine at this location to comprise 'very special circumstances'.

6.21 In accordance with the NPPF, the harm has to be *clearly* outweighed by factors so as to amount to very special circumstances. In accordance with the NPPF, the harm has to be *clearly* outweighed by Very Special Circumstances. Taking into account all Green Belt considerations, Members are advised that the case associated with this development proposal falls some considerable way short of constituting genuine very special circumstances and it follows that the application should be refused. There are no planning conditions that could be used to make the proposal acceptable in planning terms.

II. ACCESS, TRAFFIC AND HIGHWAY IMPACTS

6.22 With reference to car parking provision, the site is considered to be in an area of low accessibility, as the properties would be further than 1km from the town centre and more than 400m walk to the closest bus stop.

Given the location of the site in an area of low accessibility, the Council's draft parking standards require an increased level of parking provision. There are 34 parking spaces proposed at the site; this falls short of the requirement of 39, as 0.25spaces are required per unit for visitor parking (19x0.25 = 5 spaces). The Highways Officer suggests that failure to provide sufficient, accessible parking spaces will be likely to result in parking over spilling onto the public highway, contrary to Policy PMD8 of the Core Strategy, leading to harm to pedestrian and highways safety. However, Members are reminded that the Council's 2012 parking standards are in draft form and therefore must be considered as advisory and not an adopted policy document. Furthermore, Billet Road is not subject to parking or

waiting restrictions. As a matter of judgement it is considered that any visitors to the site could park in adjacent roads without demonstrable harm to highways safety. Members are reminded that paragraph 109 of the NPPF states *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*. It is not considered that a small shortfall against a draft standard would form a robust reason for refusing planning permission.

- 6.23 The site is currently accessed from Billet Lane via a crossover close to the site’s western boundary. The proposals include a relocation of the access to the centre of the Billet Lane frontage. The proposed access is for 19 new properties (an addition of 18 units) accessing from a location which is closer to the existing adjoining public house entrance than the current access. The Highways Officer considers that the new access could create inconvenience and conflict on the highway, causing harm to highways safety, contrary to Policy PMD9 of the Core Strategy. However as a matter of judgement it is considered that there would be no ‘severe’ impacts on the road network.
- 6.24 It is concluded that there are no highways or parking concerns of overriding importance which would justify a refusal on highways grounds.

III. SITE LAYOUT AND DESIGN

- 6.25 The northern side of Billet Lane is characterised by two-storey, semi-detached residential properties.
- 6.26 The layout would comprise six blocks of dwellings, with rows of short terrace style housing and an apartment block at the north-western corner. The layout has been designed to have a new entrance off Billet Lane centrally along the frontage of the site. An apartment block would be located to the west of the access along with a row of terraced housing on the east which would front on to Billet Lane. A new cul-de-sac would serve the remainder of the properties. The cul-de-sac would consist of four blocks of terraced housing (although the two to the rear of the site are linked).

The density of the development, at 52 dwellings per hectare (dph), would be materially greater than the existing housing to the north. For example, the Billet Lane / Conrad Road / Burgess Avenue / Adams Road street block immediately north has a density of c.20 dph. Without prejudice to Green Belt considerations, although the NPPF encourages the effective use of land the layout of the site is cramped compared with the prevailing character to the north.

- 6.27 Annex 1 (Criteria Relating to the Control of Development in Residential Areas) of the Local Plan (1997) has been 'saved' and provides some appropriate guidance regarding layout. Annex 1 refers to a minimum rear garden length of 12m. Proposed rear garden depths vary between 10m and 14m, although only two plots meet the suggested 12m depth. Annex 1 also refers to minimum rear garden areas for dwellinghouses, related to internal floorspace. The proposals include a range of garden sizes from c. 50sq.m. to c.100sq.m. However, the majority of gardens are at the lower end of this range. Allied to shallow rear garden depths this is an indication of overdevelopment of the site.

Although some defensible front garden space and set-back from the pavement would be provided along the Billet Road frontage, the remaining dwellings have negligible separation between front doors / windows and footpaths and parking areas. Within the site, the hardsurfaced parking and turning area would visually dominate the site leaving no space for meaningful soft landscaping. It is concluded that the proposals would result in a cramped overdevelopment of the site.

IV. LANDSCAPE AND ECOLOGY

- 6.28 The applicant's preliminary ecological appraisal confirmed that the site is of generally low ecological value although it is considered that the buildings had some potential for roosting bats. The report details the emergence surveys that are required in order to confirm presence /absence. A condition is necessary to require these surveys to be carried out and any necessary licencing requirements met prior to commencement.
- 6.29 There are no trees on site other than a single Willow which is dead. One off-site tree would require a crown reduction to facilitate construction as detailed in the applicant's arboricultural report. The draft method statement details measures to minimise the effects on the tree's roots. If permission is granted a condition is sought requiring a full method statement to be submitted and approved by the LPA prior to commencement.

Accordingly, no objection is raised on landscape and ecology grounds.

V. AMENITY AND NEIGHBOURS

- 6.30 Neighbours have raised concern in relation to the impact of the new dwellings on their outlook and amenity. Whilst it is true that the dwellings that are proposed on this site would be a change from the existing scenario, there is no right to an outlook under planning law. Accordingly an objection on these grounds could not be substantiated.

- 6.31 The new properties would be adjacent to The Crooked Billet pub. Whilst there may be noise generated via the opening hours of the pub and through patrons accessing and leaving this site, this would not be uncommon and it is not considered an objection could be substantiated in terms of impact on neighbour amenity.

VI. DEVELOPER CONTRIBUTIONS

- 6.32 Policy PMD16 indicates that where needs would arise as a result of development; the Council will seek to secure planning obligations under Section 106 of the Town and Country Planning Act 1990 and any other relevant guidance. The Policy states that the Council will seek to ensure that development proposals contribute to the delivery of strategic infrastructure to enable the cumulative impact of development to be managed and to meet the reasonable cost of new infrastructure made necessary by the proposal.
- 6.33 The applicant indicates that they would provide 4 dwellings as affordable houses, which represents only 21% of the total development. The policy compliant level is 35%, as required within policy CSTP2, and the Council would therefore expect 6 dwellings. No viability assessment has been put forward to justify the shortfall, and as such the proposal is contrary to Policy CSPT2 of the Core Strategy in relation to affordable housing provision.
- 6.34 The site is within the Essex Coast RAMS zone of influence and therefore it would be necessary for the LPA to secure a contribution towards mitigation of the effects of recreational disturbance on Thames Estuary and Marshes SPA. In the event that the application were being recommended favourably such a contribution could be secured via an appropriate legal agreement.

VII. OTHER MATTERS

- 6.35 The Council's Archaeology Advisor has advised that '*the Historic Environment Record shows the proposed development lies within an area of known archaeological deposits. The proposed development sits in close proximity a sequence of records comprising cropmark complexes of probable multi-period date (EHER 14700, 47364, and 47050). The cropmarks to the west contain a probable trackway which will bisect the proposed development area. That to the east contains a series of ring ditches and enclosures of probable prehistoric date. There is therefore the potential for multi-period archaeological remains being identified on the site*'. Therefore, a condition regarding trial trenching and excavation would need to be added to an approval.

6.36 The application site is not within medium or high Flood Risk Zones (2 or 3), however it is major application. The Flood Risk Manager has been consulted with regards to the application and has raised a holding objection, as there is a lack of detail submitted in relation to site drainage, discharge points, lack of details about SuDS features and other matters. Accordingly, the proposal is contrary to Policies PMD15 and CSTP27 of the Core Strategy.

7.0 CONCLUSIONS AND REASONS FOR REFUSAL

7.1 The principal issue for consideration in this case is the assessment of the proposals against planning policies for the Green Belt and in particular whether there are considerations which clearly outweigh harm and amount to very special circumstances such that a departure from normal policy can be justified. The proposed development represents an inappropriate form of development within the Green Belt which is harmful by definition. The development would result in further harm by introducing increased built development and the dwellings, garages and hard surfacing would represent urbanising features which would be visually damaging to the openness of the Green Belt. The proposals would also harm Green Belt purposes (a) (c) and (e).

7.2 The applicant has cited a number of factors which are promoted by them as outweighing harm and constituting the very special circumstances necessary to justify inappropriate development. The weight which can be attached to these factors is considered in detail in the paragraphs above. It is only the contribution towards housing supply, which can be afforded significant weight. On its own this factor does not clearly outweigh harm and this position has been set out by Ministers and by Inspectors at appeal. The proposals are therefore contrary to national and local planning policies for the Green Belt. There are no planning conditions that could be used to make the proposal acceptable in planning terms. The development is clearly contrary to Policy PMD6 of the Core Strategy and guidance contained in the NPPF. Refusal is therefore recommended on Green Belt grounds.

7.3 The proposals fail to provide policy compliant affordable housing and no financial viability information has been submitted to justify the shortfall. Finally the layout of the site and provision of amenity spaces is unsatisfactory. The proposals would result in a cramped overdevelopment of the site.

8.0 RECOMMENDATION

8.1 Refuse planning for the following reasons:

1. The application site is located within the Green Belt, as identified on the Policies Map accompanying the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015). National and local planning policies for the Green Belt set out within the NPPF and Thurrock Local Development Framework set out a presumption against inappropriate development in the Green Belt. The proposals are considered to constitute inappropriate development with reference to policy and would, by definition, be harmful to the Green Belt. It is also considered that the proposals would harm the openness of the Green Belt and would be contrary Green Belt purposes (a) and (e) as described by paragraph 134 of the NPPF. It is considered that the identified harm to the Green Belt is not clearly outweighed by other considerations so as to amount to the very special circumstances required to justify inappropriate development. The proposals are therefore contrary to Part 13 of the NPPF and Policies CSSP4 and PMD6 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended) 2015).
2. The proposed development would by reason of its cramped layout, lack of appropriate landscaping and unsatisfactory provision of residential amenity space result in a cramped overdevelopment of the sit , which would be visually intrusive and would fail to contribute positively to the character of the area or contribute positively to local views and as such it would be contrary to part 12 of the National Planning Policy Framework 2019 and policies CSTP22, PMD1 and PMD2 of the Core Strategy 2015.
3. Insufficient evidence has been submitted to demonstrate that the proposed development could provide acceptable surface water drainage and storage calculations. The proposal is therefore contrary to policies PMD15 and CSTP27 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) and the National Planning Policy Framework 2019.
4. The proposals would fail to deliver the level of affordable housing provision required by adopted Council planning policy and no evidence, in the form of a financial viability report, has been submitted to justify the level of affordable housing proposed. The proposals are therefore contrary to Policy CSTP2 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended) 2015).

Informative:

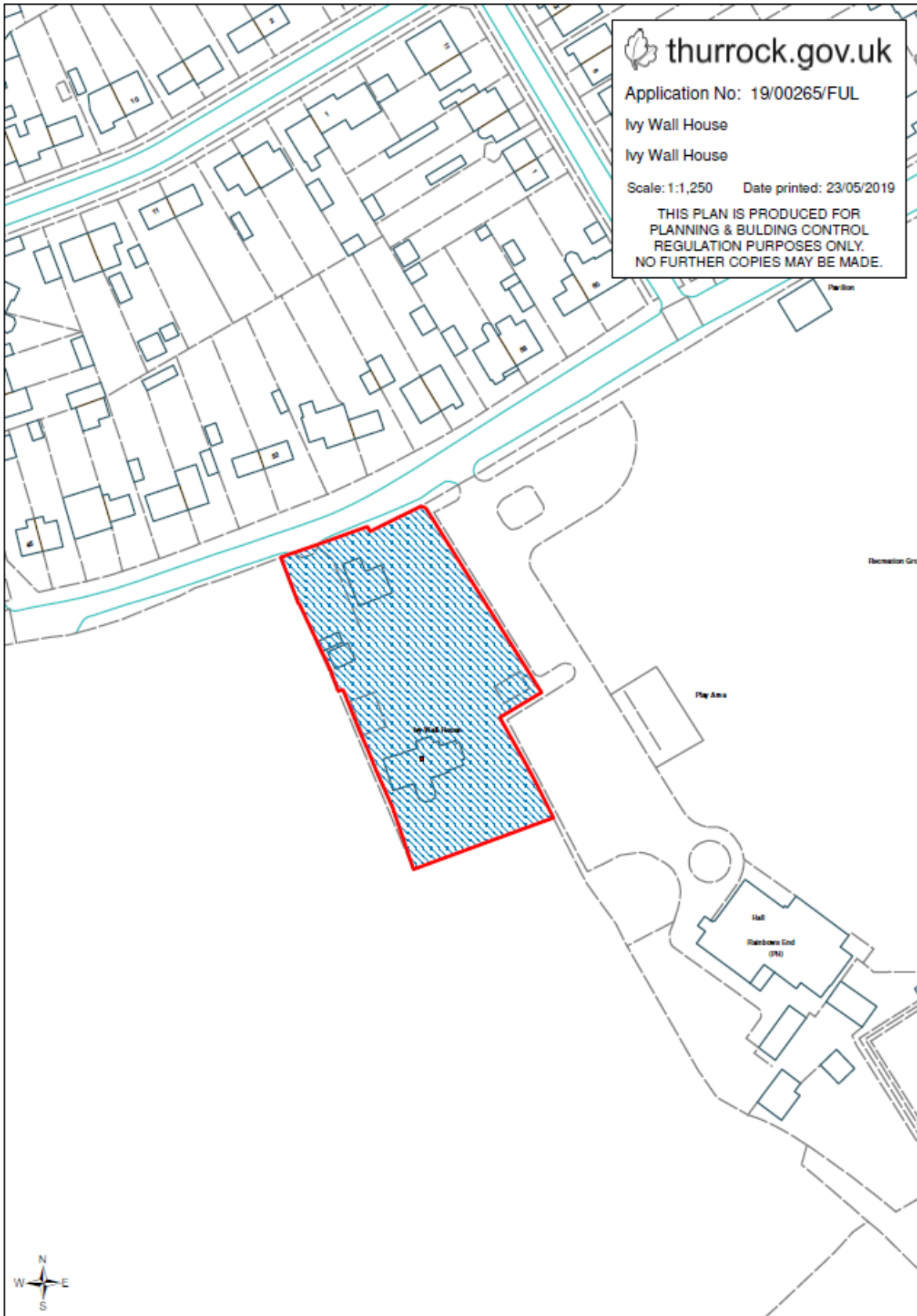
- 1 Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) - Positive and Proactive Statement:

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



Reference: 19/00247/FUL	Site: Judds Farm Harrow Lane Bulphan Essex RM14 3RE
Ward: Orsett	Proposal: Demolition of existing buildings & hard standing and erection of cart lodge style garage for existing dwelling, construction of 8 residential units with associated amenity space, vehicular parking and strategic landscaping

Plan Number(s):		
Reference	Name	Received
1799-01	Existing Site Plan	14 February 2019
1799-02C	Proposed Site Plan	10 May 2019
1799-03A	Proposed 5 Bed Dwelling House Type 1 (Plots 1, 6 and 7)	11 March 2019
1799-04A	Proposed 5 Bed Dwelling House Type 2 (Plots 3,5 and 8)	11 March 2019
1799-05A	Proposed 5 Bed Dwelling House Type 2 (Plots 2 and 4)	11 March 2019
1799-06	Proposed Cart Lodge	14 February 2019
1799-07	Existing Outbuilding 1 – Floor Plans and Elevations	14 February 2019
1799-08	Existing Outbuilding 2 – Floor Plans and Elevations	14 February 2019
1799-09	Existing Outbuilding 3 – Floor Plans and Elevations	14 February 2019
1799-10	Topographical	14 February 2019
1799-11C	Proposed Block/Roof Plans	10 May 2019
1799-12A	Entrance Details	11 March 2019
1799-13	Site Location Plan	14 February 2019
1799-14	Visuals	14 February 2019

<p>The application is also accompanied by:</p> <ul style="list-style-type: none"> - Design and Access Statement - Flood Risk Assessment - Transport Assessment

Applicant: Mr D Barron	Validated: 15 February 2019 Date of expiry: 7 June 2019 (Extension of time agreed with applicant)
Recommendation: Refuse	

This application is scheduled for determination by the Council's Planning Committee because the application was called in by Cllr G Rice, Cllr J Kent, Cllr M Kerin, S Shinnick and Cllr M Fletcher in accordance with Part 3 (b) 2.1 (d) (i) of the Council's constitution to consider the proposal against Green Belt policy.

1.0 DESCRIPTION OF PROPOSAL

- 1.1 This application seeks planning permission for the demolition / removal of the existing buildings / hard standing and the construction of eight two-storey houses with associated amenity space, vehicular parking and landscaping. The proposal also includes the construction of a detached garage for the existing farmhouse to the north of the site.
- 1.2 The development would be laid out in a cul-de-sac arrangement, with access taken from Harrow Lane to the west corner of the site. Each dwelling would have private off street parking.

2.0 SITE DESCRIPTION

- 2.1 The site is found towards the end of Harrow Lane which is accessed from Fen Lane. The site is located within the open Fens of Bulphan and the site is bounded by arable fields to the south. The site is within Green Belt and parts of the site are within Flood Zones 1, 2 and 3a.
- 2.2 The site measures some 0.61 hectares and is occupied by a detached house (known as Judds farmhouse) and ancillary outbuildings. An existing pond is found to the east of the site.

3.0 RELEVANT HISTORY

Application Reference	Description of Proposal	Decision
16/01366/FUL	Change of Use of Former Agricultural Buildings to Ancillary Residential Accommodation	Approved
16/01391/PHA	Rear extension with a depth of 8 metres from the original rear wall of the	Prior Approval Not Required

3.1		property, with a maximum height of 4 metres and eaves height of 2.9 metres.	
	16/01392/CLOPUD	Single storey side extensions and two storey rear extension	Approved

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

PUBLICITY:

4.2 This application has been advertised by way of individual neighbour notification letters, press advert and public site notice which has been displayed nearby. There has been two letters of objection, which cite the following concerns:

- Additional traffic;
- Access to the site;
- Light pollution;
- Loss of amenity.

4.3 ARCHAEOLOGY:

No objection, subject to conditions.

4.4 EMERGENCY PLANNING:

No objection.

4.5 ENVIRONMENT AGENCY:

No objection, subject to the Sequential and Exception Tests being met.

4.6 ENVIRONMENTAL HEALTH:

No objection, subject to conditions.

4.7 HIGHWAYS:

No objection, subject to conditions.

4.8 LANDSCAPE AND ECOLOGY:

Objection on landscape grounds, no objection to ecology.

5.0 POLICY CONTEXT

National Planning Guidance

5.1 National Planning Policy Framework (NPPF)

The NPPF was published on 27 March 2012 and amended on 19 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:

5. Delivering a sufficient supply of homes
11. Making effective use of land
13. Protecting Green Belt land

5.2 Planning Practice Guidance

In March 2014 the Department for Communities and Local Government (now known as Ministry of Housing, Communities and Local Government) 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
- Use of Planning Conditions

5.3 Local Planning Policy

Local Planning Policy Thurrock Local Development Framework (2015)

The “Core Strategy and Policies for Management of Development Focused Review: Consistency with National Planning Policy Framework Focused Review” was

adopted by Council on the 28 February 2015. The following policies apply to the proposals:

Spatial Policies:

- CSSP1 (Sustainable Housing and Locations);
- CSSP4 (Sustainable Green Belt)
- OSDP1 (Promotion of Sustainable Growth and Regeneration in Thurrock)¹

Thematic Policies:

- CSTP1 (Strategic Housing Provision)
- CSTP2 (The Provision of Affordable Housing)
- CSTP19 (Biodiversity)
- CSTP22 (Thurrock Design)
- CSTP23 (Thurrock Character and Distinctiveness)²
- CSTP27 (Management and Reduction of Flood Risk)²

Policies for the Management of Development:

- PMD1 (Minimising Pollution and Impacts on Amenity)²
- PMD2 (Design and Layout)²
- PMD6 (Development in the Green Belt)²
- PMD7 (Biodiversity, Geological Conservation and Development)²
- PMD8 (Parking Standards)³
- PMD9 (Road Network Hierarchy)
- PMD15 (Flood Risk Assessment)²

[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. ³Wording of forward to LDF-CS Policy 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. The Council consulted on an Issues and Options (Stage 2 Spatial Options and Sites) document earlier this year.

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.

6.0 ASSESSMENT

6.1 The principal issues to be considered in the determination of this application are:

- I. Principle of development and impact upon the Green Belt
- II. Access, traffic and highway impacts
- III. Site layout and design
- IV. Landscape and ecology
- V. Amenity and neighbours
- VI. Flood Risk
- VII. Archaeology
- VIII. Developer contributions

I. PRINCIPLE OF DEVELOPMENT AND IMPACT UPON THE GREEN BELT

6.2 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

6.3 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 to accord with the requirements of the NPPF.

- 6.4 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 143 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.
- 6.5 The NPPF sets out a limited number of exceptions within paragraph 145. This includes exception (g) which allows for the *“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.”* The applicant considers the proposal to constitute development on previously developed land (PDL) and therefore the proposal is acceptable.
- 6.6 The site is currently occupied by existing outbuildings and hardstanding and therefore part of it can be considered to constitute PDL. However, the development would only fall within the above exception if it would not have a greater impact upon the openness of the Green Belt than the existing development. In addition it should be noted that the NPPF definition of PDL states that it should not be assumed that the whole of the curtilage of PDL should be developed. In this instance the extent of the existing development on the site is far less than proposed in the current application. The proposal would extend beyond the footprint of existing structures and result in development which extends across the majority of the site encroaching into undeveloped areas. In addition the existing structures on site are shallow pitch roofed buildings which have a rural appearance with associated hardstanding. The proposal is for 8 buildings of substantial scale and a large cartlodge garage. The proposal also includes extensive hardstanding and various features associated with residential development such as fences and wall. The result of this is a development which occupies a far greater proportion of the site and includes structures of far larger scale which would result in a greater impact upon openness than the existing development. Therefore it would not fall within exception (g) as set out in paragraph 145 of the NPPF.

6.7 Given the above the proposal would clearly and unequivocally have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development on the site. 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

6.8 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.

6.9 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.

6.10 In response to each of these five purposes:

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

6.11 The site is located within a rural area outside the main village of Bulphan. 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

6.12 The development would not conflict with this Green Belt purpose.

C. to assist in safeguarding the countryside from encroachment

6.13 With regard to the third Green Belt purpose, the proposal would involve built development on parts of the site which are currently open and free of any built form.

The term "countryside" can conceivably include different landscape characteristics (e.g. farmland, woodland, marshland etc.) and there can be no dispute that the site comprises "countryside" for the purposes of applying the NPPF policy test. The

proposal would increase the volume of built form from 5397m³ to 8918m³ and create an urbanised cul-de-sac of large detached residential properties. As set out above, the site is presently occupied by a single dwellinghouse and agricultural style outbuildings are found within discrete areas of the site. It is clear that the level of development proposed would encroach upon the countryside in this location; the construction of eight houses would constitute material harm to the openness and rural character of the Green Belt. The development would consequently conflict with this purpose.

D. to preserve the setting and special character of historic towns

6.14 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

6.15 In general terms, the development could occur in the urban area and, in principle; there is no spatial imperative why Green Belt land is required to accommodate the proposals. The proposed development is inconsistent with the fifth purpose of the Green Belt. Therefore, the development of this Green Belt site as proposed might discourage, rather than encourage urban renewal. Members will be aware that a new Local Plan for the Borough is being prepared and it is recognised that the release of some Green Belt land may be required in order to meet future growth. Indeed, the existing adopted Core Strategy (policy CSSP1) recognises the scenario of some Green Belt release. Although the new Local Plan may well identify locations for the release of Green Belt land, the document is at a very early stage and cannot be afforded weight in the decision-making process.

6.16 In light of the above analysis, it is considered that the proposals would clearly be harmful to openness and would be contrary to purposes (c) and (e) of the above listed purposes of including land in the Green Belt. Substantial weight should be afforded to these factors.

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

6.17 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. 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.

6.18 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*".

6.19 The Design & Access Statement sets out the applicant's Very Special Circumstances case which is assessed below:

a) Lack of 5 years housing supply

6.20 The applicant has argued that the Council's lack of 5 year housing supply is a very special circumstance which should be afforded weight.

Consideration

6.21 The Council acknowledges that there is presently a lack of 5 year housing supply. However the NPPG advises that 'unmet housing need 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' (Paragraph 034 Reference ID: 3-034-20141006).

6.22 The current proposals would provide a limited benefit in contributing towards addressing the shortfall in the supply of new housing as set out in Core Strategy policy delivery targets and as required by the NPPF. The matter of housing delivery contributes towards very special circumstances and should therefore be accorded significant weight in the consideration of this application. However, as noted above, this single issue on its own cannot comprise the very special circumstances to justify inappropriate development, and as such, for such circumstances to exist this factor must combine with other considerations.

b) Provision of sustainable homes constructed to a high standard

6.23 The applicant states that the development would deliver sustainable home.

Consideration

- 6.24 Policies PMD12 (Sustainable Buildings) and PMD13 (Decentralised, Renewable and Low-Carbon Energy Generation) are relevant to the proposals. Policy PMD12 requires new residential development to achieve a level 4 rating under the Code for Sustainable Homes (CSH) and major non-residential development to achieve appropriate BREEAM standards. However, following a technical housing standards review the Government withdrew the CSH in April 2015 and compliance with the Code can no longer be required through a planning permission. Part L (conservation of fuel and power) of the Building Regulations is still applicable.
- 6.25 Policy PMD13 of the Core Strategy sets targets for the provision of decentralised, renewable and low-carbon energy generation but the application provides no information regarding the intention to comply with this policy.
- 6.26 The applicant's intention to exceed Building Regulation requirement is welcomed. However, this intention is not evidenced with reference to a sustainability or energy appraisal. Furthermore, this factor is not particularly site-specific and could be cited as a consideration amounting to very special circumstances on many other sites. Accordingly, this factor attracts no weight in the balance of Green Belt considerations.
- 6.27 In terms of design quality, the Council expects all new development to be of the highest quality. The provision of larger houses which would be constructed to a high standard is not considered a Very Special Circumstance. Accordingly, this factor should be given no weight in the determination of the application as a Very Special Circumstance.

c) Increased ecological value of the site

- 6.28 The applicant has stated they would accept a condition to ensure the ecological value of the site is improved. They consider that the ecological improvements that could be gained on the site constitute a Very Special Circumstance.

Consideration

- 6.29 Both the NPPF and Core Strategy Policy PMD7 require, when determining planning applications, that local planning authorities aim to conserve and enhance biodiversity by applying a number of principles including the encouragement of opportunities to incorporate biodiversity in and around developments.
- 6.30 In this case, the applicant has not provided any ecological surveys or reports to demonstrate how the construction of six detached dwellings would improve the ecological value of the site. In the absence of such information it is difficult to identify the ecological benefits of the scheme.

6.31 The Council’s Landscape and Ecology Advisor notes in their consultation response ‘Overall the development continues to provide little space for new planting or private amenity space’. Therefore the space that could contribute towards biodiversity improvements are likely to be limited. Accordingly, this factor should be given no weight in the determination of the application as a Very Special Circumstance.

6.32 A summary of the weight which has been placed on the various Green Belt considerations is provided below:

Summary of Green Belt Harm and Very Special Circumstances			
Harm	Weight	Factors Promoted as Very Special Circumstances	Weight
Inappropriate development	Substantial	Lack of 5 years housing supply	Significant weight
Reduction in the openness of the Green Belt			
Conflict (to varying degrees) with a number of the purposes of including land in the Green Belt – purposes c and e.		Provision of sustainable homes which are well constructed	No weight
		Increase ecological value of site	No weight

6.33 As ever, 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 harm to the Green Belt with reference to inappropriate development and loss of openness. Several factors have been promoted by the applicant as ‘Very Special Circumstances’ and it is for the Committee to judge:

- i. the weight to be attributed to these factors;
- ii. whether the factors are genuinely ‘very special’ (i.e. site specific) or whether the accumulation of generic factors combine at this location to comprise ‘very special circumstances’.

6.34 Each circumstance put forward by the applicant attempts to redress that balance in favour of the development. In accordance with the NPPF, the harm has to be *clearly* outweighed by Very Special Circumstances. Taking into account all Green Belt considerations, Members are advised that the case associated with this development proposal falls some considerable way short of constituting genuine very special circumstances and it follows that the application should be refused.

There are no planning conditions that could be used to make the proposal acceptable in planning terms.

II. ACCESS, TRAFFIC AND HIGHWAY IMPACTS

- 6.35 It is considered that the Council's parking requirement of three off-street spaces could be met within the current layout and subject to conditions requiring adequate visibility splays, refuse collection and cycle parking, the development is considered to comply with policies PMD8 and PMD9. The Council's Highways officer has raised no objection to the level of development proposed in terms of highway intensification.

III. SITE LAYOUT AND DESIGN

- 6.36 The scheme would take the form of a cul-de-sac featuring eight substantially sized detached houses laid out in a uniform arrangement with urbanising features typical of any residential development. The layout and overall appearance of the development does not pay regard to the isolated location of the site. Owing to the scale of the scheme and its urbanised layout, the development would be completely out of character with the open, rural nature of the open fenland it would be located.
- 6.37 In light of the above, the proposal would be contrary to Policies PMD2, CSTP22 and CSTP23 of the Core Strategy and the National Planning Policy Framework 2019.

VI. LANDSCAPE AND ECOLOGY

- 6.38 There is a large willow tree within the site which would be affected by the proposed cartlodge garage. No detailed measurements have been provided for the tree however it is considered that the canopy in reality is greater than that shown on the plans. It would be necessary to carry out extensive crown lifting/reducing on this tree if the cart lodge was maintained in its current position which would be unacceptable.
- 6.39 The existing trees along the boundary would be removed. It is considered that these offer some screening of the proposed development as well as an effective wind break and therefore their removal would increase views into the site from the adjacent public rights of way. At present the southern boundary of the site is very open with views into the site from the nearby public footpath. There will be little scope for new planting along this boundary as trees would soon cast shade over the gardens and patios. The proposal would therefore be contrary to policies PMD2 and CSTP23 of the Core Strategy and the National Planning Policy Framework 2019.
- 6.40 It is considered that the site does not contain any habitat features that are likely to support protected species. There is no objection to the scheme on ecology grounds and the proposal complies with policies CSTP19 and PMD7

V. AMENITY AND NEIGHBOURS

- 6.41 The new properties would be suitably distant from neighbours not to impact on the amenities that nearby occupiers presently enjoy. The houses would be set out so as not to impact on one another. Policy PMD1 is considered to be satisfied in this regard.
- 6.42 Notwithstanding the above, neighbour objections based upon the development of the Green Belt support the conclusions reached in section I of this report.

VI. FLOOD RISK

- 6.43 As part of the site falls within a high risk flood zone the Sequential Test needs to be assessed. The Sequential Test aims to steer new development to locations away from high risk flood zones. The proposal falls within a 'more vulnerable' use according to PPG's 'Table 2 – Flood Risk Vulnerability Classification'. The applicant has not provided any Sequential Testing evidence to demonstrate that the dwellings could not be located in a lower risk flood zone. The proposal therefore fails the Sequential Test.
- 6.44 As a more vulnerable use, Table 3 of the PPG – Flood Risk Vulnerability and Flood Zone 'Compatibility' details that the Exception Test is required to assess this more vulnerable use. For the Exception Test to be passed the proposed development needs to provide 'wider sustainability benefits to the community that outweigh flood risk' [first part], and demonstrate that the development will be 'safe for its lifetime' [second part].
- 6.45 The Environment Agency raise no objection to the application subject to satisfying both the Sequential and Exceptions Tests. The proposal seeks eight detached dwellings and a cartlodge garage. The applicant has not demonstrated how the proposed dwellings would provide wider sustainability benefits to the community and consequently fails to meet the first part of the Exception Test. In relation to the second part, the applicant has provided a Drainage Strategy seeking to demonstrate that the site would have adequate drainage to enable the site to be safe for its lifetime. Notwithstanding the Drainage Strategy submitted, the applicant has not passed the Sequential Test or part one of the Exceptions Test in relation to the sustainability benefits of the proposal. Consequently, it is considered that the proposal is contrary to the objectives of Core Strategy Policies CSTP27, PMD15 and the NPPF in relation to flood risk.

VII. ARCHAEOLOGY

- 6.46 The Council's Archaeology Advisor has advised the Historic Environment Record shows the proposed development lies within an area of known archaeological deposits. The Archaeology Advisor has warned that the proposed development lies adjacent to a known Romano British cemetery which, when excavated, contained a number of burials and some Romano British settlement remains (EHER5215). It is likely that these features extend into the Site. Cartographic evidence indicates that,

in the late 19th century, the plot also contained a historic farmstead marked on the First Edition Ordnance Survey Map as 'Judd's and Thripp's Farm'. The former historic farmstead was demolished in the 21st century but may have had its origins in the medieval period. There is therefore the potential for multi-period archaeological remains. Therefore, a condition regarding Trial trenching and excavation would need to be added to any approval.

VIII. DEVELOPER CONTRIBUTIONS

- 6.47 Policy PMD16 indicates that where needs would arise as a result of development; the Council will seek to secure planning obligations under Section 106 of the Town and Country Planning Act 1990 and any other relevant guidance. The Policy states that the Council will seek to ensure that development proposals contribute to the delivery of strategic infrastructure to enable the cumulative impact of development to be managed and to meet the reasonable cost of new infrastructure made necessary by the proposal.
- 6.48 The NPPG guidance indicates that for developments of 10 units of less, and which have a maximum combined gross floor space of no more than 1000sq.m affordable housing or tariff style contributions should not be sought. Accordingly, given that this proposal seeks permission for 8 dwellings no contributions can be secured in this instance.
- 6.49 The site is within the Essex Coast RAMS zone of influence and therefore it would be necessary for the LPA to secure a contribution towards mitigation of the effects of recreational disturbance on Thames Estuary and Marshes SPA. In the event that the application were being recommended favourably such a contribution could be secured via an appropriate legal agreement.

7.0 CONCLUSIONS AND REASONS FOR REFUSAL

- 7.1 The proposed development represents an inappropriate form of development within the Green Belt which is harmful by definition. The development would result in further harm by introducing built development where there is presently none; the dwellings, garages and hard surfacing would represent urbanising features which would be visually damaging to the countryside and undermining to the openness of this part of the countryside.
- 7.2 The applicant has not advanced any factors which would amount to very special circumstances that could overcome the harm that would result by way of inappropriateness and the other harm identified in the assessment. There are no planning conditions that could be used to make the proposal acceptable in planning terms. The development is clearly contrary to Policy PMD6 of the Core Strategy and guidance contained in the NPPF. Refusal is therefore recommended.

8.0 RECOMMENDATION

- 8.1 To Refuse for the following reasons:

1. The proposed development, by reason of its scale, siting and location would result in inappropriate development in the Green Belt which is by definition harmful. In addition, the development would also cause loss of openness due to the siting and substantial increase in the scale of the buildings proposed on the site. The circumstances put forward by the applicant do not constitute very special circumstances to justify inappropriate development in the Green Belt. The proposal is therefore contrary to Policy PMD6 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) and the National Planning Policy Framework 2019.
2. The application site is within a fenland landscape which is typified by long open views, with a sparse settlement pattern. The proposed development would, by virtue of the siting of the buildings and forms of enclosure close to the site boundaries and the public right of way alongside loss of vegetation, be likely to be detrimental to visual amenity, the openness and character of the flat, fenland area. The proposal would therefore be contrary to Policies PMD2, CSTP22 and CSTP23 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) and the National Planning Policy Framework 2019.
3. The proposal, by reason of the insufficient flood risk information submitted for this more vulnerable use, fails to meet both the Sequential and Exceptions Tests and subsequently fails to adequately demonstrate that the development will be safe and not increase flood risk elsewhere. The proposal would be contrary to Policies CSTP27 and PMD15 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) and the National Planning Policy Framework 2019.

Informative:

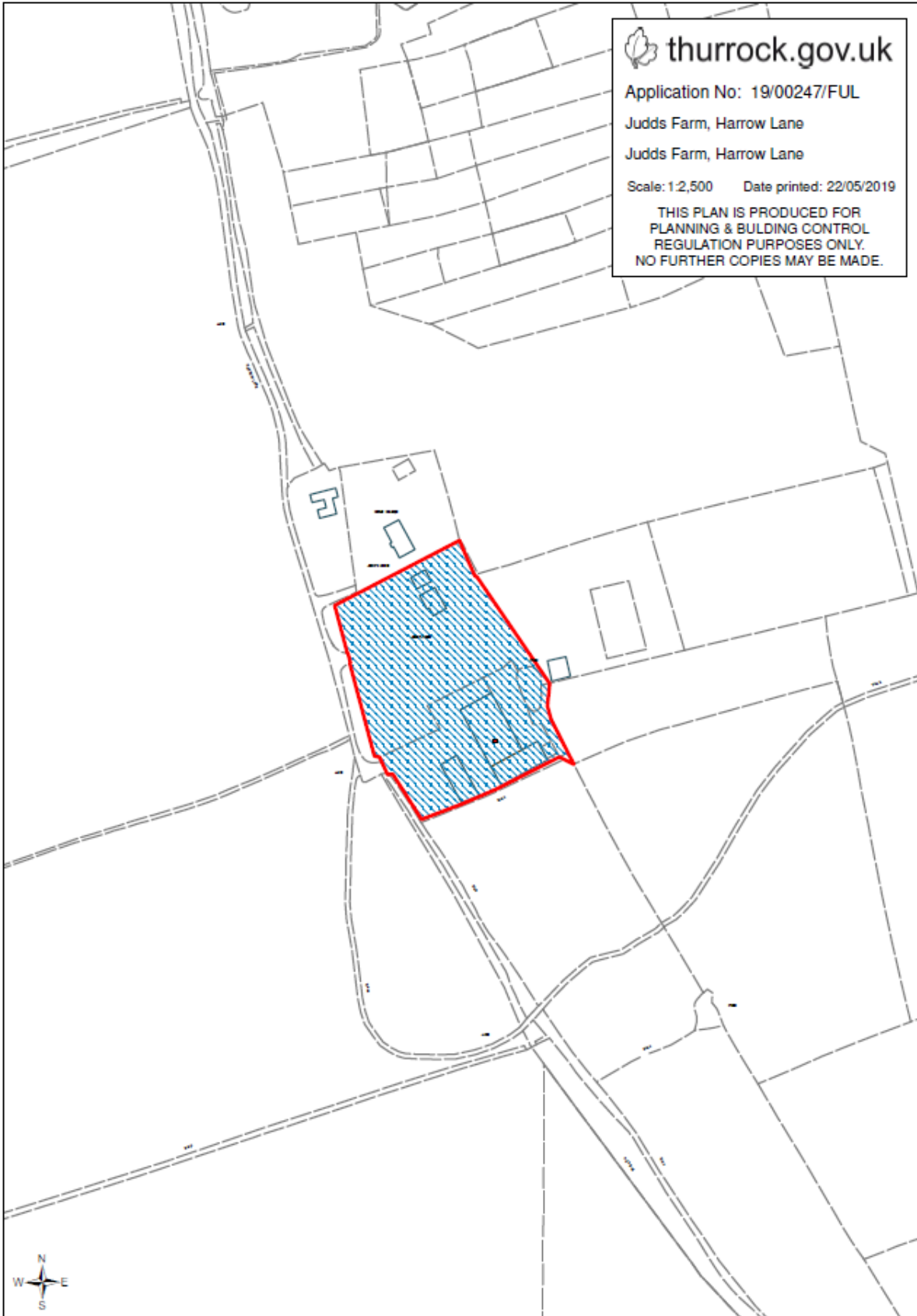
- 1 Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) - Positive and Proactive Statement:

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



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Reference: 19/00499/ELEC	Site: Tilbury Green Power Tilbury Freeport Tilbury RM18 7NU
Ward: Tilbury Riverside and Thurrock Park	Proposal: Proposed variation of s36 (Electricity Act) consent and deemed planning permission for the construction and operation of a biomass and energy from waste fuelled electricity generating station (Tilbury Green Power) - proposed increase in generating capacity to 80MW and variations to conditions including restrictions on source and quantity of waste material components.

Plan Number(s):		
Reference	Name	Received
P000272-PE77-0003 Rev. 1	Proposal For Bridge Over Botney Channel Plan & Sections	01.04.19
1290 PL100 Rev. B	Site Layout, Phase 1 and 2	01.04.19
1290 PL101 Rev. B	Site Layout Zoning, Phase 1 and 2	01.04.19
1290 PL300	Main Process Building North West Elevation	01.04.19
1290 PL301 Rev. A	ACCs, Offices and Visitor Centre North West Elevation	01.04.19
1290 PL302 Rev. A	Main Process Building North East Elevation	01.04.19
1290 PL303	Main Process Building South East Elevation	01.04.19
1290 PL304 Rev. A	Main Process Building South East Elevation (ACCs, Office and Visitor Centre in the Foreground)	01.04.19
1290 PL305 Rev. A	Main Process Building South West Elevation	01.04.19
1290 PL306	Security Hut Elevations	01.04.19
1290 PL400	Phase 1 and 2 Aerial View	01.04.19

The application is also accompanied by:

- Covering letter
- Supporting Statement with appendices comprising –
- Section 36 Consent red line boundary plan (original and proposed)

- Relevant Section 36 Consent 2014 and Deemed Planning Permission
- Proposed amendments to Section 36 Consent and Deemed Planning Permission explanatory memorandum
- Planning permissions issued by Thurrock Council, existing Environmental Permit for the operation of Phase 1 and Phase 2 and existing Flood Defence Consent
- Report on consultation with statutory agencies and the public
- Status of existing planning permissions and discharge submissions
- Supplementary Environmental Information Report with appendices comprising –
 - Application drawings
 - Design and Access Statement addendum
 - Air Quality Assessment report
 - Human Health Risk Assessment
 - Landscape and Visual Impact Assessment Addendum Report
 - Transport Assessment
 - Noise Impact Assessment report
 - Ecological Impact Assessment report
 - Flood Risk Assessment (2014)
 - Tilbury CHP Study (2014)

Applicant:
Tilbury Green Power Limited (TGP)

Validated:
1 April 2019
Date of expiry:
7 June 2019

Recommendation: That Planning Committee agree that the content of paragraphs references 6.30 to 6.40 (below) comprise the consultation response to be provided by the relevant planning authority to the Department for Business, Energy & Industrial Strategy.

1.0 BACKGROUND AND DESCRIPTION OF PROPOSAL

1.1 This report considers the issues raised by an application submitted by Tilbury Green Power (TGP) to the Secretary of State (SoS) for Business, Enterprise & Industrial Strategy (BEIS – formerly the Department for Energy & Climate Change (DECC)) to vary an existing s36 (Electricity Act 1989) consent and deemed planning permission for the construction and operation of a biomass and energy from waste fuelled electricity generation station at Tilbury Docks.

1.2 s36(c) of the Electricity Act 1989 (inserted by s20 of the Growth and Infrastructure Act 2013) allows for the SoS to vary a s36 consent and the process for an applicant

to seek a variation is set out in the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013. A guidance note (July 2013) accompanying the Regulations confirms that that the SoS has the power to make “such variations as appear to be appropriate”. However, paragraph 26 of the guidance notes that the variation procedure is not intended as a way of authorising any change to a developer’s plans that would result in development that would be fundamentally different in character or scale from what is authorised by the existing consent

1.3 The Council is defined as the ‘relevant planning authority’ and is required to be consulted by BEIS along with the following bodies:

- Natural England;
- Historic England;
- NATS (National Air Traffic Services);
- Met Office
- Defence Infrastructure Organisation;
- Port of London Authority;
- Environment Agency;
- Highways England;
- Civil Aviation Authority;
- Health and Safety Executive; and
- Met Office Property Management.

1.4 A formal consultation was received from BEIS dated 2nd April 2019 requesting that any comments are submitted no later than 7th June 2019. Paragraph 8 (1) of the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 states:

8(1) The appropriate authority (SoS) may cause a public inquiry to be held into a variation application if it considers it appropriate to do so having considered -

(a) any representations made about a variation application to the appropriate authority –

- (i) which a relevant planning authority makes within two months of the date on which a copy of the application was served on it under regulation 5(2)(b); and*
- (ii) which any other person makes on or before the date specified in accordance with regulation 5(5)(b)(iii),*

*where those representations are not withdrawn; and
(b) all other material considerations.*

The SoS therefore has discretionary power to hold a public inquiry to consider a variation application and in considering whether to hold such an inquiry the SoS must consider any representations submitted by the relevant planning authority or any other person where those representations are not withdrawn.

- 1.5 Members of the Planning Committee will be aware that with the enactment of the Planning Act 2008 (November 2008) a different consenting regime for onshore electricity generating stations with a capacity of more than 50MW was introduced. Under this Act such proposals are defined as Nationally Significant Infrastructure Projects (NSIPs) where permission is granted via a Development Consent Order issued by the relevant SoS. However, as the TGP proposal was submitted before the 2008 Act came into force, the provisions of the Electricity Act 1989 apply.
- 1.6 By way of background, the s36 consent and deemed planning permission were implemented and a first phase of the development, comprising a waste wood biomass plant with a 40MW output became operational in April 2018. This electrical output is generated from c.300,000 tonnes of waste wood biomass per annum (from a consented total of 650,000 tonnes waste input per annum).
- 1.7 In summary, the current submission to the SoS seeks firstly to vary the s36 consent to amend the design and layout of the second phase of the facility in order to increase the total generating capacity (from 60MW to 80MW) while maintaining the already consented maximum waste throughput and secondly seeks a direction from SoS that the deemed planning permission be varied to reflect the revised design. The applicant submits that an increased electrical output of 20MW from the same consented waste inputs (650,000 tonnes per annum) can be achieved through improvements in technology since the facility was first consented. The applicant also notes that the second phase of the development will involve the conversion of 350,000 tonnes of waste material delivered to the site to produce 40MW of electrical power, whereas the original proposal included the on-site processing of municipal solid waste (MSW) and commercial / industrial (C&I) waste materials.
- 1.8 The principal changes to the scale and operation of the TGP development are summarised in the applicant’s Supporting Statement as:

Proposed Change	Description
Electricity generating capacity	Increase from 60MW (consented) to 80MW
Building dimensions	Overall massing of the development (Phases 1 and 2) will be “slightly less” than the original scheme

Stack location	Altered to optimise layout – stack height unchanged
Transport of waste materials	Proposed removal of current restrictions (conditions) controlling the delivery of waste to allow all waste to be delivered by road
Nature of waste materials	Proposed removal of restrictions (conditions) on the proportion of waste types
Source of waste materials	Removal of restrictions (conditions) on geographical sourcing of waste
Site connectivity	Proposed bridge over Botney Channel with associated change to red-line site plan

- 1.9 The detailed proposals for amendments to the s36 consent and deemed planning permission are set out as track changes at Appendix 1 to this report.

2.0 SITE DESCRIPTION

- 2.1 The TGP site is located within the Port of Tilbury, at the north-western end of the port complex and covers an area of some 9.3 hectares. The River Thames is located to the south-west of the site. The north and north-western boundary of the site is formed by a drainage channel known as Botney Channel, which is defined as a ‘main river’ by the Environment Agency. On the northern side of this channel is Grays Beach park, with mixed commercial and residential areas located further east at Manor Way and Curzon Drive. The north-eastern boundary of the site is formed by the Grays to Tilbury railway corridor. Land and buildings within the Port of Tilbury complex, including the internal port access roads, form all other boundaries to the site.
- 2.2 The TGP site is irregular in shape and comprises three main elements. Firstly, the southern part of the site comprises an existing jetty and associated conveyor line adjacent to the river frontage. The jetty has a river frontage of some 300m and projects approximately 230m beyond the mean high water mark. The conveyor line increases in height above ground level as it runs in a north-westerly direction parallel to the shoreline. This conveyor line terminates close to the south-eastern corner of the site. On the landward (north-eastern) side of the flood defence is an open area used for the storage of biomass awaiting use at the facility. The westernmost part of the site is occupied by Phase 1 of the TGP facility comprising principally a waste wood processing building, boiler hall, turbine building, air cooled condensers, chimney stack and associated ancillary buildings and plant.
- 2.3 The remainder of that part of the site south of Botney Channel comprises a largely open and hardsurfaced area containing the vehicle access (from an internal port estate road) and the electrical switching station for the facility.

- 2.4 The final component of the site is a small triangular-shaped area of open rough grassland located on the northern side of Botney Channel and immediately east of the Curzon Drive industrial estate.
- 2.5 The TGP site formerly comprised factory buildings, plant, warehousing and car parking areas operated by Cargill for the production of sweeteners from cereals. Production ceased in 2005 and the site remained unused thereafter. De-commissioning of the site and demolition of all buildings and structures, apart from a small gatehouse building, was undertaken in 2011/12.
- 2.6 The area surrounding the TGP site contains a variety of land uses. To the south, and within the dock complex, is a flour mill, substantial warehouse buildings, with lorry parking, service areas and areas used for the storage of containers and other materials. To the east of the site are a number of railway sidings aligned parallel with the main Grays to Tilbury railway line. To the east of this railway corridor are mainly small-scale modern industrial and warehouse units located on Thurrock Parkway. Small commercial units are also located to the north of the site at Curzon Drive. Public open space and the Grays Beach play facility are located adjacent to the north-eastern boundary of the site with residential properties on Manor Way, Crest Avenue and Conway Gardens beyond. The nearest existing residential properties are located approximately 100m from the TGP site boundary. However, at the time of writing this report there is an extant planning permission (ref. 14/00810/FUL) for the development of 27 flats at the former pumping station site in Manor Way which is located approximately 30m to the north of the TGP. A planning application (ref. 18/00386/FUL) for 44 flats on the former pumping station site is currently under consideration.

3.0 RELEVANT PLANNING HISTORY

- 3.1 Historically the site formed an undeveloped part of Grays Thurrock Marshes but was developed from the 1970’s for industrial purposes associated with the manufacture of derivatives from cereals. This use ceased in 2005. There is an extensive recent planning history associated with the TGP facility which is set out in the table below.

Application Ref	Description of Proposal	Decision
08/00175/ELEC	Application for s36 Electricity Act consent and deemed planning permission to develop a 60 MW renewable electricity generating plant at Tilbury Docks	Consent and deemed planning permission issued by the Secretary of State (SoS) for the Department of

		Energy & Climate Change) (DECC) August 2009
10/50148/TTGDCD	Discharge of conditions 4 & 5 (wheel cleaning details) and 39 & 40 (archaeology) of 08/00175/ELEC	Approved
10/50179/TTGDCD	Discharge of conditions 6 & 7 (dust suppression) and condition 8 (demolition protocol) of 08/00175/TTGELEC	Approved
10/50188/TTGDCD	Discharge of condition 27 (noise and vibration monitoring scheme) of 08/00175/ELEC	Approved
10/50250/TTGDCD	Discharge of conditions 47 & 48 (bat surveys / protection / mitigation scheme) and conditions 49 & 50 (reptile surveys / protection / mitigation scheme) of 08/00175ELEC	Approved
11/50361/TTGETL	Extension of time limit for implementation of planning permission ref. 01.08.04/87C (08/00175/ELEC) to construct and operate a biomass and energy from waste fuelled generating station for a period of two years to 26 Aug 2014.	Approved
11/50376/TTGCND	Variation of conditions 58, 59 & 60 (source and transportation of fuels for the development) attached to planning permission 01.08.04/87c (08/00175/ELEC) and any corresponding conditions attached to any permission granted from planning application 11/50361/TTGETL	Approved
12/01088/CONDC	Discharge of condition 41 (contamination risk) of 11/50376/TTGCND	Approved
13/00422/SCR	Request for EIA Screening Opinion for a proposed waste wood storage and processing facility at Tilbury Green Power Biomass and Energy from Waste Power facility	EIA Required
13/00427/SCO	Request for Scoping Opinions for a proposed waste wood storage and	Advice given

	processing facility at Tilbury Green Power Biomass and Energy from Waste Power facility	
13/00453/NMA	Non-Material Amendment: To allow permitted preliminary works to be undertaken in advance of the submission and approval of details associated with conditions 19 and 23 (Planning Permission - 11/50376/TTGCND)	Approved
13/01079/NMA	Non-Material Amendment: To revise the requirement under Condition 12 of planning permission 11/50376/TTGCND for a green/brown roof on the administration/visitor building, replacing it with alternative ground level habitat adjacent to the proposed ecological area	Approved
13/01170/CONDC	Discharge of condition 13 (rainwater harvesting) of approved planning application 11/50376/CONDC	Approved
13/01179/FUL	The construction and operation of a waste wood processing facility incorporating process building, a visual screen to the River Thames, external plant and equipment, storage areas and car parking	Approved
14/00239/CONDC	Application for approval of details reserved by condition 9 (temporary buildings etc.) of planning permission ref. 11/50376/TTGCND	Advice Given
14/00439/CONDC	Application for approval of details reserved by condition no. 18 (river transport opportunities) of planning permission reference 11/50376/TTGCND	Advice Given
14/00561/CONDC	Application for approval of details reserved by condition 8 (demolition materials recovery target) of planning permission ref. 11/50376/TTGCND	Approved
14/00599/CONDC	Application for approval of details reserved by conditions 19 (travel plan) and 20 (vehicle and accident	Advice Given

	monitoring scheme) of planning permission reference 11/50376/TTGCND	
14/00603/CONDC	reserved by condition 23 (pile driving) of planning permission reference 11/50376/TTGCND	Approved
14/00648/CONDC	Application for approval of details reserved by condition no. 10 (site layout and design) of planning permission ref. 11/50376/TTGCND	Advice Given
14/00658/CONDC	Application for approval of details reserved by condition nos. 49 and 50 (landscaping and creative conservation) of planning permission ref. 11/50376/TTGCND	Advice Given
14/00660/CONDC	Application for the approval of details reserved by conditions 33 and 34 (method and working of drainage) of planning permission ref. 11/50376/TTGCND	Advice Given
14/01139/CONDC	Application for approval of details reserved by condition 9 (Travel Plan) of planning permission ref. 13/01179/FUL	Advice Given
14/01141/CONDC	Application for approval of details reserved by condition no. 3 (Construction Environment Management Plan) of planning permission ref. 13/01179/FUL	Advice Given
14/01212/NMA	Application for a non-material amendment following the grant of planning permission - removal of condition 15 (biomass storage building foundation details) of planning permission ref. 11/50376/TTGCND and s.36 (Electricity Act) deemed planning permission variation ref. 12.04.09.04/266C issued by the Department of Energy Climate Change dated 20 August 2014	Approved
14/01287/CONDC	Application for the approval of details reserved by condition 5 (foundation design details) and 6 (pile driving	Advice Given

	scheme) of planning permission ref. 13/01179/FUL	
14/01298/CONDC	Application for approval of details reserved by condition no.15 (surface water management strategy) of planning permission ref. 13/01179/FUL	Advice Given
16/00102/CONDC	Discharge of condition 66 (Stack Aviation Lighting) from approved planning permission 11/50361/TTGFUL. For Phase 1 Stack Only	Approved
16/00873/NMA	Non material amendments to condition 10 of planning application 11/50376/TTGCND; A series of detailed design driven amendments to the layout and design of the generation station phase 1, including the on site electricity substation	Approved
16/00991/CONDC	Application for the approval of details reserved by condition no. 64 (air pollution monitoring) of deemed planning permission ref. 12.04.09.04/266C (biomass and energy from waste fuelled electricity generating station at Tilbury Docks) in respect of phase 1 of the development (biomass power plant).	Approved
16/01709/CONDC	reserved by condition nos. 4 (wheel washing) and 5 (wheel washing) of DECC deemed planning permission ref. 12.04.09.04/266	Approved
17/00843/CONDC	Application for the approval of details reserved by condition no. 29 (noise and vibration management plan) of the deemed planning permission for the Tilbury Green Power power plant facility (as amended by 11/50376/TTGCND).	Advice Given
17/00844/CONDC	Application for the approval of details reserved by condition no. 13 (noise and vibration management plan) of planning permission ref. 13/01179/FUL	Advice Given
17/01093/CONDC	Application for the approval of details	Advice Given

	reserved by condition no. 53 (pest and vermin control) of DECC deemed planning permission ref. 12.04.09.04/266 - Thurrock Council ref. 11/50376/TTGCND	
17/01266/CONDC	Application for the approval of details reserved by condition nos. 63 (disposal and re-use of post combustion residues) of planning permission ref. 11/50376/TTGCND	Advice Given
17/01590/CONDC	Application for the approval of details reserved by condition no. 17 (flood response plan) of planning permission ref. 11/50376/TTGCND	Advice Given
17/01591/CONDC	Application for the approval of details reserved by condition nos. 68 of planning permission ref. 11/50361/TTGETL	Advice Given

3.2 The applications of principal importance from the above table are:

- 08/00175/ELEC – this refers to an application submitted to the SoS (DECC) for (i) consent under section 36 of the Electricity Act 1989 to construct and operate a 60 megawatt (MW) biomass and energy from waste fuelled electricity generating station and (ii) a direction under section 90(2) of the Town and Country Planning Act 1990 that planning permission for the development be deemed to be granted. Thurrock Council were a consultee and in responding to DECC raised an objection and requested that a public inquiry be held before the SoS reached a decision on the application. The former Thurrock Thames Gateway Development Corporation (TTGDC) were also a consultee (as they performed the function as the relevant planning authority at that time) and did not maintain any objection to the application, subject to planning conditions and obligations within a s106 legal agreement. After considering all material planning matters the SoS granted a s36 consent and a direction (deemed planning permission) in August 2009 (DECC reference 01.08.10.04/87C. In September 2009 DECC issued an errata to one of the planning conditions. In July 2011 TGP sought a direction from the SoS pursuant to condition 3(2) of the s36 consent to extend the period within which commencement of the development was required to occur (from 26.08.12 to 26.08.14). The SoS issued a s36 direction in July 2011 allowing commencement of development no later than 26.08.14. However the SoS noted that consent from the relevant planning authority would also be required to extend the life of the deemed planning permission.

- In 2011 TGP submitted two applications to TTGDC (the relevant planning authority at that time). Application ref. 11/50361/TTGETL sought an extension to the time limit for implementing the deemed planning permission (DECC ref. 01.08.10.04/87C) for two further years until 26.08.14. This application was approved by TTGDC subject to planning conditions and a deed of variation to the s106 unilateral undertaking signed by TGP. At the same time TGP submitted a s73 (Planning Act) application to TTGDC seeking variation of condition nos. 58-60 of the deemed planning permission which related to the sources and transportation of fuels to the site. The Council (as a consultee) raised no strategic policy objection to the proposal and permission was granted, subject to a deed of variation to the s106 unilateral undertaking, in January 2012.
- In April 2014 TGP applied to the SoS (DECC) for (i) a variation to the s36 (Electricity Act) consent to extend the time period for implementation by one year (until 26.08.15) (ii) clarification that TGP has the right to assign the benefit of the s36 consent and (iii) a s90 direction (deemed planning permission) the extending the time period for commencement until 26.08.15 and replication of planning permission ref. 11/50376/TTGCND with regards to conditions and progress on discharging the requirements thereof. In August 2014 the SoS approved the application (ref. 12.04.09.04/266C).

4.0 CONSULTATIONS AND REPRESENTATIONS

4.1 As this is an application submitted by TGP to the SoS pursuant to the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 there is no requirement for the relevant planning authority to undertake any formal consultation or notification. Instead the applicant is required to include within their submission to the Department for Business, Energy & Industrial Strategy (BEIS - formerly DECC) a statement of what account has been taken of views expressed by persons consulted by the applicant. The application includes, at Appendix 5, a 'Report on Consultation with Statutory Agencies and the Public' (November 2018). This report confirms that TGP consulted with the following bodies:

- Natural England;
- Historic England;
- Environment Agency;
- Defence Infrastructure Organisation;
- Thurrock Council;
- Highways England;
- Met Office Property Management;

- Civil Aviation Authority;
- Health & Safety Executive;
- NATS En-route; and
- Port of London Authority.

4.2 BEIS has received the following consultation responses which have been forwarded to the local planning authority for information:

4.3 ENVIRONMENT AGENCY:

Provide comments referring to Environmental Permitting in relation to flood defence consents and installations.

4.4 HISTORIC ENGLAND:

The proposals would not alter the negligible impact of the consented development on Tilbury Fort. The proposed variation meets the aims and objectives of the National Policy Statement for the historic environment.

4.5 MET OFFICE:

No objection.

4.6 PORT OF LONDON AUTHORITY:

With reference to the proposed removal of restrictions applying to the delivery of waste so that all waste can be delivered by road, there is no justification for this proposed change. Given the emphasis on sustainable transport, the proposed removal of restrictions applying to delivery would appear to be contrary to planning policy and as such the PLA objects to the proposed amendment.

4.7 NATURAL ENGLAND:

Draw attention to potential impacts on SSSIs close to the site and responsibilities for the decision-maker under relevant legislation.

4.8 NATIONAL AIR TRAFFIC SERVICES (NATS):

Anticipates no impact and has no comments.

4.9 HEALTH & SAFETY EXECUTIVE (HSE):

No comments.

4.10 (CIVIL AVIATION AUTHORITY (CAA):

No comments.

4.11 BEIS has also forwarded one letter received by them from a member of the public objecting to the application on environmental grounds (pollution).

4.12 In November 2018 the applicant also distributed an information leaflet with an e-mail address for feedback to c.4,000 local residents and businesses including the local MP and ward councillors. A public exhibition was held on 20th November 2018.

4.13 A number of relevant internal departments have been consulted as follows:

4.14 ENVIRONMENTAL HEALTH:

Air Quality

The applicant's Air Quality Assessment considers impacts from stack emissions and increases in movements of heavy and light goods vehicles. The Assessment is satisfactory and it is considered that the overall impact will be insignificant for all pollutants and well within the relevant air quality objectives.

For the plant generated emissions the process contribution (PC) for all pollutants is insignificant. The maximum PC for NO₂ is 1.7µg/m³ for the annual mean and 11.57µg/m³ against the short term objective 99.79th percentile, this is not significant. The maximum impact is within the site boundaries of the proposed plant and the impact on nearby receptors and AQMA's will be much lower. The Thurrock (Air Quality Management Area) AQMA in terms of the PC for NO₂ will be 0.41 µg/m³ for the annual mean, which equates to 1% of the objective level. The assessment uses a conservative approach to the modelling inputs and, in reality, will likely have a lower impact than what has been assessed.

For road traffic generated emissions, the Design Manual for Roads and Bridges (DMRB) screening model was used to assess the impact of extra HGV's/ LGV's in terms of NO₂ & PM₁₀ at sensitive receptors along the A1089 and A13 receptors in AQMA 5. The results indicate a slight increase in NO₂ of 0.13 µg/m³ and 0.07 µg/m³ for PM₁₀, this change is less than 0.5% of the annual mean objective and is a negligible impact and not deemed significant. In terms of air quality there are no objections to the proposals.

Noise

The applicant has submitted an updated Acoustic Assessment in support of the proposal. The assessment, dated May 2018, references survey data from previous assessments and uses the same criteria that we have previously agreed. The model inputs are satisfactory, and the results are still predicted to meet the agreed criteria with the proposed increase in power generation. The conclusions in paragraph 6.0 of the assessment (i.e. the sound levels at all designated noise sensitive receptors will be below the background noise level +5dB, are therefore accepted.

4.15 HIGHWAYS:

The potential changes in vehicle movements arising from the proposed changes to the development will predominantly affect the trunk road network (A13 / A1089). This is both in respect of actual traffic impact and policy issues associated with potential vehicle kilometres travelled. It would therefore be reasonable to defer to the Highways Agency in respect of these issues. Nevertheless the Transport Statement relies on assumptions concerning the Tilbury 2 Transport Assessment and further supporting information should be supplied to support these assumptions.

4.16 FLOOD RISK MANAGER:

No comments.

4.17 LANDSCAPE & ECOLOGY:

The applicant's Landscape and Visual Impact Assessment (LVIA) Addendum has reviewed the proposed revised building design. Three key close viewpoints were agreed with the Council and photomontages prepared for each of these. It is agreed that the proposed scheme will not have any additional effects on the local landscape character as it will comprise many similar elements of a similar scale and massing to that which was previously assessed.

The scheme would have the most significant visual effects for residents in Curzon Road where the proposed taller buildings would be above the height of existing trees. Artificial lighting will be chosen to minimise uplighting and skyglow and should not be visible from this viewpoint. It is noted that a new five storey development has been permitted between the existing dwellings and the site which would largely screen the new buildings for existing residents. The effects from the other two viewpoints (view east from open space south of Argent Street and south-east from Elm Road recreation ground) would only be slightly adverse and not

significant.

The majority of the site consists of hardstanding with negligible ecological value. The main habitat features are associated with Botney Channel running along the northern site boundary and triangle of land north of the channel and south of the railway. Overall the effects on the existing habitat can be reduced and mitigated. The reedbeds are considered to have the highest importance in a site context (County) and disturbance of these will be minimised. The other habitat features are of local importance only. Mitigation measures for these are considered appropriate. There is a need to ensure that additional off-site migration is provided to achieve a biodiversity net gain by enhancing other local sites. The details of this need to be finalised with suitable biodiversity management plans produced for the site. In conclusion there are no objections to this scheme on landscape or ecology grounds subject to the appropriate mitigation measures being implemented.

4.18 EMERGENCY PLANNING:

As the site is located within Flood Zone 3a (High Risk) a site-specific flood warning and evacuation plan will be required for the construction and operational phases of the development.

(NB – condition no.17 of the deemed planning consent addresses this issue)

5.0 POLICY CONTEXT

5.1 National Policy Statements (NPS)

As noted above the TGP was consented under the Electricity Act 1989 as the proposal was submitted prior to the provisions of the Planning Act 2008 coming into force. Proposals for onshore generating stations with a capacity of more than 50mW submitted after 1st March 2010 qualify as NSIPs where consent is obtained via a DCO. The Planning Act 2008 requires that applications for a DCO are determined by the SoS in accordance with relevant National Policy Statements (NPS). Although the existing consent and current submission were not considered under the Planning Act 2008, the following NPS are nevertheless relevant to the consideration of the application.

5.2 Overarching National Policy Statement for Energy (EN-1)

Identifies a general need for new electricity infrastructure projects and highlights the role of renewable electricity generation, including biomass and energy from waste. Generic impacts associated with proposals for generating stations include traffic and transport and waste management. Paragraph 5.13.2 states that the

consideration and mitigation of transport impacts is an essential part of the Government's wider policy objectives for sustainable transport. Paragraph 5.14.2 refers to the 'waste hierarchy' for sustainable waste management comprising: a) prevention; b) preparing for reuse; c) recycling; d) other recovery, including energy recovery; and e) disposal.

5.3 Renewable Energy Infrastructure (EN-3)

Part 2 of this NPS refers to assessment and technology-specific information and part 2.5 covers biomass and waste combustion. Paragraph 2.5.1 notes that the combustion of biomass for electricity generation is likely to play an increasingly important role in meeting the UK's renewable energy targets. Paragraph 2.5.2 states that the recovery of energy from the combustion of waste, where in accordance with the waste hierarchy, will play an increasingly important role in meeting the UK's energy needs. Under the heading of 'transport infrastructure', paragraph 5.2.24 notes that biomass and energy from waste generating stations are likely to generate considerable transport movements. Paragraph 5.2.25 states that Government policy encourages multi-modal transport and expects materials to be transported by water or rail routes where possible.

5.4 **National Planning Guidance**

National Planning Policy Framework (NPPF)

The revised NPPF was published on 24 July 2018 (and subsequently updated with minor amendments on 19 February 2019). The NPPF sets out the Government's planning policies. Paragraph 11 of the Framework sets out a presumption in favour of sustainable development. Paragraph 2 of the NPPF 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.

The following headings and content of the NPPF are relevant to the consideration of the current proposals:

- 6. Building a strong, competitive economy;
- 9. Promoting sustainable transport;
- 12. Achieving well-designed places; and
- 14. Meeting the challenge of climate change, flooding and coastal change.

5.5 Planning Policy Guidance (NPPG)

In March 2014 the Department for Communities and Local Government (now

known as Ministry of Housing, Communities and Local Government) 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. NPPG contains a range of subject areas, with each area containing several sub-topics. Those of particular relevance to this application include:

- Air quality
- Climate change;
- Design;
- Environmental Impact Assessment;
- Flood risk and coastal change;
- Health and wellbeing;
- Natural environment;
- Renewable and low carbon energy;
- Travel Plans, Transport Assessments and Statements;
- Use of planning conditions; and
- Waste.

5.6 Waste (England and Wales) Regulations 2011

The Regulations transpose the European Directive on waste and, inter-alia, impose duties in relation to waste management and the improve use of waste as a resource. The Regulations refer to a waste hierarchy comprising: prevention; preparing for re-use; recycling; other recovery (for example energy recovery); and disposal.

5.7 Waste Management Plan for England 2013

Sets out the Government's aim to work towards a more sustainable and efficient approach to waste management.

5.8 National Planning Policy for Waste 2014

Sets out detailed waste planning policies to be read in conjunction with the NPPF, the Waste Management Plan for England and National Policy statements.

5.9 **Local Planning Policy**

Thurrock Local Development Framework (2015)

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

Overarching Sustainable Development Policy:

- OSDP1 (Promotion of Sustainable Growth and Regeneration in Thurrock).

Spatial Policies:

- CSSP3 (Infrastructure)

Thematic Policies:

- CSTP13 (Emergency Services and Utilities)
- CSTP14 (Transport in the Thurrock Urban Area)
- CSTP15 (Transport in Greater Thurrock)
- CSTP16 (National and Regional Transport Networks)
- CSTP17 (Strategic Freight Movement and Access to Ports)
- CSTP25 (Addressing Climate Change)
- CSTP26 (Renewable or Low-Carbon Energy Generation)
- CSTP27 (Management and Reduction of Flood Risk)
- CSTP28 (River Thames)
- CSTP29 (Waste Strategy)
- CSTP30 (Regional Waste Apportionment)

Policies for the Management of Development:

- PMD1 (Minimising Pollution and Impacts on Amenity)
- PMD2 (Design and Layout)
- PMD3 (Tall Buildings)
- PMD7 (Biodiversity, Geological Conservation and Development)
- PMD8 (Parking Standards)
- PMD9 (Road Network Hierarchy)
- PMD10 (Transport Assessments and Travel Plans)
- PMD11 (Freight Movement)
- PMD13 (Decentralised, Renewable and Low Carbon Energy Generation)
- PMD15 (Flood Risk Assessment)

5.10 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. The Council consulted on an Issues and Options (Stage 2 Spatial Options and Sites) document earlier this year.

5.11 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

- 6.1 As set out above, this application is submitted to the SoS for consideration and decision, although the Council as the relevant planning authority is invited by BEIS to submit its views. The purpose of this report is to provide the Committee with an appraisal of the proposed variation to the s36 consent and deemed planning permission in order to inform a consultation response to BEIS. Also as confirmed above, before determining the application the SoS may cause a discretionary public inquiry to be held if it is deemed appropriate to do so having considered the representations received and all other material considerations.
- 6.2 The structure of the assessment below sets out the variations applied for (with reference to the track-changes at Appendix 1) and a suggested response.

Proposed Variation of s36 Consent

- 6.3 Paragraph 1: proposed variation to refer to s36C of the Act and the SoS for BEIS and not DECC.

Response: No objection.

- 6.4 Paragraph 2: proposed variations to include reference to –

- 80mW generating capacity instead of 60mW
- 'Two boilers' instead of 'up to two boilers'
- 'Two steam turbine buildings' instead of a single building
- 'Two air cooled condensers' instead of one

- A 'waste wood / biomass storage building' instead of a 'biomass storage building'
- Deletion of 'solid recovered fuel (SRF) production building' and replacement with 'waste material reception and bunker storage facilities'
- Addition of 'buildings' to 'ancillary plant and equipment'
- Addition of 'up to three battery storage units'
- Additional of 'car parking, laydown areas and bridge' to the list of ancillary development.

Response: No objection to these proposed changes which largely reflect the two phases associated with delivering the development. Condition no. 10 of the deemed planning permission requires submission and approval of details of siting, layout and design of all buildings, structures, etc.

6.5 Paragraph 3(2): proposed amendment to delete reference to commencement of development no later than 27.08.15.

Response: No objection – the commencement of development has already occurred (Phase 1).

Proposed Variation of Deemed Planning Permission
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6.6 Condition no. 1 (Definitions):

Definition of 'Public Holiday' replaces 'Bank Holiday'; Deletion of the definition for 'Commencement of the Development' which is no longer required as commencement has taken place; Amend definition of 'commissioning' to reflect that the development is in two phases; Amend definition of the 'Development' to increase the generating capacity to 80 MW and to define the two phases of development; deletion of definitions 'catchment areas' which are no longer used; definition of waste stream in Phase 2; reference to the updated travel plan prepared in 2018.

Response: No objections to the proposed amendments to the definitions of:

- 'Public Holiday';
- 'Commencement of the Development'
- 'Commissioning'
- 'The Development'
- definition of waste stream

- 'Travel Plan Strategy'

'Catchment Areas' are considered below.

6.7 Condition no. 3 (Time Limits):

Proposed deletion as commencement of the development has taken place.

Response: No objection.

6.8 Condition nos. 4, 6 and 7 (Suppression of Dust and Dirt during Demolition and Construction):

Proposed amendment to refer specifically to commencement of Phase 2 of the Development (Phase 1 of the Development was commenced in August 2014 and is constructed and in operation).

Response: No objection.

6.9 Condition no. 8 (Demolition Protocol):

Proposed deletion to reflect the fact that the industrial buildings previously occupying the site were demolished prior to commencement of Phase 1 of the Development and the material recovery targets have been achieved.

Response: No objection.

6.10 Condition no. 10 (Site Layout, Design and Fire Prevention):

Proposed amendment to refer to Phase 2 of the development.

Response: No objection.

6.11 Condition no. 11 (Site Layout, Design and Fire Prevention):

Proposed amendment to include a reference to the updated Design and Access Statement Addendum, November 2018.

Response: The original s36 consent and deemed planning permission dating from August 2009 did not refer to a list of approved plan or drawing numbers as is usual practice in the case of conventional applications for planning permission. Instead the original s36 submission included a site layout plan, a massing plan and a number of conceptual elevation and sectional plans indicating how the facility could be developed. The guidance note on varying s36 consents produced by DECC

recognises that generating station development consents are often not implemented until some years after they are granted. Furthermore, paragraph 12 of the guidance notes that *“each consent reflects technology and industry practice at the time it was applied for, but such practices do not stand still”*.

Condition no. 10 of the deemed planning consent requires (inter-alia) the submission and approval of details of siting, design and external appearance of all buildings and structures and condition no. 11 requires these submitted details to conform with the principles of a Design and Access Statement (DAS - dated August 2008). This DAS includes potential architectural treatments for buildings and a massing plan based on the conceptual elevation plans. In respect of Phase 1 of the facility, the development which has now been implemented conforms to the DAS and in some respects, such as the height of the power island building, is of a lower height than previously envisaged.

A DAS Addendum (November 2018) accompanies the application and a series of detailed site layout and elevation drawings form an appendix to the Supplementary Environmental Information Report. With regard to the proposed layout of Phase 2, the DAS indicates that the layout of the development would not be significantly different from the arrangement of buildings on-site suggested in the 2008 DAS. With reference to the bulk or massing of the development (i.e. the combined effect of the arrangement, volume and shape of the group of buildings) there are differences between the 2008 and 2018 DAS. In particular, along the north-western facing elevation of the development (as seen from Grays Beach and Curzon Drive) the completed Phase 1 development, located at the far-west of the site, is generally lower in height and has less bulk than suggested by the 2008 DAS. Buildings within Phase 2 of the development would however be taller than originally envisaged. As seen from the eastern part of Grays Beach Riverside Park and Curzon Drive the 2008 DAS suggested the location of a solid recovered fuel (SRF) building c.23m in height. The 2018 DAS and site layout drawing now indicates a combined flue gas treatment / boiler / waste bunker / tipping hall building with roof parapet heights ranging between 26-55m. The proposed increases in building height and mass for Phase 2 are partly a function of the phased delivery of the development and the need for a separate boiler hall building (the tallest element) to serve the energy from waste element.

An addendum to the 2008 Landscape and Visual Impact Assessment (LVIA) has been submitted. Regarding landscape impacts, the LVIA concludes that the proposed amendments to the development would not result in any significant impacts beyond those already assessed. Three viewpoints for visual impacts are considered comprising: (1) views SE from the open space south of Argent Street; (2) view south from Curzon Street close to its junction with Manor Way; and (3)

view SW from the Elm Road play area. These viewpoints replicate those originally considered in 2008.

From viewpoint (1) the proposed changes would only result in a minimal impact, with the only noticeable change being the introduction of an additional emissions stack of a similar height to the existing Phase 1 stack (c.100m high). As seen from viewpoint (2) and the closest existing residential receptors to the site at Tenney House, Curzon Drive, new buildings would be introduced to views and although existing tree planting along Botney Channel would partly screen the lower parts of the structures, the upper elements would be visible. As a guide the minimum intervening distance between Tenney House and proposed Phase 2 buildings is approximately 120m. The LVIA concludes a moderate adverse impact on these receptors. As existing residential receptors further west along Crest Avenue would be at a greater distance from Phase 2 and as there is further existing planting along the northern edge of Grays Beach Riverside Park, the impact on views from these receptors is reduced. As noted above, at the time of writing this report there is an extant planning permission (ref. 14/00810/FUL) for the development of 27 flats at the former pumping station site in Manor Way which is located closer to the TGP site than existing flats at Tenney House. If this permission were to be implemented the resulting new buildings would filter views from Tenney House towards Phase 2. However, views from the southern elevation of the new flats (if constructed) would be closer to buildings at Phase 2. From viewpoint (3) the Phase 2 buildings would be visible, although partly screened by vegetation along the railway line. The impact of the development on this viewpoint is assessed as slight adverse.

In summary, the proposed changes to building heights and massing indicated in the updated DAS and submitted plans confirm that the impact of the Phase 1 buildings (closest to the riverfront and Grays Beach play space) is less than originally envisaged by the 2008 DAS. However, building height and mass for the proposed Phase 2 structures are greater than originally suggested. To a degree these elements 'balance-out' although a small number of existing and potential future residential receptors in Curzon Drive will now experience a moderate adverse impact whereas the 2008 LVIA identified a moderate / slight adverse impact.

Consequently it is advised that no objection is raised to the proposed variation although the SoS is requested to consider the potential visual impacts on receptors at viewpoint (2) resulting from the increased height and massing of buildings and structures forming Phase 2 of the development as indicated in the DAS Addendum and application drawings. The Council has not undertaken any assessment of impact on existing or future residential amenity with reference to sunlight and daylight.

6.12 Condition no. 12 (Landscaping and Creative Conservation):

Proposed amendment to reflect proposed changes to the provision of landscaping on-site.

Response: The proposed amendments now refer to the phased nature of development and delete reference to compliance with a previous Ecology Review and Mitigation Plan (2008). Comments received from the Council's landscape and ecology advisor refer to a need to ensure off-site mitigation is provided to secure a biodiversity net gain. The applicant's submitted Ecological Impact Assessment (Table 7) also refers to off-site mitigations. Accordingly, it is suggested that the wording of this condition includes reference to off-site mitigation measures.

6.13 Condition no. 13 (Rainwater Harvesting):

Proposed amendment to refer specifically to Phase 2 of the Development.

Response: No objection.

6.14 Condition no. 14 (River Thames Flood Defences):

Proposed amendment to include a reference to the Flood Defence Consent issued by the Environment Agency in 2015.

Response: No objection.

6.15 Condition no. 15 (River Thames Flood Defences):

Proposed deletion as the requirements prior to construction of the biomass building were satisfied as part of the development of Phase 1.

Response: No objection.

6.16 Condition no. 16 (Flood Protection Measures):

Proposed amendment to refer specifically to Phase 2 of the Development.

Response: No objection.

6.17 Condition no. 17 (Flood Protection Measures):

Proposed amendment to refer specifically to Phase 2 of the Development.

Response: No objection.

6.18 Condition no. 18 (River Transport):

Proposed amendment to refer specifically to Phase 2 of the Development.

Response: No objection.

6.19 Condition no. 19 (Road Traffic Management):

Proposed amendment to include a reference to the approved Travel Plan, the updated Travel Plan submitted with the application and to refer specifically to Phase 2 of the Development.

Response: No objection.

6.20 Condition 20 (Road Traffic Management):

Proposed amendment to include a reference to the approved and the updated Vehicle and Accident Monitoring Scheme submitted with the application.

Response: No objection.

6.21 Condition 21 (Road Traffic Management):

Proposed amendment to refer specifically to Phase 2 of the Development.

Response: No objection.

6.22 Condition nos. 22 to 27 (Demolition, Construction and Associated Noise and Vibration):

Proposed amendments to refer specifically to Phase 2 of the Development.

Response: No objection.

6.23 Condition no. 29 (Operational Noise and Vibration):

Proposed amendment to refer specifically to Phase 2 of the Development.

Response: No objection.

6.24 Condition nos. 33, 35 and 36 (Prevention of Contamination to Watercourses):

Proposed amendments to refer specifically to Phase 2 of the Development.

Response: No objection.

6.25 Condition nos. 39 and 40 (Archaeology):

Proposed deletion to reflect the fact that the archaeological investigations described in the approved Written Scheme of Investigation were carried out in July 2014.

Response: No objection.

6.26 Condition nos. 41, 43, 44 and 45 (Contamination):

Proposed amendments to refer specifically to Phase 2 of the Development.

Response: No objection.

6.27 Condition no. 46 (Protection and Mitigation for Bats):

Proposed deletion as investigations in 2017 and 2018 indicated that bats are not present on the site.

Response: No objection.

6.28 Condition no. 47 (Protection and Mitigation for Reptiles):

Proposed deletion as investigations in 2018 indicated that reptiles are not present on the site.

Response: No objection.

6.29 Condition nos. 50 and 51 (Landscaping and Creative Conservation):

Proposed amendment to refer specifically to Phase 2 of the Development.

Response: No objection.

6.30 Condition no. 52 (Fugitive Odour):

Proposed amendment to refer specifically to Phase 2 of the Development and reflect the change in technology proposed for Phase 2 as it is no longer proposed to construct a SRF production facility.

Response: No objection.

6.31 Condition no. 53 (Pest / Vermin Control):

Proposed amendment to refer specifically to Phase 2 of the Development.

Response: No objection.

6.32 Condition no. 54 (Hours of Operation):

Proposed amended to reflect the phases of the development.

Response: No objection.

6.33 Condition no. 55 (Material Inputs):

Proposed amendment to reflect the intended removal of restrictions on the quantities of component waste streams, while retaining the overall limitation on total waste throughput of 650,000 tonnes per annum (p.a.).

Response: The current wording of this condition requires:

- (i) no more than 650,000 tonnes of biomass, waste wood, SRF, C&I waste and / or MSW to be brought onto the site per annum; and
- (ii) the total of 650,000 tonnes per annum to include no more than 40,000 tonnes of MSW and no more than a combined total of 300,000 of MSW, C&I waste and SRF.

The proposed amendments to this condition would add refuse derived fuel (RDF) to the list of included feedstocks. RDF is a fuel produced from waste such as Municipal Solid Waste (MSW) and Commercial & Industrial Waste (C&I) waste and is therefore similar to Solid Recovered Fuel (SRF). Consequently, no objection is raised to the inclusion of RDF as a feedstock.

The proposal includes the deletion of the second limb of the planning condition and would potentially remove the restriction limiting MSW imports to a maximum of 40,000 tonnes within a total 300,000 tonnage p.a. for MSW, C&I waste, SRF and RDF. Currently the remaining balance of 650,000 tonnes (i.e. 350,000 tonnes) is made up by biomass and waste wood imports. The implication of the proposed change is that any combination of biomass, waste wood, RDF, SRF, C&I waste and MSW up to 650,000 tonnes p.a. could be brought onto the site.

At paragraph 6.27 of the applicant's supporting statement it is stated that *"... to provide a more commercially viable development with increased operational flexibility, it is proposed to remove the restrictions on the proportion of waste types*

(MSW, C&I, RDF / SRF) permitted ...". However at paragraphs 4.4 and 4.5 of the supporting statement it is noted that "... for the Phase 1 generating unit which commenced operation in April 2018 ... resulted in a generating capacity of 40 MW from approximately 300,000 tonnes p.a. of waste wood biomass ... for the second generating unit, it is proposed to convert 350,000 tonnes p.a. of waste material delivered to the Phase 2 unit ... to produce a further 40MW".

As it is stated that Phase 1 relies on 300,000 tonnes p.a of waste wood biomass (indeed a waste wood processing building has been developed as part of Phase 1 pursuant to planning permission ref. 13/01179/FUL) and as paragraph 6.27 of the supporting statement refers only to the proposed removal of restrictions on waste types MSW, C&I and RDF / SRF it is queried why the applicant is seeking such a wide flexibility i.e. as Phase 1 is operational it would seem that the importation of 300,000 tonnes p.a of waste wood biomass is 'fixed' and does not require amendment.

The Thurrock development plan for waste in Thurrock includes the National Planning Policy for Waste (2014) and adopted Core Strategy (2015) policies CSTP29 and CSTP30. Core Strategy CSTP29 (Waste Strategy) includes the following relevant sections:

1. *Waste Planning Strategy*

The Council will seek to drive waste management up the waste hierarchy by (inter-alia):

III. Creating a sustainable network of waste management facilities that complements the sustainability objectives in accordance with the Thurrock Sustainable Communities Strategy.

IV. Seeking to treat waste as a 'resource' and where possible use waste to drive forward local renewable energy objectives.

2. *Waste Management Capacity*

Provision will only be made for total waste management capacity equivalent to the requirements for Thurrock (including imports) as set out in the Core Strategy (Tables 5, 6 and 7) or latest capacity requirements as identified through an update of the regional or local data as a result of a review of the LDF.

Tables 5, 6 and 7 refer to forecast or estimated arisings of MSW, C&I waste and construction & demolition waste for Thurrock respectively and based on the former East of England Plan (Regional Spatial Strategy - RSS). Forecast Thurrock MSW arisings increase from 82,600 tonnes in 2015/6 to 94,000 tonnes in 2025/6, with forecast Thurrock C&I arisings increasing from 157,600 tonnes and 2015/6 to 189,500 tonnes by 2025/6.

The applicant's proposals to 'relax' condition no. 55 in order to remove restrictions on the quantities of component waste streams is potentially in conflict with Core Strategy policy CSTP29 (2.) above, in particular if it is intended to rely on unrestricted quantities of MSW and / or C&I waste beyond the forecast tonnages. However, it is notable that Tables 5, 6, and 7 referred to by the Core Strategy policy are based on RSS figures and the RSS was revoked by Government in 2013. Nevertheless, the forecast arisings from the RSS evidence base are used and published in the Council's own waste Arisings and Capacity Study which forms part of the Council's evidence base for the Core Strategy. This includes an upwards adjustment of the RSS figures which is included in Tables 5, 6 and 7 of Core Strategy policy CSTP29. Published DEFRA datasets on local authority collected waste and C&I waste reveal arisings similar to the forecasts within Core Strategy policy. It is a matter for the SoS to consider the weight to be applied to Core Strategy policy. However, in light of the content of the applicant's supporting statement it is suggested that condition no. 55 should instead be worded as follows:

"No more than 650,000 tonnes of Biomass, Waste Wood, Refuse Derived Fuel, Solid Recovered Fuel, Commercial & Industrial Waste and Municipal Solid Waste (MSW) shall be brought onto the site per annum. This will include no more than 350,000 tonnes per annum of MSW, Commercial & Industrial Waste, Solid Recovered Fuel and Refuse Derived Fuel".

6.34 Condition nos. 56 to 60 (Material Inputs):

Proposed deletion as it is proposed to remove restrictions on the source and quantity of waste material components.

Response: Existing conditions nos. 56 to 60 control the operation of the development as follows:

Condition no. 56 – no more than 450,000 tonnes p.a. of biomass, waste wood, SRF, C&I waste and / or MSW to be delivered by road;

Condition no. 57 – MSW imported from Thurrock, Essex, Hertfordshire, South Bedfordshire and Luton only;

Condition no. 58 – SRF or waste wood imported from the East of England Region and / or within a 50 mile radius of the site only;

Condition no. 59 – C&I waste imported from the East of England Region only;

Condition no. 60 – biomass imported from the East of England Region and / or within a 50 mile radius of the site only unless delivered by river.

In summary, these conditions firstly limit the tonnage of deliveries by road (condition no. 56) and secondly require local sources of feedstock (apart from biomass imports by river) (condition nos. 57-60).

With regard to condition no. 56, the proposed amendment would allow all deliveries of feedstock by road. The site is located at the northern-end of the Tilbury Docks complex and is accessed from an internal estate road within the Port. The Port itself is accessed from the A1089 which connects to the A13. Both the A1089 and A13 (west of the A1089 junction) form part of the Strategic Road Network (SRN) where Highways England (HE) are the responsible highways authority. At the time of writing no consultation response has been provided by HE. As noted by the Council's Highways Officer, the highway impacts of the proposed amendment will predominantly affect the trunk road network in respect of actual traffic impact and policy issues associated with potential vehicle kilometres travelled. Accordingly it is reasonable for the Council to defer to HE on the issue of potential impacts of additional vehicle movements on the SRN. The applicant has submitted a 'Technical Appendix Update – Traffic and Transport (December 2018)', which at paragraph 6.2.1 refers to the Port of Tilbury expansion (Tilbury2). The SoS is advised that the Port of Tilbury (Expansion) Order 2019 (SI 2019 no. 359) was made on 20th February 2019 and construction activities have commenced. Tilbury2 is therefore now a committed development.

The Port of Tilbury, which includes the land within the s36 application boundary is specifically referred to by adopted Core Strategy policy CSTP28 (River Thames). This policy states at (1.) that the Council and partners will ensure that the economic and commercial function of the river will continue to be promoted through (inter-alia): (i) priority being given to allocating riverside sites to uses that require access to the river frontage (ii) safeguarding port-related operational land and (iv) safeguarding existing and promoting new jetties and wharves for transport of goods and materials. Core Strategy policy CSTP17 (Strategic Freight Movement and Access to Ports) is also to a degree relevant as this policy recognises the tradition of port-related and freight activity in Thurrock and seeks to support the logistics and port sectors by, inter-alia, facilitating a shift to river and rail freight. The site has access to the River Thames via both the jetty included within the s36 application boundary and the nearby dock berths accessed by the internal port estate roads.

The NPPF and NPS (Energy) refer to the importance of sustainable transport and the consultation response from the Port of London Authority also mentions the emphasis on moving bulk materials by river. The site is in a location served by sustainable modes of transport and although the applicant's Technical Appendix Update – Traffic and Transport (December 2018) refers to the applicant continuing *"to explore options to utilise rail and river transport as a means of transporting waste to and from the site"* the proposed amendment would, in effect, allow all deliveries by road. The Council queries whether the proposed amendment to condition no. 56 is consistent with policies promoting sustainable transport.

Regarding condition nos. 57 to 60, as originally approved in 2009, the deemed planning permission included a condition addressing sources of MSW, C&I waste and SRF and establishing a cascade comprising a primary catchment area (Thurrock), then a secondary catchment area (Essex, Hertfordshire, South Bedfordshire and Luton) then elsewhere within the East of England region. The reason for this condition was to accord with RSS policies for waste management. A separate planning condition addressed biomass and waste wood sources and allowed unrestricted sources of biomass if delivered by river. Waste wood sources were subject to the primary (Thurrock) catchment area and then sources from the remainder of the East of England region. These conditions were changed via a s73 (Planning Act) permission (ref. 11/50376/TTGCND) to allow greater flexibility in sourcing fuels from within a catchment area based partly upon distance from the site, rather than solely on administrative areas. In light of Government waste planning policy and guidance now emphasising the importance of self-sufficiency and the proximity principle (i.e. recognising that transporting waste has environmental, social and economic costs so as a general rule waste should be dealt with as near to the place of production as possible), it is considered that the catchment restrictions within these conditions are no longer necessary. Consequently, no objections are raised to the proposed deletion of condition nos. 57 to 60 as proposed.

6.35 Condition no. 63 (Disposal and Re-Use of Post-Combustion Residues):

Proposed amendment to refer specifically to Phase 2 of the Development.

Response: No objection.

6.36 Condition no. 64 (Air Pollution Monitoring):

Proposed amendment to refer specifically to Phase 2 of the Development.

Response: No objection.

6.37 Condition no. 66 (Stack Lighting):

Proposed amendment to refer specifically to Phase 2 of the Development.

Response: No objection.

6.38 Condition nos. 67 and 68 (Use of Waste Heat):

Proposed amendment to refer specifically to Phase 2 of the Development.

Response: No objection.

6.39 Condition nos. 69 and 71 (Cessation of Works and Restoration of the Site):

Proposed amendment to reflect that Phase 1 and Phase 2 may not cease operation on the same date.

Response: No objection.

6.40 Condition no. 76 (Bridge over Botney Channel):

Proposed new condition to address the requirement to obtain an Environmental Permit for Flood Risk Activities from the Environment Agency in advance of construction taking place to erect a bridge structure over a main river (Botney Channel).

Response: No objection in principle. However, it is noted that the applicant's draft wording of this condition requires submission to and approval by the Environment Agency of an Environmental Permit before the commencement of construction of the bridge. National Planning Practice Guidance (Paragraph: 010 Reference ID: 21a-010-20140306) advises that "*A negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases ... However, in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk*". The SoS will need to consider whether the proposed wording is appropriate in these circumstances. In any case, for the purposes of discharging this suggested condition evidence of submission and approval of the application for an Environmental Permit should be provided to the Relevant Planning Authority.

7.0 CONCLUSIONS AND REASONS FOR RECOMMENDATION

7.1 The purpose of this report is to provide the SoS (BEIS) with the Council's views on an application to amend the s36 (Electricity Act) consent and deemed planning permission for the TGP facility. The majority of the proposed amendments are acceptable and it is recommended that no objections are raised to these elements. However, a number of queries and suggestion are highlighted with regard to condition nos. 11, 55 and 56 to 60 of the deemed planning permission.

8.0 RECOMMENDATION

- 8.1 That Planning Committee agree that the content of paragraphs references 6.30 to 6.40 (above) comprise the consultation response to be provided by the relevant planning authority to the Department for BEIS.

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

Appendix 1

Proposed amendments to s36 Consent and Deemed Planning Permission – track changes (new text underlined – deleted text ~~struck through~~)

DEPARTMENT FOR BUSINESS, ENERGY AND INDUSTRIAL STRATEGY

VARIATION OF CONSENT UNDER SECTION 36C OF THE ELECTRICITY ACT 1989

DIRECTION UNDER SECTION 90 (2ZA) OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO VARY THE CONDITIONS OF THE DEEMED PLANNING PERMISSION

CONSTRUCTION AND OPERATION OF A BIOMASS AND ENERGY FROM WASTE FUELLED ELECTRICITY GENERATING STATION AT TILBURY DOCKS, ESSEX

The Secretary of State in exercise of the powers conferred on him by section 36C of the Electricity Act 1989 hereby varies the consent granted for the biomass and energy from waste fuelled electricity generating station proposed to be constructed on the Site at Tilbury Docks, Essex in accordance with the variations shown in italic text in the Annex.

~~20 August 2014~~ Date: XXXXXXX

Giles Scott
Head of National Infrastructure Consents
Department for Business, of Energy and Industrial Strategy ~~Climate Change~~

Our ref: 12.04.09.04/266CXXXXXXXXXX

Annex – Variation of Section 36C Consent

CONSENT UNDER SECTION 36C OF THE ELECTRICITY ACT 1989

1. Pursuant to section ~~36~~ 36C of the Electricity Act 1989 the Secretary of State for Business, Energy and Industrial Strategy ~~Climate Change~~ (“the Secretary of State”) hereby consents to the construction by Tilbury Green Power Limited (and its successors and assigns) (“the Company”), on the area of land delineated by a solid red line on Figure 1.2, annexed hereto and duly endorsed on behalf of the Secretary of State, of an energy from waste and biomass fuelled generating station at Tilbury Docks, Essex (“the Development”), and to the operation of that generating station.
2. Subject to paragraph 3(1), the Development shall be up to 860 MW capacity and comprise:
 - (a) ~~up to~~ two boilers;
 - (b) two stacks;
 - (c) two a steam turbine buildings~~hall~~;
 - (d) two air cooled condensers;
 - (e) waste wood/biomass storage building;
 - (f) waste material reception and bunker storage facilities ~~solid recovered fuel production building~~;
 - (g) ancillary plant and equipment buildings;
 - (h) up to three battery energy storage units; and
 - (i) the necessary buildings (including administration offices, workshops and stores), car parking, laydown areas, bridge and civil engineering works.
3. This consent is granted subject to the following conditions:
 - (1) The Development shall be constructed and operated in accordance with the details contained in paragraph 2 of this consent.
 - ~~(2) The Development shall not be commenced later than 27 August 2015.~~

DIRECTION UNDER SECTION 90(2ZA) OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO DEEM PLANNING PERMISSION TO BE GRANTED

CONSTRUCTION AND OPERATION OF A BIOMASS AND ENERGY FROM WASTE FUELLED ELECTRICITY GENERATING STATION AT TILBURY DOCKS, ESSEX

4. The Secretary of State in exercise of the powers conferred on him by section 90(2ZA) of the Town and Country Planning Act 1990 hereby directs that planning permission for the biomass and energy from waste fuelled electricity generating station proposed to be constructed on the Site at Tilbury Docks, Essex be deemed to be granted subject to the following conditions:

Definitions

- (1) In these Conditions unless the context otherwise requires, the following definitions apply:

"BS 4142 1997" means British Standard 4142: 1997 - Method for rating industrial noise affecting mixed residential and industrial areas;

~~"Bank Holiday" means a day that is, or is to be observed as, a Bank Holiday or a holiday under the Banking and Financial Dealings Act 1971;~~

"Biomass", except in conditions (72) to (74), and unless otherwise agreed in writing with the Relevant Planning Authority, means material, other than fossil fuel, which is, or is derived directly or indirectly entirely from plant matter, but does not include Waste Wood. Such material includes but is not limited to the following:

- i. Softwoods or hardwoods (untreated with preservatives or coatings) including softwoods or hardwoods derived from forestry works or virgin wood processing; forest wood; arboriculture arisings; cuttings, brash and other woody residues from forestry management operations; and bark;
- ii. energy crops;
- iii. sawdust; and
- iv. coconut shells, olive stones, cocoa husk, olive stone pulp, sunflower hulls, palm kernel meal, rapeseed meal and cereal by-products.

"CHPQA Standard issue 3" means the CHPQA Standard document issued in January 2009 which sets out the definitions, criteria and methodologies for the operation of the UK's CHP Quality Assurance (CHPQA) programme

~~"the Commencement of the Development" means the date on which the~~

~~Development shall be taken to be initiated in accordance with section 56 of the Town and Country Planning Act 1990, as amended;~~

~~"the Commissioning of the Development"~~ means the date on which a phase of the Development (as defined under "the Development") first supplies electricity on a commercial basis;

"the Company" means Tilbury Green Power Limited and its assigns and successors;

"Creative Conservation" means the establishment of areas which are capable of sustaining indigenous species of flora and fauna;

"the Development" means an electricity generating station of up to 80MW, comprising,

Phase 1: a waste wood/biomass fuelled electricity generation unit and,

Phase 2: a SRF/RDF/MSW/C&I fuelled electricity generation unit, ~~a biomass and energy from waste fuelled electricity generating station of up to 60MW at Tilbury Docks;~~

"Emergency" means circumstances in which there is reasonable cause for apprehending imminent injury to persons, serious damage to property or danger of serious pollution to the environment;

"Environment Agency" means the Environment Agency and its successors;

"Heavy Commercial Vehicle" has the meaning given by section 138 of the Road Traffic Regulation Act 1984;

"Natural England" means Natural England and its successors;

"Operating Weight" in relation to a goods vehicle has the meaning given by section 138 of the Road Traffic Act 1984;

"Permitted Preliminary Works" means:

- i. landscaping and Creative Conservation, providing these operations do not require the delivery to or removal from the Site of bulk filling materials;
- ii. installation and diversion of utility services within the Site;
- iii. surveys and geotechnical surveys;
- iv. provision of wheel cleansing facilities required pursuant to Condition (4);
- v. provision for temporary contractors' facilities necessary for (i) to (iv) above within the Site;
- vi. erection of temporary fencing;

- vii. construction of a new access;
- viii. site security;
- ix. preparation of contractors' laydown areas; and
- x. any other works agreed in writing with the Relevant Planning Authority to constitute Permitted Preliminary Works;

~~"the Primary Catchment Area" means the administrative area of Thurrock;~~

"Public Holiday" means a day which is or is to be observed as a public holiday in England, including a bank holiday in England under the Banking and Financial Dealings Act 1971

"the Relevant Planning Authority" means:

- i. Thurrock Thames Gateway Development Corporation in respect of any approval previously given by it in respect of the Development; and
- ii. for all other purposes, Thurrock Borough Council and its successors as local planning authority for the area in which the site is located;

~~"the Second Catchment Area" means the administrative areas of Essex, Hertfordshire, South Bedfordshire and Luton;~~

"the Site" means the area of land outlined red on Figure 1.2 annexed hereto.

"Steam Purgng" means any planned release of steam likely to cause noise and be perceptible at residential properties or other land uses in the locality.

"SRF/RDF/MSW/C&I waste" means waste materials from solid recovered fuel/refuse derived fuel/municipal solid waste/commercial and industrial sources.

"Travel Plan Strategy" means the travel plan strategy dated 18 August 2008, reference 236400/3/A, submitted to DECC on 19 August 2008; and updated travel plan 393552|02|B, July 2018.

"Waste wood", unless otherwise agreed in writing with the Relevant Planning Authority, means, other than wood that is Biomass, wood that is waste due to it being discarded or intended to be discarded or required to be discarded by the holder of that waste (the holder being the producer of the waste or the person who is in possession of it and the producer being any person whose activities produce waste or any person who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of the waste). Such material includes but is not limited to the following:

- I railway sleepers;
- li pallets;

- iii furniture off-cuts;
- iv wood recovered from construction and demolition waste;
- v wood recovered from any other waste stream including household and commercial/industrial waste; and
- vi utility poles;

The Site

- (2) The construction of the Development shall only take place within the boundary of the Site.

Reason: To ensure that no construction takes place beyond the boundary of the area which is the subject of this planning permission.

Time Limits

- (3) ~~Not used.~~¹ ~~The Commencement of the Development shall not be later than 27th August 2015.~~

~~Reason: To reflect the time it may reasonably take to put in place the remaining and necessary pre-construction measures required for the Development, including discharge of planning conditions.~~

¹ Condition (3) is no longer required as Commencement of the Development was confirmed by email to Thurrock Council on 24 August 2014 to have taken place.

Suppression of Dust and Dirt during Demolition and Construction

- (4) Except for the Permitted Preliminary Works, the ~~c~~Commencement of Phase 2 of the Development shall not take place until wheel cleansing facilities for Heavy Commercial Vehicles and any other vehicle which has an operating weight exceeding three tonnes has been provided in accordance with the scheme approved by the Relevant Planning Authority under application reference 10/50148/TTGCND. These facilities shall be installed in accordance with the timescale approved by the Relevant Planning Authority under application reference 10/50148/TTGCND and shall be maintained throughout the period of the construction of the Development unless otherwise agreed in writing with the Relevant Planning Authority.

Reason: To ensure that satisfactory measures are in force so as to alleviate any impact dust and dirt may have on the local environment during construction.

~~Suppression of Dust and Dirt during Demolition and Construction~~

- (5) All Heavy Commercial Vehicles and any other vehicle or mobile plant which has an operating weight exceeding three tonnes associated with the construction of the Development leaving the Site, other than those vehicles exclusively using tarmac or concrete roads, shall on each occasion, prior to leaving, pass

through the wheel cleansing facilities approved by the Relevant Planning Authority under application reference 10/50148/TTGCND.

Reason: To ensure that satisfactory measures are in force so as to alleviate any impact dust and dirt may have on the local environment during construction.

- (6) The measures for the suppression of dust, approved by the Relevant Planning Authority under application reference 10/50179/TTGDGD, shall be employed throughout the period of construction of Phase 2 of the Development unless otherwise agreed in writing with the Relevant Planning Authority.

Reason: To ensure that satisfactory measures are in force so as to alleviate any impact dust and dirt may have on the local environment during construction.

- (7) All open bodied Heavy Commercial Vehicles carrying dry loose aggregate, cement or soil into and out of the Site associated with the construction of Phase 2 of the Development shall be sheeted or sealed so as to prevent the release of such materials into the local environment.

Reason: To ensure that satisfactory measures are in force so as to alleviate any impact dust and dirt may have on the local environment during construction.

~~Demolition Protocol~~

- ~~(8) Not used.² Following demolition of the existing buildings on-site, evidence of compliance with the material recovery target contained within the Demolition Protocol approved by the Relevant Planning Authority under application reference 10/50179/TTGDGD, shall be provided in writing to the Relevant Planning Authority.~~

~~Reason: In order to minimise waste arising from the demolition and clearance of the Site and to maximise the re-use of demolition materials in the interests of sustainability.~~

~~² Condition (8) is no longer required as evidence of compliance with material recovery targets was confirmed by Thurrock Council letter on 15 July 2014.~~

Permitted Preliminary Works

- (9) Unless otherwise agreed in writing with the Relevant Planning Authority, the Permitted Preliminary Works shall be carried out in accordance with the "Scheme Pursuant to Condition 9 (March 2014)" approved by the Relevant Planning Authority under application reference 14/00239/CONDC.

Reason: To enable the Relevant Planning Authority to exercise reasonable and proper control over the temporary works associated with the Development.

Site Layout, Design and Fire Prevention

- (10) Except for the Permitted Preliminary Works, the commencement of the Phase 2 of

the Development shall not take place until there has been submitted to, approved in writing by, and deposited with, the Relevant Planning Authority a scheme which shall include provisions for the:

- i details of the siting, design, and external appearance of all buildings and structures which are to be retained following the completion of the construction of the Development;
- ii details of the colour, materials and surface finishes in respect of those buildings and structures referred to in (i) above;
- iii details of ground levels and dimensions of all permanent buildings and structures together with cross-sections through the Site showing existing and proposed ground levels;
- iv details of vehicular circulation roads, parking, hardstandings, loading and unloading facilities and turning facilities on the Site;
- v details of all new or modified permanent fencing and gates and boundary treatments including the proposed acoustic barrier and its noise attenuation performance;
- vi details of fire suppression measures and access of fire appliances to all major buildings, structures and storage areas;
- vii details of permanent artificial lighting and its design and installation to prevent glare and lighting overspill from affecting residential areas; and
- viii phasing of works included in the scheme.

Reason: To enable the Relevant Planning Authority to exercise reasonable and proper control over the design and appearance of the Development and to ensure adequate fire prevention measures are in place.

- (11) The principles set out within the Design and Access Statement Addendum (dated ~~November 2018~~ ~~August 2008~~) together with the application drawings shall form the basis for submissions under Condition (10) (i) and (ii). The Development shall proceed thereafter only in accordance with the approved scheme, unless otherwise agreed in writing with the Relevant Planning Authority.

Reason: To enable the Relevant Planning Authority to exercise reasonable and proper control over the design and appearance of the Development and to ensure adequate fire prevention measures are in place.

Landscaping and Creative Conservation

- (12) Except for the Permitted Preliminary Works, prior to the Commencement of the Phase 2 of the Development, a scheme of landscaping and Creative Conservation; ~~to include the proposed areas adjacent to the Botney Channel as shown on drawings 236400/B.2 and 235400/B.3 in the Ecology Review and Mitigation Plan (dated July 2008) as amended by Figure 4 Alternative Ground Level Habitat submitted to accompany application reference 13/01079/NMA,~~ shall be submitted to, approved in writing by, and deposited with, the Relevant Planning Authority. ~~(in consultation with~~

~~Natural England). Unless otherwise agreed in writing with the Relevant Planning Authority the scheme shall be in accordance with the mitigation measures set out in the Ecology Review and Mitigation Plan (dated 18 July 2008) and in section 5.5 of the Design and Access Statement (dated 8 August 2008).~~

~~**Reason:** In order to ensure proper landscaping for the Development, Creative Conservation and to achieve the sustainable redevelopment of the Site. See also Conditions (50)-(51) below.~~

Rainwater Harvesting

- (13) The measures for the harvest of rainwater falling onto the Site approved by the Relevant Planning Authority under application reference 13/01170/CONDC shall be employed throughout the phase of construction permitted under the terms of application 13/01170/CONDC. ~~Prior to the commencement of Phase 2 of the Development, a phase of construction not covered by the terms of application reference 13/01170/CONDC,~~ a scheme detailing measures to harvest rainwater falling onto the part of the Site occupied by the Phase 2 Development during such ~~later phase~~ shall be submitted to, approved in writing by, and deposited with, the Relevant Planning Authority, in consultation with the Environment Agency. The agreed details shall be installed and implemented prior to the Commissioning of the Development unless otherwise agreed in writing with the Relevant Planning Authority.

Reason: In order to reduce the mains water consumption of the facility and to achieve the sustainable redevelopment of the Site.

River Thames Flood Defences

- (14) Subject to Flood Defence Consent FDC-ENS-2015-747 dated 17 April 2015, a horizontal strip 9 metres wide landward of, and adjacent to, the existing River Thames flood defences shall be left free of permanent built development and all other significant development unless otherwise agreed in writing with the Relevant Planning Authority, in consultation with the Environment Agency.

Reason: To retain access to the watercourse for the Environment Agency to carry out its functions and to protect the river environment.

- (15) Not used.³ ~~Prior to the commencement of construction of the proposed biomass storage building, details of the foundation design of this building shall be submitted to, approved in writing by, and deposited with the Relevant Planning Authority, in consultation with the Environment Agency. Construction of the biomass storage building shall proceed in accordance with the agreed details.~~

~~**Reason:** In order to maintain the integrity of the River Thames' flood defences.~~

³ Condition (15) is no longer required as biomass building foundation details were submitted to Thurrock Council.

Flood Protection Measures

- (16) In areas where personnel routinely work, as detailed in Section 4.2 of the submitted Flood Risk Assessment, ~~the~~ Phase 2 of the Development shall be constructed with a minimum finished floor level at or above 3.85m Above Ordnance Datum (1:1,000 year level plus climate change) except for the boiler house where its construction shall be 3.72m Above Ordnance Datum with additional flood defence measures to protect up to the 1:1,000 year level plus climate change.

Reason: To ensure the appropriate protection of the development and occupants.

- (17) Prior to the Commissioning of Phase 2 of the Development a flood response plan shall be submitted to, approved in writing by, and deposited with, the Relevant Planning Authority in consultation with the relevant authority Emergency Planning Officer. The agreed measures within the plan shall be operated throughout the lifetime of the Development.

Reason: To ensure the appropriate protection of the development and occupants.

River Transport

- (18) Except for the Permitted Preliminary Works, the ~~C~~ommencement of Phase 2 of the Development shall not take place until an investigation has been carried out into the potential opportunities for the utilisation of river transport for the transportation of materials associated with the construction of the Development. The results of the investigation shall be submitted to the Relevant Planning Authority, and a scheme for the monitoring and reporting of potential opportunities for the use of river transport during the Construction of the Development shall be agreed in writing by, and deposited with, the Relevant Planning Authority. The scheme shall also make provision for taking advantage of such opportunities as it identifies as viable.

Reason: In order to ensure the most sustainable mode of transport for construction materials is used.

Road Traffic Management

- (19) The travel plan approved by the Relevant Planning Authority in 2014 and updated in 2018~~Prior to the commencement of the Development, shall be further~~ updated within 3 months of Phase 2 of the Development being operational and annually thereafter while the Development is in use. The updated ; a travel plan shall be submitted to, approved in writing by and deposited with, the Relevant Planning Authority, in consultation with the Highways Agency. The travel plan shall address both the transport of materials and employees in order to minimise the impact of the development on local roads and shall reflect the objectives of the Travel Plan Strategy and incorporate further objectives to optimise HGV payloads. The travel

plan shall be implemented on the Commissioning of Phase 2 of the Development and maintained thereafter unless otherwise agreed in writing with the Relevant Planning Authority.

Reason: To minimise the impact of construction and operational traffic on the motorway and trunk road network.

- (20) ~~The Development shall be implemented in accordance with the Vehicle and Accident Monitoring Scheme approved by the Relevant Planning Authority in 2014 and updated in 2018. Except for the Permitted Preliminary Works, the Commencement of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with, the Relevant Planning Authority, in consultation with the Highways Agency, a Vehicle and Accident Monitoring Scheme based on Environmental Statement Technical Appendix L: Traffic & Transport ADDENDUM February 2009. Unless otherwise agreed in writing with the Relevant Planning Authority, in consultation with the Highways Agency, the construction and operation of the Development shall proceed in accordance with the approved scheme.~~

Reason: To minimise the impact of construction and operational traffic on the motorway and trunk road network.

- (21) During the period of construction of Phase 2 of the Development, transport movements of abnormal (indivisible) loads shall not be permitted on the M25 Motorway and A13 and A1089 Trunk Roads between the periods 07.00-09.00 hours and 16.30-18.30 hours, and outside these time periods, shall only be permitted in accordance with the requirements of the Essex Police Authority and the Highways Agency Abnormal Indivisible Loads Team.

Reason: To minimise the impact of construction and operational traffic on the motorway and trunk road network.

Demolition, Construction and Associated Noise and Vibration

- (22) All activities associated with the demolition of existing buildings and structures and the construction of Phase 2 of the Development shall be carried out in accordance with British Standard 5228, Parts 1 and 2: 1997 and Part 4: 1992; Noise and Vibration Control on Construction and Open Sites.

Reason: To ensure reasonable and proper control is exercised over the methods of demolition of existing buildings and structures and construction of Phase 2 of the Development and to ensure the proper control of noise during demolition and construction activities.

- (23) The commencement of Phase 2 of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with, the Relevant Planning Authority a scheme for impact pile, or other means of pile driving, including methods and duration and the scheme shall state criteria according to which the

means of pile driving to be adopted have been chosen. The approved scheme shall be adhered to during the period of construction of Phase 2 of the Development.

Reason: To ensure reasonable and proper control is exercised over the methods of demolition of existing buildings and structures and construction of Phase 2 of the Development and to ensure the proper control of noise during demolition and construction activities.

- (24) No impact pile driving required during the construction of Phase 2 of the Development shall take place on the Site on any Sunday or Bank Holiday or on any other day except between the following times:

Monday to Friday 0900 – 1800 hours

Saturday 0900 – 1300 hours

Unless such pile driving:

- (a) is associated with an Emergency; or
- (b) is carried out with the prior approval of the Relevant Planning Authority.

Reason: To ensure reasonable and proper control is exercised over the methods of demolition of existing buildings and structures and construction of Phase 2 of the Development and to ensure the proper control of noise during demolition and construction activities.

- (25) No demolition or construction work associated with Phase 2 of the Development shall take place on the Site at any time on any Sunday or Bank Holiday or on any other day except between the following times:

Monday to Friday 0700 – 1900 hours

Saturday 0800 - 1700 hours

Unless such work:

- (i) is associated with an Emergency; or
- (ii) is carried out with the prior written approval of the Relevant Planning Authority; or
- (iii) does not cause existing background noise levels to be exceeded, such existing background noise levels to be set out in accordance with the scheme to be prepared pursuant to Condition (27).

Reason: To ensure reasonable and proper control is exercised over the methods of demolition of existing buildings and structures and construction of Phase 2 of the Development and to ensure the proper control of noise during demolition and construction activities.

- (26) Within 2 working days following any instance where a time limitation referred to in Conditions (24) and (25) is not observed because of an Emergency, the Relevant Planning Authority shall be notified and such notification shall be followed up within 2 working days with a written statement detailing the nature of the Emergency and the reason why the time limit could not be observed.

Reason: To ensure reasonable and proper control is exercised over the methods of

demolition of existing buildings and structures and construction of Phase 2 of the Development and to ensure the proper control of noise during demolition and construction activities.

- (27) The demolition of the existing buildings and construction of Phase 2 of the Development shall be undertaken in accordance with the scheme of noise and vibration monitoring approved by the Relevant Planning Authority under application reference 10/50188/TTGDCCD. At the specified noise monitoring locations, noise and vibration levels during the demolition and construction operations shall not exceed the levels specified in the approved monitoring scheme approved under application reference 10/50188/TTGDCCD, unless otherwise agreed in writing with the Relevant Planning Authority or in an Emergency.

Reason: To ensure reasonable and proper control is exercised over the methods of demolition of existing buildings and structures and construction of Phase 2 of the Development and to ensure the proper control of noise during demolition and construction activities.

- (28) In any instance where a noise level approved pursuant to Condition (27) is exceeded because of an Emergency the Relevant Planning Authority shall be notified. The notification shall be followed up within 2 working days with a written statement detailing the nature of the emergency and the reason why the maximum permissible noise level could not be observed.

Reason: To ensure reasonable and proper control is exercised over the methods of demolition of existing buildings and structures and construction of the Development and to ensure the proper control of noise during demolition and construction activities.

Operational Noise and Vibration

- (29) The Commissioning of Phase 2 of the Development shall not take place until there has been submitted to, approved by, and deposited with, the Relevant Planning Authority, a noise and vibration management plan including provision for the monitoring of noise and vibration generated by the normal commercial operation of the Development. The plan shall specify:

- (i) the locations from which noise and vibration will be monitored;
- (ii) the method of noise measurement (which shall be in accordance with BS 4142 1997);
- (iii) the maximum permissible levels of noise and vibration at each such monitoring location; and
- (iv) the arrangements for making noise and vibration monitoring results available to the Relevant Planning Authority and for notifying local residents affected by an Emergency (as provided for in Condition (30)).

The plan shall make provision for such noise and vibration measurements to be

taken as soon as possible following requests by the Relevant Planning Authority and such measurements shall be given to the Relevant Planning Authority within 2 working days. At the approved monitoring locations, noise levels during the operation of the Development shall not exceed the levels specified in the approved plan, unless otherwise agreed in writing with the Relevant Planning Authority or in an Emergency.

Reason: To ensure the proper control of noise during the operation of the Development and to give advance warning of the timing of exceptionally noisy events.

- (30) In any instance where a noise or vibration limitation level approved pursuant to Condition (29) is exceeded because of an Emergency the Relevant Planning Authority shall be provided within two working days with a written statement detailing the nature of the Emergency and the reason why the noise level and/or vibration limitation could not be observed. If the emergency period is expected to be for more than twenty-four hours then those residents affected by the Emergency shall be informed of the reasons for the Emergency and the expected duration.

Reason: To ensure the proper control of noise during the operation of the Development and to give advance warning of the timing of exceptionally noisy events.

- (31) Except in an Emergency, at least 2 working day's written notice shall be given to the Relevant Planning Authority of any proposed operation of emergency pressure valves or similar equipment. In any instance where Steam Purging is to take place the Company shall give two working days prior notice to local residents and businesses affected by the noise of such purging. So far as is reasonably practicable, any such operation should take place between 09.00 and 17.00 hours on any day other than Saturdays, Sundays, Bank Holidays or public holidays.

Reason: To ensure the proper control of noise during the operation of the Development and to give advance warning of the timing of exceptionally noisy events.

Noise and Vibration Complaints Procedure

- (32) In any instance where a local resident makes a complaint about noise and/or vibration generated by demolition works or the construction or operation of the Development, investigations shall be carried out to establish the justification, or otherwise, of the complaint, the likely cause and possible remedial measures. A written report to the complainant shall be made as soon as reasonably practicable following the investigation and/or remedial work. All such reports shall be kept in an appropriate location on Site and made available to the Relevant Planning Authority on request.

Reason: To ensure that any complaints on the grounds of noise and vibration are

properly dealt with so as to reduce the impact of the Development on local residents.

Prevention of Contamination of Watercourses

(33) Except for the Permitted Preliminary Works the Commencement of Phase 2 of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with, the Relevant Planning Authority, in consultation with the Environment Agency, a scheme showing the method and working of drainage facilities on the Site. Such facilities shall be put in place in accordance with the approved scheme.

Reason: To ensure proper drainage of the Site and that proper containment facilities are built.

(34) The scheme referred to in Condition (33) shall include:

- (i) measures to ensure that no leachate or any contaminated surface water from the Site shall be allowed at any time to enter directly or indirectly into any watercourse or underground strata or onto adjoining land;
- (ii) provision so as to ensure that all existing drainage systems continue to operate and that riparian owners upstream and downstream of the Site are not adversely affected;
- (iii) provision for trapped gullies in car parks, hardstandings and roadways;
- (iv) measures to ensure that all foul sewage must drain to an approved foul sewerage and/or sewage disposal system;
- (v) provisions to distinguish between temporary and permanent parts of the works; and
- (vi) phasing of works.

Reason: To ensure proper drainage of the Site and that proper containment facilities are built.

(35) Any surface water contaminated by hydrocarbons which are used during the construction of Phase 2 of the Development shall be passed through oil/grit interceptor(s) prior to being discharged to any public sewer or watercourse or to any other surface water disposal system approved by the Environment Agency.

Reason: To ensure proper drainage of the Site and that proper containment facilities are built.

(36) All facilities required for the storage of hydrocarbons, process chemicals or similar liquids which are used during the construction of Phase 2 of the Development must be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound(s) shall be at least equivalent to the capacity of the largest tank plus 10%. All filling points, vents and sight glasses must be located within the bund and there must be no drain through the bund floor or walls.

Reason: To ensure proper drainage of the Site and that proper containment facilities

are built.

- (37) All bunded compound(s) referred to in Condition (36) in which acids, alkalis or sulphides are stored shall, in addition to being contained in suitable facilities, have appropriate protective lining applied to the inner walls of the bunds.

Reason: To ensure proper drainage of the Site and that proper containment facilities are built.

- (38) Any storage facility to which Conditions (36) or (37) refer shall be completed in accordance with the requirements of those Conditions before being brought into use.

Reason: To ensure proper drainage of the Site and that proper containment facilities are built.

Archaeology

- ~~(39) Not used. ⁴The construction of the Development, including the Permitted Preliminary Works, shall be undertaken in accordance with the Written Scheme of Investigation for Archaeology approved by the Relevant Planning Authority under application reference 10/50148/TTGCND.~~

~~Reason: To allow the surveying of the Site for archaeological artefacts and the recovery of any important archaeological discovery before construction of the main Development begins.~~

- ~~(40) Not used. Any further investigations and recording of such finds as are considered necessary by the Relevant Planning Authority shall be undertaken prior to the construction of any part of the Development on that part of the Site where such finds are identified, and in the case of finds of national importance, in accordance with the phasing of works within the Written Scheme of Investigation for Archaeology approved by the Relevant Planning Authority under application reference 10/50148/TTGCND, unless otherwise agreed in writing with the Relevant Planning Authority.~~

~~Reason: To allow the surveying of the Site for archaeological artefacts and the recovery of any important archaeological discovery before construction of the main Development begins.~~

⁴ Conditions (39) and (40) are no longer required as a Written Scheme of Investigation was approved by Thurrock Council and a report on subsequent archaeological investigations at site was provided to Thurrock Council by email on 8 July 2014.

Contamination

- (41) Unless any variation has been agreed in writing with the Relevant Planning Authority

in consultation with the Environment Agency, the construction of Phase 2 of the Development shall take place in line with the scheme approved by the Relevant Planning Authority under application reference 12/01088/CONDC, being a scheme covering the following matters:

- (a) a desk study identifying
- all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the Site indicating sources, pathways and receptors; and
 - potentially unacceptable risks arising from contamination at the Site;
- (b) a Site investigation scheme based on (a) to provide information for an assessment of the risk to all receptors that may be affected, including those off-Site; and
- (c) the results of the Site investigation and risk assessment pursuant to (b) and a method statement based on those results giving full details of the remediation measures required and how they are to be undertaken.

Reason: To ensure that Phase 2 of the Development does not cause pollution of Controlled Waters and that it complies with approved details in the interest of protection of Controlled Waters. To ensure that any potential contaminated waste found on the Site is disposed of properly.

(42) Not used.⁵

⁵ Condition (42) is no longer required as it required compliance with the scheme approved under Condition 41. Condition 41 covers compliance.

(43) If, during construction of Phase 2 of the Development, contamination not previously identified is found to be present at the Site then no further work shall be carried out until there has been submitted to, approved in writing by, and deposited with, the Relevant Planning Authority an amendment of the scheme approved under application reference 12/01088/CONDC detailing how this unsuspected contamination shall be dealt with.

Reason: To ensure that Phase 2 of the Development does not cause pollution of Controlled Waters and that it complies with approved details in the interest of protection of Controlled Waters. To ensure that any potential contaminated waste found on the Site is disposed of properly.

(44) Contaminated material arising from the construction of Phase 2 of the Development shall be treated on the Site in accordance with a scheme to be submitted to, approved in writing by, and deposited with, the Relevant Planning Authority, in

consultation with the Environment Agency, or shall be disposed of to licensed disposal facilities.

Reason: To ensure that Phase 2 of the Development does not cause pollution of Controlled Waters and that it complies with approved details in the interest of protection of Controlled Waters. To ensure that any potential contaminated waste found on the Site is disposed of properly.

- (45) Prior to the Commissioning of Phase 2 of the Development, a verification report shall be provided on completion of the works set out in Condition (41)(c) confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting.

Reason: To ensure that Phase 2 of the Development does not cause pollution of Controlled Waters and that it complies with approved details in the interest of protection of Controlled Waters. To ensure that any potential contaminated waste found on the Site is disposed of properly.

Protection and Mitigation for Bats

- ~~(46) Not used.⁶ The demolition of existing buildings and construction of the Development shall be undertaken in accordance with the Bat Mitigation and Enhancement measures approved by the Relevant Planning Authority under application reference 10/50250/TTGDGD.~~

~~Reason: For the protection of bats which are protected under the Wildlife and Countryside Act 1981 (as amended).~~

⁶ Condition (46) is no longer required as investigations in 2017 and 2018 indicate that bats are not present on the site

Protection and Mitigation for Reptiles

- ~~(47) Not used.⁷ Construction of the Development shall be undertaken in accordance with the Scheme for the Protection and Mitigation of Reptiles approved under application reference 10/50250/TTGDGD.~~

~~Reason: For the protection of reptiles which are protected under the Wildlife and Countryside Act 1981 (as amended).~~

⁷ Condition (47) is no longer required as investigations in 2018 indicate that reptiles are not present on the site

Protection and Mitigation for Birds

- (48) No trees, hedges, scrub, dense vegetation or other nesting sites shall be cleared

from the Site during the bird breeding season of 1 March to 30 September inclusive, except where a suitably qualified ecological consultant, appointed by the Company, has confirmed that such clearance works should not affect any nesting birds, unless otherwise agreed in writing with the Relevant Planning Authority.

Reason: To cause that breeding birds are not disturbed or nests destroyed. Breeding birds are protected under the Wildlife and Countryside Act 1981 (as amended).

(49) Not used.⁸

8 Condition (49) is no longer required as it duplicated provision made in Condition (12).

Landscaping and Creative Conservation

(50) The scheme referred to in Condition (12) shall deal with the treatment of any environmentally sensitive areas as well as the general provision of screening, shrub and tree planting and grassed areas and means of integrating the Development with the surrounding landscape and shall include the following matters:

- (i) planting;
- (ii) management of existing and new planted areas including the protection of existing planting during construction;
- (iii) restoration of areas affected by construction works;
- (iv) details of grass seed mix for areas of the Site set out in the scheme referred to in Condition (12) to be restored to grassland;
- (v) details of the height, type, size and species of the shrubs and trees to be planted;
- (vi) details of the measures to be taken to create new flora and fauna habitats and the management of such new habitats; and
- (vii) phasing of works to be included in the scheme referred to in Condition (12).

Reason: To ensure proper landscaping for Phase 2 of the Development, Creative Conservation and to achieve the sustainable redevelopment of the Site.

(51) The landscaping and planting, including grass sowing, shall take place in accordance with the phasing of works specified in Condition (50)(vii) and no later than the appropriate planting and sowing season following the completion of construction of the Development and shall be carried out in accordance with the scheme approved under Condition (12) unless otherwise agreed in writing with the Relevant Planning Authority. Any trees or shrubs, including hedges, which die, become seriously damaged or diseased or are removed within five years from the date of planting shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing with the Relevant Planning Authority.

Reason: To ensure proper landscaping for **Phase 2 of** the Development, Creative

Conservation and to achieve the sustainable redevelopment of the Site.

Fugitive Odour

(52) The Commissioning of Phase 2 of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the Relevant Planning Authority a scheme for the control of fugitive odours from Phase 2 of the Development. ~~the Solid Recovered Fuel (SRF) production facility~~. Unless otherwise agreed in writing with the Relevant Planning Authority, the Development shall proceed in accordance with the approved scheme.

Reason: In the interests of amenity.

Pest/Vermin Control

(53) The Commissioning of Phase 2 of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the Relevant Planning Authority a scheme for the control of pests and vermin at the Site. Unless otherwise agreed in writing with the Relevant Planning Authority, the Development shall proceed in accordance with the approved scheme.

Reason: In the interests of amenity.

Hours of Operation

(54) Unless otherwise agreed in writing with the Relevant Planning Authority, the operating hours of the Development will be between the following times:

Phase 2 of the Development: ~~SRF Production Facility:~~

Activity:	Operation:
Materials delivery	0700-1830 Mon-Fri 0700-1300 Sat
Materials processing and fuel production	Continuous
Removal of recyclate and residues	0700-1830 Mon-Fri 0700-1300 Sat

Phase 1 of the Development: ~~Biomass Store:~~

Activity:	Operation:
Delivery by river	At any time during a 24 hour period
Delivery by road	0700-1830 Mon-Fri 0700-1300 Sat

Power Islands:

Activity:	Operation:
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Power generation and CHP Continuous

Reason: In the interests of amenity.

(55) No more than 650,000 tonnes of Biomass, Waste Wood, Refuse Derived Fuel, Solid Recovered Fuel, Commercial & Industrial Waste and ~~/or~~ Municipal Solid Waste (MSW) shall be brought onto the site per annum. ~~This will include no more than 40,000 tonnes per annum of MSW and no more than a combined total of 300,000 tonnes per annum of MSW, Commercial & Industrial Waste and Solid recovered Fuel.~~

Reason: In order for the Relevant Planning Authority to exercise reasonable control over the input of materials into the Site.

(56) Not used. ⁹ ~~No more than 450,000 tonnes of Biomass, Waste Wood, Solid Recovered Fuel, Commercial & Industrial Waste and / or Municipal Solid Waste shall be delivered by road to the Site per annum.~~

~~Reason: To minimise the impact of imports on the road network.~~

Source of Municipal Solid Waste, Solid Recovered Fuel or Waste Wood, Commercial & Industrial Waste and Biomass

(57) Not used. ~~No Municipal Solid Waste other than that derived from within Thurrock, Essex, Hertfordshire, South Bedfordshire and Luton shall enter the site.~~

~~Reason: In order for the Relevant Planning Authority to exercise reasonable control over the input of materials into the Site.~~

(58) Not used. ~~No Solid Recovered Fuel or Waste Wood other than that derived from within the East of England region and / or within a radius of 50 miles from the Site boundary shall enter the Site.~~

~~Reason: In order for the Relevant Planning Authority to exercise reasonable control over the input of materials into the Site.~~

(59) Not used. ~~No Commercial & Industrial Waste other than that derived from within the East of England Region shall enter the site.~~

~~Reason: In order for the Relevant Planning Authority to exercise reasonable control over the input of materials into the Site.~~

(60) Not used. ~~No Biomass other than that derived from within the East of England region and / or within a radius of 50 miles from the Site boundary shall enter the Site unless delivered by river.~~

~~Reason: In order for the Relevant Planning Authority to exercise reasonable control over the input of materials into the Site.~~

⁹ Conditions (56), (57), (58), (59) and (60) are no longer required as restrictions no

longer apply to the source or quantity of waste material components.

- (61) Records of the type and origin of material entering the Site and the mode of transport used for delivery shall be kept by the operator and made available to the Relevant Planning Authority within 7 days of a written request.

Reason: In order for the Relevant Planning Authority to exercise reasonable control over the input of materials into the Site.

External Storage

- (62) Unless otherwise agreed in writing with the Relevant Planning Authority, or unless in an Emergency, the external handling of biomass, waste, materials or products shall be under cover at all times during the operation of the Development.

Reason: In the interests of amenity.

Disposal and Re-use of Post-Combustion Residues

- (63) The Commissioning of Phase 2 of the Development shall not take place until a scheme detailing the proposed disposal and potential re-use and recycling of post-combustion residues, including means of transport, has been submitted to, approved in writing by, and deposited with, the Relevant Planning Authority. Unless otherwise agreed in writing with the Relevant Planning Authority, the agreed scheme shall be implemented for the duration of the Development.

Reason: In order to ensure the appropriate disposal of and sustainable re-use of post-combustion residues.

Air Pollution Monitoring

- (64) The Commissioning of Phase 2 of the Development shall not take place until there has been submitted to, and approved in writing by, the Relevant Planning Authority, in consultation with the Environment Agency, a scheme for monitoring air pollution in their area. The scheme shall include the measurement location or locations within the relevant area from which air pollution will be monitored, the equipment and methods to be used and the frequency of measurement. Unless otherwise agreed in writing with the Relevant Planning Authority, the scheme shall provide for the first measurement to be taken not less than 12 months prior to the Commissioning of Phase 2 of the Development and for the final measurement to be taken not more than 24 months after Commissioning of Phase 2 of the Development. Full details of the measurements obtained in accordance with the scheme shall be supplied to the Relevant Planning Authority as soon as reasonably practicable after they become available.

Reason: To ensure that the Relevant Planning Authority is kept informed on a regular and programmed basis about the changes in the level of air pollution at

locations within its area.

- (65) Should the Relevant Planning Authority require continued monitoring of air pollution the Scheme pursuant to Condition (64) shall be extended for a period of up to 36 months from the date of the last measurement taken pursuant to that Condition. Full details of the measurements obtained during the extended period shall be provided to the Relevant Planning Authority as soon as reasonably practicable after they become available.

Reason: To ensure that the Relevant Planning Authority is kept informed on a regular and programmed basis about the changes in the level of air pollution at locations within its area.

Stack Lighting

- (66) The Commissioning of Phase 2 of the Development shall not take place until a scheme detailing the lighting of the flue stacks with a steady red light of 200 candelas visible from the highest most practicable point, have been submitted to, approved in writing by, and deposited with, the Relevant Planning Authority. The stacks shall be lit in accordance with the approved scheme prior to the Commissioning of Phase 2 of the development and maintained thereafter.

Reason: In the interests of air traffic safety.

Use of Waste Heat

- (67) The Commissioning of Phase 2 of the Development shall not take place until sufficient plant and pipework has been installed to facilitate the future supply of heat to the boundary of the Site under Condition (68) at a later date if opportunities to do so are identified pursuant to Condition (68).

Reason: To ensure that waste heat is available for use to the benefit of the local domestic, commercial and industrial users when the demand arises.

- (68) Prior to the Commissioning of Phase 2 of the Development, an updated CHP Feasibility Review assessing potential opportunities for the use of heat from the Development shall be submitted to, approved in writing by, and deposited with, the Relevant Planning Authority. This shall provide for the ongoing monitoring and full exploration of potential opportunities to use heat from the Development as part of a Good Quality CHP scheme (as defined in the CHPQA Standard issue 3), and for the provision of subsequent reviews of such opportunities as necessary. Where viable opportunities for the use of heat in such a scheme are identified, a scheme for the provision of the necessary plant and pipework to the boundary of the site shall be submitted to, approved in writing by, and deposited with, the Relevant Planning Authority. Any plant and pipework installed to the boundary of the Site to enable the use of heat shall be installed in accordance with the agreed details.

Reason: To ensure that waste heat is available for use to the benefit of the local domestic, commercial and industrial users when the demand arises.

Cessation of works and restoration of the Site

(69) Unless otherwise agreed in writing with the Relevant Planning Authority, within 12 months of Phase 1 or Phase 2 ~~the Site~~ ceasing to be used for the purposes of electricity generation, a scheme for the demolition and removal of that Phase of the Development from the Site shall be submitted to the Relevant Planning Authority, for approval in writing.

Reason: To ensure the Site is not allowed to become derelict after the cessation of electricity generation.

(70) The scheme referred to in Condition (69) shall include:

- (i) details of all structures and buildings which are to be demolished;
- (ii) details of the means of removal of materials resulting from the demolition and methods for the control of dust and noise;
- (iii) the phasing of the demolition and removal;
- (iv) details of the restoration works; and
- (v) the phasing of the restoration works.

Reason: To ensure the Site is not allowed to become derelict after the cessation of electricity generation.

(71) The demolition and removal of a Phase of the Development (which shall include all buildings, structures, plant, equipment, areas of hardstanding and access roads) and subsequent restoration of the Site shall thereafter be implemented in accordance with the approved scheme referred to in Condition (69), unless otherwise agreed in writing with the Relevant Planning Authority.

Reason: To ensure the Site is not allowed to become derelict after the cessation of electricity generation.

Biomass Sustainability

(72) With the exception of any other fuels used during boiler start up or stabilisation (excluding coal, which shall not be used in the operation of the Development), only the material inputs referred to in Condition (55) shall be burnt in the main boiler(s). From the first date on which the Development is subject to mandatory sustainability criteria as a condition of eligibility for financial assistance under a relevant assistance regime any biomass fuel feedstocks burnt in the main boilers(s) after that time must comply with the applicable mandatory sustainability criteria.

(73) Throughout the operational life of the Development, there shall be submitted to the Council an annual report on the sustainability of all biomass fuel feedstocks burnt in

the main boiler(s) which provides the same information and level of assurance and verification which the operator of the Development is required (or would be required, if claiming financial assistance in respect of the electricity generated for such biomass fuel feedstocks) to provide in respect of the sustainability of biomass under any relevant assistance regime. Where other forms of biomass are burnt in the main boiler(s), the report should provide equivalent information, assurance and verification in respect of those fuels.

(74) For the purposes of conditions (72) and (73):

“applicable mandatory sustainability criteria” means:

- i. the mandatory sustainability criteria which the Development must comply with from time to time as a condition of eligibility for financial assistance under a relevant assistance regime; or
- ii. if financial assistance has been granted under a relevant financial assistance regime in respect of the Development for a limited period of time and that period has elapsed so that the Development is no longer eligible for financial assistance under any relevant assistance regime, those criteria by compliance with which the operation of the Development was most recently eligible for such assistance unless otherwise agreed in writing with the Relevant Planning Authority, and, at the time when they are burnt, biomass fuel feedstocks shall be taken to comply with the applicable mandatory sustainability criteria if, at that time, the Company has reason to believe that they comply with the applicable mandatory sustainability criteria;

“biomass fuel feedstocks” means fuel, excluding material which is, or is derived directly or indirectly from animal matter, which qualifies as ‘biomass’ under:

- i. article 4 of the Renewables Obligation Order 2009 (S.I. 2009/785) (as amended);
- ii. such provisions of a relevant assistance regime incorporating applicable mandatory sustainability criteria as define biomass for the purposes of that regime from time to time;

“mandatory sustainability criteria” means criteria relating to the sustainability of biomass for energy use (other than biofuels and bioliquids) which are prescribed in a relevant assistance regime; and

“relevant assistance regime” means the provisions of any legislation or other legally binding arrangements established or approved by Government under or by virtue of which the generation of electricity from biomass fuel feedstocks on a commercial basis qualifies for financial assistance by reason of the burning of biomass fuel feedstocks which comply with prescribed sustainability criteria.

Reason: To ensure the scheme is fuelled only by sustainable biomass fuel feedstocks as proposed by the Company in its application for consent under s. 36 of the Electricity Act 1989.

Immaterial Changes to Conditions by the Council

(75) Where the words, “any other works agreed in writing with the Relevant Planning Authority”, “unless otherwise agreed in writing with the Relevant Planning Authority” or “with the prior written approval of the Relevant Planning Authority” appear, such agreement or approval may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the Council that the subject matter of the approval is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Reason: To make clear that where provision is made for the Council to agree to variations to the application of planning conditions, the scope of any such variations will be limited to immaterial changes.

Bridge over Botney Channel

(76) Except for the Permitted Preliminary Works the commencement of work on the construction of the bridge over Botney Channel shall not take place until there has been submitted to and approved by the Environment Agency, an application for an Environmental Permit for Flood Risk Activities. Such works shall be carried out in accordance with the Environmental Permit.

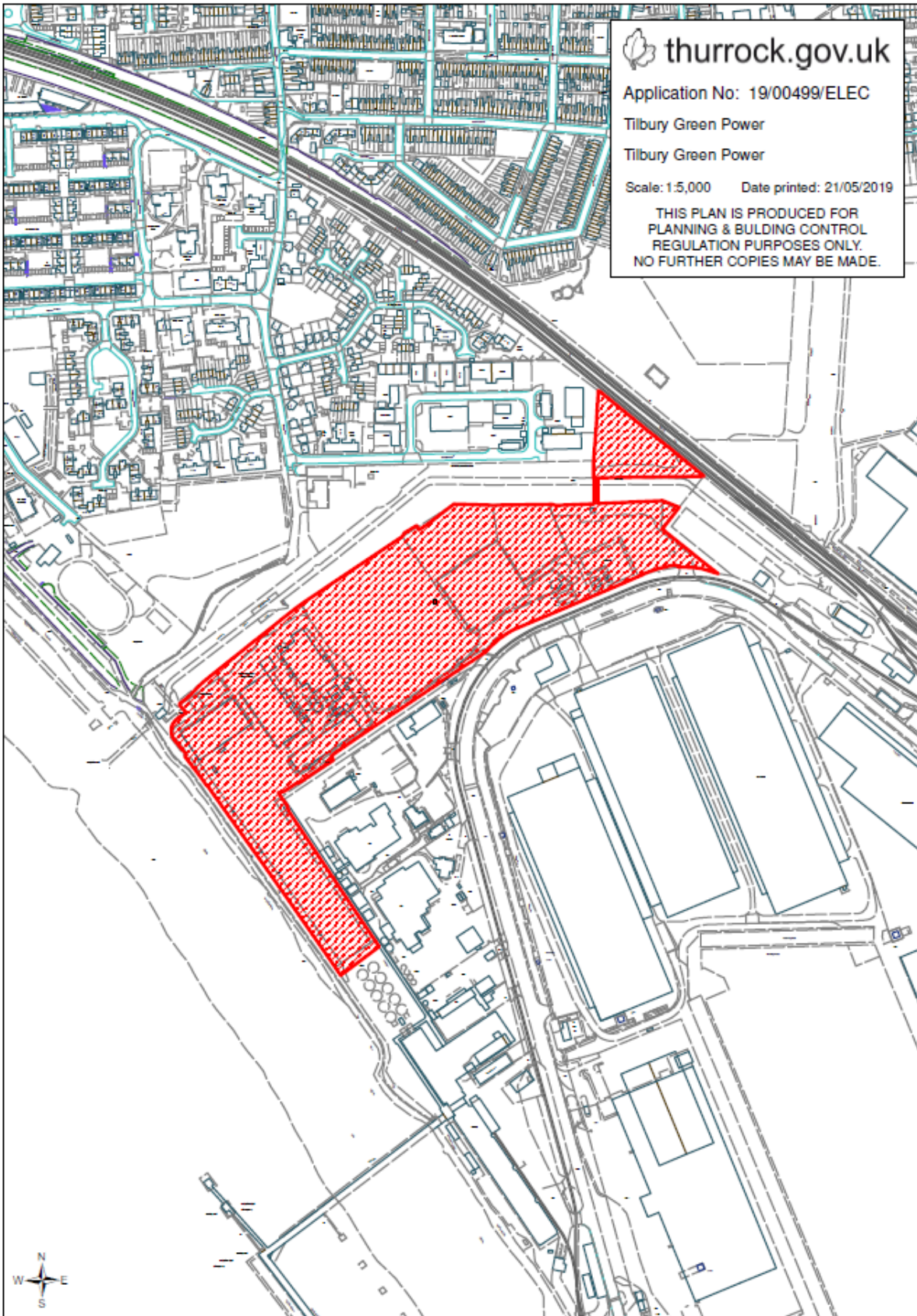
Reason: To ensure that the necessary permit from the Environment Agency has been obtained before construction work commences on the bridge over Botney Channel.

Date: XXXXXX 20 August 2014

Giles Scott

Head of National Infrastructure Consents

Department of Business, Energy and Industrial Strategy ~~Climate Change~~



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