

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 **16 July 2020**

Due to government guidance on social-distancing and COVID-19 virus the Planning Committee on 16 July 2020 **will not be open for members of the public to attend**. Arrangements have been made for the press and public to watch the meeting live via the Council's online webcast channel at <https://www.youtube.com/user/thurrockcouncil>

Membership:

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

Steve Taylor, Campaign to Protect Rural England Representative

Substitutes:

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

Agenda

Open to Public and Press

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2 Minutes	5 - 36
To approve as a correct record the minutes of the Planning Committee meeting held on 8 June 2020 and 25 June 2020.	
3 Item of Urgent Business	
To receive additional items that the Chair is of the opinion should be	

considered as a matter of urgency, in accordance with Section 100B (4) (b) of the Local Government Act 1972.

4 Declaration of Interests

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7 Public Address to Planning Committee

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

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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: **8 July 2020**

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Information for members of the public and councillors

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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 8 June 2020 at 6.00 pm

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

Steve Taylor, Campaign to Protect Rural England Representative

Apologies: Councillors

In attendance:

Leigh Nicholson, Interim Assistant Director of Planning, Transport and Public Protection
Jonathan Keen, Interim Strategic Lead of Development Services
Matthew Gallagher, Major Applications Manager
Chris Purvis, Major Applications Manager
Matthew Ford, Transport Development Manager
Julian Howes, Senior Highway Engineer
Steven Lines, Senior Highway Engineer
Caroline Robins, Locum Solicitor
Christopher Smith, Programme Manager, Adults Social Care
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.

1. Minutes

Councillor Rice said that in previous Planning Committee meetings, he had asked for details on the number of solicitors available in Thurrock Council that signed off section 106 Agreements. He was aware that one solicitor was available on a weekly basis for this task and was concerned on the delay to section 106 Agreements. Leigh Nicholson, Interim Assistant Director of Planning, Transport and Public Protection advised that there were in-house solicitors to deal with section 106 Agreements. However, he would raise the Committee's concerns with the Assistant Director of Law and Governance.

The minutes of the Planning Committee held on 19 March 2020 was approved as a true and correct record.

2. Item of Urgent Business

There were no items of urgent business.

The Chair stated that the running order of the Agenda would be changed so that item 8 would be considered first due to the number of interested parties listening online.

3. Declaration of Interests

The Chair declared a pecuniary interest for himself and other Conservative Members sitting on the Committee, on item 7, Langdon Hills Golf and Country Club. He went on to say that the resident speaker, Tony Coughlin, who had spoken on this item at the initial hearing on 13 February, was also the Chair of the Thurrock Conservative party. As the Conservative members on the Committee were a part of the Thurrock Conservative Party, the Chair declared this.

Councillor Byrne raised concerns on the correspondences between Councillor Rice and the Chief Executive of Thurrock Council regarding a date for the reconvened planning committee meeting to discuss the Langdon Hills Golf and Country Club application and felt that this should be a declared interest from Councillor Rice.

Councillor Rice answered that there was no interest to declare as it was within his Councillor rights to email questions about the site.

4. 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 declared for himself and on behalf of the Committee that there had been correspondences from Peter Harvey (resident) and Hilary Goodban (consultant) in relation to 19/01058/OUT Little Thurrock Marshes.

The Chair declared for himself and on behalf of the Committee that there had been correspondences from Gina Murgatoyd (consultant), a resident and Jason Rischo (Applicant) regarding 19/01662/FUL Langdon Hills Golf and Country Club.

Steve Taylor declared that he had received an email from Margaret Nash (resident) in regards to 19/01662/FUL Langdon Hills Golf and Country Club.

Councillor Lawrence declared that Ward Councillor Allen Mayes, who was also a member of the Conservative Party, had been advising people to vote against 19/01058/OUT Little Thurrock Marshes. As Councillor Lawrence was also a member of the Conservative Party, she declared this interest.

5. 19.01058.OUT - Land part of Little Thurrock Marshes, Thurrock Park Way, Tilbury (Deferred)

Before the presentation began, Councillor Lawrence requested that a site visit be undertaken before hearing the application and debating it again. The Chair suggested that the Committee hear the officer's presentation first before

deciding on a site visit. Councillor Rice agreed that a site visit should be undertaken and added that a virtual site visit could be undertaken.

Matthew Gallagher, Major Applications Manager, presented the report. In addition to the factual updates on page 131 of the Agenda, there had been additional updates received since the publication of the Agenda:

- An additional 7 letters from local residents that expressed disappointment at the resolution that Committee Members had made on the application's first hearing and at the idea of a virtual meeting.
- The Local Planning Authority had received a letter on 4 June 2020 from a solicitor representing the adjoining land owner to the west of the site regarding matters of land ownership and access. Officers had concluded that the matter referred only to matters of land ownership and the need for future negotiations regarding linkages across adjoining land for connectivity improvements.
- A letter had been received on 5 June from the Agent which Members had also been included in and the content related to a legal opinion from the Applicant's legal adviser.

Matthew Gallagher continued on with the presentation and went over the report in the Agenda on pages 129 – 186. He drew attention to the five factors raised by Members on 19 March 2020 as reasons for approving the application contrary to officer's recommendation. An analysis of the five factors was provided within the report. Officers considered that these matters did not affect the planning considerations and the recommendation to refuse planning permission remained unchanged.

The Committee discussed the option of a site visit and felt that the site visit should be physical as opposed to a virtual site visit. This would enable them to see the site with their own eyes. The Vice-Chair wondered whether a site visit would help the Committee come to a decision with material planning considerations in mind to support their final decision. The Committee felt that seeing the site would help to answer some information regarding ecology that had been in the email from Peter Harvey which had been declared earlier in the meeting.

Councillor Lawrence proposed the site visit and Councillor Rice seconded this.

(Following Chapter 5, Part 3, para. 13.5 of the Constitution, Councillor Churchman could not participate or vote on this item).

For: (6) Councillors Tom Kelly, Mike Fletcher, Sue Sammons, David Potter, Angela Lawrence and Gerard Rice.

Against: (2) Councillors Gary Byrne and Sue Shinnick.

Abstained: (0)

Planning application 19/01058/OUT was deferred until a physical site visit could take place whilst adhering to national government guidelines on social distancing guidance.

Steve Taylor commented on the Local Plan policies map that had been shown on the presentation and suggested that colour key be added to give clarity on the different shaded colours of the map. Matthew Gallagher agreed that this would be done for future presentations.

Noting that the housing mass within the proposal had been reduced, Steve Taylor asked for more detail on the commercial development proposed for the site as he felt there was a lack of detail for this in the report. Matthew Gallagher explained that the commercial floor space for the site had been increased but that the application was for outline planning permission so the layout and scale of the site was indicative and the main matter for discussion was in regards to the principle of the development in a Green Belt location.

(Councillor Sammons left the meeting at 7.18pm).

(Chris Smith, Adults Social Care Manager, joins the meeting via MST at 7.20pm).

(The meeting adjourned at 7.18pm and recommenced at 7.23pm).

6. 19.01662.FUL - Langdon Hills Golf And Country Club, Lower Dunton Road, Bulphan, Essex, RM14 3TY (Deferred)

The report was presented by Chris Purvis, Major Applications Manager. The report was accompanied by a slide show presentation on screen that explained the proposal. Chris Purvis explained the update report and drew attention to the Committee's five reasons to approve the application when the application was considered at the Planning Committee on 13 February 2020. He stated that at the Planning Committee on 13 February 2020 the Officer's recommendation was to refuse planning permission for 8 reasons of refusal. Since then, additional information had been provided by the applicant's planning agent and had been subject to a further consultation process which had revised the reasons of refusal and taken into account the legal advice.

Members were taken through the 5 reasons of approval put forward by Members themselves to approve the application at Planning Committee on 13 February 2020. Chris Purvis explained that these 5 reasons had not addressed the recommended reasons of refusal:

- did not form factors for Very Special Circumstances to address the recommended refusal reason 1 on the principle of development in the Green Belt and impact of the development upon the Green Belt,
- did not address reason 2 on the site's unsustainable location
- did not address reason 3, which had been revised in light of consultation advice from the Council's Programme Manager for Health and Social Care to demonstrate that the proposals do not

meet the need for housing for the elderly nor the Boroughs identified housing needs for the elderly

- did not address reason 4 as no affordable housing is proposed by the applicant that meets the affordable housing definition as set out in the NPPF
- did not address reason 5 on design grounds and the impact upon the area
- did not address reason 6 on landscape impact
- did not address reason 7 on highway safety matters

The recommended reasons of refusal had been revised and were now reduced from 8 to 7 recommended reasons of refusal that remained the same as the first hearing which were outlined on pages 41 and 42 of the Agenda.

Adding to the presentation, Caroline Robins, Locum Solicitor, said that:

- A Members' decision must be lawful and explained the requirements for making a lawful decision.
- In making their decision, Members were required to comply with the general law, national and local policies and Thurrock Council's Constitution.
- The application proposed inappropriate development in the Green Belt, and should not be approved except in very special circumstances.
- Members attention was drawn particularly to:
 - the legal implications report, which had been endorsed as accurate by Paul Brown QC and which described the decision-making process for Green Belt applications advised what Members could, could not or what had to be taken into account and which planning tests to apply, as well as indicating that some of the reasons for refusal in this case could entail straying into technical territory or questions of law and Thurrock's Constitution, Chapter 5, Part 3, paragraph 7.5;
 - A quote from a QC in that, 'Members are not bound to accept the recommendations of planning officers and may differ on the weight ascribed to the relevant matters including the posited benefits of this scheme'.
 - Members were reminded that this right to differ was not absolute. It was conditional on Members following the rules of decision making and included a proviso: 'provided that Members do not act irrationally in doing so, do not take irrelevant matters into account and apply the relevant statutory and policy tests'.
- If Members were still minded to approve the application, then reasons and evidence for departure from officer's recommendation had to be given against each of the 7 reasons of refusal, and then the overall balance of the benefits must clearly and decisively outweigh the substantial harm of each of the reasons for refusal.
- Only material considerations could be taken into account and reasons given had to be cogent, clear and convincing.

- Some examples were given of matters that were not material considerations, and could not be taken into account:
 - Referring to the ability of the Secretary of State to call-in the application as a buffer or in some positive way: this was confirmed by Paul Brown QC as not being a material consideration;
 - Using negatives/positives such as no objection from Sport England;
 - Personal likes/dislikes about the proposal that were not related to planning matters;
 - Opinions not supported by cogent and convincing evidence such as, ‘the development would be good for the elderly in the Borough’ – such a statement would only be relevant if it effectively and clearly refuted refusal reason 3 and the findings of the Health and Social Care Service in Thurrock Council;
 - That Thurrock should be taking a leadership role in allowing a development of this nature - this type of development should be identified through Thurrock’s Local Plan, not a planning application;
 - ‘Green Belt release’ because this would be speculative and not evidence based. There was no evidence this site would be released from the Green Belt, instead it was identified as the least sustainable site put forward for release from the Green Belt;
- The risks and the difference between an unlawful and an unwise decision was explained, and that an unlawful decision was not a valid decision because it was a decision made outside the rules of decision making.
- A resolution to approve passed by Members did not guarantee the issue of a planning permission particularly where there were issues;
- Because of the way the planning system works, a refusal would not be an unlawful decision. An unlawful decision was serious and as the Council did not have the power to progress that decision. The decision could be removed in 2 ways:
 1. The Monitoring Officer would be required to report the unlawful decision (as a section 5 under the Local Government Act 1989) to a Full Council meeting to recommend that the Council takes the appropriate actions to ensure they continued to comply with statutory obligations; or
 2. Through a court of law;
- Making an ‘unwise’ decision could expose the Council to risk of either a call-in from the Secretary of State or a judicial review. This could arise because planning judgement was not an exact science and what appeared to be a lawful and reasonable decision at the time it was made could be called into question by others. Casebooks were full of decisions which appeared to be good at the time but later proved to be flawed;

- Going against officer's recommendation, it would not be easy to spot the point where an approval could be recognised as a lawful decision given that all the harms must be shown to be clearly outweighed by the benefits to result in very special circumstances as part of the NPPF tests;
- If a decision was called-in, Members could be called to represent Thurrock Council as was the case in 2014 when Thurrock Council had a called-in public enquiry. Thurrock's planning officers would not be able to defend Members' decision at a public called-in enquiry as planning officers had to adhere to a professional code. If approving the application, Members should therefore satisfy themselves that their decision complied with their Constitution and statutory, policy and evidential requirements and to ensure their decision would stand up to scrutiny if they were called to justify;
- A letter had been received which indicated the contemplation of a judicial review if a decision to approve was passed by Members for this application;
- A call-in or judicial review would be the worst-case scenario for the Applicant and the Council as it would result in delay. Further, Members' decision of approval could be overridden in a call-in, or in the case of a Judicial Review be quashed, resulting in no decision. The Council would incur huge costs in a judicial review.
- An approval decision against officer recommendation could trigger speculative applications which could:
 - result in a potential rise in appeals, resulting in further avoidable, unnecessary costs to the Council.
 - Damage the reputation of Thurrock's Planning Committee,
 - Compromise the planning process in Thurrock,
 - Risk a Member's ability to control inappropriate development within their own wards, and
 - Compromise Members' ability to represent their constituents and so compromise the emerging Local Plan.
- It was for the Planning Committee to decide how comfortable they were with these avoidable risks.

Caroline Robins reiterated her statement about the Monitoring Officer's duty under section 5 of the Local Government Act 1989 to Members and pointed out that this was rarely used and when used, it was disruptive and undermined the powers of the Planning Committee as well the reputation of Thurrock Council as it would be reported widely outside the Council. She summarised with a list of the risks and reminded Members of the planning position. The tests and the important requirements to make a lawful decision were repeated with a reminder of the material planning considerations needed against the 7 reasons of refusal if Members were still minded to approve the application. She concluded by indicating to Members it was important Members decided their willingness to accept all the stated the risks before voting.

In response, Councillor Rice highlighted a statement from Paul Shadarevian, QC, who had represented Thurrock Council on various appeals and at various stages of the Local Plan:

‘As stated above, Members are not bound to accept the recommendations of planning officers and provided they start a premise, the substantial weight must be given to the harm caused to the Green Belt, they may, when applying the paragraph 144 (of the NPPF) test, differ on the weight to be prescribed to other relevant material matters including benefits of the scheme, provided that they do not act irrationally in doing so. Do not take irrelevant matters into account and abide relevant statutory and policies.’

Leigh Nicholson confirmed the same quote had also been used by Caroline Robins.

The Chair stated he was aware of the risks in the going against officer’s recommendation on this application. Referring to the call-in of Aveley Sports and Social Club in 2014 outlined on page 24 of the Agenda, he was aware that it had been approved against officer’s recommendation and asked for more details and the issues surrounding the call-in. Councillor Rice added that the result had been a ‘monstrosity of an industrial site’ that interfered with homes in the surrounding area and at the time, the Planning Committee had not outlined the benefits of the scheme to the residents in the area at the time in that the Grays Football Club had moved onto that site and acted as the social infrastructure for young children. He felt it was a shame that the decision had been lost on that call-in.

Referring to one of the maps on the presentation, the Chair questioned if the area to the right of the site was the development of Little Malgraves Farm which included a hospice. Chris Purvis confirmed that this was the Little Malgraves Farm site that permitted a hospice but also included residential development. The Chair sought clarification on the officer’s recommendation for the Little Malgraves Farm development. Chris Purvis advised that the site was recommended for approval. The Chair noted that the Little Malgraves Farm development was quite large for the area and that there was only one access road into the development. He went on to say that the Committee was aware of the risks to the proposal (19/01662/FUL) that was before them but that there were also other large developments in the surrounding area.

Noting that there had been an objection from the Council’s Programme Manager for Health and Social Care, the Chair asked where the evidence was to support the statement that the proposed homes in the scheme ‘would not be affordable to the people of Thurrock’. Christopher Smith, Programme Manager, explained that the Council followed an accepted practice of paying a ‘declared rate’ for residential care homes (currently in the region of £600 per place, per week) and not the ‘market rate’. The social care service had assessed that the charges for one of the proposed homes on the application would be in excess of the £600 so would not be accessible to the people of Thurrock and it was not possible to comment directly on the affordability of the services in the development because the developer had not provided

information on the level of charges it intended to make for adult social care services.

The Chair commented that there was a care home crisis in Thurrock and that residents in these were charged. However, he was of the understanding that the rates varied across care homes and that care homes probably operated on the charged rates coming from residents. He thought that it was an opinion in that the proposed homes in the application was not affordable to the people of Thurrock. He felt that there were some people who would be able to afford the homes.

The Vice-Chair was aware of the risks of approving the application and that evidence based material planning considerations were needed against each of the 7 reasons for refusal in order to pass a resolution of approval. He noted that a lack of weight had been given on employability but felt that the Committee could prove that more weight could be given to this objection. For the other reasons for refusal, he was not so certain that a material planning consideration could be given to each one.

The Chair took into account the Vice-Chair's comment and said that if the Committee was minded to approve the application, they would attempt to give the material planning considerations against the 7 reasons for refusal. Then the Committee would hear the advice from planning and legal officers on the next steps to proceed on.

Councillor Rice noted that the Summary of Green Belt Harm and Very Special Circumstances on page 97 of the Agenda and thought that the summary was down to opinion. He went on to highlight the current COVID-19 situation and felt that there would be a big increase in unemployment so significant weight should be given to the employment proposed by the development, not limited weight as highlighted in the summary.

Councillor Lawrence did not feel that the application site could be fully classed as Green Belt as there was already a golf course built and running on the site. There were also no wildlife on site; mowed grass lawns and buildings on site with people living there and paying council tax. She went on to comment that she had researched into the factors surrounding the application and found that the Council's Public Health officers had stated that there were links between good housing and health; that Thurrock had an ageing population who wanted to continue independent living; and that evidence showed that retirement villages worked well with many being built around the UK. She stated that she had spoken with the retirement villages in the UK who had confirmed success of the villages and felt that with the research she had compiled, this should be considered as 'very special circumstances'.

The Chair sought clarification on whether there were people living on the site. Steve Taylor confirmed that there were people living on the site. These were people who managed the site and lived in one of the buildings which was a residential hotel.

Councillor Byrne agreed with Councillor Lawrence's points but he still felt the proposed homes on the site would still be unaffordable to the majority of the people of Thurrock. Therefore, there would be out of borough residents living in those care homes so would not attract those in Thurrock.

(Suspending orders were agreed at 8.33pm to allow the Committee to continue until the end of the Agenda).

Councillor Byrne sought clarification on the ownership, monthly fees and leasehold of the proposed care homes. Chris Purvis explained that the draft s106 planning obligations gave details that a property would be leased for 125 years so a leasehold would have to be bought. In addition, it was anticipated that there would be servicing costs and general care package costs depending on the level of care. Chris Purvis stated that the financial figures on those costs for servicing and care packages had not been provided by the applicant's agent but said that there was also concern that those costs would be unaffordable to the people of Thurrock as the consultation advice from the Council's Programme Manager for Health and Social Care had confirmed, and that the Council could not afford to pay those costs should an owner fall into financial difficulties.

On affordability, Councillor Lawrence thought the price of the proposed homes would be on average with a 2 bedroom house in Thurrock which was around £299,000. She felt this was affordable for many people and thought it would also allow people to sell current homes and move in together into one of the proposed homes.

Referring to the seventh reason for refusal, the Chair sought clarification on the access into the site and whether it could be widened to meet the perceived traffic use of the access. Steve Lines, Senior Highway Engineer, explained that there had been differing views on calculations of the traffic flow into the site previously which was now resolved. He was of the understanding that the Applicant was looking to widen the access entrance onto a class 1 rural road which was less than 6 metres wide in the vicinity of the entrance but turning movements showed that people turning left into or out of the site would overrun onto the opposite side of the carriageway. This caused concern due to the narrow road and the high speed limit on that road but could be resolved with an engineering solution with a right turn. However, negotiations with the Applicant on this was currently at a standstill and there were no proposals for providing the widening required to address the highway safety concerns.

Following on, the Chair questioned what the speed limit was and thought that a second access road would have been a better idea. Steve Lines replied that the current speed limit was 40mph but it was found that speeds were nearer to 50mph. The Applicant had agreed to seek to legally lower the speed limit in the area which would be down to 30mph. However, it was uncertain whether this could be maintained given the class of the road and the regular usage of the road. Another solution would be needed rather than lowering the speed limit which rarely worked. Regarding a second access road, Steve Lines

explained that the road was busy particularly if another adjoining road was closed. He went on to say that with every right turn into the site, it would cause traffic to be held up and that every right turn could potentially lead to an accident. It was preferred that one fully designed functioning junction with the right turning lanes be in place which was what highways had proposed to the Applicant.

Adding to this, Matthew Ford, Transport Development Manager, said that highways followed government guidelines closely within their design guidelines regarding access arrangements. As stated, one fully functioning access was preferred over two access points and although the Applicant had shown a revised single point of access, highways still considered this to be substandard in relation to the potential amount of traffic flow into the site considering the proposed number of uses on the site. Therefore, the revised access would not comply with the service's PMD9 road policy. He went on to say that Little Malgraves Farm had a higher standard of access in comparison considering that Lower Malgraves Farm had a lower number of residential properties and hospice on their site.

In response, the Chair thought if the Applicant applied the highway's requested access design into the site, then the access issue would be resolved. Matthew Ford answered that there were engineering solutions to these types of access problems with potential to widen the road thus enabling right turn lanes. The Applicant would only be able to widen sides of the road that they owned but was within the gift of the Applicant to arrange a junction with the other landowner. However, no other action had been taken by the Applicant to do so yet other than what was in the proposal before the Committee.

With regards to the C2/C3 class uses of the site, the Chair noted that Tom Cosgrove, QC, had highlighted many issues on C2/C3 uses and had given examples where Councils had lost appeals due to their conceptions of C2 uses. He noted that the Applicant was going 'above and beyond' in this application and sought officer's opinion on whether the use of the site would be C2 or C3 as he felt it was more of a C2 class use. Chris Purvis said that each of the referenced appeal examples had been looked at in detail and found that each of those cases, proposals were very different. None of these proposed the same number of dwellings or were unique as a development within the grounds of the golf course, and each case had been taken on its merits. However, officers were no longer looking at the C2/C3 class uses but instead focussed on the issue of need, which was more of an important issue than the C2/C3 use class. C2/C3 had been looked at previously with the element of the C2 being the care home and potentially the close care units are there were a number of these on simpler sites. Extra care units had been considered C3 class use due to the number of factors that accompanied these units.

Adding to this, Caroline Robins, mentioned that another similar appeal at Oak Farm in Solihull, had recently had an appeal dismissed on Green Belt grounds but she went on to explain that the C2/C3 uses were complicated and the

revised focus, of the recommended reason of refusal 3 was on the lack of evidence the development would address identified need in the Borough.

The Chair noted that there had been no mention of the dementia facilities that was offered within the proposal and he felt that dementia care was important so along with the C2 use, he was minded to support the application.

Councillor Lawrence queried whether the Council had shared its legal opinion with the Applicant. Chris Purvis explained that the legal implications within the report detailed the legal aspects of the application.

Councillor Byrne stated that the dementia facilities would only be available privately to residents on the site so the issue of affordability remained. The Chair agreed this would be the case and said that there were people who would be able to afford the facilities particularly for those who had savings throughout their lifetime.

Referring to the Summary of Green Belt Harm and Very Special Circumstances table on page 97 of the Agenda, Councillor Rice went through the weight given to each of the factors and felt that significant weight should be given to those that had no or limited weight. He explained that unemployment would rise due to the COVID-19 pandemic; there were no other areas in Thurrock that a retirement village could be placed; 2.5% of the 29 million homes in the UK were defined as care homes; that in his research, he read an article by Professor Mayhew that stated that more care homes had to be built for elderly people; and that Thurrock was considered to be at the bottom of the table for care home facilities.

He felt that the scheme was an opportunity for Thurrock; that the C2 units would be restricted for over 55's only; that there was a public bus service in the proposal; and that there was St Luke's Hospice nearby. He thought the Applicant had demonstrated enough need for the scheme. The Chair agreed with Councillor Rice but felt an 'air of caution' had to be taken when considering the current COVID-19 pandemic and that future developments could be inappropriate.

Councillor Byrne reminded the Committee that the proposal also included plans for a golf course on site which had to be considered alongside the care facilities. The Chair said that the application requested outline planning permission but was of the understanding that the s106 agreement ensured the C2 use of the site. Councillor Lawrence reminded the Committee that the site would be more than just a golf course as it would include care facilities and other leisure activities on site.

Councillor Potter said that the 1960s saw the 'baby boomers' generation and that they were now the 'pensioners boom' which now required the equivalent number of care homes for them. He thought the development would meet their needs and would be supporting the application.

On brown field and Green Belt sites, Steve Taylor said that a building on a Green Belt site that was used for maintenance of the site did not mean it became a brown field site. He went on to say that there were 16 other golf courses within a 10 mile radius of the site and some of these seemed more appropriate for the development as these were not along a country lane so had better access arrangements. He mentioned that the Langdon Hills proposal would only have a bus service arrangement in place for 5 years; that access to the site was poor; that the road was regularly used a cut through road by many vehicles; and that the road was dangerous with poor visibility. He pointed out that the application site was considered to be a strategic corridor of Green Belt that bordered Thurrock and its neighbours.

Noting earlier comments from Councillor Rice regarding seizing the opportunity of this application before it was lost, Steve Taylor pointed out that by approving this application would mean losing this part of the Green Belt permanently. He went on to remind the Committee of the legal advice in that relevant evidence had to support the decision that the Committee would make on the application.

Steve Taylor reminded the Committee of his earlier declaration of interest where had received a letter from a resident. Referring to this letter, he said that the resident had given statistics on the number of letters in support of the application and found that many of these were from outside of Thurrock. He highlighted that the support for this application were not from Thurrock residents. The Chair took these points into consideration and answered that the Committee were aware the letters of support mostly came from out of Thurrock.

The Vice-Chair felt there were good reasons to argue that significant weight could be given to matters in the table on p97 and he had been supportive of the application in its first hearing on 13 February 2020. However, he now felt there were many reasons that the application could not be supported.

Regarding the seventh reason for refusal due to access arrangements, the Chair queried whether a condition could be included or details within the s106 agreement to ensure the access entrance was widened if the Committee was minded to approve the application. Chris Purvis explained that it would be through a s106 agreement with costs that the developer would need to pay for the access widening. Regarding the developer's draft terms that had been put forward, he said that there were references to highways improvements but these did not include widening the access which would meet the Council's highways requirements. In planning terms, this could work for planning obligations but would be subject to the amount that the developer would pay and to the planning conditions included.

Adding to this, Matthew Ford said that adding a condition would be appropriate that would include the changes being approved and implemented before the first occupation of the site. He went on to say the Committee could also include in the s106 that they would want to see how the access would operate. The Chair queried whether a s106 contribution would be needed for

the access. Matthew Ford answered that the access works could be undertaken under a highways agreement so it would be the developer's responsibility for the access works which was usually the case. There would not be a need for a s106 contribution unless there were situations that were outside of the developer's control such as a traffic regulation order.

The Committee moved onto the officer's recommendations on pages 41 and 42 of the Agenda. On Recommendation A (Habitat Regulations), the Vice-Chair proposed this and with Councillor Byrne seconding this, the Committee went to the vote.

For: (8) Councillors Tom Kelly, Mike Fletcher, Colin Churchman, David Potter, Angela Lawrence, Gerard Rice, Gary Byrne and Sue Shinnick..

Against: (0)

Abstained: (0)

Continuing on to Recommendation B, Councillor Byrne proposed this and with the Vice-Chair seconding this, the Committee went to the vote.

For: (2) Councillors Mike Fletcher and Gary Byrne.

Against: (6) Councillors Tom Kelly, Colin Churchman, David Potter, Angela Lawrence, Gerard Rice, and Sue Shinnick.

Abstained: (0)

Recommendation B, to refuse planning permission for 19/01662/FUL was rejected.

With this result, Leigh Nicholson referred the Committee to Chapter 5, Part 3, Paragraph 7.4 of the Council's Constitution and stated that it was important for the Committee to justify their reasons for approval. The Committee would now need to go through each of the 7 reasons for refusal and give their rational against each one for approving the application.

Referring to an earlier point made by Councillor Rice regarding the QC's advice and of Caroline Robins' legal advice, Leigh Nicholson said that the 7 reasons for refusal given within the report were consistent with what had been applied by Planning Inspectors. Therefore, as the Committee was moving away from refusal, their reasons to be given against these 7 reasons had to be 'cogent, clear, convincing and substantiated with evidence'. Chris Purvis reminded the Committee that the future procedure would be a referral to the Secretary of State so the Committee's 7 reasons had to be justified.

Turning to the first reason for refusal, Leigh Nicholson referred the Committee to the table, Summary of Green Belt Harm and Very Special Circumstances, on page 40 of the Agenda. He advised the Committee could go through the weight given to the mentioned harm to the Green Belt. Councillor Rice put

forward the following revised weightings (which also supported the Committee's first reason against officer's reason 1 for refusal):

- The role of the application site in the Green Belt – some weight;
- Use of previously developed land – there should be weight as the site was a golf club;
- The suitability of the site and lack of alternative sites – significant weight;
- Positively responding to an ageing population in Thurrock – considerable weight;
- Meeting specific housing needs – considerable weight in regards to providing housing to the over 55's population in Thurrock;
- Delivery of healthcare and wellbeing improvements – considerable weight;
- Ability to positively contribute towards housing land supply – agreed with officers on significant weight being place on this;
- Improving the sport and leisure offer for Thurrock – significant weight as extra avenues would become available to residents;
- Increasing participation levels in Sport – significant weight as there would be sports activities on site to help to keep over 55's physically healthy;
- The provision of new employment opportunities – significant weight as there would be 500 new jobs in construction and 300 permanent jobs which was much needed due to the potential increase in unemployment during the COVID-19 pandemic;
- Maintaining momentum and delivery of regeneration with the Thames Gateway – significant weight as this would help to create a whole new infrastructure for over 55's in Thurrock;
- Sustainability and socio-economic benefits – significant weight as facilities were being provided to residents who had the assets to obtain these and the site would also unlock those homes for the future generations to come.

The Committee gave the following reasons for approval against the 7 reasons for refusal (on pages 41 and 42 of the Agenda):

1. Based on the Summary of Green Belt Harm and Very Special Circumstances and including the points that Councillor Rice made on this, there was need for a provision of housing needed to meet the ageing population that was set against a very substantial undersupply of housing in the area and was based on Thurrock's undersupply of five year housing targets which was a requirement of central government. In addition, there would be a few developers that would deliver this aspect of house building as this was quite a unique opportunity and thereby on the basis of its uniqueness, it's of vital importance that specialist accommodation should carry significant weight. The provision of the upgraded sports and country club would bring investment to the area and this was going to bring more jobs to the area which would strike a good balance between houses and jobs and secure the future

of the site whilst also providing the outstanding sporting facility in Thurrock which of course would be sustainable and have social economic benefits.

2. There would be major upgrades to the facilities and the golf club which was already in use so was self-sustainable. Whilst the site was remote, it gave the ageing population more choice in terms of where they could retire to, something that was not offered in Thurrock. There was also a provision of a bus service for the site's residents and the Applicant would be entering into a s106 agreement that would look to provide a continuous transport facility which was clear in the notes received from the Applicant. It would also provide a significant contribution toward health, to retirement and was closer to the hospital. It was pointed out that there was already a similar type of facility joining onto the proposed scheme so already had the infrastructure there.
3. The site was not considered to be for residential use as it was restricted to at least 55 year olds in need of a basic level of care. It was a golf club but C2 use would be added to the site.
4. The site was considered to be C2 use and by providing that facility, it took away that need for affordable housing. There would also be dementia care facilities and as Tom Cosgrove, QC had said, this went beyond the form of C2 classification and his interpretation complied with these precedents.
5. The design was considered as high quality in order to attract the population that would be living on the site. The golf and country club was already well established and the upgrade would be welcomed. The use of the golf club would remain unchanged but C2 accommodation would be added on site. So, the location was already used as a golf course and there was already large scale residential developments in the area.
6. The golf and country club was already in use similar to the size of Little Malgraves Farm. Historic England had removed any concerns they previously had, had their own heritage assets within the area and none of these inflicted upon the view of the local area so there would be no adverse effect on the countryside. It was already partially developed with the hotel and the golf course. The development was quite a distance from nearby homes and although some homes faced the development, it would not block any of its neighbours' views. However, it could be added in the s106 for suitable landscaping such as planting trees to soften the effects from the site.
7. Developers had already removed one access point at the request of highways. Access arrangements could be made within a s106 agreement to overcome the issues that arose from the proposed access.

The Chair reiterated that conditions be included and a s106 agreement to provide parameters regarding the access and for trees to be planted as part of landscaping on the site.

Leigh Nicholson reminded the Committee of the procedure that would take place following a resolution to approve – the decision would need to be

considered by the Council's Monitoring Officer (which was an internal process), so subject to the decision being lawful, it would then move onto the Secretary of State, subject to the decision not being called in by a public inquiry and then the conditions would need to be drafted in the s106 agreement which would be in conjunction with the Chair. He went on to remind the Committee to consider an unwise and unlawful decision as Caroline Robins had highlighted earlier. Officers asked for a short adjournment to summarise the reasons the Committee had given for approval.

(The meeting adjourned at 9.58pm and recommenced at 10.07pm).

(The Vice-Chair left the meeting at 10.07pm).

Referring back to the Committee's given reasons to approve against the 7 reasons of refusal from officers, Leigh Nicholson summarised the debate and said that:

1. The reasons given were quite clear and the weightings that were given to those;
2. The direction that Members were moving to was a concept of co-location which was that the development would provide a range of facilities on site and would be located in close proximity to the existing hospice and hospital nearby. That there was a provision of public transport service to be agreed which could be picked up by a s106 agreement;
3. The reasons given had been weak, Members' reasons for addressing reason 2 had bled over to reason 3 slightly in terms of co-location, but the Committee would need to come back to this reason;
4. Committee's view was that the development was essentially C2 use class and because of that, it was not right or appropriate to request affordable housing as it would be an over 55's housing development;
- 5 & 6. Both reasons 5 and 6 were subjective reasons – Committee had said that they are content and satisfied with the design and the quality of the architecture, the scale and the massing of the development. With the landscaping, the Committee did not believe there would be a noticeable impact on the landscape. However, through conditions drafted into the s106 agreement, appropriate landscaping conditions would be included to address some of that harm; and
7. Via conditions on the s106, the Committee felt that the highway refusal reason could be addressed.

Going back to reason number 3, Leigh Nicholson asked that the Committee provide more detail on their reason for approval. Councillor Rice referred back to the legal advice from Tom Cosgrove, QC, who had stated that the site was for C2 use and that the Committee was accepting his opinion. The Chair added that there was a large degree of planning judgement involved in the opinion of C2 use and based on the advice from Tom Cosgrove, QC and the appeal decisions that he had approved and that he had said that this Applicant was going above and beyond what those appeal decisions had done, the Committee believed the site was for C2 use.

Leigh Nicholson said that Members had put forward an argument that because the site would have a range of facilities and be close to the hospice and hospital the site would be suitable location for the elderly, the suggestion being that Members felt the development was sustainable and would meet the needs of the elderly. He sought the Committee's confirmation on this which the Chair confirmed was correct.

Caroline Robins stated that the refusal reason given was based on need and not around C2/C3 uses which the Committee had discussed. The issue of need had to be addressed and not the C2/C3 use.

Councillor Rice pointed out that the Secretary of State had recently said, 'only 2.5% of the 29 million dwellings in Britain are defined as retirement housing and the number being built has slumped since 1990. About 7,000 new retirement homes are being built each year but the number of over 65 households increases by 180,000 every 12 months.' With this statement, Councillor Rice felt this clearly demonstrate that there was a need. The Chair agreed and felt that it was quite clear that there was a requirement for retirement homes given the generation of the baby boomers and that people were living longer. There was also the need for dementia care which was much needed and was being addressed in this type of facility. Caroline Robins asked the Committee to consider need in the Borough. Councillor Rice said that there was an ageing population in Thurrock which was proven in the Council's statistics so the over 55's facility was much needed.

Leigh Nicholson reminded the Committee of the unwise versus unlawful aspect in the decision making process which would be for the Monitoring Officer to consider as an internal process. If not unlawful, approval would then be subject to referral to the Secretary of State, subject to completion of s106 agreement and subject to conditions in conjunction with the Chair and officers.

Regarding reason 3, Steve Taylor commented that local health services could potentially provide a guide on the number of people needing support within the facilities offered in the application's proposal.

With the Chair proposing the alternative motion and Councillor Rice seconding this, the Committee moved onto the vote.

For: (6) Councillors Tom Kelly, Colin Churchman, David Potter, Angela Lawrence, Gerard Rice, and Sue Shinnick.

Against: (1) Councillor Gary Byrne.

Abstained: (0)

19/01662/FUL was approved subject to referral to the Secretary of State and to conditions.

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**

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Minutes of the Meeting of the Planning Committee held on 25 June 2020 at 6.00 pm

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

Steve Taylor, Campaign to Protect Rural England Representative

Apologies: Councillors Colin Churchman

In attendance:

Leigh Nicholson, Interim Assistant Director of Planning, Transport and Public Protection
Jonathan Keen, Interim Strategic Lead of Development Services (via MST)
Matthew Gallagher, Major Applications Manager
Chris Purvis, Major Applications Manager
Nadia Houghton, Principal planner
Julian Howes, Senior Highway Engineer (via MST)
Steven Lines, Senior Highway Engineer (via MST)
Caroline Robins, Locum Solicitor (via MST)
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.

7. Minutes

The minutes of the Planning Committee meeting held on 8 June 2020 will be approved at the next Planning Committee meeting.

8. Item of Urgent Business

There were no items of urgent business.

The Chair informed the Committee that item 10 would be moved down the Agenda and would be heard after item 12.

9. Declaration of Interests

There were no declarations of interest.

10. 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

There were no declarations of receipt of correspondences.

11. Planning Appeals

Councillor Rice referred to Chadwell St Mary and said that he was aware of a stop notice that was in place regarding the land and asked for more details. He went on to ask if the land would be cleared and landscaped back to its previous visual appearance. Leigh Nicholson explained that a stop and enforcement notice had been served to the landowner which included certain requirements that had to be complied with. The details would be circulated to Planning Committee Members via email.

RESOLVED:

That Members noted the report.

12. 19/01140/OUT Intu Lakeside, West Thurrock Way, West Thurrock, Essex, RM20 2ZP

The report was presented by Chris Purvis which can be found on pages 19 – 82 of the Agenda. Officer's recommendation was for approval subject to conditions and s106 as outlined on pages 52 – 82 of the Agenda.

The Vice-Chair noted that the proposed new bus station would be in a position that often had traffic congestion and asked whether there were plans for this to be managed. Chris Purvis explained that this had been assessed in the transport assessment of the report which had been through a thorough consultation process with the Council's Highways Officer and bus operators. There had been no objections to the impact from the movements of the buses from the new bus station.

Councillor Rice queried whether the application was dependent on the road improvements from the A13 East Facing Slip Road. Chris Purvis confirmed that it would not be dependent upon this and went on to say that the application site had similar previous applications dating back to 2011 and 2016 that had approved the same amount of development and was therefore not reliant upon the A13 East Facing Access Scheme.

Councillor Rice asked if there would be job opportunities arising out of an approval of the application and how long it would take for the development to be implemented. Chris Purvis answered that there would be 3,700 jobs made available from the construction operational phases of the development. Chris Purvis explained that there were a few stages in the next steps of implementation that involved putting reserved matters forward and a phasing plan. There were no exact details of the phasing arrangements but this was a requirement of a planning condition. It was anticipated to be undertaken in the

next 5 years as the planning consent was for 5 years and reserved matters would need to be submitted within this time. Councillor Rice mentioned that the Prime Minister had advised for projects to be 'shovel ready projects' explaining that projects should be implemented as soon as possible to provide extra employment opportunities.

The Applicant, Matthew Nicholson's statement of support was read out by Democratic Services.

The Chair commented on how successful the recent £75 million leisure scheme at Intu Lakeside had been and that the proposal would further Intu Lakeside's development. He was pleased that the developers planned to keep the car parking spaces as many people still travelled by car to the shopping centre and he hoped that phasing of the development would not take too long.

The Chair proposed the Officer's recommendation and was seconded by Councillor Rice.

(In line with the Council's Constitution, Chapter 5, Part 3, 13.5, Councillor Potter was unable to participate in the vote as he had been unable to hear the whole item clearly through MST.)

(Councillor Potter left at 7.05pm due to MST issues.)

FOR: (7) Councillors Tom Kelly, Mike Fletcher, Angela Lawrence, Gary Byrne, Sue Sammons, Sue Shinnick and Gerard Rice.

AGAINST: (0)

ABSTAINED: (0)

The application was approved subject to conditions and s106 conditions.

13. 20/00408/FUL Manor View, Southend Road, Corringham, Essex, SS17 9EY

The report was presented by Chris Purvis which can be found on pages 83 – 100 of the Agenda. Officer's recommendation was to refuse planning permission as outlined on pages 98 – 99 of the Agenda.

Councillor Rice raised several questions:

If the Committee were mindful to refuse the application, how would travellers be removed from the site?

What would happen if the application was refused and the decision was appealed by the Applicant?

Chris Purvis explained that the temporary planning permission for the site was expiring on 16 July and if the application was refused, then an enforcement notice would be issued to require removal of the occupiers from the site and

the cessation of the use. The notice would outline the steps to follow to vacate the land and to restore the land back to its former use. The Council would also liaise with occupiers to see if there was an alternative location they could go to. If an appeal was submitted, then the Council would need to await until the outcome of the appeal before any enforcement action could be taken. The Council could still serve an enforcement notice and the Applicant would have the right to appeal that too. The Planning Inspectorate may consider the enforcement notice and the refusal of planning permission through an appeal. The timeframe for an appeal decision was usually around 12 months from when an appeal is submitted but there may be a backlog due to current lockdown restrictions.

The Vice-Chair felt that the neighbour's objections needed to be taken into consideration because if planning permission was granted then the temporary structures would become permanent. Chris Purvis said that if the Committee were minded to approve, officers would need to look at the reasons given for an approval and whether the structures on site could be permanent.

Referring to page 95, 6.36, Councillor Rice questioned how much weight had been given to unmet need for traveller sites. Indicating to the table on page 96, Chris Purvis said that the table identified the weight applied to the factors promoted as Very Special Circumstances. Unmet need for traveller sites was given significant weight which was consistent with appeal decisions. Paragraphs 6.32 and 6.33 also recognised the need for traveller pitches within the Borough and outlined that this would be addressed as part of the new Local Plan process.

The residents, Mr and Mrs Gunson's statement of objection was read out by Democratic Services.

The Agent, Brian Woods' statement of support was read out by Democratic Services.

Agreeing with officer's recommendation, the Chair said that Ward Members had experienced similar applications in their own wards and sympathised with the neighbours effected. He felt that if the Committee was minded to approve, it could send out the wrong message regarding Green Belt sites. He said that he was aware of the shortage of traveller sites in the Borough but accepted that it would be assessed through the Local Plan process.

The Committee went on to discuss the site being on Green Belt land and the Chair, Councillor Byrne, Councillor Lawrence and Steve Taylor agreed that planning permission should not be granted because of the harm to the Green Belt. The neighbour's objection was taken into consideration and Councillor Rice suggested a site visit to see what was on the site due to the different views given by the neighbours' and the Agent's statements. There was no seconder for a site visit so the site visit was rejected.

The Chair proposed the Officer's recommendation and was seconded by Councillor Byrne.

FOR: (6) Councillors Tom Kelly, Mike Fletcher, Angela Lawrence, Gary Byrne, Sue Sammons and Sue Shinnick.

AGAINST: (1) Councillor Gerard Rice.

ABSTAINED: (0)

The application was refused planning permission.

14. 19/01373/OUT Land Adjacent Wood View and Chadwell Road, Grays, Essex

The report was presented by Matthew Gallagher which can be found on pages 111 – 138 of the Agenda. Since the publication of the Agenda, there had been two late letters of objection. The first objection referred to the potential for traffic congestion, increase in pollution and the loss of existing green space. The second objection referred to the issue of access to the site, potential for traffic congestion, potential for anti-social behaviour and a concern that there could be a noise disturbance from the new play area proposed within the application. Officer's recommendation was to refuse planning permission as outlined on pages 135 – 136 of the Agenda.

The Chair noted a reference made to a Bulphan site that was similar to the application before the Committee which had gone to appeal and asked for more details. Matthew Gallagher explained that in June last year, the Committee had considered an application in Bulphan, behind Church Road, for 116 dwellings, for outline planning permission with all matters apart from access reserved. That application had been refused by Committee, the Applicant had subsequently appealed and the appeal had been very recently dismissed by the Planning Inspectorate. It had been dismissed on the basis that it was inappropriate development on the Green Belt and the impact that the development would have on the openness of the site. The Inspector had also considered whether or not the proposal would be in accordance with the environmental dimension sustainable development as outlined in the NPPF. The Green Belt conclusion was that there was harm by way of definitional harm; by way of harm to openness; and by way of harm to two of the Green Belt purposes. The Applicant, in the Bulphan application, had promoted a five-year housing land supply and also affordable housing as benefits and the Inspectorate had concluded that those factors attracted a significant weight in favour of the proposal. But in terms of the other benefits that the Applicant, in the Bulphan application, had relied on, which were built sustainability, improved community facilities and reference to the emerging Local Plan issues and options consultation the Inspector took these into account but said that the issues and options consultation was an option only, therefore it had no weight in the planning balance. So harm to Green Belt was not clearly outweighed in the Bulphan application, therefore that appeal was dismissed.

Councillor Lawrence asked if the application was for preliminary permission and whether the details in the proposals could be changed if given approval.

Matthew Gallagher explained that the application was for outline planning permission and that the Applicant was seeking to establish the principle of residential development. The proposed layout was indicative however it was the principle of agreeing or not agreeing on the residential development that was at stake and if the Committee were minded to approve, contrary to recommendation, then the principle of residential development would be established.

Noting the photos of the site shown in the officer's presentation, Councillor Lawrence said that she noted only two harms to the site which was to the Green Belt and to visual aspects of the site. She went on to say that the site did not resemble a nature reserve and that sound issues could be resolved with the planting of trees to block out the noise. Matthew Gallagher explained that the primary characteristic of the Green Belt was its openness and permanence as highlighted in the NPPF. He went on to say that the site was open and that the point about the site not being a nature reserve was an immaterial consideration and that the Committee needed to consider the application based on national policy and local plan policies and take into consideration the Green Belt issues.

Referring to the officer's presentation, Councillor Byrne pointed out that one of the photos from the site indicated the greenery and openness of the site along with cows grazing. He felt this highlighted the fact clearly that the site was Green Belt and that there would be harm to the site if the application was approved against Officer's recommendation.

A resident, Shaun Meehan's statement of objection was read out by Democratic Services.

The Ward Councillor, Joyce Redsell's statement of objection was read out by Democratic Services.

Referring to page 113, Councillor Rice noted that the report stated that there had been no planning history on the site. He recalled that Sainsburys had a planning application to build a store on the site and asked officers to clarify. Matthew Gallagher answered that the last planning application on the site was from 1974 where the application had proposed a supermarket shop with petrol station and car parking. It was refused planning permission and an appeal was made but dismissed.

Councillor Shinnick sought clarification on the input of sound barriers as houses bordering the edge of the site did not have sound barriers. Matthew Gallagher explained that the houses surrounding the north of the site were most likely built in the 1930s and acoustic attenuation would not have been considered at that time. In this application, the Applicant acknowledged that noise would be a factor because of the two adjacent roads so had submitted a noise assessment. The Council's Environmental Health Officer had concluded that there would be an impact to residents in the new development. As the Council had to ensure residents were able to reasonably enjoy new properties, acoustic attenuation was requested. He went on to say that a

sound barrier fence consisted of a thick wooden circa 2m high fence which was not visually appealing so would reinforce the harm to visual aspects of the openness of the site and soft landscaping in front of the fences would not meaningfully mitigate the noise impact.

(The Committee agreed to suspend standing orders at 8.24pm.)

Councillor Rice raised the issue on the need for new homes and officers explained that the need for housing would be addressed through the Local Plan process. The need for housing was set out in the NPPF but housing need did not trump the Green Belt.

The Agent, Gary Coxall's statement of support was read out by Democratic Services.

Referring to the Agent's statement, Councillor Rice sought clarification on whether the site was located within the strategic parcel no. 31 in the Council's strategic Green Belt Assessment. Pointing out paragraph 7.29, Matthew Gallagher said that the Applicant was relying on the Council's Green Belt Assessment that was produced last year to inform the new Local Plan Issues and Options consultation which had assessed large parcels of land across the Green Belt in the Borough. Paragraph 7.29 addressed this and highlighted that the conclusions which recommended more detailed scrutiny. However the assessment was part of the wider plan making and evidence base which would go through the Local Plan process and did not apply to not ad hoc planning applications. He went on to refer to a recent appeal decision in Bulphan where the appellant had referred to Thurrock's Local Plan Issues and Options Stage 2 Consultation; the Inspectorate had stated that the consultation was an option only for village expansion so was not a benefit or very special circumstances, therefore it attracted no weight in the planning balance.

The Committee discussed the issue of the site being Green Belt in that there were no Very Special Circumstances and the visual impact that the sound barrier fence proposed around the development to reduce the impact that noise would have in the area. The issue of housing need was also raised as the Council did not have a 5 year housing supply and that the Council had tenants on a 10 year waiting list and the proposed homes could also provide homes for keyworkers and teachers in the area which the adjacent college, Palmers College, needed.

The Committee referred back to Matthew Gallagher's earlier comments regarding establishing the principle of residential development on the site and Steve Taylor commented that applications that had been approved in the past had come back to the Committee before with amended proposals due to viability issues and that the current application before the Committee could follow the same route if the principle of residential development was established with an approval. The Committee commented that the proposed housing development was not extraordinary and only met the basic and expected 35% affordable housing and Councillor Byrne noted there was no

mention of social housing either. Councillor Lawrence felt that an approval would be giving the application a preliminary approval only and could be changed at a later stage. Matthew Gallagher reminded Members that the application was for outline planning permission and if Members were minded to approve the application against Officer's recommendations, the principle of residential development for the proposed 75 dwellings would be established.

The Chair proposed the officer's recommendation to refuse planning permission which was seconded by Councillor Byrne.

FOR: (3) Councillors Tom Kelly, Mike Fletcher and Gary Byrne.

AGAINST: (4) Councillor Gerard Rice, Sue Sammons, Angela Lawrence and Sue Shinnick.

ABSTAINED: (0)

The Officer's recommendation to refuse planning permission was rejected and the Chair asked Members to propose an alternative recommendation.

Councillor Lawrence suggested that one of the Very Special Circumstances could be that the proposed dwellings would provide homes for teachers that would work in schools in the area. Matthew Gallagher explained that a decision had to be made on the factors that had been promoted by the Applicant and that the Applicant had not offered any links with schools or with Palmers College so could not rely on Councillor Lawrence's suggested Very Special Circumstance as a benefit.

Referring to the table on page 133 of the Agenda, Councillor Rice said that:

- 'Delivering a sufficient supply of homes' should be given moderate weight;
- 'Achieving sustainable development' should be given substantial weight; and
- 'Making effective use of land' should be given moderate weight.

Councillor Rice went on to say that the Council did not have a 5 year housing supply and that council tenants were on a 10 year waiting list for homes. The proposed homes would be affordable and the Applicant was willing to provide substantial conditions within the s106. He reminded the Committee that the Prime Minister had highlighted the importance of 'shovel ready projects' which the application before the Committee was. He said that the application's scheme would also provide employment opportunities through the construction phase and that the Applicant's reasons put forward for approving the application should also be taken into consideration.

Leigh Nicholson referred Members to the Council's Constitution, Chapter 5, Part 3, 7.2. He summarised the reasons for approval given by Members as:

- That the Council did not have a 5 year housing supply;

- That the Council had a 10 year waiting list for homes for council tenants;
- The package of s106 measures
- The limited harm to Green Belt purposes
- That the application's scheme was a 'shovel ready project'; and
- That there would be employment opportunities through the construction phase.

Leigh Nicholson went on to say that the reasons for approval given by Members did not address the refusal reasons as set out in the officer's recommendation and that the application would be deferred to a later Committee date to enable officers to highlight in a report, the implications of minding to approve the application.

Matthew Gallagher added that he also picked up the reasons for approval as:

- That there would be affordable homes; and
- That the application's scheme would contribute to sustainable development;

With Councillor Rice's proposed alternative recommendation, Councillor Shinnick seconded this.

FOR: (4) Councillor Gerard Rice, Sue Sammons, Angela Lawrence and Sue Shinnick.

AGAINST: (3) Councillors Tom Kelly, Mike Fletcher and Gary Byrne.

ABSTAINED: (0)

The application was deferred to a later Committee date where a report would be brought back by Officers to highlight the implications of approving the application.

15. 19/01824/TBC Land and Garages, Defoe Parade, Chadwell St Mary, Essex

The report was presented by Matthew Gallagher which can be found on pages 139 – 148 of the Agenda. The proposal for the application stated a 'conversion of existing garages' and Matthew Gallagher stated that it was a 'conversion and part extension of existing garages' as there would be an extension of the garages. Officer's recommendation was to approve subject to conditions as outlined on pages 145 – 147 of the Agenda.

The Committee welcomed the application's proposal as the site area was derelict and the proposal would provide homes for the elderly as well as improve the area. The Committee suggested that similar types of garages in similar conditions should also be looked at particularly those in South Ockendon.

Councillor Rice proposed the Officer's recommendation and the Vice-Chair seconded this.

FOR: (7) Councillor Tom Kelly, Mike Fletcher, Gary Byrne, Gerard Rice, Sue Sammons, Angela Lawrence and Sue Shinnick.

AGAINST: (0)

ABSTAINED: (0)

The application was approved subject to conditions.

16. 20/00048/FUL Marvy Jade, Rear of 150 and 152 London Road, Grays, Essex, RM17 5YD

The report was presented by Nadia Houghton which can be found on pages 101 – 110 of the Agenda. Referring to page 109 under 8.1, 1, Nadia Houghton pointed out that CSTP23 should read CSTP22. Officer's recommendation was to refuse planning permission and to follow up with enforcement action as outlined on page 109 of the Agenda.

The Chair noted that there were complaints of smells from objectors to the application as mentioned in the report and sought more details. Nadia Houghton explained that neighbours had made complaints to the Council's Environmental Health regarding the smells arising from the site area. However, the application referred to the use of the storage containers for electronic goods and not for dried fish but the siting of the containers were harmful to the appearance and character of the residential area.

The Ward Councillor, Tony Fish's statement of objection was read out by Democratic Services.

Steve Taylor noted that there was a school within the area and raised concerns over potential traffic congestion with potential deliveries being made to the containers. Nadia Houghton explained that there had been no objections from the Council's Highways Team and that the issue was that the containers were not visually appropriate for the area.

Councillor Lawrence sought clarification on which retail unit along London Road the containers belonged to. Nadia Houghton answered that the current use of the retail units was not known as the units fell outside of the application site. She went on to say that the yard comprising of the application site outlined in red had been sold and ownership of the retail unit and yard area had been separated over the years.

The Chair felt that the containers were not ideal for the site and a purpose built storage unit would be a better option.

The Chair proposed the Officer's recommendation and was seconded by the Vice-Chair.

FOR: (7) Councillor Tom Kelly, Mike Fletcher, Gary Byrne, Gerard Rice, Sue Sammons, Angela Lawrence and Sue Shinnick.

AGAINST: (0)

ABSTAINED: (0)

The application was refused planning permission.

17. 19/01837/TBC Riverside Business Centre, Fort Road, Tilbury, Essex, RM18 7ND

The report was presented by Nadia Houghton which can be found on pages 149 – 172 of the Agenda. Officer's recommendation was to approve subject to conditions as outlined on pages 160 – 170 of the Agenda.

A business representative, Craig Austin's statement of objection was read out by Democratic Services.

The Chair noted issues of access raised within the speaker's objection statement and asked how these could be resolved. Nadia Houghton answered that discussions had taken place with the Council's Highways Team who were content that adequate manoeuvres could be made within the final development as shown in the application's site plans and in the construction phase. There were also adequate parking spaces available both during construction and after completion. She referred to condition 16 on page 168 of the Agenda which addressed the need to agree the parking layout and the issues that were raised by the tenant.

Councillor Lawrence proposed the Officer's recommendation and was seconded by Councillor Rice.

FOR: (7) Councillor Tom Kelly, Mike Fletcher, Gary Byrne, Gerard Rice, Sue Sammons, Angela Lawrence and Sue Shinnick.

AGAINST: (0)

ABSTAINED: (0)

The application was approved subject to conditions.

The meeting finished at 9.42 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**

16 July 2020	ITEM: 6
Planning Committee	
Planning Appeals	
Wards and communities affected: All	Key Decision: Not Applicable
Report of: Jonathan Keen, Interim Strategic Lead - Development Services	
Accountable Assistant Director: Leigh Nicholson, Interim Assistant Director – Planning, Transport and Public Protection.	
Accountable Director: Andy Millard, Corporate Director – Place	

Executive Summary

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

1.0 Recommendation(s)

1.1 To note the report.

2.0 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.

3.0 Appeals Lodged:

3.1 **Application No:** 18/01723/FUL

Location: Winsfield Heights, Old Hill Avenue, Langdon Hills

Proposal: Erection of new dwelling including the demolition of existing scout hut, outbuildings and associated resurfacing of vehicle access leading to dwelling.

3.2 **Application No:** 19/01685/HHA

Location: 14 Manor Road, Stanford Le Hope

Proposal: Part two-storey, part single-storey side extension on both sides. Part two-storey, part single-storey rear extension. Loft conversion and rear dormer windows.

3.3 Application No: 19/01184/FUL

Location: Land South Of Allotment Site And Adj 130 Heath Road, Chadwell St Mary

Proposal: Permanent siting of park home with associated hardstanding and landscaping

3.4 Application No: 19/01834/FUL

Location: OMG Desserts, 17 Grover Walk, Corringham

Proposal: Change of use from A1 (retail) use unit to A3 (café) use

4.0 Appeals Decisions:

The following appeal decisions have been received:

4.1 Application No: 19/01466/HHA

Location: 3 Duarte Place, Chafford Hundred, Grays

Proposal: Loft conversion with rear dormer, two front roof lights and side window.

Appeal Decision: Appeal Dismissed

4.1.1 The main issue under consideration in this appeal was the effect of the development on the character and appearance of the host property and surrounding area.

4.1.2 The Inspector considered the proposed flat roofed rear dormer would be a large and overly dominant feature that would detract from the appearance of the host property and be out of keeping with and harmful to the character of the roofscape in the surrounding area.

4.1.3 Accordingly the appeal was dismissed for being contrary to policies CSTP22 & PMD2 of the Core Strategy and the NPPF.

4.1.4 The full appeal decision can be found online.

4.2 Application No: 19/01642/FUL

Location: 37 Sanderling Close, East Tilbury

Proposal: Change of use from landscape setting to residential curtilage and erection of 1.8m high fence [Retrospective]

Appeal Decision: Appeal Dismissed

4.2.1 The main issue raised by this appeal was the effect of the development upon the character and appearance of the area.

4.2.2 The Inspector considered the development had removed the open character to this part of the estate and this was a diminution the character of the area which was harmful.

4.2.3 Accordingly the appeal was dismissed for being contrary to policies CSTP22 & PMD2 of the Core Strategy and guidance in the NPPF.

4.2.4 The full appeal decision can be found online.

4.3 Application No: 19/01744/HHA

Location: The Warren, Ridgwell Avenue, Orsett

Proposal: (Retrospective) Garage conversion into habitable room

Appeal Decision: Appeal Allowed

4.3.1 The main issue was the effect of the development upon highway safety.

4.3.2 The Inspector observed that there was a high demand for on-street parking within the vicinity of the appeal site.

4.3.3 The Inspector considered the limited width of the garage space would render it extremely difficult to get into and out of a vehicle when parked within this space and furthermore, it would not be likely to lead to additional parking on street as there would be no change to the current parking circumstances at the appeal site.

4.3.4 Accordingly the appeal was allowed as it was considered the development would not harm highway safety. As such, the development would not materially conflict with the Core Strategy or the NPPF.

4.3.5 The full appeal decision can be found online.

4.4 Application No: 19/01747/FUL

Location: 65 Welling Road, Orsett
Proposal: (Retrospective) Change of use from amenity land to residential use. Erection of concrete post and timber fence along property boundary.
Appeal Decision: Appeal Allowed

- 4.4.1 The main issue raised by this appeal was the effect of the development upon the character and appearance of the area.
- 4.4.2 Although the Inspector found the open space to the side of the appeal property would have made some contribution to the openness and landscaped appearance of the area in the context of the overall estate this visual contribution would have been extremely limited, it was found.
- 4.4.3 The Inspector did not consider the tall fence would be substantially visually intrusive, noting that there are other examples where tall boundaries are visually apparent adjacent to highways within the context of the wider estate.
- 4.4.4 Accordingly the proposal was considered to accord with the relevant policies in the Core Strategy and the NPPF.
- 4.4.5 The full appeal decision can be found online.

4.5 Application No: 18/01830/OUT

Location: Land Adjacent Bulphan By-Pass And Church Road, Bulphan
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
Appeal Decision: Appeal Dismissed

- 4.5.1 The main issue under consideration in this appeal was the effect of the proposal to the Green Belt and to the character and appearance of the wider area.
- 4.5.2 The Inspector considered the proposal would give rise to a loss of openness of the Green Belt and would conflict with purposes of including land within it. The Inspector did not consider that the very special circumstances necessary to justify the development in the Green Belt exist. There would also be harm to the environmental dimension of sustainable development. The proposal's benefits would not clearly outweigh the substantial harm to the Green Belt and other harm identified.
- 4.5.3 Accordingly the appeal was dismissed for being contrary to policies CSSP4, PMD6 of the Core Strategy and the NPPF.

4.5.4 The full appeal decision can be found online.

5.0 APPEAL PERFORMANCE:

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

	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	
Total No of Appeals	5	4	5										14
No Allowed	1	0	2										3
% Allowed	20.00%	0.00%	40.00%										21.43%

6.0 Consultation (including overview and scrutiny, if applicable)

6.1 N/A

7.0 Impact on corporate policies, priorities, performance and community impact

7.1 This report is for information only.

8.0 Implications

8.1 Financial

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

There are no direct financial implications to this report.

8.2 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').

8.3 Diversity and Equality

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

There are no direct diversity implications to this report.

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

None.

9.0 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.

10. Appendices to the report

- None

Agenda Item 8

Planning Committee: 16 July 2020	Application Reference: 19/01373/OUT
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Reference: 19/01373/OUT	Site: Land adjacent Wood View and Chadwell Road Grays Essex
Ward: Little Thurrock Rectory	Proposal: Outline planning application (all matters reserved) for 75 residential units consisting of 57 houses and 18 apartments

Plan Number(s):		
Reference	Name	Received
200	Site Location Plan	10th September 2019
201	Proposed Site Layout (indicative)	10th September 2019
210	Indicative Plans and Elevations	10th September 2019
211	Indicative Plans and Elevations	10th September 2019
212	Indicative Plans and Elevations	10th September 2019
213	Indicative Plans and Elevations	10th September 2019

The application is also accompanied by:

- Planning Support Statement / Design & Access Statement (ref SPL Ref:18.5410);
- Viability Assessment (November 2019: Arebray Development Consultancy);
- Transport Statement (October 2019: Beacon Transport Planning);
- Preliminary Ecological Appraisal (February 2017 (ref P2820.5.0):agb Environmental);
- Arboricultural Impact Assessment (June 2017 (ref P2820.6.0):agb Environmental);
- Noise Assessment, Technical Report, dated by 14 July 2017 (R6785-1 Rev 0), by 24 Acoustics
- Surface Water Drainage Strategy (December 2018 rev 00 (Project No. 07127));
- Flood Risk Assessment (March 2017 (ref P2820.4.0): agb Environmental);
- Phase 1 Ground Contamination Desk Study (March 2017 (ref 2820.3.0): agb Environmental)

Applicant: Mr D MacDonald	Validated: 3 February 2020 Date of Expiry: 17 July 2020 (Extension of time agreed with applicant)
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Recommendation: Refuse planning permission**1.0 BACKGROUND**

- 1.1 At the meeting of the Planning Committee held on 25th June 2020 Members considered a report assessing the above proposal. The report recommended that planning permission be refused for two reasons. In summary, the first reason stated:

The site is located in the Metropolitan Green Belt (GB) and the benefits of the scheme do not clearly outweigh the harm to the GB and thus constitute the very special circumstances to justify a departure from local and national planning policies.

The second reason referred to:

The overbearing and dominant visual impact of the acoustic fencing required to mitigate the impact of noise and ensure the quality of proposed amenity spaces.

- 1.2 A copy of the report presented to the June Committee meeting is attached.
- 1.3 At the June Committee meeting Members were minded to resolve to grant planning permission for the proposed development based upon the following reasons:
1. *Contribution towards five year housing land supply, including contributions towards the provision of affordable housing;*
 2. *The situation with the Council's housing waiting list;*
 3. *Limited harm to the purposes of the GB;*
 4. *More weight should be afforded to the contribution towards sustainable development;*
 5. *The package of s106 contributions;*
 6. *The scheme is a shovel-ready project;*
 7. *The scheme would create employment during construction.*

- 1.4 In accordance with Part 3(b) – Planning Committee Procedures and in particular Paragraphs 7.2 and 7.3 of the Constitution, the Committee agreed that the item should be deferred to enable a further report outlining the implications of making a decision contrary to the Planning Officer's recommendation. This report also assesses the reasons formulated by the Committee.

- 1.5 The application remains recommended for refusal for the reasons set out in the attached report.

2.0 FACTUAL UPDATES

- 2.1 At the meeting of 25th June it was verbally reported that two late letters of representation had been received following the publication of the agenda. These letters raise objections to the application on the following grounds:

- inadequate access;
- increased traffic congestion;
- potential for anti-social behaviour;
- potential noise generated by users of any new public open space on-site;
- loss of green spacer; and
- increased pollution.

- 2.2 A consultation response from the NHS (Mid & South Essex Sustainability and Transformation Partnership) was also received after publication of the June Committee agenda. This response confirms that the proposed development will impact on three surgeries close to the site, as these surgeries do not have capacity to meet the needs of future occupiers. A financial contribution of £29,700 is sought in order to mitigate the impact of the development of healthcare provision.

3.0 PLANNING ASSESSMENT & IMPLICATIONS

- 3.1 As required by the Constitution, an outline of the implications of making a decision contrary to the Officer recommendations is provided below. The recommended reasons for refusal from the 25th June Committee report is set out in italics below, with the implications considered subsequently.

3.2 REASON 1: PRINCIPLE OF DEVELOPMENT AND HARM TO THE GB

1. *The application site is located within the Green Belt, as identified on the Policies Map accompanying the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015). National and local planning policies for the Green Belt set out within the NPPF and Core Strategy 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), (c) and (e) as described by paragraph 134 of the NPPF. 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 proposal is therefore contrary to Policies CSSP4 and PMD6 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (as amended 2015) and chapter 13 of the National Planning Policy Framework 2019.

REASON 2: VISUAL IMPACT OF ACOUSTIC MITIGATION

2. *The proposal would, by reason of the likely siting and scale of the proposed acoustic fencing necessary to mitigate the impact of noise and ensure that the quality of amenity spaces are not degraded, result in an overbearing and over-dominant impact harmful to visual amenity. The proposal is therefore contrary to Policy PMD1, PMD2, CSTP22 and CST23 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (as amended 2015) and chapter 12 of the National Planning Policy Framework 2019.*

3.3 Implications of approving the application contrary to recommendation

As noted in the report to the 25th June Committee, the proposals do not accord with relevant policies in the Core Strategy and NPPF. Consequently, the application has been advertised as a departure from the development plan. If the Committee resolve to grant planning permission the provisions of the Town and Country Planning (Consultation) (England) Direction 2009 would engage. In particular, the description of the development falls within the ambit of paragraph 4 of the Direction. Therefore, prior to the local planning authority (LPA) issuing any formal decision on the application, the Secretary of State (SOS) for Housing, Communities and Local Government (Planning Casework Unit) would be consulted pursuant to paragraph 9 of the Direction. In consulting with the SOS the LPA is required to provide copies of the following:

- a copy of the application, drawings and supporting information;
- a copy of statutory notices;
- copies of representations received;
- a copy of the Officer's report: and
- unless included in the Officer's report, a statement of the material considerations which the LPA consider indicate the application should be determined otherwise

than in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004.

- 3.4 As expressed in National Planning Practice Guidance (NPPG) the purpose of the Direction is to give the SOS an opportunity to consider using the power to call-in an application under section 77 of the Town and Country Planning Act 1990. If a planning application is called-in, the decision on whether or not to grant planning permission will be taken by the SOS, usually after a public inquiry, rather than the LPA. NPPG goes on to state that in considering whether to call-in a planning application, the SOS is generally concerned with whether the application involves planning issues of more than local importance that warrant the decision being made by him rather than the LPA. However each case will be considered on its merits. The call-in policy was updated on 26 October 2012 in a written ministerial statement. This Statement, inter-alia, notes that:

“The SOS will, in general, only consider the use of his call-in powers if planning issues of more than local importance are involved. Such cases may include, for example, those which in his opinion:

- *may conflict with national policies on important matters;*
- *may have significant long-term impact on economic growth and meeting housing needs across a wider area than a single local authority;*
- *could have significant effects beyond their immediate locality;*
- *give rise to substantial cross-boundary or national controversy;*
- *raise significant architectural and urban design issues; or*
- *may involve the interests of national security or of foreign Governments.*

However, each case will continue to be considered on its individual merits”.

- 3.5 Officers consider that the proposals conflict with national policies on important matters (i.e. GB). If the application were to be called-in by the SOS a public inquiry would be held where the LPA would be represented. As Officers have recommended the application for refusal, there may a practical issue in allocating staff to participate in the Inquiry. This is because some staff members are also chartered members of the Royal Town Planning Institute and the Institute’s Code of Professional Conduct (para. 12) states that:

“Members must not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions ...”

3.6 For information, when a resolution to grant planning permission contrary to recommendation for residential development at the Aveley Sports & Social Club site in Aveley was called-in by the SOS in 2014, the LPA were represented by the then Chair of the Planning Committee.

3.7 A further practical implication of any resolution to grant planning permission is the potential for the local planning authority to be able to resist similar proposals involving inappropriate development in the GB. Paragraph 47 of the NPPF states that:

“Planning law requires that applications for planning permission are determined in accordance with the development plan, unless material considerations indicate otherwise.”

3.8 The “*planning law*” referred by in paragraph 47 comprises s70 (2) of the Town and Country Planning Act 1990 and s38 (6) of the Planning and Compulsory Purchase Act 2004, which are reproduced below for ease of reference:

s70 (2) Town and Country Planning Act 1990 -

In dealing with an application for planning permission or permission in principle the authority shall have regard

(a) the provisions of the development plan, so far as material to the application

S38 (6) Planning and Compulsory Purchase Act 2004 -

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise

3.9 Although each planning application must be judged on its individual merits, it is the opinion of Officers that there are no material considerations (i.e. no considerations which would amount to very special circumstances (VSC)) which would warrant a decision being taken otherwise than in accordance with the development plan.

3.10 Assessment of the Committee’s reasons for being minded to grant permission

The following list of reasons were raised by Members as reasons to approve the application and these are considered in more detail below to assess whether these comprise the VSC necessary for approving inappropriate development in the GB.

The reasons are:

1. contribution towards five year housing land supply, including contributions towards the provision of affordable housing;

2. the situation with the Council's housing waiting list;
3. limited harm to the purposes of the GB;
4. more weight should be afforded to the contribution towards sustainable development;
5. the package of s106 contributions;
6. the scheme is a shovel-ready project;
7. the scheme would create employment during construction.

3.11 *Reason 1: The contribution towards five year housing land supply, including contributions towards the provision of affordable housing*

The issue of housing land supply has been considered by the Committee regularly for planning applications within the GB and the applicant's reference to the lack of a five year housing supply as a factor supporting the proposals was assessed in the main report. The housing land supply consideration carries significant positive weight for planning applications within the Borough. Similarly, the applicant's offer to deliver policy-compliant affordable housing (35%) is a benefit which attracts significant weight in favour of the proposals. However, the NPPF's presumption in favour of sustainable development is not engaged for sites or locations with a Green Belt designation. Therefore the contribution towards five year housing land supply and the provision of affordable housing is not enough on its own to clearly outweigh the identified harm so as to amount to the VSC needed to justify a departure from normal planning policies.

3.12 *Reason 2: The situation with the Council's housing waiting list*

Officers have sought information from the Council's Housing Department regarding this matter. At the outset it should be noted that housing waiting list and waiting time data may be capable of misinterpretation as Thurrock uses a choice-based lettings approach compared to other local authorities which make direct allocations of properties. However, the following 'headline' figures have been obtained to provide a snapshot of the current situation:

- the housing waiting list contains 5,590 applicants, predominantly in the 'general needs' category;
- the greatest demand is for one and two-bed properties;
- based on those applicants actively bidding for a property, the waiting time varies between a c.1.9 years (for a three-bed property) to c.5.4 years (for a four-bed property). Waiting times for small one and two-bed properties are between c.4 and c.4.1 years.

The proposed provision of 35% affordable housing in the form of 28no. one and two-bedroom dwellings is recognised as a benefit of the proposals and, as above, this factor should be afforded significant positive weight in the planning balance. However, as set out within the June Committee report, the provision of new housing including affordable housing does not clearly outweigh the identified harm to the GB. Consequently and in-line with recent appeal decisions, including the recent Bulphan appeal decision (application ref. 18/01830/OUT), the VSC required to justify a departure from established planning policies do not exist.

3.13 Reason 3: limited harm to the purposes of the GB

Paragraph 134 states that the GB serves five purposes as follows:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns 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.

3.14 The report to the June Committee considered that there would be harm to purposes a), c) and e) above. With reference to purpose a), when considered on a broad geographic scale, the site is located on the edge of the built-up area which extends from Little Thurrock in the east to West Thurrock / Purfleet in the west. To a degree, it is a matter of judgement as to the extent of harm to this GB purpose, particularly when bearing in mind that the term 'large built-up area' is not defined in the NPPF. However, this GB purpose is to check unrestricted sprawl and it must be concluded that built development on an open field immediately adjacent to a large built-up area would harm this GB purpose.

3.15 Regarding GB purpose c), the site is an open field which is currently used for agricultural purposes. Members are reminded that the GB is primarily a spatial designation and paragraph 133 of the NPPF in particular refers to the essential characteristics of GBs being their openness and their permanence. It is considered that the Little Thurrock Marshes appeal decision from 2018 (application reference 15/01354/OUT) is of some relevance to the current case. At paragraph 19 of the appeal decision the Inspector noted that the Little Thurrock Marshes site "*does not have any particular landscape quality but it is not particularly despoiled either as is often the case with land close to an urban area ... the site clearly has value as countryside as is indicated in the many representations from local people*". Therefore the landscape quality of a GB site is not material to consideration of issues of openness. The site must therefore be considered as open countryside and the development of the site as proposed would undeniably harm this purpose of the GB.

3.16 Finally, the June report considered that there was harm to purpose e) as, in theory, the urban area could be used to accommodate new residential development. The Inspector's report for the recent dismissed appeal for the GB site at Bulphan also considered harm to purpose e) and noted the Council's case that "*as the proposal clearly does not involve the recycling of derelict or other urban land, there is an "principle" conflict with this purpose*". However, the Inspector went on to note that "*the appellant's case is that there are sound planning reasons for the release of the land for housing and these need to be weighed against any conflict with GB purposes*". Of the three GB purposes referred to by the June report, there is some judgement required as to the impact on purpose e). Nevertheless, it is considered that there is clear harm to purposes a) and c) and in relation to these purposes it is not possible to conclude a lower level of harm.

3.17 *Reason 4: More weight should be afforded to the contribution towards sustainable development*

Paragraphs 7.30 to 7.32 of the June Committee report assess the applicant's contention that achieving sustainable development is a factor weighing in support of the application and contributing towards VSC. Chapter 2 of the NPPF is titled 'Achieving Sustainable Development' and paragraph 7 states that "*the purpose of the planning system is to contribute to the achievement of sustainable development*". Paragraph 8 then goes on to describe the three objectives of the planning system in achieving sustainable development as:

- a) an economic objective;
- b) a social objective; and
- c) an environmental objective.

3.18 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development and, for decision making, 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-date⁷, granting planning 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 proposed⁶, or*

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole”.

3.19 With regard to d) and footnote ⁶ above, as the Council cannot demonstrate a five-year supply of deliverable housing sites, the ‘tilted balance’ in favour of granting planning permission would ordinarily apply. However, as noted at paragraph 7.31 of the June Committee report, the ‘tilted balance’ is subject to footnote ⁶ which identifies Green Belts as one of the list of areas or assets of particular importance which provides a clear reason for refusing the development. Put simply, the general presumption in favour of sustainable development set out by the NPPF does not apply to the Green Belt.

3.20 An assessment of the economic, social and environmental objectives of achieving sustainable development is provided under Reason 7 below.

3.21 *Reason 5: The package of s106 contributions*

Paragraph nos. 7.46 to 7.49 of the June Committee report confirm that the scheme will include 35% affordable housing, which could be secured by a planning obligation. Similarly financial contributions towards the demands on nursery, primary and secondary school provision created by the proposed development have been agreed with the applicant and can be secured via s106. As noted at paragraph 2.2 above, the NHS have requested a financial contribution of £29,700 and the June Committee report referred to a Essex Coast RAMS payment which will be c.£9,000. It is understood that the applicant would be agreeable to payment of these contributions and the provision of affordable housing via a s106 legal agreement. However, as the application is recommended for refusal, Officers have not pursued the formulation of heads of terms for such an agreement.

3.22 Paragraph 56 of the NPPF is relevant to the matter of planning obligations as follows:

56. Planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.*

3.23 Adopted Core Strategy policy PMD16 (Developer Contributions) is also relevant and states:

1. *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 in accordance with the NPPF and any other relevant guidance.*
2. *Through such obligations, the Council will seek to ensure that development proposals:*
 - i. *Where appropriate contribute to the delivery of strategic infrastructure to enable the cumulative impact of development to be managed.*
 - ii. *Meet the reasonable cost of new infrastructure made necessary by the proposal.*
 - iii. *Mitigate or compensate for the loss of any significant amenity or resource.*
 - iv. *Provide for the ongoing maintenance of facilities provided as a result of the development.*

3.24 As assessed against these national and local planning policy requirements, the provision of policy-compliant affordable housing meets the minimum requirements of Core Strategy policy CSTP2 (The Provision of Affordable Housing). As noted at paragraph 3.11 above, the contribution of the proposals to the supply of new housing, including affordable housing, is a benefit which can be afforded significant positive weight. However, it is worth noting the 35% affordable housing provision on-site is a minimum Core Strategy policy requirement and not an “extra” benefit. Furthermore, as the mechanism for securing affordable housing is a s106 legal agreement, this benefit should not be double-counted as a benefit in its own right and as part of the s106 package. The legal agreement is simply the legal mechanism for securing affordable housing.

3.25 Any s106 legal agreement would also secure financial contributions towards education provision, healthcare provision and the Essex Coast RAMS. Members of the Committee are reminded that these contributions are required to mitigate the impacts of the scheme. That is, if approved and built, residents of the development would place new pressures and demands on existing education, healthcare and recreation facilities. The payments are therefore necessary to contribute to the new infrastructure which is required to manage or mitigate the impacts generated by the development. The potential s106 package should not be viewed as the delivery of new ‘benefits’, but rather as providing the new infrastructure necessary to mitigate impact. In this context and with reference to national and local policy, the s106 package must carry no weight in the balance of GB considerations.

3.26 *Reason 6: The scheme is a shovel-ready project*

A number of national newspapers reported that in early June 2020 that the Government issued an urgent call for “shovel-ready” projects to help the economy

recover from the damage caused by the coronavirus lockdown. The Financial Times reported:

“... the government has asked elected mayors and local business leaders in England for ideas that would create jobs and be finished within 18 months. The Financial Times has seen the letter sent on June 10 by Robert Jenrick, housing secretary, to mayors and the 38 local enterprise partnerships (LEPs), who are responsible for economic growth. Proposals are requested by June 18, underlining the urgency of the economic crisis. As well as schemes previously pitched for government funds, “we are willing to consider exceptional, additional shovel-ready capital projects that can be delivered within 18 months”, the letter said. “Where considering new projects, these must deliver on two overarching objectives — driving up economic growth and jobs and supporting green recovery.” Suggestions include modernising town centres; road, rail and cycling infrastructure; broadband improvements; research and development centres; and skills training programmes”.

3.27 In this context, it is not considered that a residential development of 75 dwellings would constitute a shovel-ready, large scale infrastructure capital project. The accepted definition of ‘shovel-ready’ usually refers to a situation where planning is advanced enough such that construction can begin in a very short time. In this case, outline permission with all matters reserved is sought. If permission were to be granted, reserved matters submissions would need to be submitted and approved, as well as approval of any pre-commencement planning conditions. Construction and subsequent delivery of new dwellings on the ground would be unlikely for a period of years, not months. Therefore the reference to the scheme as a shovel-ready project is not relevant.

3.28 Reason 7: The scheme would create employment during construction

Paragraph 3.17 above refers to the economic, social and environmental objectives of the planning system in contributing towards the achievement of sustainable development. If approved, during the short-term construction phase there would be some economic benefit associated with employment opportunities. In the longer term, the new households created would through household expenditure, contribute to the local economy. This limited benefit was recognised at paragraph 7.32 of the June Committee report. However, this factor attracts only limited positive weight in the balance of considerations and does not combine with other benefits to clearly outweigh the harm to the GB.

3.29 Summary

Members of the Planning Committee are reminded of the content of NPPF paragraph 144 which states:

“Very Special Circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly (emphasis added) outweighed by other considerations.”

- 3.30 Members are also reminded of the content of paragraph 7.56 of the June Committee report which referred to a very recent appeal case in the West Midlands GB (APP/Q4625/W/193237026 Oak Farm, Hampton Lane, Catherine De Barnes Solihull B92 0jB decision date: 14th February 2020 (Continuing Care Retirement Community under Use Class C2 with wellness centre in Green Belt)). The Inspector for that appeal addressed the GB balancing exercise and concluded:

“When drawing this together, it is my judgement that the other considerations advanced by the appellants would result in a very finely balanced decision. However, for Very Special Circumstances to exist, the other considerations would need to clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness, openness and purposes of the Green Belt ... In other words, for the appeal to succeed, the overall balance would have to favour the appellants’ case, not just marginally, but decisively.”

- 3.31 Therefore, and although every case falls to be determined on its own merits, the benefits of the proposals must clearly or decisively outweigh the harm for VSC to exist. If the balancing exercise is finely balanced, then VSC will not exist. For this application it is considered that the benefits of the proposals do not clearly outweigh the GB harm and as a consequence VSC do not apply.
- 3.32 The seven reasons put forward by Members for approving this development have been carefully considered but do not clearly outweigh the identified harm to the GB. Furthermore the approach taken in the above mentioned appeal is relevant in considering VSC and these do not clearly or decisively outweigh the harm to the GB. Therefore, the reasons for refusal have not been addressed for the development to be considered acceptable.

4.0 LEGAL IMPLICATIONS OF DECISION

Members are reminded that in making their decision, they are required to comply with the general law, national and local Policies and the Council’s Constitution.

Only material considerations can be taken into account and reasons given must be cogent, clear and convincing.

In addition, considerations and reasons must be evidence based.

- 4.1 It is important to note that deviation from the above would potentially be unlawful and challengeable in the courts.
- 4.2 If Members are mindful of departing from the contents and recommendations of the officer reports, they are required strictly to adhere to the legal rules and principles of decision making.
- 4.3 As a matter of law, under s. 38(6) Town and Country Planning Act, planning applications should be determined in accordance with the development plan, unless there are material considerations which indicate otherwise.
- 4.4 The policies contained in the “Core Strategy and Policies for the Management of Development Plan Document” (as amended) in 2015 are current and carry the legal status of the development plan.
- 4.5 Accordingly, to permit a departure from the Core Strategy, considerations are required to be ‘material’. This is an imperative and a legal requirement.
- 4.6 This application is contrary to the development plan, and a grant of planning permission in this case would be referred to the Secretary of State. However, referral to the Secretary of State as a decision safety net is not a material consideration and cannot legally be taken into account or support a reason to grant planning permission.
- 4.7 In addition, unless underpinned by clear and cogent evidence, opinions and anecdotes are not material considerations and cannot legally be taken into account when making a decision or to support a reason.
- 4.8 Further, reasons supporting a motion to approve the application against officer recommendation are required to be material planning considerations, with cogent supporting evidence.
- 4.9 The site is located within the Green Belt and decisions concerning Green Belt applications must be made strictly in accordance with:
 1. Green Belt Policy and
 2. Current Green Belt boundaries

This means speculation as to the outcome of a future Green Belt review as part of the Local Plan process cannot be taken into account when considering the planning application and/or could not be afforded weight.

- 4.10 In addition to being contrary to the development plan the development proposes inappropriate development in the Green Belt, which is 'by definition, harmful to the Green Belt' (NPPF paragraph 143).

As a matter of national policy the NPPF paragraph 144 states:

'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 resulting from the proposal is clearly outweighed by other considerations.'

This paragraph is required to be followed in its entirety.

- 4.11 Planning permission for development in the Green Belt should only be granted if the benefits are shown clearly to outweigh the potential harm to:
1. The Green Belt and
 2. Any other harm resulting from the proposal

and the planning balance gives rise to very special circumstances.

In this case there are two reasons for refusal, each of which are required by the NPPF to be given substantial weight. Very special circumstances will not exist unless the combined weight of these harms is clearly outweighed by evidenced benefits.

- 4.12 A recent appeal case¹ clarifies the meaning of the term 'clearly' in paragraph 144 NPPF to mean 'not just marginally, but decisively'. Accordingly, very special circumstances will not exist unless the benefits are shown to outweigh the harm clearly and decisively. Note: that the NPPF unequivocally requires the scales to be tipped in favour of harm unless outweighed clearly (i.e. decisively) by benefits.
- 4.13 If the outcome of this planning balance is not clear (i.e. decisive), then, according to NPPF 144, very special circumstances will not exist, and planning permission should be refused.
- 4.14 The benefits of this proposal have been evaluated in this report and the June report. Account has been taken of each of the reasons given by Members in support of a motion to grant planning permission in June. All the benefits have been weighed and put on the planning scales to ascertain whether they clearly outweigh the harm to the

¹ APP/Q4625/W/193237026 Oak Farm, Hampton Lane, Catherine De Barnes Solihull B92 0JB decision date: 14th February 2020 (Continuing Care Retirement Community under Use Class C2 with wellness centre in Green Belt)

Green Belt by reason of appropriateness and any other harm resulting from the proposal.

- 4.15 NPPF paragraph 144 expressly requires harm to the Green Belt to be given substantial weight. The summary in the June officer report showed that in itself, the harm to the Green Belt clearly outweighs the benefits in this case, and planning permission should be refused.
- 4.16 With regard to 5-year housing supply and provision of affordable housing, this factor has already been taken into account in the report and would not provide an extra consideration to add weight to benefits. It is pertinent for Members to note that, although the Council does not have a 5-year housing land supply, this does not of itself override the policy presumption against the grant of permission for inappropriate development in the Green Belt. In particular, paragraph 11 of the NPPF specifically indicates that a shortfall in the 5-year housing land does not engage the “tilted balance” if the site is in the Green Belt and the development is inappropriate, as in this case. In any event, this consideration has already been given significant positive weight.
- 4.17 Summary of legal matters

From a legal (as well as a planning perspective): In addition to being contrary to the development plan, the application also proposes inappropriate development in the Green Belt. The outcome of the planning balance of all the benefits and all the harms weighs clearly, heavily and decisively to harm, indicating the proposals are positively harmful to the Green Belt. Accordingly, no very special circumstances exist in this case and planning permission should be refused.

- 4.18 Failure to follow the legal process would be unlawful and could result in a High Court Challenge.

5.0 OVERALL CONCLUSIONS

As required by the Constitution the implications of the Committee approving this application, which is a departure from national and local planning policies, are set out above. This report goes on to analyse the seven reasons for approving the application contrary to recommendation provided by the Committee. These reasons to a degree reflect the benefits of the scheme promoted by the applicant. It is not considered that these reasons clearly outweigh the identified harm to the Green Belt and therefore the reasons for refusal have not been addressed sufficiently for the development to be considered acceptable. The reasons for refusal therefore remain relevant.

6.0 RECOMMENDATION

The Committee is recommended to:

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 LDF Core Strategy and Policies for the Management of Development (2015). National and local planning policies for the Green Belt set out within the NPPF and Core Strategy 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), (c) and (e) as described by paragraph 134 of the NPPF. 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 proposal is therefore contrary to Policies CSSP4 and PMD6 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (as amended 2015) and chapter 13 of the National Planning Policy Framework 2019.
2. The proposal would, by reason of the likely siting and scale of the proposed acoustic fencing necessary to mitigate the impact of noise and ensure that the quality of amenity spaces are not degraded, result in an overbearing and over-dominant impact harmful to visual amenity. The proposal is therefore contrary to Policy PMD1, PMD2, CSTP22 and CST23 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (as amended 2015) and chapter 12 of the National Planning Policy Framework 2019.

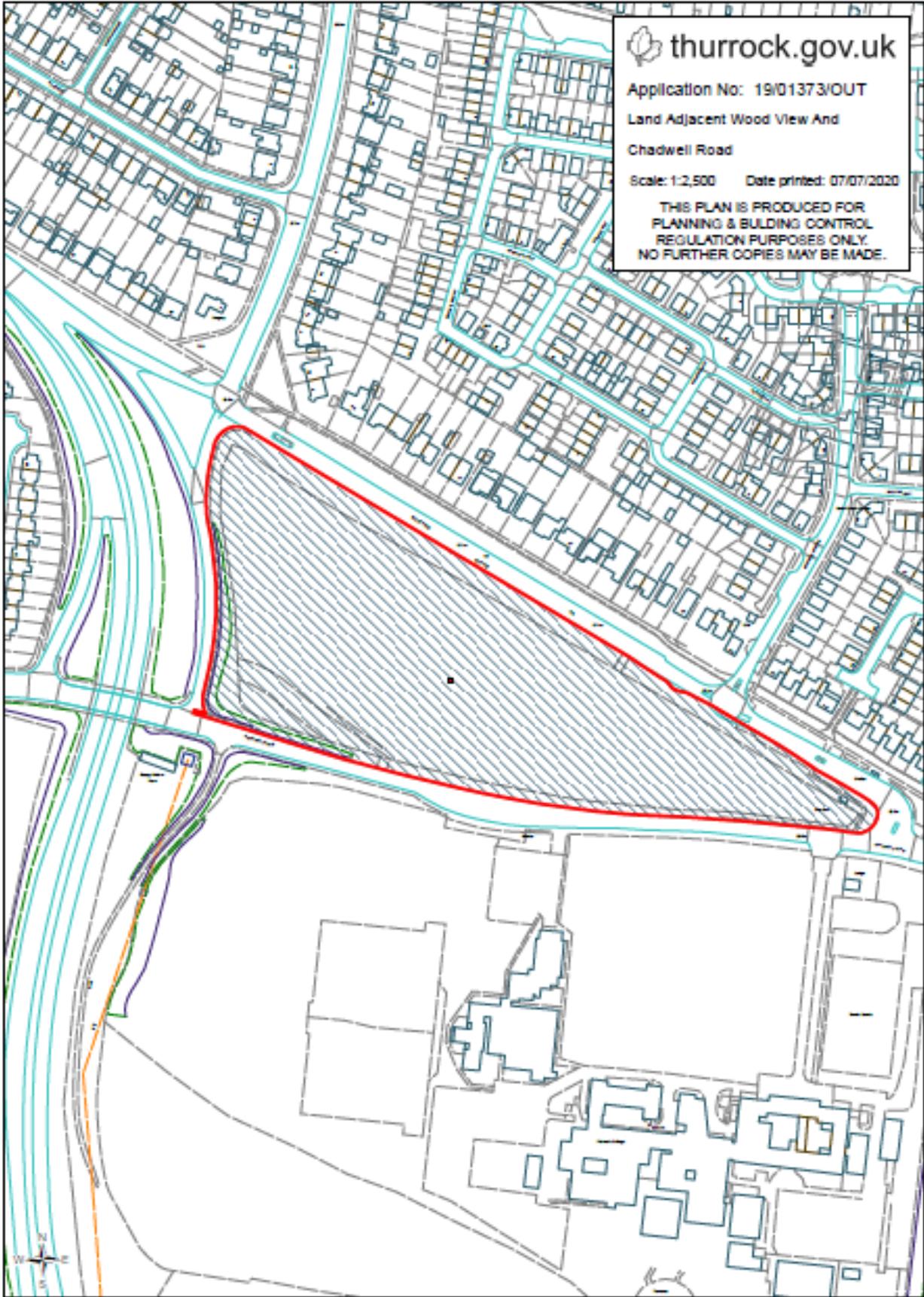
Informative(s):-

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



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Planning Committee 25 June 2020	Application Reference: 19/01373/OUT
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Reference: 19/01373/OUT	Site: Land adjacent Wood View and Chadwell Road Grays Essex
Ward: Little Thurrock Rectory	Proposal: Outline planning application (all matters reserved) for 75 residential units consisting of 57 houses and 18 apartments

Plan Number(s):		
Reference	Name	Received
200	Site Location Plan	10th September 2019
201	Proposed Site Layout (indicative)	10th September 2019
210	Indicative Plans and Elevations	10th September 2019
211	Indicative Plans and Elevations	10th September 2019
212	Indicative Plans and Elevations	10th September 2019
213	Indicative Plans and Elevations	10th September 2019

The application is also accompanied by:

- Planning Support Statement / Design & Access Statement (ref SPL Ref:18.5410);
- Viability Assessment (November 2019: Arebray Development Consultancy);
- Transport Statement (October 2019: Beacon Transport Planning);
- Preliminary Ecological Appraisal (February 2017 (ref P2820.5.0):agb Environmental);
- Arboricultural Impact Assessment (June 2017 (ref P2820.6.0):agb Environmental);
- Noise Assessment, Technical Report, dated by 14 July 2017 (R6785-1 Rev 0), by 24 Acoustics
- Surface Water Drainage Strategy (December 2018 rev 00 (Project No. 07127));
- Flood Risk Assessment (March 2017 (ref P2820.4.0): agb Environmental);
- Phase 1 Ground Contamination Desk Study (March 2017 (ref 2820.3.0): agb Environmental)

Applicant: Mr D MacDonald	Validated: 03 February 2020 Date of expiry: 17 July 2020 (Extension of time agreed with applicant)
Recommendation: Refuse planning permission	

The planning application is scheduled for determination by the Council's Planning Committee because the application is considered to have significant policy implications and constitutes a departure from the Development Plan. The application

has also been called-in by Councillors J Redsell, E Rigby, B Maney, A Jefferies, M Fletcher, B Johnson for matters regarding Green Belt (GB), landfill, overdevelopment and on highways grounds.

1.0 BRIEF SUMMARY

1.1 This application seeks outline planning permission for a residential scheme comprising of 57 houses and 18 flats with all matters reserved. Detached, semi-detached and terraced dwellings are proposed and indicative plans have been submitted for these house types. Some of these house types have been allocated car ports.

1.2 The site plan indicates an illustrative layout and the indicative point of access would be from Wood View on the site’s northern boundary and towards the eastern end of the site. Areas of hardstanding are also proposed to accommodate a new vehicular access and new associated roads.

2.0 DESCRIPTION OF PROPOSAL

2.1 The table below summarises some of the main points of detail contained within the development proposal:

Site Area	2.57 Ha
Residential Development Number of Dwellings:	<u>Market Housing</u> 6 no. five bed houses 12 no. four bed houses 29 no. 3 bed houses TOTAL 47 units <u>Affordable Housing</u> 10 no. two bed houses 12 no. two bed flats 6 no. one bed flats TOTAL 28 units (35%)

2.2 This is an application for outline planning permission with all matters reserved. Limited indicative details have been provided with regard to the appearance, landscaping and scale of the residential units. The illustrative site layout plan indicates the arrangement and the quantum development proposed, as set out in the table above. Details of appearance, landscaping, layout and scale are reserved for future approval, if outline planning permission were to be granted.

- 2.3 Access is also a reserved matter, but the applicant is still required to demonstrate the proposed location(s) of access points. A single point of access has been indicated on the illustrative site layout plan located on the Wood View road frontage, opposite its junction with Culverin Avenue. Permission is sought for 75 residential units and this figured should be viewed as a maximum. The mix of unit residential units, shown in the table above, should be interpreted as indicative.

3.0 SITE DESCRIPTION

- 3.1 The site comprises of a triangular-shaped parcel of open land, extending to c.2.57 hectares in area situated between Wood View to the north and Chadwell Road to the south. The site appears to be used for the grazing of livestock.
- 3.2 To the south, the application site is located directly opposite USP College and the north of the site is bordered by single and two-storey residential properties of varied character fronting Wood View.
- 3.3 The application site is within the Green Belt as defined by the Core Strategy (2015) proposals map. None of the site forms part of any designated site of nature conservation. The site is within the low risk flood area (Zone 1) and is a short distance from an historic landfill site located to the east.

4.0 RELEVANT HISTORY

- 4.1 No relevant planning history.

5.0 CONSULTATIONS AND REPRESENTATIONS

5.1 PUBLICITY:

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

The application has also been advertised as a major development and a departure from the Development Plan.

- 5.2 Thirty two letters of objection have been received raising the following concerns;
- inappropriate access to the site;
 - additional traffic and congestion;
 - environmental pollution;

- possible excessive noise;
- out of character;
- infrastructure, especially roads, are at full capacity;
- GP surgery, schools and amenities are oversubscribed;
- litter/smells;
- loss of amenity;
- additional parking pressures;
- loss of GB land would lead to loss of wildlife;
- loss of water pressure;
- loss of views across the site from the north;
- concerns with site drainage and flooding;
- site is used for farming and there is a covenant to prevent housing use;
- overlooking / loss of privacy from residential units directly opposite;
- materials unacceptable;
- sale of alcohol causing disturbance;
- site was previously a landfill and concerns with contamination at the site and implications to health;
- this development does not fit with the strategic plan for the borough;
- access to site is via the Quantum development roundabout and already congested;
- the requirement to show exceptional circumstances, has not been met by the application; and
- loss of oak trees at the site.

5.3 CONSULTATION RESPONSES:

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

5.4 ANGLIAN WATER:

Advisory comments provided,

5.5 ARCHAEOLOGICAL HERITAGE ADVICE:

No objection, subject to conditions.

5.6 CADENT:

Advisory comments provided regarding gas assets within or close to the site.

5.7 EDUCATION:

s.106 contribution required to mitigate impact of development.

5.8 ENVIRONMENTAL HEALTH:

No objection, subject to conditions.

5.9 ESSEX FIELD CLUB:

Objection raised regarding loss of habitat.

5.10 ESSEX POLICE:

Advisory comments provided relating to lighting, boundary treatment and Secure By Design.

5.11 FLOOD RISK MANAGER:

No objection, subject to conditions.

5.12 HIGHWAYS;

Further information required regarding road layout and other matters. (NB – as this is an application seeking outline planning permission with all matters reserved, these details are not for consideration at this stage).

5.12 HOUSING:

Express a preference for one / two-bed affordable housing units.

5.13 NATURAL ENGLAND;

Site is within Zone of Influence of the Essex Coast RAMS designation and mitigation is required.

6.0 POLICY CONTEXT

6.1 National Planning Policy Framework (NPPF)

The revised NPPF was published on 24th 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 expresses 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.*

The assessment of the proposals against the development plan set out below refers to a number of policies, reflecting the nature of the proposals.

As the proposals comprise of residential development, paragraph 11(d) is 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 have progressed. Accordingly, as residential development is proposed, the 'tilted balance' in favour of granting permission would ordinarily be engaged. However, the 'tilted balance' does not apply to land designated as Green Belt (paragraph 11 (d) (i) and (ii)).

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:

5. Delivering a sufficient supply of homes;
8. Promoting healthy and safe communities;
9. Promoting sustainable communities;
11. Making effective use of land;
12. Achieving well-designed places;
13. Protecting Green Belt land;
14. Meeting the challenge of climate change, flooding and coastal change; and
15. Conserving and enhancing the natural environment.

6.2 National Planning Practice Guidance (NPPG)

In March 2014 the former 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. NPPG contains a range of subject areas, with each area containing several sub-topics. Those of particular relevance to the determination of this planning application include:

- Appropriate Assessment
- Climate change
- Effective use of land
- Flood risk and coastal change
- Green Belt
- Healthy and safe communities
- Historic environment
- Natural environment
- Noise

- Open space, sports and recreation facilities, public rights of way and local green space
- Planning obligations
- Travel Plans, Transport Assessments and Statements
- Use of planning conditions
- Viability
- Waste

6.3 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:

- CSSP1: Sustainable Housing and Locations
- CSSP3: Sustainable Infrastructure
- CSSP4: Sustainable Green Belt
- CSSP5: Sustainable Greengrid

Thematic Policies:

- CSTP1: Strategic Housing Provision
- CSTP2: The Provision of Affordable Housing
- CSTP5: Neighbourhood Renewal
- CSTP15: Transport in Greater Thurrock
- CSTP19: Biodiversity
- CSTP20: Open Space
- CSTP22: Thurrock Design
- CSTP23: Thurrock Character and Distinctiveness
- CSTP24: Heritage Assets and the Historic Environment
- CSTP25: Addressing Climate Change
- CSTP26: Renewable or Low-Carbon Energy Generation
- CSTP27: Management and Reduction of Flood Risk

Policies for the Management of Development

- PMD1: Minimising Pollution and Impacts on Amenity
- PMD2: Design and Layout
- PMD4: Historic Environment
- 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

6.4 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, this consultation has now closed and the responses have been considered and reported to Council. On 23 October 2019 the Council agreed the publication of the Issues and Options 2 Report of Consultation on the Council's website and agreed the approach to preparing the Local Plan.

6.5 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.

7.0 **ASSESSMENT**

7.1 Procedure:

With reference to procedure, this application has been advertised as being a departure from the Development Plan. Should the Planning Committee resolve to grant planning permission, the application will first need to be referred to the Secretary of State under the terms of the Town and Country Planning (Consultation) (England) Direction 2009. The reason for any referral as a departure relates to the GB and therefore the application will need to be referred under paragraph 4 of the Direction. The Direction allows the Secretary of State a period of 21 days within

which to 'call-in' the application 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.

7.2 The assessment below covers the following areas:

- I. Principle of development and impact upon the Green Belt
- II. Access, traffic Impact and car parking
- III. Flooding and site drainage
- IV. Planning obligations/contributions
- V. Other matters
- VI. Overall balancing exercise

7.3 I. PRINCIPLE OF DEVELOPMENT AND IMPACT UPON THE GREEN BELT

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 GB and the purposes of including land within it; and
3. Whether the harm to the GB is clearly outweighed by other considerations so as to amount to the very special circumstances (VSC) necessary to justify inappropriate development.

7.4 1. Whether the proposals constitute inappropriate development in the GB

The site is identified on the Core Strategy Proposals Map as being within the GB where policies CSSP4 and PMD6 apply. Policies CSSP4 and PMD6 state that the Council will maintain, protect and enhance the open character of the GB in Thurrock. These policies aim to prevent urban sprawl and maintain the essential characteristics of the openness and permanence of the GB to accord with the requirements of the NPPF.

7.5 Paragraph 133 within Chapter 13 of the NPPF states that the Government attaches great importance to GBs 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 of the NPPF states that

“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”.

Paragraph 144 goes on to state that local planning authorities should ensure that “*substantial weight*” is given to any harm to the GB and that VSC will not exist unless the potential harm to the GB by way of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

7.6 With reference to proposed new buildings in the GB, paragraph 145 confirms that a local planning authority should regard their construction as inappropriate, with the following exceptions:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the GB and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) 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 GB than the existing development; or
 - not cause substantial harm to the openness of the GB, 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.

7.7 The proposals do not fall within any of the exceptions to inappropriate development as defined in paragraph 145 of the NPPF. The application site is an open green space with no current built form. A recent site visit also recorded that the majority of the site has some agricultural use comprising the grazing of livestock. Consequently, as the application seeks outline permission for 75 residential units located on an open green space, the proposal clearly comprises inappropriate development in the Metropolitan GB, which is harmful by definition with reference to the NPPF and Core Strategy Policies PMD6 and CSSP4. In accordance with the NPPF (para. 144), substantial weight should be given to this harm.

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

The analysis in the paragraphs above concludes that the proposal is inappropriate development which is, by definition, harmful to the GB (NPPF para. 143). However, it is also necessary to consider whether there is any other harm (NPPF para. 144).

7.9 As noted above paragraph 133 of the NPPF states that the fundamental aim of GB policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics of GBs being described as their openness and their permanence. Although this is an application for outline planning permission with all matters reserved, it is apparent from the indicative drawings that built development and accompanying curtilages. would be spread across the majority of the application site. The proposals would comprise a substantial amount of new built development in an area which is currently open. Advice published in NPPG (Jul 2019) addresses the role of the GB in the planning system and, with reference to openness, cites the following matters to be taken into account when assessing impact:

- openness is capable of having both spatial and visual aspects;
- the duration of the development, and its remediability; and
- the degree of activity likely to be generated, such as traffic generation

7.10 It is considered that the proposed development would have a detrimental impact on both the spatial and visual aspects of openness, i.e. an impact as a result of the footprint of development and building volumes. The applicant has not sought a temporary planning permission and it must be assumed that the design-life of the development would be a number of decades. The intended permanency of the development would therefore impact upon openness. Finally the development would generate traffic movements associated with the residential use and it is considered that this activity would also impact negatively on the openness of the GB. Therefore, it is considered that the amount and scale of the 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.

7.11 With regard to the visual impact and the GB assessment of openness, the quantum of development proposed would undoubtedly harm the visual character of the site. Ground levels in the area and across the site slope downwards from north to south and the Noise Assessment report indicates that a 2 metre high acoustic fence is necessary and has been included in the acoustic model. The acoustic fence is

required to minimise noise levels to the external amenity areas of dwellings. It is appreciated the current application seeks an outline consent for residential development and the layout and appearance of the development are reserved matters. Nevertheless, it is considered that the development of the site as proposed would clearly harm the visual component of openness.

7.12 The proposal would therefore reduce openness as both a spatial and visual concept.

7.13 Paragraph 134 of the NPPF sets out the five purposes which the GB 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.

7.14 In response to each of these five purposes:

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

The site is situated within the GB immediately adjacent to the large built up area of Little Thurrock / Grays located to the north and to the west of the site. The proposal would extend built form into the open parcel of land where there is currently no built development and would therefore result in some sprawling of the Little Thurrock / Grays urban area. For the purposes of the NPPF, the proposal would therefore result in the sprawling of the adjacent large built up area as demonstrated by an urban form of development on an open parcel of GB land immediately adjacent to Little Thurrock / Grays.

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

The site is generally located on the eastern edge of Little Thurrock and further east of the site lies Chadwell St. Mary. The application site is a considerably distance from Chadwell St. Mary and is separated by the A1089(T) Dock Approach Road. Therefore it is considered that the proposal would not result in the confluence of any towns and the development would not conflict materially with this GB purpose.

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

With regard to the third GB purpose, the proposal would involve built development on a site which is currently open and undeveloped. The proposed built development

would spread across the whole site and it is important to note that the proposed dwellings would inevitably require parking spaces, garage/cart lodges, hardstandings, associated vehicle accesses and roads. It is therefore considered that the proposal would constitute an encroachment of built development into the countryside in this location and would constitute material harm to this purpose of the GB.

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

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

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

In general terms, the development could occur in the urban area and, in principle; there is no spatial imperative why GB land is required to accommodate the proposals. The erection of 75 residential units with associated hardstandings, vehicle accesses and fencing etc. is inconsistent with the fifth purpose of the GB.

7.19 In conclusion under the headings (i) and (ii) it is considered that the current proposals would lead to harm to the GB by way of inappropriate development (i.e. definitional harm), would be harmful by way of loss of openness and would be harmful as a result of conflict with GB purposes (a), (c) and (e). In accordance with 144 of the NPPF substantial weight should be afforded to this harm.

7.20 3. Whether the harm to the GB is clearly outweighed by other considerations so as to amount to VSC necessary to justify inappropriate development

Paragraph 144 of the NPPF states that, when considering any planning application, local planning authorities -

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

7.21 Neither the NPPF nor the adopted Core Strategy provide guidance as to what can comprise VSC, either singly or in combination. However, some interpretation of VSC 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 VSC (i.e. ‘very special’ is not necessarily to be interpreted as the converse of ‘commonplace’). However, the demonstration of VSC is a ‘high’ test and the circumstances which are relied upon must be genuinely ‘very special’.

In considering whether VSC exist, factors put forward by an applicant which are generic or capable of being replicated on other sites, could be used on different cases leading to a decrease in the openness of the GB. The provisions of VSC which are specific and not easily replicable may help to reduce the risk of a precedent being created. Mitigation measures designed to reduce the impact of a proposal are generally not capable of being VSC. Ultimately, whether any particular combination of factors amounts to VSC will be a matter of planning judgement for the decision-taker.

7.22 The Planning Support Statement submitted to accompany the application sets out the applicant's case for VSC under the following main headings

- a) Lack of a 5 year housing land supply;
- b) Delivering a sufficient supply of homes (NPPF – Paragraphs 59 and 68); and
- c) Importance to GB purposes.

7.23 Also, while not submitted as a formal case for VSC, the applicant references the following sections of the NPPF as relevant justifications to be considered;

- d) Achieving sustainable development
- e) Making effective use of land
- f) Achieving well-designed places

7.24 The detail of the applicant's case under these headings and consideration of the matters raised is provided in the paragraphs below.

7.25 *a) Lack of a 5 Year Housing Land Supply*

Consideration

The issue of housing land supply (including affordable housing) has been considered by the Committee regularly with regard to proposals for residential development in the GB and it is acknowledged that there is presently a lack of 5 year housing supply. The most recently published 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). The Statement also assesses the supply of deliverable housing in the five year period

from 2016/17 to 2020/21 and concludes that there is a supply of between 2.5 and 2.7 years in relation to the identified objectively assessed need. This figure of between 2.5 and 2.7 years supply was produced some time ago (2016) and it is to be expected that the figure has reduced as completions on a number of larger sites with planning permission has progressed (Bata Fields, Arisdale Avenue etc.). Although the current supply figure is in the process of being updated, it is accepted that supply is less than the five year (+20%) requirement.

7.26 The current proposals would, with 75 units, be of some 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 VSC and should be accorded significant positive weight in the consideration of this application. In 2013 a written ministerial statement confirmed that the single issue of unmet housing demand was unlikely to outweigh GB harm to constitute the VSC justifying inappropriate development. This position was confirmed in a further ministerial statement in 2015 and was referred to in previous iterations of NPPG. However, the latest revision of the NPPF (2019) does not include this provision and the corresponding guidance in NPPG has also been removed. Nevertheless, a very recent appeal decision from February 2020 (ref. APP/Q4625/W/19/3237026) referred specifically to this point and considered that “*even so, unmet need on its own, is highly unlikely to amount to vsc*”. Accordingly the very significant benefit of the contribution towards housing land supply would need to combine with other demonstrable benefits to comprise the VSC necessary to justify inappropriate development.

7.27 *b) Delivering a sufficient supply of homes (NPPF – Paragraphs 59 and 68)*

The applicant refers to the following content from the NPPF. Paragraph 59 of the NPPF states:

‘To support the Government’s objectives of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without necessary delay’.

Paragraph 68 of the NPPF states:

‘Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should;

c) support the development of windfall sites through their policies and decisions - giving great weight to the benefits of using suitable sites within settlement for homes’

7.28 Consideration

This factor is related to the issue of five year housing land supply considered above. It is acknowledged the application site may constitute a small-medium sized site and could make a contribution to meeting the housing requirements within the Borough. However, the site is within the Green Belt and paragraph 143 of the NPPF clearly states that *'inappropriate development is, by definition harmful, to the Green Belt and should not be approved except in very special circumstances'*. Although policies within the NPPF refer to supporting the delivery of new housing development this single factor on its own would not clearly outweigh the identified harm to the GB so as to comprise the VSC needed to justify inappropriate development. Furthermore the presumption in favour of sustainable development set out by the NPPF does not apply to the GB (para. 11 (d) (i)).

7.29 c) Importance to Green Belt Purposes

Consideration

The matter of the value of the site in contributing to the purposes of the GB has been addressed above. The applicant maintains the application site does not make a significant contribution to the purposes of the GB and cites 'The Thurrock Strategic GB Assessment Stages 1a and 1b (January 2019) to justify their position. The Thurrock Strategic GB Assessment Stages 1a and 1b was produced by the Council in January 2019 and forms part of the suite of documents supporting the new Local Plan. This document identifies strategic parcels of land within the GB in terms of their 'contribution' to three of the five GB purposes. The site is identified as forming part of strategic parcel no. 31 and paragraph 6.1.13 (conclusions) includes this parcel in a recommendation for more detailed scrutiny and assessment. Furthermore, the Thurrock Local Plan Issues & Options (Stage 2) consultation also refers to the Thurrock GB Assessment Stages 1a and 1b as a technical document that *"...does not specifically identify any sites or broad areas of GB for development as any decision on the need to amend the boundary of the GB in Thurrock must be taken as part of the wider plan-making and evidence development process..."*. Consequently, the conclusions of the GB Assessment have only very limited weight in the consideration of this case. As set out above, it is considered that the development of the site as proposed would be harmful to a number of the purposes of including land in the GB.

7.30 d) 'Achieving Sustainable Development'

The applicant considers that the proposed development would be economically sustainable due to the number of jobs generated during the construction phase and would also have environmental and social benefits.

7.31 Consideration

The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development (para. 7). At para. 11 the NPPF states that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking para. 11 (c) and (d) confirm the application of the presumption in favour of sustainable development as:

(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-date⁷, 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 proposed⁶; 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.

The footnote (6) from the above extract includes the Green Belt as an area or asset of particular importance. Succinctly put, land designated as GB provides a strong reason for refusing the erection of 75 units as proposed and the current proposal could not be viewed as 'Achieving Sustainable Development' since this would directly contravene the NPPF's policies on 'Protecting Green Belt land' (Chapter 13).

7.32 In summary, under this heading, the proposal would result in new dwellings which would result in local expenditure and create jobs in the short term during construction. However there would not be a significant long term positive impact due to the limited number of units. Therefore this factor is afforded very limited weight.

7.33 e) Making Effective Use of Land

The applicant sites the NPPF chapter 'Making effective use of land' as material consideration for development.

7.34 Consideration

Paragraph 117 explicitly refers to previously-developed land (PDL) or brownfield

land. The NPPF glossary definition of brownfield land reverts to the definition of previously developed land. The NPPF states that even on land that was last occupied by a permanent structure, it should not be assumed, that the whole curtilage should be developed.

7.35 Evidence from a recent site visit reveals there are no existing buildings at the site and is in fact an open plot of land used to graze livestock; the site cannot therefore constitute PDL. The NPPF warns that the exception of PDL is not relevant “*where this would conflict with other policies in this Framework*”. Notwithstanding the above, as identified earlier in the report, the proposal would conflict with the GB policies set out within the framework as it represents inappropriate development which fails to demonstrate VSC which clearly outweigh the harm.

7.36 The proposal seeks outline consent for a residential development which would introduce various built forms across the site and associated vehicle access roads and hardstanding. Effectively, the proposal would create an urban style residential development that includes 75 residential units, resulting in an urbanised environment on an open plot of land. Thus, reference to NPPF’s ‘*making effective use of land*’ is not considered relevant or appropriate in the context of Green Belt land, especially where it has been established the site is neither brownfield land nor PDL. As a result, this factor is afforded no weight in the assessment of the impact upon the Green Belt.

7.37 f) Achieving well-designed places

The applicant maintains that paragraphs 124 to 132 of the NPPF sets out the requirement for good design and is a key aspect of sustainable development.

7.38 Consideration

The application submitted is in outline form with all matters reserved. Illustrative details of the site layout have been supplied with some elevation / floor plans of some of the units proposed, however these plans have been confirmed by the agent as indicative plans only. Therefore, matters relating to appearance are not required to be considered within the parameters of the current outline application. In any case the NPPF and the Council’s own planning policies require a high standard of design and therefore the achievement of a well-designed place should not be seen as an optional extra. As a result, this factor is afforded no weight in the assessment of the impact upon the Green Belt.

7.39 With reference to the applicant’s case for VSC, an assessment of the factors promoted is provided in the analysis above. It is concluded that although very significant weight can be attached to the benefit of the contribution towards housing land supply, the other factors promoted by the applicant attract only limited weight or

should be afforded no weight at all. As paragraph 144 of the NPPF requires that for VSC to exist harm to the GB and any other harm must be clearly outweighed by other considerations, a summary of harm against benefit is provided later in this report.

II. ACCESS, TRAFFIC IMPACT AND CAR PARKING

- 7.40 Highways England and the local highways authority has been consulted on the application. Highways England maintain that they have an interest in the potential impact the development may have on the Strategic Road Network (SRN) and that the impact to the A1089(T) is of particular concern. Highways England's interest lies in establishing whether there would be any adverse safety implications or material increase in queues / delays on the SRN as a result of the development.
- 7.41 Having reviewed the applicant's Transport Statement, Highways England considers that, from the forecast traffic flows and likely routing of the trips to and from the development, it is considered unlikely there would be any impact on the SRN as a result from the proposed development. However, it has been noted by Highways England that, as the application site is approximately 1.3 miles from the A1089(T), there may be construction impacts from the proposed development. Accordingly, Highways England have recommended a Construction Traffic Management Plan (CTMP) to assess the construction impacts and whether this would affect the safe operation of the SRN. Should the application be recommended for approval, an appropriately worded condition could be added.
- 7.42 The Council's highways officer has also been consulted on the application and, in summary, has offered comments concerning the internal road layout and the proposed new access. The highways officer comments that the proposal would need to be assessed in terms with compliance with the Design Manual for Roads and Bridges (DMRB) and maintains this would be required to understand whether the potential access arrangements are suitable. The safety concerns of the highways officer are appreciated, particularly concerning the implications of the potential 4-arm mini roundabout, but as this application seeks outline planning permission, with all matters reserved, the applicant is only required to demonstrate where potential access point(s) are proposed. A single point of access has been identified on the indicative proposed site plan and therefore the statutory planning requirements are satisfied.
- 7.43 Therefore, at this stage the applicant is not required to provide precise details relating to design standards, layout or parking arrangements for the proposed development. In light of this, the local planning authority cannot legitimately request further details within an outline application, where vehicle access to the site and layout are reserved matters to be considered at a later stage should outline planning permission be granted.

III. FLOODING AND SITE DRAINAGE

- 7.44 The Council's flood risk manager has been consulted and initially issued a holding objection due to insufficient details being supplied. However, the applicant has submitted a further Surface Water Drainage Strategy and the flood risk manager has since removed the previous objection, subject four planning conditions.
- 7.45 These conditions mainly relate to further detailing of a surface water drainage scheme, a scheme to minimise off-site flood cause by surface water run-off and ground water, a maintenance plan detailing the maintenance arrangements and the requirement for the applicant and/or any successor to maintain yearly logs in accordance with the maintenance plan. Therefore, should the application be approved, these details could be considered within the parameters of any reserved matters application or application for the approved of details reserved by planning condition.

IV. PLANNING OBLIGATIONS / CONTRIBUTIONS

- 7.46 The application seeks outline consent for 75 residential units with an indicative mix of one, two, three, four and five-bed properties. The applicant has submitted a Viability Assessment, which concludes at paragraph 1.3 that the site will be able to provide policy compliant affordable housing and s106 contributions and would remain viable. Furthermore, the Council's Housing Officer has confirmed that it is the Council's preference for one and two-bed residential units and the applicant has confirmed that 28 one and two-bed units would be allocated as affordable housing units. Consequently, this would ensure the proposal provides 35% policy compliant affordable housing.
- 7.47 A number of comments from residents have mentioned the local area is already oversubscribed for local amenities such as schools and GP surgeries. The Council's education department has been consulted and have commented that contributions would be required to meet the demands on local nurseries, primary and secondary schools created by the development. Having liaised with the agent on the matter, the applicant has in principle agreed to pay the contributions.
- 7.48 With regard to local GP surgeries, NHS England has been consulted on the current application but no comment has been received.
- 7.49 Natural England has advised that the site falls within the 'Zone of Influence' (ZoI) for one of more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex

authorities, including Thurrock Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. The issue of RAMS would become relevant if the application were being recommended favourably and the contribution could be secured via an appropriate legal agreement.

V. OTHER MATTERS

7.50 The Council's environmental health officer (EHO) advises with regard to air quality, there are no issues concerning the proposal. However, concerning the construction of the development, it is requested that a Construction Environmental Management Plan (CEMP) should be submitted to address specific environmental matters during construction. Should the application be recommended for approval a CEMP could be appropriately conditioned.

7.51 With regards to the issue of noise, the EHO notes that the submitted Noise Assessment suggests that a 2 metre high fence should be installed as a noise barrier to mitigate harm from noise on potential occupiers of the development. Paragraph 5.2 of the Assessment states;

'It is proposed that a 2 m high fence runs along the site boundary with local roads and this has been included in the acoustic model. This fence should be a close board construction with a minimum surface density of 12kg/m2.'

Paragraph 6.4 of the Noise Assessment further states:

'Noise levels in external amenity areas are predicted to be lower....across the majority of the site and have been minimised by provision of a 2 m high boundary fence and are therefore considered to be acceptable in planning terms.'

7.52 The applicant's noise modelling therefore includes the provision of 2 metre fencing to be constructed around the site boundary. However, having liaised with the EHO further on the matter, the following comments were received:

'Without the fencing around the site it would still technically be possible for all dwellings to achieve the BS8233:2014 guide internal levels with an enhanced glazing specification. To meet the guidelines the windows will have to be closed, hence acoustic ventilation will be necessary. The applicant would also need to re-model the noise to determine the required glazing and ventilation specifications.'

External living spaces such as gardens cannot be so easily protected to meet WHO guidelines where levels are high. Barriers of one form or other, are necessary.....

Exceeding the WHO guidelines....indicates that the quality of the amenity provided will be increasingly degraded as the levels increase above the upper 55dB LAeq,16h threshold.'

7.53 The installation of 2 metre high acoustic fencing would therefore be needed to ensure the quality of the proposed residential amenity spaces. Given the extensive road frontage to Wood View and Chadwell Road the extent of such fencing in this location would be significant in order to mitigate noise level impacts for future occupants of the site and ensure the quality of those external amenity spaces. In light of the currently open nature of the site, the extent of acoustic fencing would also potentially create an overbearing / over dominant impact within the immediate locality to the detriment of visual amenity and contrary to Policy PMD1 and PMD2, CSTP22 and CST23 of the Core Strategy. Such fencing would also harm the open nature of the GB.

7.54 VI. OVERALL BALANCING EXERCISE

As mentioned above, paragraph 144 of the NPPF requires that other considerations or benefits of the development should clearly outweigh *“the potential harm to the GB by reason of inappropriateness, and any other harm resulting from the proposal”* for VSC to exist. An analysis of all material planning factors is required in order to assess the full extent of *“any other harm resulting from the proposal”*. In addition to the analysis above and for convenience, a summary of the GB harm, any other harm and the weight which should be placed on the various benefits and considerations promoted by the applicant is provided in the table below;

Summary of GB harm, any other harm and benefit / considerations referred to by the applicant			
Harm	Weight	Benefits / Factors Promoted	Weight
Visual impact of acoustic barrier on openness of GB	Significant	Lack of 5 year housing supply	Very significant
Inappropriate development in GB	Substantial		
Reduction in the openness of GB			
Conflict (to varying degrees) with a number of the purposes of including land in the GB – purposes a, c and e.		Delivering a sufficient supply of homes	No weight
		Importance to GB Purposes	Very limited weight

	Achieving Sustainable Development'	Very limited weight
	Making Effective Use of Land	No weight
	Achieving well-designed places	No weight

7.55 As ever, in reaching a conclusion on GB 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 GB with reference to inappropriate development, loss of openness, harm to a number of GB purposes and visual harm associated with acoustic mitigation. Several benefits and factors have been promoted by the applicant as VSC 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 combines at this location to comprise VSC.

7.56 Where a proposal represents inappropriate development the applicant must demonstrate VSC which clearly (emphasis added) outweigh the harm to the GB. A very recent decision dismissing an appeal against the refusal of a continuing care retirement centre in the West Midlands GB (APP/Q4625/W/19/3237026) addressed the GB balancing exercise and concluded:

“When drawing this together, it is my judgement that the other considerations advanced by the appellants would result in a very finely balanced decision. However, for VSC to exist, the other considerations would need to clearly outweigh the substantial harm to the GB by reason of inappropriateness, openness and purposes of the GB ... In other words, for the appeal to succeed, the overall balance would have to favour the appellants’ case, not just marginally, but decisively.”

7.57 Therefore, and although every case falls to be determined on its own merits, the benefits of the proposals must clearly or decisively outweigh the harm for VSC to exist. If the balancing exercise is finely balanced, then VSC will not exist. The applicant has not advanced any factors which would singly or in combination amount to VSC that could clearly outweigh 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 proposal is clearly contrary to Policies CSSP4, PMD6 and PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (as amended 2015) and the National Planning Policy Framework 2019.

8.0 CONCLUSIONS AND REASONS FOR RECOMMENDATION

8.1 The principle issue for consideration in this case is the assessment of the proposals against planning policies for the GB and whether there are any factors or benefits which clearly outweigh harm such that a departure and comprise the VSC necessary for a departure from normal policy to be justified. The proposals are 'inappropriate development' in the GB would lead to the loss of openness and would cause some harm to the purposes of the Green Belt. Substantial weight should be attached to this harm in the balance of considerations. Although varying degrees of positive weight can be given to some of the benefits of the proposals, the identified harm must be clearly or decisively outweighed for VSC to exist. It is concluded that the benefits of the development do not clearly outweigh harm and consequently the application is recommended for refusal.

9.0 RECOMMENDATION

9.1 The Committee is recommended to:

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 LDF Core Strategy and Policies for the Management of Development (2015). National and local planning policies for the Green Belt set out within the NPPF and Core Strategy 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), (c) and (e) as described by paragraph 134 of the NPPF. 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 proposal is therefore contrary to Policies CSSP4 and PMD6 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (as amended 2015) and chapter 13 of the National Planning Policy Framework 2019.
2. The proposal would, by reason of the likely siting and scale of the proposed acoustic fencing necessary to mitigate the impact of noise and ensure that the quality of amenity spaces are not degraded, result in an overbearing and over-dominant impact harmful to visual amenity. The proposal is therefore contrary to Policy PMD1, PMD2, CSTP22 and CST23 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (as amended 2015) and chapter 12 of the National Planning Policy Framework 2019.

Informative(s):-

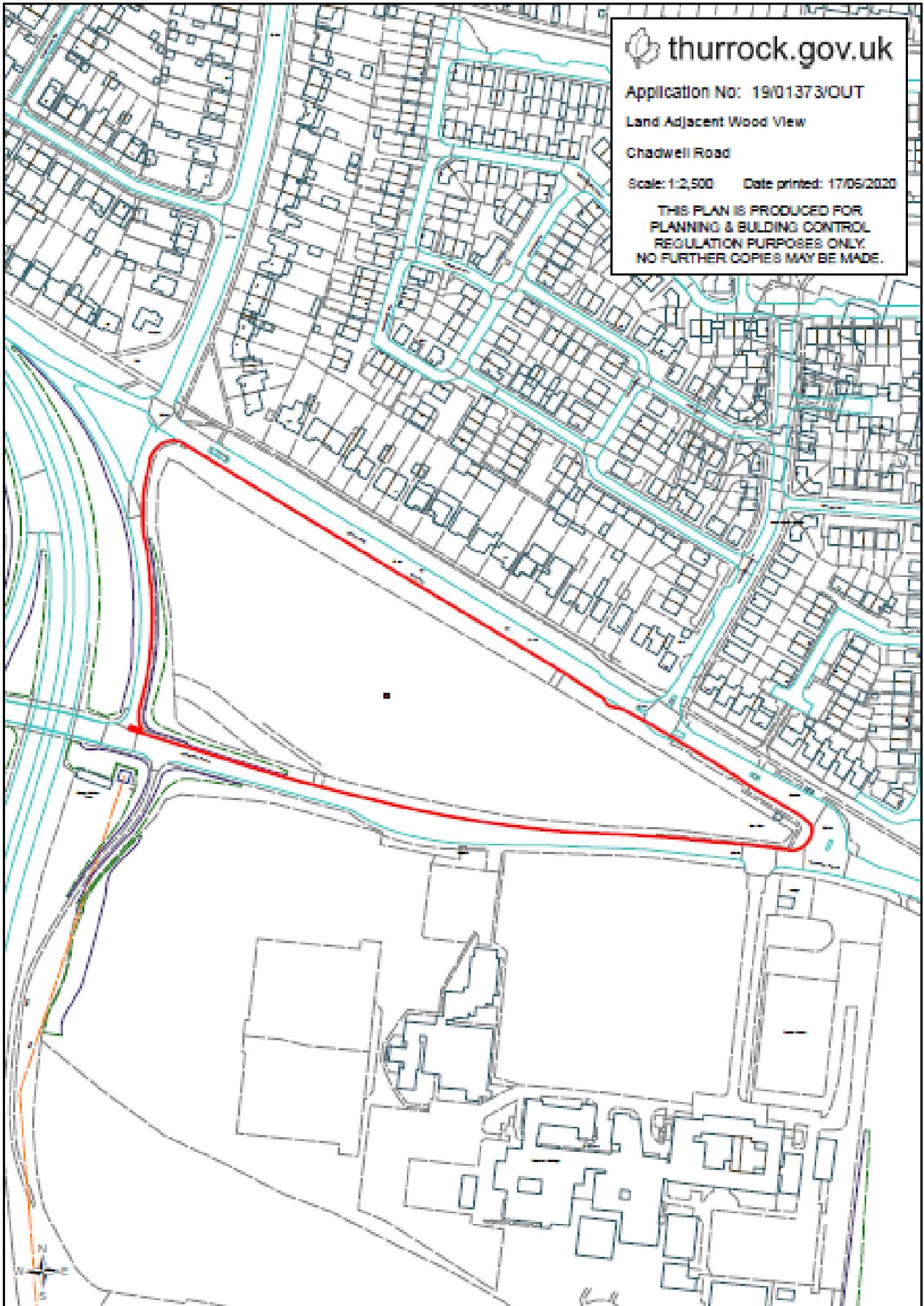
1 Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) - Positive and Proactive Statement:

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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Agenda Item 9

Planning Committee: 16 July 2020	Application Reference: 19/01058/FUL
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Reference: 19/01058/OUT	Site: Land part of Little Thurrock Marshes Thurrock Park Way Tilbury
Ward: Tilbury Riverside and Thurrock Park	Proposal: Application for outline planning permission with some matters reserved (appearance, landscaping, layout and scale): Proposed construction of up to 161 new dwellings (C3) with vehicular access from Churchill Road; construction of 7,650 sq.m (GEA) of flexible employment floorspace (Use Class B1c / B2 / B8) with vehicular access from Thurrock Park Way; provision of open space including landscaping and drainage measures; new pedestrian / cycle links; and associated parking and access.

Plan Number(s):		
Reference	Name	Received
110D	Master Plan / Site Plan	07.11.19
111A	Site Location Plan	10.07.19
112A	Master Plan / Site Plan	07.11.19
113	Master Plan / Site Plan: Building Parameters: Indicative Heights	10.07.19
114E	Master Plan / Site Plan	07.11.19
A232-LA04A	Landscape Strategy Plan	10.07.19
CC1442-CAM-22-00-DR-C-90-1103 Rev. P01	Flood Compensation Storage	17.09.19
CC1442-130 Rev. P3	Access Roads Layout Overall Plan	07.11.19
CC1442-131 Rev. P3	Access Roads Layout Sheet 1 of 6	07.11.19
CC1442-132 Rev. P3	Access Roads Layout Sheet 2 of 6	07.11.19
CC1442-133 Rev. P3	Access Roads Layout Sheet 3 of 6	07.11.19
CC1442-134 Rev. P3	Access Roads Layout Sheet 4 of 6	07.11.19
CC1442-135 Rev. P3	Access Roads Layout Sheet 5 of 6	07.11.19
CC1442-136 Rev. P3	Access Roads Layout Sheet 6 of 6	07.11.19
CC1442-141 Rev. P3	Access Roads Vehicle Tracking Sheet 1 of 6	07.11.19
CC1442-142 Rev. P3	Access Roads Vehicle Tracking Sheet 2 of 6	07.11.19
CC1442-143 Rev. P3	Access Roads Vehicle Tracking Sheet 3 of 6	07.11.19
CC1442-144 Rev. P3	Access Roads Vehicle Tracking Sheet 4 of 6	07.11.19
CC1442-145 Rev. P3	Access Roads Vehicle Tracking Sheet 5 of 6	07.11.19
CC1442-146 Rev. P3	Access Roads Vehicle Tracking Sheet 6 of 6	07.11.19

- Archaeological desk based assessment;
- Breeding bird survey report;
- Commercial market report;
- Design and access statement;
- Energy and sustainability statement;
- Environmental noise assessment;
- Essex recorders datasearch report;
- Flood risk assessment;
- Great Crested Newt surveys;
- Landscape and visual impact appraisal;
- Phase 1 habitat assessment;
- Planning statement;
- Reptile survey report;
- Statement of consultation;
- Travel plan;
- Water Vole survey;
- Botanical survey;
- Ecological mitigation strategy and habitat enhancement plan;
- Invertebrate surveys and assessments;
- Surface and foul drainage strategy; and
- Transport assessment

Applicant:
Nordor Holdings Ltd

Validated:
11 July 2019
Date of expiry:
31 August 2020 (Extension of time agreed)

Recommendation: Refuse planning permission

1.0 BACKGROUND

- 1.1 At the meeting of the Planning Committee held on 19th March 2020 Members considered a report assessing the above proposal. The report recommended that planning permission be refused because:

The site is located in the Metropolitan Green Belt (GB) and the benefits of the scheme do not clearly outweigh the harm to the GB and thus constitute the very special circumstances to justify a departure from local and national planning policies.

- 1.2 A copy of the report presented to the March Committee meeting is attached.
- 1.3 At the March Committee meeting Members were minded to resolve to grant planning permission for the proposed development based upon the following reasons:
1. *the opening of Tilbury 2 port expansion would create new jobs which would attract out of Borough workers that would result in a demand in local housing that the proposal could provide for;*
 2. *there was no flooding issue and that the Environment Agency had funds for flood defence in Tilbury;*
 3. *Thurrock needed social housing;*
 4. *the applicant had worked to address previous objections and the proposals included more open space; and*
 5. *connectivity improvements within the proposals.*
- 1.4 In accordance with Part 3(b) – Planning Committee Procedures and in particular Paragraphs 7.2 and 7.3 of the Constitution, the Committee agreed that the item should be deferred to enable a further report outlining the implications of making a decision contrary to the Planning Officer’s recommendation. A further report was presented to the Committee at its meeting on 8th June where consideration was deferred to enable a site visit to take place.
- 1.5 The application remains recommended for refusal for the reason set out in the attached report. A copy of the original report presented at the March meeting, together with the update report presented to the June meeting are attached.

2.0 FACTUAL UPDATES

2.1 Shortly before the meeting of 8th June, Members received a late representation from the Essex Field Club. In summary, this representation raised the following matters:

- Local Wildlife Site (LoWS) – the site was identified as a LWS in a 2016 review. There is apparent confusion within the Council as to the site's ecological status, but it is considered that the site is a LoWS and the 'designation' is therefore a material planning consideration;
- Invertebrate survey – concerns are raised about the effectiveness of the applicant's surveys, which may undervalue the site. Nevertheless, the surveys show that the site is of County-level value and the proposals would impact on invertebrates through loss of habitat. Essex Field Club remind the local authority of its duty to conserve biodiversity through the Natural Environment and Rural Communities (NERC) Act 2006;
- NPPF – reference is made to para. 175 (Habitats and Biodiversity) which states (inter-alia)-

When determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists*

2.2 Shortly after the June meeting a representation was received from Buglife, which raised the following matters:

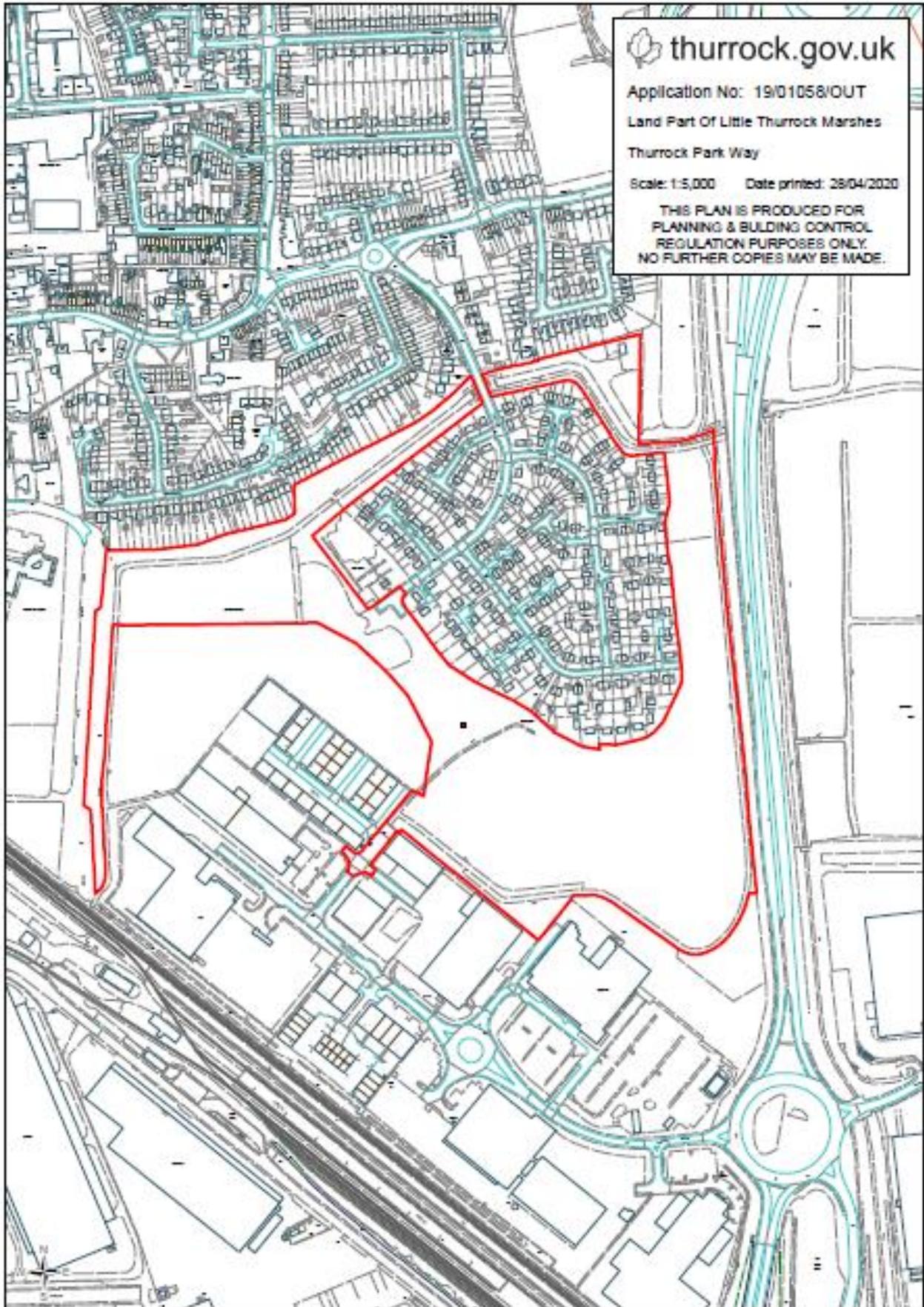
- the site is a biodiversity asset and was considered as a LoWS in the 2016 review. The site should be treated as a LoWS and this matter is a material consideration;
- the site is of importance for invertebrates and the proposed mitigation is considered to be insufficient. Furthermore the applicant's surveys fail to correctly assess impacts;
- although the site may look overgrown, it contains a variety of habitats which are of interest and importance for invertebrates.

2.3 These two late representations were not reported to the June meeting and are therefore summarised for the benefit of the Committee in reaching a decision based

on all representations received. The Council's landscape and ecology advisor has been requested to provide a response to these late comments and a verbal update will be provided at the July meeting.

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>



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Planning Committee 19.03.2020	Application Reference: 19/01058/OUT
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Reference: 19/01058/OUT	Site: Land part of Little Thurrock Marshes Thurrock Park Way Tilbury
Ward: Tilbury Riverside and Thurrock Park	Proposal: Application for outline planning permission with some matters reserved (appearance, landscaping, layout and scale): Proposed construction of up to 161 new dwellings (C3) with vehicular access from Churchill Road; construction of 7,650 sq.m (GEA) of flexible employment floorspace (Use Class B1c / B2 / B8) with vehicular access from Thurrock Park Way; provision of open space including landscaping and drainage measures; new pedestrian / cycle links; and associated parking and access.

Plan Number(s):		
<u>Reference</u>	<u>Name</u>	<u>Received</u>
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CC1442-145 Rev. P3	Access Roads Vehicle Tracking Sheet 5 of 6	07.11.19
CC1442-146 Rev. P3	Access Roads Vehicle Tracking Sheet 6 of 6	07.11.19

The application is also accompanied by:

- Archaeological desk based assessment;
- Breeding bird survey report;
- Commercial market report;

Planning Committee 19.03.2020	Application Reference: 19/01058/OUT
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<ul style="list-style-type: none"> • Design and access statement; • Energy and sustainability statement; • Environmental noise assessment; • Essex recorders datasearch report; • Flood risk assessment; • Great Crested Newt surveys; • Landscape and visual impact appraisal; • Phase 1 habitat assessment; • Planning statement; • Reptile survey report; • Statement of consultation; • Travel plan; • Water Vole survey; • Botanical survey; • Ecological mitigation strategy and habitat enhancement plan; • Invertebrate surveys and assessments; • Surface and foul drainage strategy; and • Transport assessment. 	
Applicant: Nordor Holdings Ltd	Validated: 11 July 2019 Date of expiry: 30 April 2020 (Extension of time agreed)
Recommendation: Refuse planning permission	

This application is scheduled for determination by the Council's Planning Committee because the application is considered to have significant policy or strategic implications, constitutes a departure from the Development Plan and is a re-submission of a scheme on a site which was previously considered by the Committee in 2017 (in accordance with Part 3 (b), Section 2 2.1 (a) of the Council's constitution).

1.0 BRIEF SUMMARY

Planning Committee 19.03.2020	Application Reference: 19/01058/OUT
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- 1.1 This application seeks outline planning permission for a mixed residential and commercial development of up to 161 dwellings, 7,650 sq.m of Class B1(c) / B2 / B8 (light industry / general industry / warehousing) floorspace and ancillary development. Permission is sought for details of access, with the appearance, landscaping, layout and scale of the development reserved for future approval (as reserved matters) should outline planning permission be granted. The application site was the subject of a similar proposal for mixed use development submitted in 2015 and dismissed at appeal in 2018.

2.0 DESCRIPTION OF PROPOSAL

- 2.1 The table below summarises some of the main points of detail contained within the development proposal:

Site Area	c.13.3 Ha
Residential Development	<p>Market Housing: 87 no. three-bed houses 18 no. four-bed houses</p> <p>TOTAL 105 units</p> <p>Affordable Housing: 12 no. one-bed flats 30 no. two-bed flats 6 no. three-bed flats 5 no. three-bed houses 3 no. four-bed houses</p> <p>TOTAL 56 units (35%)</p>
Commercial Development	7,650 sq.m floorspace (gross external area) to be used for Class B1(c) / B2 / B8 purposes

- 2.2 This is an application for outline planning permission with only the matter of access for detailed consideration at this stage. Details of the appearance, landscaping, layout and scale of the proposed development are reserved for future approval if outline planning permission were to be granted. Permission is sought for “up to 161 new dwellings” and this figure should therefore be viewed as a maximum. The mix of mix of residential units shown in the table above should be interpreted as indicative. Permission is also sought for 7,650 sq.m. (gross external area) of commercial floorspace and this amount of development should be considered as a ‘fixed’ development parameter.

2.3 Access

This is a matter for detailed consideration at this stage and is defined as the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network. The application proposes that the sole vehicular access to the residential uses on-site would be from an extension to Churchill Road, via the existing turning-head at its southern end. Access road layout

drawings show Churchill Road extended to both the west and south-east via two 'spine' roads, with associated cul-de-sac and loop roads which could access all of the dwellings. Vehicular access for the proposed Class B1(c) / B2 / B8 floorspace located on the southernmost part of the site would be from the Clipper Park development on Thurrock Park Way. Thus separate means of access for vehicles are proposed to serve the residential and Class B1(c) / B2 / B8 development. Nevertheless, masterplan drawings for the development show a potential cycle path (and by implication pedestrian route) linking the separate residential and commercial accesses. Two potential future cycleway links are also indicated on the western edge of the site which could connect to a public right of way from Manor Road.

2.4 Groundworks

Although landscaping is a matter of details reserved for future approval if outline planning permission is granted, flood mitigation / alleviation works are proposed which would include the re-profiling of ground levels. Flood compensation storage would be increased in the form of new ditches and ponds alongside increases in levels to create development platforms.

2.5 Landscaping

Although details of landscaping are reserved for future approval, a landscape strategy drawing has been submitted indicating a range of hard and soft landscape treatments, including potential new habitat creation.

2.6 Layout

An indication of the way the site could be developed is shown on masterplan drawings. Residential development could potentially comprise principally terraces of dwellinghouses with two blocks of flats located on the western part of the site. The proposed commercial development is indicated on the southern part of the site.

2.7 Scale

An indication of the scale of the development is provided on submitted masterplan drawings which show two and three-storey houses, three-storey flats and commercial development within two / three storey buildings.

3.0 **SITE DESCRIPTION**

3.1 The site comprises an irregularly shaped parcel of land, extending to approximately 13 hectares in area and generally located to the west of the Dock Approach Road (A1089) and north of the Thurrock Park Way commercial area. The site 'wraps around' the existing Churchill Road residential estate, developed in the late 1980's and principally comprising two-storey dwellinghouses on Churchill Road, Medlar Road, Salix Road and adjoining streets. This estate essentially comprises a cul-de-sac of c.250 dwellings accessing onto Dock Road to the north.

3.2 The northern part of the site consists of an open strip of land separating the Churchill Road estate and dwellinghouses to the north at Silverlocke Road, Lawns Crescent and the Willows. The drainage ditch, known as the Chadwell New Cross Sewer, passes east-west across the northern part of the site before changing

alignment to run parallel to the site's western boundary. This watercourse is defined as a 'Main River'. Much of the eastern part of the site also comprises a strip of open land separating the Churchill Road estate from the A1089 Dock Approach Road. The southern part of the site comprises a broader expanse of open land separating the Churchill Road estate from the Asda supermarket and commercial uses at Thurrock Park Way to the south. The western part of the site adjoins an area of open land located at the western-end of Thurrock Park Way.

- 3.3 The site is open and has been partly colonised by scrub vegetation. The majority of the application site, apart from a thin strip along the northern and western edges of the site, is within the Green Belt (GB) as defined by the Policies Map accompanying the adopted Core Strategy (2015). The south-western part of the site, as well as being designated as GB, is allocated as 'Additional Open Space'. The site is generally flat and low-lying and is within the high risk flood zone (Zone 3), although it benefits from existing flood defences. The site does not form part of the Tilbury flood storage area, which is generally located to the east of the A1089(T). None of the site forms part of any designated site of nature conservation importance.

4.0 RELEVANT PLANNING HISTORY

<u>Ref.</u>	<u>Proposal</u>	<u>Decision</u>
52/00279/FUL	Erection of electric overhead lines at Dock Road, Little Thurrock	Approved
57/00570/FUL	Residential development	Refused
58/00087/FUL	Erection of overhead electric power lines	Deemed Approval
64/00617/FUL	Housing estate providing for the erection of 250 houses	Approved
66/00907/FUL	Operational land for the purposes of the authorities undertaking	Withdrawn
68/00783/FUL	Overhead power lines	Approved
69/00621/FUL	Vehicle park and access road on land west of Dock Road, Tilbury	Approved
69/00621A/FUL	Depot and access road west of Dock Road, Tilbury subject to conditions within planning application THU/621/69	Approved
74/00161/OUT	Development of land at Tilbury North for 30 acres of housing, 45 acres of warehousing and 53 acres of open space	Approved
78/00292/FUL	Development of land at Tilbury North for 30 acres of housing, 45 acres of warehousing and 53 acres of open space subject to condition 1 - 30 on permission THU/161/74	Approved
78/00601/OUT	Development including housing, warehousing, superstore and open landscaped areas	Appeal Lodged. Appeal Allowed

Planning Committee 19.03.2020	Application Reference: 19/01058/OUT	
78/00601A/FUL	Superstore and car parking, warehousing and car parking. Overall development access roads and sewers	Approved
81/01145A/FUL	Revised application for residential development of 252 houses	Approved
82/00141/OUT	Use of land as industrial and or warehousing and ancillary purposes	Approved
89/00283/OUT	Housing community facility, link road, access roads and public open spaces.	Refused
08/01042/TTGSCR	Request for EIA screening opinion: Proposed redevelopment of land at Little Thurrock for employment use and creation of public open space and wildlife habitat.	EIA not required
09/50024/TTGOUT	Land to the South of Churchill Road residential estate and to the north of the Thurrock Park employment area. Redevelopment of land at Thurrock Park to include development of 3.8 hectares of employment land as an extension to the existing employment uses at Thurrock park (use class B2/B1 (c) and B8) with a total maximum internal floor area of 20,000sq.m. Improvements to 9.6 hectares of existing open space, including better access.	Approved
11/50307/TTGOUT	Redevelopment of land at Thurrock Park to include: 1. Development of 3.8 hectares of employment land as an extension to the existing employment uses at Thurrock Park (uses B2, B1(c), B8) and open storage and other non-class B employment uses with a total maximum internal floor area of 20,000 sq.m. The open storage and non-class B employment uses shall be limited to not more than 2 hectares. 2. Improvements to 9.6 hectares of existing open space, including improved access.	Approved
13/00396/CV	Variation of conditions relating to 11/50307/TTGOUT	Invalid
13/00685/CV	Variation of conditions 2, 7, 12, 14, 15, 16, 20, 21, 22, 24, 25, 28, 29, 31, 32, 33, 36, 39, 40 and 41 of approved planning application 11/50307/TTGOUT to allow re-development of site without submitting details of all phases prior to the implementation of any part of the development	Finally disposed of
15/00116/OUT	Application for outline planning permission (with all matters reserved) for the development of 4ha of land to provide 122	withdrawn

Planning Committee 19.03.2020	Application Reference: 19/01058/OUT
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	residential units, and a 125 sq.m. community centre (Use Class D1) with associated landscape improvements and access works	
15/00171/SCR	Request for a screening opinion pursuant to Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011: Proposed development of 4ha of land to provide 122 residential units, and a 125 sq.m. community centre (Use Class D1) with associated landscape improvements and access works	EIA not required
15/00299/CV	Variation of conditions 2, 3, 4, 7, 12, 14, 15, 16, 18, 20, 21, 22, 24, 25, 28, 29, 31, 32, 33, 35, 36, 39, 40 and 41 of approved planning application 11/50307/TTGOUT to allow redevelopment of site without submitting details of all phases prior to the implementation of any part of the development.	Lapsed
15/00476/NMA	Variation of Conditions 3 (Outline Element) and Condition 4 (Time Limit) against approved planning application 11/50307/TTGOUT	Invalid
15/01354/OUT	Application for outline planning permission (with details of landscaping, scale and appearance reserved) for the development of 13.36 ha of land to provide up to 280 residential units, a 250 sq.m. community facility (Use Class D1) and 1,810 sq.m. of commercial floorspace (Use Class B2/B8) with associated landscape, flood improvement and access works	Refused, Appeal Dismissed
17/01631/OUT	Application for outline planning permission (with details of landscaping, scale and appearance reserved) for the development of 13.36 hectares of land to provide up to 280 residential units, a 250 sq.m. community facility (Use Class D1) and 1,810 sq.m. of commercial floorspace (Use Class B2/B8) with associated landscape, flood improvement and access works (Re-submission of planning application ref. 15/01354/OUT).	Withdrawn
19/01019/SCR	Request for Environmental Impact Assessment (EIA) Screening Opinion - Proposed construction of up to 161 new dwellings (C3) with vehicular access from Churchill Road; construction of 7,650 sq.m	EIA not required

Planning Committee 19.03.2020	Application Reference: 19/01058/OUT
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	(GEA) of flexible employment floorspace (B1c/B2/B8) with vehicular access from Thurrock Park Way; provision of open space including landscaping and drainage measures; new pedestrian/cycle links; and associated parking and access	
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- 4.1 From the table above planning application reference 15/01354/OUT is pertinent to this case as it involved the same site and proposed a mixed use of development of dwellings and commercial / community use floorspace. Application ref. 15/01354/OUT was considered by the Committee at its meeting in June 2017 where planning permission was refused on the grounds of harm to the GB. A subsequent appeal was considered at a public inquiry in May 2018 and the appeal dismissed in June 2018.

5.0 CONSULTATIONS AND REPRESENTATIONS

5.1 PUBLICITY:

This application has been advertised by way of individual neighbour notification letters sent to 383 surrounding occupiers, press advert and site notices. The application has been advertised as a departure from the Development Plan and a major development.

- 5.2 27 individual letters of objection have been received together with a petition containing 660 signatures also objecting to the application. The following matters of concern have been raised:

- unsafe / inadequate access;
- increased traffic congestion;
- pollution and impact on air quality;
- harm to amenity;
- increased noise;
- loss of GB;
- flooding;
- impact on ecological interests; and
- effect on infrastructure.

5.3 CONSULTATION RESPONSES:

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

5.4 ESSEX COUNTY COUNCIL (ARCHAEOLOGY):

No objections subject to conditions being attached to any grant of planning permission.

5.5 ANGLIAN WATER:

Recommend a number of informatives relating to foul water drainage. As the proposed surface water drainage does not relate to Anglian Water assets, no comments are provided.

5.6 BUGLIFE:

Object to the application on the grounds of:

- impact on priority habitats and invertebrate species;
- loss of a potential Local Wildlife Site; and
- inadequate mitigation proposals.

5.7 CAMBRIDGESHIRE & ESSEX BUTTERFLY CONSERVATION:

Object to the loss of a potential Local Wildlife Site.

5.8 ESSEX POLICE:

Recommend that the development achieves Secured by Design accreditation.

5.9 HIGHWAYS ENGLAND:

Offer no objection on the basis that the proposals will generate minimal additional traffic on the strategic road network in peak hours.

5.10 NHS:

Require a financial contribution of £63,549 to mitigate the impacts of the development on primary healthcare services.

5.11 ENVIRONMENT AGENCY:

Draw attention to the need to undertake the Sequential and Exception Test. Recommend that planning conditions are attached to any grant of planning permission.

5.12 EMERGENCY PLANNING:

No response received.

5.13 FLOOD RISK MANAGER:

Planning Committee 19.03.2020	Application Reference: 19/01058/OUT
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No objections, subject to conditions.

5.14 HOUSING OFFICER:

Confirm that the proposed provision of affordable housing and the tenure mix is acceptable.

5.15 HIGHWAYS OFFICER:

No objection – although suggest that a contribution towards mitigation at the Marshfoot Road / A1089 slip road junction is considered. Consultation with Highways England is required regarding the potential impact of the proposals on the A1089. Some concerns remain regarding road layout within the site (N.B. – layout is a reserved matter). A contribution to the cycle / pedestrian link to the south of the north-western link would be sought.

5.16 PORT OF TILBURY LONDON LTD.

Express concern regarding the content of the Transport Assessment and potential impact on the ASDA roundabout junction.

5.17 ESSEX FIELD CLUB:

Object to the application on the grounds of impact on priority habitats and species, the loss of a Local Wildlife Site, loss of GB, incomplete invertebrate surveys and inadequate mitigation and compensation.

6.0 POLICY CONTEXT

6.1 National Planning Policy Framework (NPPF)

The revised NPPF was published on 19th February 2019. The NPPF sets out the Government's planning policies. Paragraph 11 of the Framework expresses 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 GB, Local Green Space, AONBs, National Parks, Heritage Coast, irreplaceable habitats, designated heritage assets and areas at risk of flooding or coastal change.*

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:

- 5. Delivering a sufficient supply of homes;
- 6. Building a strong, competitive economy;
- 8. Promoting healthy and safe communities;
- 9. Promoting sustainable transport;
- 12. Achieving well-designed places;
- 13. Protecting GB land;
- 14. Meeting the challenge of climate change, flooding and coastal change; and
- 15. Conserving and enhancing the natural environment;

6.2 National Planning Practice Guidance (NPPG)

In March 2014 the former 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. NPPG contains a range of subject areas, with each area containing several sub-topics. Those of particular relevance to the determination of this planning application include:

Climate change;
 Design: process and tools;
 Determining a planning application;
 Flood risk and coastal change;
 Green Belt;
 Healthy and safe communities;
 Natural environment;
 Noise;
 Open space, sports and recreation facilities, public rights of way and local green space;
 Renewable and low carbon energy; and
 Travel Plans, Transport Assessment and Statements.

6.3 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:

- CSSP1: Sustainable Housing and Locations;
- CSSP2: Sustainable Employment Growth;
- CSSP3: Sustainable Infrastructure;
- CSSP4: Sustainable GB; and
- CSSP5: Sustainable Greengrid.

Thematic Policies:

- CSTP1: Strategic Housing Provision;
- CSTP2: The Provision of Affordable Housing;
- CSTP6: Strategic Employment Provision;
- CSTP9: Well-being: Leisure and Sports;
- CSTP14: Transport in the Thurrock Urban Area: Purfleet to Tilbury;
- CSTP18: Green Infrastructure;
- CSTP19: Biodiversity;
- CSTP20: Open Space;
- CSTP22: Thurrock Design;
- CSTP25: Addressing Climate Change;
- CSTP26: Renewable or Low-Carbon Energy Generation; and
- CSTP27: Management and Reduction of Flood Risk

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 GB;
- PMD7: Biodiversity, Geological Conservation and Development;
- PMD8: Parking Standards;
- PMD9: Road Network Hierarchy;
- PMD10: Transport Assessments and Travel Plans;
- PMD12: Sustainable Buildings;
- PMD13: Decentralised, Renewable and Low Carbon Energy Generation;
- PMD15: Flood Risk Assessment; and
- PMD16: Developer Contributions

6.4 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, this consultation has now closed and the responses have been considered and reported to Council. On 23 October 2019 the Council agreed the publication of the Issues and Options 2 Report of Consultation on the Council's website and agreed the approach to preparing a new Local Plan.

6.5 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.

7.0 **ASSESSMENT**

7.1 Procedure:

With reference to procedure, this application has been advertised (inter-alia) as being a departure from the Development Plan. Should the Planning Committee resolve to grant planning permission, the application will first need to be referred to the Secretary of State under the terms of the Town and Country Planning (Consultation) (England) Direction 2009 with reference to the 'other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the GB'. The Direction allows the Secretary of State a period of 21 days (unless extended by direction) within which to 'call-in' the application 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.

7.2 The main issue for consideration in this case is the assessment of compliance with planning policies for and impact on the GB. Given the recent planning application for the site (ref. 15/01354/OUT) a comparison of the current proposals with this earlier scheme is also necessary. The content of the Planning Inspector's report considering application ref. 15/01354/OUT is germane to the current application and an assessment of whether the current proposals would lead the local planning authority to a different conclusion from that reached by the Planning Inspector is a key matter. In addition to the GB considerations raised by the proposals, the assessment below also covers the following areas:

- Highways and traffic considerations;
- Ecological considerations;
- Noise and air quality; and
- Flood risk and site drainage.

As outline planning permission is sought a detailed analysis of design issues, layout and impact on residential amenity is not provided at this stage.

7.3 I. PRINCIPLE OF DEVELOPMENT AND IMPACT ON THE GB

Under this heading it is necessary to consider the following key questions:

- i. whether the proposals constitute inappropriate development in the GB;
- ii. the effect of the proposals on the open nature of the GB and the purposes of including land within it; and
- iii. whether the harm to the GB is clearly outweighed by other considerations so as to amount to the very special circumstances (VSC) necessary to justify inappropriate development.

i. Whether the proposals constitute inappropriate development in the GB

7.4 As noted in paragraph 3.3 above, apart from strips of land along the northern and western edges all of the site is located within the GB. However, no built development is proposed on these strips and consequently all of the built development proposed would be sited on the GB. Therefore adopted Core Strategy policies CSSP4 and PMD6 apply to the proposals alongside part 13 of the NPPF (Protecting GB land).

7.5 Paragraph 133 of the NPPF confirms that the Government attaches great importance to GBs and states that the

“fundamental aim of GB policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of GB are their openness and their permanence”.

With regard to proposals affecting the GB, paragraph 143 states that

“Inappropriate development is, by definition, harmful to the GB and should not be approved except in vsc”.

Paragraph 144 goes on to state that local planning authorities should ensure that *“substantial weight”* is given to any harm to the GB and that vsc will not exist unless the potential harm to the GB by way of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

7.6 With reference to proposed new buildings in the GB, paragraph 145 confirms that a local planning authority should regard their construction as inappropriate, with the following exceptions:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial

grounds and allotments; as long as the facilities preserve the openness of the GB and do not conflict with the purposes of including land within it;

- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) 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 GB than the existing development; or
 - not cause substantial harm to the openness of the GB, 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.

7.7 Clearly the proposals to construct up to 161 dwellings and 7,650sq.m. of Class B1(c) / B2 / B8 floorspace do not fall into any of the exceptions listed at (a) to (g) in the paragraph above. Consequently, the proposals comprise inappropriate development with reference to the NPPF.

7.8 Development plan policy, as expressed in the Core Strategy and Policies for the Management of Development (2015) is consistent with national policy on GB matters. Core Strategy policy CSSP4 sets out the objective of maintaining the purpose, function and open character of the GB. In order to implement this policy, the Council will:

- maintain the permanence of the boundaries of the GB;
- resist development where there would be any danger of coalescence; and
- maximise opportunities for increased public access, leisure and biodiversity.

7.9 In addition, Core Strategy policy PMD6 states that, inter-alia, planning permission will only be granted for new development in the GB provided it meets as appropriate the requirements of the NPPF.

7.10 In common with the proposals which were considered at appeal (ref. 15/01354/OUT), it is still the case that new residential and commercial buildings in the GB are by definition inappropriate. As a result there can be no change in the conclusion reached previously as to the principle of the proposed land uses. Consequently, it is a straightforward matter to conclude that the proposals for residential and commercial development constitute inappropriate development in the GB.

ii. The effect of the proposals on the open nature of the GB and the purposes of including land within it

- 7.11 The analysis in the paragraphs above concludes that the residential and commercial development is inappropriate development which is, by definition, harmful to the GB (NPPF para. 143). However, it is also necessary to consider whether there is any other harm (NPPF para. 144).
- 7.12 As noted above paragraph 133 of the NPPF states that the fundamental aim of GB policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of GBs being described as their openness and their permanence. Although this is an application for outline planning permission with details of layout reserved, it is apparent from the submitted indicative drawings 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 currently open. Advice published in NPPG (July 2019) addresses the role of the GB in the planning system and, with reference to openness, cites the following matters to be taken into account when assessing impact:
- openness is capable of having both spatial and visual aspects;
 - the duration of the development, and its remediability; and
 - the degree of activity likely to be generated, such as traffic generation.
- 7.13 It is considered that the proposed development would have a detrimental impact on both the spatial and visual aspects of openness, i.e. an impact as a result of the footprint of development and building volume. The applicant has not sought a temporary planning permission and it must be assumed that the design-life of the development would be a number of decades. The intended permanency of the development would therefore impact upon openness. Finally, the development would generate traffic movements associated with both residential and commercial elements. This activity would also impact negatively on the openness of the GB.
- 7.14 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.
- 7.15 In the context of impact on the openness of the GB, it is also necessary to consider the current proposals against the earlier dismissed scheme (15/01354/OUT) and the relevant conclusions reached by the Planning Inspector. This earlier application proposed a greater number of residential dwellings (up to 280) but a smaller quantum of non-residential development (2,060 sq.m within Class D1 and B2 / B8). With regard to the amount of development a brief comparison between the 2015 and current schemes is presented in the table below:

	<u>15/01354/OUT</u>	<u>19/01058/OUT</u>
Total Site Area	13.36 Ha	13.36 Ha
Site Area Within GB	c.11.3 Ha	c. 11.3 Ha
No. of Dwellings	Up to 280	Up to 161
Non-Residential Floorspace	2,060 sq.m.	7,650 sq.m

7.16 There are no differences between the 2015 and current applications in terms of the extent of proposed undeveloped land outside of the GB which lies adjacent to the site's northern and western boundaries. Similarly, within those GB parts of the site that are proposed for development there are no material differences between the two applications apart from locations at the eastern and south-eastern parts of the site. The 2015 application proposed a narrow corridor of open land along the eastern boundary forming a strip between a ribbon of new residential development and the A1089. At the south-eastern corner of the site this corridor widened to form a wider landscape buffer, which also included flood water attenuation and provided a clear gap between the commercial and residential element of the proposals. The current application deletes the previously proposed buffer separating residential and commercial development, but also deletes the residential ribbon adjacent to the A1089 boundary. This change has the effect of creating a more substantial area of open land along the eastern boundary. Although it is difficult to provide a precise comparison between the two applications of the extent of open land (particularly as layout is a reserved matter), it is the case that the current indicative layout would retain more openness on the eastern and south-eastern part of the site.

7.17 Paragraph nos. 8 to 13 of the Inspector's Report refer to the effect of the 2015 application proposals on the openness of the GB. The report considered impact on the openness of the site itself and the visual impact on the wider GB in the assessment of the effect on openness. The following extracts are of relevance:

"The appeal development with its 280 dwellings, employment units and community building would result in a considerable diminution to the openness of this GB site itself. There would be some undeveloped features, including green spaces, gardens and waterbodies but to my mind the overall impression would be that the current site would largely be replaced by urbanisation."

Whilst noting that "there is little visual connection with the wider GB when viewed from the western part of the site", the Inspector observed that from "within the eastern section (of the site) the scarp slope to the north of Tilbury Marshes, which is also within the GB, becomes visually apparent. From the higher vantage point of the Dock Approach Road the observer is much more aware of the visual connectivity between the appeal site and the GB land to the east ... The appeal site therefore comprises open green land that has some visual connection to the wider area of GB ... In any event the development itself would fundamentally change the visual prominence of the site. This is because the buildings would be atop a raised platform of around 2.03 AOD in order to address flood risk. The cross-section that was provided by the appellant through the eastern part of the site clearly shows that the finished land level would be higher than that of the Dock Approach Road ... The overall housing layout shows closely grouped houses and six blocks of flats. Within this context the waterbodies and open spaces would have little meaningful function in terms of retaining openness in GB terms. For all of these reasons I consider that there would be very significant harm to the openness of the GB."

7.18 To summarise the Inspector's conclusions on the subject of openness, the residential and commercial development would diminish openness (as a spatial concept) on the site itself. Compared to the appeal scheme, the current proposals

would retain a more substantial area of undeveloped land along the eastern and south-eastern boundary and thereby reduce the impact on openness.

Nevertheless, the indicative layout suggests that the remainder of that part of the site that lies within the GB would experience a clear loss of openness. Therefore, with regard to the site as a whole, there would still be harm to openness as a spatial concept.

- 7.19 With regard to the visual impact on the wider GB in the assessment of openness, the Inspector concluded that the eastern part of the site enjoyed a visual connection to the wider GB across the A1089, although there is little visual connection on the western part of the site. The Inspector also notes that land raising on the east of the site would change the visual prominence of the site. The current proposals remove buildings along the eastern boundary, which would arguably maintain the visual connection to the wider GB. In addition, the associated deletion of landraising on this part of the site would reduce the visual prominence of the development as an ‘engineered’ landform.
- 7.20 However, despite the reduced impact on openness and maintenance of the existing visual connection from the eastern part of the site to the wider GB, the current proposal would still reduce openness (as a spatial concept) on a large part of the site.
- 7.21 Paragraph 134 of the NPPF sets out the five purposes which the GB 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.
- 7.22 Paragraph nos. 14 to 21 of the Inspector’s Report considered the effect the 2015 proposals on these purposes and a comparison of the Inspector’s conclusions with the current scheme is provided below.
- 7.23 a) *to check the unrestricted sprawl of large built-up areas*

Paragraph no. 14 of the Inspector’s report confirmed that Grays is a “large built-up area” and that a development of 280 houses “*would not be an insignificant extension to the town*”. Paragraph no. 15 noted that the existing Thurrock Park development (Churchill Road etc.) of c.250 dwellings built in the 1980’s “*has resulted in a degree of sprawl itself. However the addition of a similar sized housing development into the open land to its south and east would exacerbate this (sprawl) considerably*”. Although at paragraph no.16 the Inspector accepted that the site has strong physical boundaries “*that does not mean that it has no function in terms of checking urban sprawl. This is not an insubstantial sized area of land and the proposal would not be small scale in nature. I have already come to the conclusion that once development takes place there would be some*

visual connection to the GB beyond the Dock Approach Road. In the circumstances the appeal scheme would lead to a degree of urban sprawl outward of Grays.”

7.24 With reference to the current case, despite the omission of built development from the eastern part of the site the proposals still represent a large scale extension to the built-up area of Grays at this point. Although of lesser magnitude to the appeal scheme the proposals would still result in a degree of urban sprawl, contrary to this GB purpose.

7.25 *b) to prevent neighbouring towns merging into one another*

Paragraph no. 17 of the Inspector’s report confirms that the appeal site *“remains as an open area of GB that lies between the two”* (the two neighbouring towns of Grays and Tilbury). The following paragraph of the report states:

“I acknowledge that the development of Tilbury docks alongside the river has already blurred the distinction between the two settlements (Grays and Tilbury) as separate entities. The construction of the Amazon and Travis Perkins warehouses has further added to the sense of proximity between them. However, assuming the allocated commercial land is eventually built out the process of coalescence would effectively be completed by the development of the appeal site. All that would be left between the two settlements would be an inconsequential remnant of GB land to the north of the ASDA car park and the southern corridor and roundabout of the Dock Approach Road. In the circumstances the appeal proposals would contribute to the coalescence of Tilbury and Grays”.

7.26 The current proposals would increase the width of the “southern corridor” of GB adjacent to the A1089. However, the indicative layout shows that the proposed residential and commercial development would lead to the joining together of Tilbury and Grays (at paragraph no. 17 the Inspector observed that *“It seems generally accepted that the Thurrock Park way commercial area, including the ASDA superstore, is part of Tilbury and that Thurrock Park is part of Grays”*). Therefore, despite a reduction in the magnitude of coalescence between Grays and Tilbury, the current proposals would nevertheless result in a degree of coalescence contrary to this purpose of the GB.

7.27 *c) to assist in safeguarding the countryside from encroachment*

Paragraph nos. 19 and 20 of the Inspector’s report assess the appeal proposals against this GB purpose and reach the conclusion that the site *“clearly has value as countryside”* which would be subject to the *“harmful effect of encroachment”*. Although, compared to the appeal scheme, the current proposals would reduce the amount of development there would still be a significant encroachment in the countryside.

7.28 With regard to the final two GB purposes: 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) the Inspector concluded that these

purposes would not be offended. There is no reason to reach a different conclusion in considering the current proposals.

- 7.29 In considering “*any other harm resulting from the proposal*” (NPPF para. 144) the Planning Inspector addressed the matters of flood risk, land stability, construction impacts and highways matters. The Inspector’s conclusions, set out at paragraph nos. 22 to 26 of the report, were that subject to planning conditions there would be no unacceptable harm arising. More detailed consideration of flood risk, highways matters etc. is provided later in this report. However, under the heading of other harm to the GB beyond those matters raised above, it can be concluded that there is no other harm.
- 7.30 In conclusion under the headings (i) and (ii) it is concluded that the current proposals would lead to harm to the GB by way of inappropriate development (i.e. definitional harm), would be harmful by way of loss of openness and would be harmful as a result of conflict with GB purposes (a), (b) and (c). In accordance with paragraph 144 of the NPPF substantial weight should be afforded to this harm
- iii. Whether the harm to the GB is clearly outweighed by other considerations so as to amount to the VSC necessary to justify inappropriate development
- 7.31 Paragraph 144 of the NPPF states that, when considering any planning application, local planning authorities
- “should ensure that substantial weight is given to any harm to the Green Belt. VSC will not exist unless the potential harm to the GB by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.*
- 7.32 Neither the NPPF nor the Adopted Core Strategy provide guidance as to what can comprise vsc, either singly or in combination. However, some interpretation of VSC 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 VSC (i.e. ‘very special’ is not necessarily to be interpreted as the converse of ‘commonplace’). However, the demonstration of VSC is a ‘high’ test and the circumstances which are relied upon must be genuinely ‘very special’. In considering whether VSC exist, factors put forward by an applicant which are generic or capable of being easily replicated on other sites, could be used on different cases leading to a decrease in the openness of the GB. The provisions of VSC 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 VSC. Ultimately, whether any particular combination of factors amounts to VSC will be a matter of planning judgment for the decision-taker.
- 7.33 The Planning Statement and additional representations submitted by the applicant to accompany the application sets out the applicant’s case for VSC under the following main headings:
1. provision of new market and affordable housing;

2. provision of connectivity improvements;
3. provision of new, public open space; and
4. provision of new employment units.

The detail of the applicant's case under these headings and consideration of the matters raised are provided in the paragraphs below.

7.34 1. Provision of new market and affordable housing

Under this heading the applicant refers to the following factors:

- the Inspector's report considered that the provision of market and affordable housing was a benefit of "*very significant weight*";
- Core Strategy policy CSSP1 (Sustainable Housing and Locations) recognises that it will be necessary for the Council to release land from the GB to meet housing need;
- The Council's draft Local Plan Issues and options (Stage 2) consultation states that (i) the Council will have to consider releasing land from the GB to accommodate new homes and supporting facilities (page 33) and (ii) the Council considers that given the acute shortage of land currently identified as being available to meet housing need over the plan period the exceptional circumstances required by the NPPF to justify changes to GB boundaries can be clearly demonstrated (page 50);
- the current NPPF places greater emphasis on ensuring a sufficient supply of new housing and introduces a Housing Delivery Test (paragraph 75);
- there is a considerable historic shortfall in meeting the Borough's housing targets and there is a significant shortfall in meeting the five-year supply, as evidenced by the Council's 'Five Year Housing Land Supply Position Statement' (July 2016);
- the South Essex Strategic Housing Market Assessment (2016) refers to an annual objectively assessed need of between 919 and 973 dwellings per annum and an affordable housing need of 555 dwellings per annum. Housing delivery, including affordable housing has been considerable less than these targets;
- paragraph 69 of the NPPF recognises the important contribution of small and medium sized sites to housing delivery; and
- the application site is deliverable and proposes policy compliant affordable housing (35%). The site could help to meet housing need ahead of the anticipated timeframe for the Local Plan which may be delayed due to uncertainty associated with the Lower Thames Crossing.

For the above reasons the applicant considers that the provision of market and affordable housing should be given very significant weight. The applicant also points out that while the vsc should not relate to new housing provision *alone*, Government advice is that housing provision can form part of the vsc to justify

inappropriate development when this benefit is considered alongside one or more other benefits.

7.35 Consideration

The issue of housing land supply (including affordable housing) has been considered by the Committee regularly with regard to proposals for residential development in the GB.

- 7.36 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.
- 7.37 National planning policy as expressed at paragraph 59 of the NPPF states that (inter-alia) in order to support the Government's objective of significant boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed. Paragraph 73 goes on to state that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should include a buffer of 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply.
- 7.38 The most recent published 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). The Statement also assesses the supply of deliverable housing in the five year period from 2016/17 to 2020/21 and concludes that there is a supply of between 2.5 and 2.7 years in relation to the identified objectively assessed need. This figure of between 2.5 and 2.7 years supply was produced some time ago (2016) and it is to be expected that the figure has reduced as completions on a number of larger sites with planning permission has progressed (Bata Fields, Arisdale Avenue etc.). Although the current supply figure is in the process of being updated, it is common ground with the applicant that supply is less than the five year (+20%) requirement.
- 7.39 Paragraph nos. 27-30 of the Planning Inspector's report assess the provision of housing in the context of being a benefit of the appeal proposals. Evidence at the time of the inquiry (2018) indicated that a five year supply could not be demonstrated and that the 2.5-2.7 years supply at that time was a *"serious shortfall"* when considered against the NPPF objective of boosting significantly the supply of housing. At paragraph 28 the Inspector noted that Thurrock is tightly constrained

by the GB and the evidence suggests that the Borough's housing requirement will not be able to be met solely on brownfield sites. Although at the time of the Inquiry the Council were undertaking a GB assessment as part of the evidence base for the new Local Plan, the Inspector noted that the Plan was still at an early stage and could not be relied on to address housing needs at that time. Regarding the provision of affordable housing and despite some reservations concerning the viability work undertaken by the applicant, the Inspector acknowledged the contribution the site could make towards a "*serious shortfall of affordable housing against identified needs*".

- 7.40 In 2018, and based on the evidence available at that time, the Inspector concluded that the overall provision of market and affordable housing was a benefit of very significant weight. The current scheme proposes a smaller number of dwellings (market and affordable) compared to the appeal scheme and therefore the contribution towards the supply of new housing will be reduced. Nevertheless, as noted above, the degree of shortfall against the five year supply (+20%) is likely to have worsened. Therefore, in line with the appeal decision, the matter of housing delivery contributes towards vsc and should therefore be accorded very significant weight in the consideration of this application.
- 7.41 It is necessary to point out one key difference between the appeal scheme and the current proposals in relation to the consideration of housing land supply as a factor contributing to vsc. In 2013 a written ministerial statement confirmed that the single issue of unmet housing demand was unlikely to outweigh GB harm to constitute the vsc justifying inappropriate development. This position was confirmed in a further ministerial statement in 2015 and was referred to in previous iterations of NPPG. However, the latest revision of the NPPF (2019) does not include this provision and the corresponding guidance in NPPG has also been removed. Nevertheless, a very recent appeal decision (ref. APP/Q4625/W/19/3237026) referred specifically to this point and considered that "*even so, unmet need on its own, is highly unlikely to amount to vsc*". Accordingly the very significant benefit of the contribution towards housing land supply would need to combine with other demonstrable benefits to comprise the vsc necessary to justify inappropriate development.
- 7.42 2. Provision of connectivity improvements
- Under this heading the applicant refers to the following factors:
- new and enhanced pedestrian and cycle links will improve access to schools, employment areas, the Asda store, residential areas and open space;
 - connecting the site accords with Core Strategy policies OSDP1, CSSP5, CSTP15 and a number of spatial objectives; and
 - in the context of paragraph 138 of the NPPF the proposed connectivity improvements would provide compensatory benefits and the sustainable location of the site is a positive factor in considering its potential release from the GB.
- 7.43 Consideration

The master plan / site plan drawings submitted to accompany application show the following links connecting the site to adjoining land:

- *“potential cycle path access to Manor Road”* located at the north-western corner of the site. This link would cross over the Chadwell New Cross sewer (within the site) and potentially connect to Manor Road (outside the site) across a section of unadopted road;
- *“potential future access across site for Council’s future cycle link to Thurrock Park Way”*. This link would be located to the south of the link described above and would form a small part of the new off-road cycle link (scheme no. 84) promoted by the Council (Improving the cycle network – December 2017). This link is intended to connect Manor Road and the Thameside schools to Tilbury via an off-road route through the Thurrock Park Way commercial estate. Completion of this route will need to address land ownership issues; and
- *“potential cycle path access to Thurrock Park Way and secure emergency vehicle access”*. The potential link would connect the development, and by extension the existing Churchill Road estate, to Thurrock Park Way. The connection relies on access across a small section of private land, although it is understood that the applicant has right of access.

7.44 The 2015 planning application also proposed improvements to wider connectivity via links through the site and the current submission proposes similar links. At the 2018 appeal, a total of four potential links were considered comprising the three links within the current application and a further link at the site’s north-eastern corner to connect to the existing cycle path alongside the A1089(T). This north-eastern link is not included in the current application. Nevertheless, the Inspector’s report addressed the issue of connectivity. At paragraph no. 31 of the report the Inspector noted that in general terms the proposed improvements to connectivity:

“... would provide a benefit to existing as well as new residents. At present the site acts as a barrier to movement south of Thurrock Park and the appeal scheme would address this by providing through routes for cyclists and pedestrians”.

7.45 Turning to the detail of each proposed link, in response to the connection at the site’s north-western corner the Inspector’s report noted the proximity to the Thameside schools and stated:

“... In addition to the benefit to new residents, this would provide a more attractive and shorter walking or cycling route for those living on Thurrock Park. It would have the potential to encourage less car use for these school trips. This would also provide a slightly shorter route to Grays station and shopping centre ... Provision of this link would involve crossing third party land between the site boundary and the public highway at Manor Road ... The probability that this link would be provided may be high but not certain.”

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- 7.46 Referring to the southern route linking to Thurrock Park Way paragraph 34 of the Inspector's report considered that:

"... existing residents would be able to walk or cycle through the site and access the Asda superstore, Tilbury town centre and its station via Thurrock Park way. This would be a much shorter and more pleasant route than the existing alternative via the Dock Road and Dock Approach Road."

- 7.47 In summarising the benefits of the north-western, southern and north-eastern links (which does not form part of the current submission) the Inspector concluded that these links would provide important accessibility advantages that should be given "*significant weight*". However, in referring to the Council's proposed off road cycle link (scheme no. 84), the Inspector gave "*moderate weight*" to this particular benefit.

- 7.48 In light of the Inspector's conclusions at paragraph no.31 of the appeal decision, there is no doubt that the proposals would provide a benefit in improving walking and cycling links in the area. This objective is supported by a number of adopted Core Strategy policies including CSSP5 (Sustainable Greengrid) and CSTP14 (Transport in the Thurrock urban area). The applicant's planning statement refers to paragraph 138 of the NPPF which states (inter-alia) that:

"When drawing up or reviewing GB boundaries, the need to promote sustainable patterns of development should be taken into account ... Where it has been concluded that it is necessary to release GB land for development, plans should give first consideration to land which has been previously-developed and/or is well-served by public transport. They should also set out ways in which the impact of removing land from the GB can be offset through compensatory improvements to the environmental quality and accessibility of remaining GB land".

- 7.49 Although paragraph 138 refers to drawing up or reviewing GB boundaries (which should only be altered through the preparation or updating of plans – para. 136), there is support elsewhere within the NPPF for the promotion of pedestrian and cycle movements (e.g. paragraph 101). In these circumstances, and to maintain consistency with the findings of the Planning Inspector, moderate / significant weight should be given to the proposed connectivity improvements.

- 7.50 3. Provision of new public open space

Under this heading the applicant refers to the proposed provision of a large green space in the south-eastern part of the site as well as areas of landscaping, habitat creation and ponds / waterways providing flood attenuation and ecological interest. The public open space is cited as a recreational resource at the edge of the urban area which would support the objectives of NPPF paragraph nos. 91 and 141 as well as chapter 8 of the NPPF. The existing site is considered to be both of poor quality and inaccessible to the public and the proposals provide the benefit of new public space. The applicant refers to page 68 of the Council's Local Plan Issues & Options (Stage 2) consultation document (December 2018) which, in the context of potential small urban extensions in the GB, identifies opportunities for:

“localised improvement and enhancement of spoiled countryside and provide access to new open space and recreational opportunities for those communities adjacent to the urban fringe”.

The applicant considers that the proposed open space should be considered as a “compensatory improvement” and refers to NPPG advice for the GB (Reference ID: 64-002-20190722).

The applicant further considers that the open space will make a contribution within an area recognised as deficient in local parks by the Council’s Open Spaces Strategy 2006-2011.

The applicant finally considers that the proposed provision of new open space should be given at least significant weight in the planning balance.

7.51 Consideration

At the outset it should be borne in mind that that the application seeks outline planning permission with the matter of layout reserved for subsequent approval. Accordingly, the various site / master plans submitted to support the application should be considered as illustrative only and representing one possible way in which the development could be accommodated on the site. Nevertheless the indicative layout accompanying the submission shows an area adjacent to the A1089(T) which would retained as open space. This area would total c.4Ha in area and would partly comprise a corridor c.60m in width in-between the rear of gardens at Medick Court / Mace Court / Samphire Court and the A1089(T) before opening out into a wider area measuring c. 145m (measured east-west) and c.160m (measured north-south) located at the south-eastern corner of the site.

- 7.52 Although this area would be free from built development and open, it is important to note that this open space would perform a number of functions. The updated Flood Risk Assessment (FRA) (December 2019) proposes an area for the compensatory storage of floodwater located in the open corridor parallel to the A1089(T). This area would be lowered to c.-1.9m AOD in order to create an attenuation ‘basin’ with a capacity of c.29,000m³. Appendix D of the FRA provides detail of this compensatory storage by reference to a plan showing the full extent of the basin when ‘full’. An appendix to the FRA Addendum also details sections through the attenuation basin to show a flat-bottomed area with slopes rising to natural levels at the edge of the basin. The majority of open space between the A1089(T) and existing rear gardens would be occupied by the basin. Although there is no disagreement with the applicant that this corridor would remain open, there would be times of the year when the basin is occupied in full or in part with water, thereby diminishing its utility as public open space. Even in a potential prolonged period of dry weather when the margins of the basin would be dry, public access to this space would still be limited to what is essentially a corridor between existing rear gardens and the A1089(T). For these reasons, this part of the site would have limited value as public open space.

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7.53 In the south-eastern corner of the site an open area (c.2.2Ha in extent) is indicated to be located south of the flood storage basin, west of the A1089(T), east of the proposed residential and commercial area and north of small parcel of GB land adjacent to the Asda superstore and car park. This area is considered to comprise a more usable area of potential public open space compared to the eastern corridor or open land. However, this south-eastern plot would not only serve as public open space but would also provide new habitat as part of the submitted Ecological Mitigation Strategy and Habitat Enhancement Plan.

7.54 The indicative layout of the development suggests other areas of open space within the site, however these spaces are limited in size and are incidental to the residential and commercial development. Consequently these areas do not contribute to meaningful public open space provision.

7.55 In support of the proposals, the applicant refers to elements of the NPPF. Firstly, reference is made to paragraph 141 which states:

“Once GBs have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity ; or to improve damaged and derelict land”.

There is currently no public access onto the site and therefore the applicant’s proposals to provide public open space at the south-eastern corner of site align with the objectives of paragraph 141.

7.56 The applicant also refers to part 8 of the NPPF (Promoting healthy and safe communities) and states that the proposals would provide a safe and accessible new development. As layout is a reserved matter, it is not possible to confirm whether the proposals would comply with national policy objectives of a safe place. However, the applicant’s intention to provide public open space accords with requirements for accessible green infrastructure (paragraph 91c) and enhanced public access (paragraph 98).

7.57 The applicant considers that the provision of new public open space may also be viewed as an appropriate *“compensatory benefit”*, as referred to in NPPG, as the proposals provide *“access to new recreational playing field provision within the GB”*. The relevant paragraph from NPPG (Paragraph: 002 Reference ID: 64-002-20190722) states:

“How might plans set out ways in which the impact of removing land from the GB can be offset by compensatory improvements?”

Where it has been demonstrated that it is necessary to release GB land for development, strategic policy-making authorities should set out policies for compensatory improvements to the environmental quality and accessibility of the remaining GB land. These may be informed by supporting evidence of landscape,

biodiversity or recreational needs and opportunities including those set out in local strategies, and could for instance include:

- *new or enhanced green infrastructure;*
- *woodland planting;*
- *landscape and visual enhancements (beyond those needed to mitigate the immediate impacts of the proposal);*
- *improvements to biodiversity, habitat connectivity and natural capital;*
- *new or enhanced walking and cycle routes; and*
- *improved access to new, enhanced or existing recreational and playing field provision”.*

This paragraph therefore refers to the plan making function of the local planning authority rather a decision on an individual planning application. It is important to note that, based on the submitted landscape strategy drawing, the proposal would not provide playing field provision, although it is accepted that new public access to open space would be provided.

- 7.58 The applicant refers to the Council’s Local Plan Issues & Options (Stage 2) consultation and to the option for GB development comprising small urban extensions. Page 68 of this consultation document lists the opportunities for such extension as including:

“localised improvement and enhancement of spoiled countryside and provide access to new open space and recreational opportunities for those communities adjacent to the urban fringe”.

It is important to note that the Stage 2 consultation presented and sought views on issues and options for sustainable development in the Borough, which will be eventually formalised in the new Thurrock Local Plan. The consultation did not identify or promote individual sites for development. Instead the consultation will inform the future draft Local Plan which will be submitted for examination.

- 7.59 Finally under this heading, the applicant refers to Core Strategy policy and the deficiency in local park provision as indicated in the Open Spaces Strategy 2006-2011. This Strategy is part of the suite of technical documents supporting the Core Strategy and is referred to by a number of adopted policies (CSTP18 – Green Infrastructure / CSTP20 – Open Space / PMD5 – Open Spaces, Outdoor Sports & Recreational Facilities). The Strategy provides an audit of the hierarchy of open spaces in Thurrock and maps deficiencies in access to spaces and facilities based on distance. The strategy suggests that the site is within an area with deficiencies and the proposed new public open space would partly address this issue. However, it is relevant that Core Strategy policy also requires new development to provide appropriate open space provision. In particular, Policy PMD5 states that (inter-alia):

“Proposed development must ensure that:

- i. New open spaces, outdoor sports and recreational facilities are provided in accordance with adopted standards to meet the needs of the development and to address deficiencies”*

7.60 The summary of proposed open space standards set out at Appendix 5 of the Core Strategy are based on population and so the degree to which the proposed open space provision located at the site’s south-eastern corner would provide a benefit over and above meeting the needs of residents of the proposed development is a matter of judgement. On the basis of the overall site area (13.3Ha), the provision of c.2.2Ha of usable public open space represents c. 16.5% of the site. For the purposes of comparison saved Local Plan (1997) policy BE3 (Urban Open Spaces) requires 10% of the gross site area of major residential sites to be set out as open space. The proposals exceed this ‘rule of thumb’ figure. However, bearing mind that the open space will serve an ecological as well as recreational function it is not considered that significant weight should be afforded to this factor as suggested by the applicant. Instead the provision of new public open space should be given moderate weight in the balance of considerations.

7.61 4. Provision of new employment units

Under this heading the applicant refers to the findings of the South Essex Economic Development Needs Assessment (2017) and the Thurrock Employment Land Availability Assessment (2017) both of which will form part of the evidence base to support the new Local Plan. These documents were referred to in the Council’s Local Plan Issues & Options Stage 2 consultation (2018). Page 80 of this consultation document identifies a number of key issues including:

“the lack of flexibility in the Borough’s overall employment land portfolio means that a potential need exists to identify additional land ... in supporting the growth an expansion of SME’s and start-up businesses”.

Page 81 of the consultation document addresses the matter of employment land provision with an option of allocating sites to encourage geographical clusters of specialist employment uses and providing sites for emerging business sectors or start-up businesses which may be compatible in housing growth areas.

Finally, the applicant has submitted a ‘Commercial Market Report’ which concludes that the site could provide *“much needed small and medium sized industrial accommodation located with good road connectivity, local amenities and able to provide support services to the adjacent and expanding world class Port of Tilbury”.*

The applicant considers that significant weight should be given to this factor.

7.62 Consideration

The economic benefits of the proposals, through the provision of employment floorspace, were promoted by the 2015 planning application and also considered at appeal. Paragraph no. 36 of the Inspector’s report noted:

“The Thurrock Employment Land Availability Assessment (December 2017) indicates that there is an over-supply of larger sites in terms of future employment demand. The appeal site would provide a number of smaller units on the southern side of the site adjacent to the existing employment area. In the past planning permission has been granted for employment development of the southern part of the appeal site, most recently in 2012. However, such use has never materialised and no permission remains extant. Furthermore, there is an allocated, but undeveloped, employment site adjacent. I do not consider that the evidence of need for the units proposed here is particularly strong and I therefore afford this factor limited weight”.

- 7.63 The Thurrock Employment Land Availability Assessment (2017) was available at the time of the planning appeal and was referred to in the Inspector’s report. The only change since the time of the appeal decision is the submission of the ‘Commercial Market Report’ by the applicant which expresses a view that the site could satisfy a need for small and medium sized industrial floorspace. However, the need for a more varied ‘offer’ in terms of industrial and commercial floorspace is already known. For the reasons set out by the Planning Inspector this factor attracts only limited weight.
- 7.64 In addition to the four principal arguments for vsc promoted by the applicant and set out above, reference is also made to other benefits comprising the flood alleviation measures and the way in which the proposals support a number of strategic Core Strategy policies. Regarding flood alleviation it is suggested that the proposals will reduce flood risk to surrounding properties and the alleviation scheme will benefit from a maintenance regime. Paragraph 163 of the NPPF requires development in flood risk areas to ensure that flood risk is not increased elsewhere and paragraph 165 requires drainage systems to have maintenance arrangements in place. The Environment Agency and flood risk manager have both confirmed no objection, subject to conditions, and it can be assumed that the development would not increase flood risk off-site. The degree to which the proposals would provide a positive benefit, i.e. whether the alleviation scheme would reduce flood risk, has not been demonstrated conclusively in the applicant’s Planning Statement, although reference is made to additional flood storage c. 1,000 cu.m above the requirements of the development. In line with the Inspector’s report, the matter of flood risk does not weigh against the application, and some limited positive weight in the GB balance can be attributed to the additional flood storage capacity. The applicant also refers to compliance with a number of strategic Core Strategy policies and spatial objectives which promote sustainable growth. However, these policies and objectives do not override policies for the protection of the GB.
- 7.65 In addition to the factors cited as forming vsc, the applicant also comments on the degree of harm to the openness of the GB and the purposes of including land therein. Specific reference is made to the Thurrock Strategic GB Assessment Stages 1a and 1b produced by the Council in January 2019 and forming part of the suite of documents to support the new Local Plan. This assessment considers strategic parcels of land within the GB in terms of their ‘contribution’ to three of the five GB purposes. The site is identified as forming part of strategic parcel no. 31

and paragraph 6.1.13 (conclusions) includes this parcel in a recommendation for more detailed scrutiny and assessment. The applicant consider that strategic parcel no. 31 has characteristics which make it more suitable than other parcels for release from the GB. Despite the assessment of this land parcel and the recommendation for further scrutiny, it is important to remember the status of this document. In particular, paragraph 1.2.4 states:

“Stage 2 assessment will identify detailed assessment of sites and boundaries in the GB to identify defensible long-term boundaries and provide recommendations on detailed boundary changes. Stage 2 will proceed only in the event that there is a clearly demonstrated exceptional circumstances to amend the boundaries of the Metropolitan GB in order to meet future development needs”.

- 7.66 Pages 49-50 of the Thurrock Local Plan Issues & Options (Stage 2) consultation also refers to the Thurrock GB Assessment Stages 1a and 1b and states that:

“It should be noted that the Green Belt Assessment is a technical document and does not specifically identify any sites or broad areas of GB for development as any decision on the need to amend the boundary of the GB in Thurrock must be taken as part of the wider plan-making and evidence development process”.

Consequently, the conclusions of the GB Assessment have only very limited weight in the consideration of this case.

7.67 Green Belt Conclusions

It is concluded that the proposals comprise inappropriate development with reference to paragraph 145 of the NPPF. Consequently, the development would be harmful by definition with reference to paragraph 143. The proposals would reduce the openness of the GB on the site as a result of the construction of the residential and commercial buildings and associated development. Compared to the appeal proposals, the current scheme would include a much larger undeveloped area located on the eastern and south-eastern part of the site. Consequently, compared to the previous application the impact on openness would be reduced.

Nevertheless, the proposals would materially reduce openness, giving rise to significant harm. With reference to the purposes of the GB defined by NPPF paragraph 134, although lesser in extent compared to the appeal proposals, the current scheme would nevertheless result in a degree of sprawl, coalescence and encroachment contrary to purposes (a), (b) and (c). In accordance with NPPF paragraph 144 “substantial” weight should be given to this harm.

- 7.68 With reference to the applicant’s case for VSC, an assessment of the factors promoted is provided in the analysis above. However, for convenience, a summary of the weight which should be placed on the various GB considerations is provided in the table below:

Brief Summary of GB Harm and Case for VSC			
<u>Harm</u>	<u>Weight</u>	<u>Factors Promoted as VSC</u>	<u>Weight</u>

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Inappropriate development	Substantial	provision of new market and affordable housing	Very Significant
Reduction in the openness of the GB		Provision of connectivity improvements	Significant / Moderate
Conflict with GB purposes (a), (b) and (c)		Provision of new, public open space	Moderate
		Provision of new employment units	Limited
		Flood risk alleviation	Limited
		Compliance with Core Strategy strategic policy / objectives	No weight

7.69 As ever in reaching a conclusion on GB issues, a judgement as to the balance between harm and whether the harm is clearly outweighed by the benefits of the development must be reached. In this case there is harm to the GB with reference to inappropriate development, loss of openness and some conflict with the purposes of the GB. It is acknowledged that compared to the proposals considered and scrutinised at a public inquiry in 2018 there would less harm to openness as a direct result of less built development. Nevertheless a degree of harm to the GB would remain. Several factors have been promoted by the applicant as comprising the VSC necessary to approve 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 'VSC'.

7.70 Members of the Planning Committee are reminded of the content of NPPF paragraph 144 which states:

"VSC will not exist unless the potential harm to the GB by reason of inappropriateness, and any other harm resulting from the proposal, is clearly (emphasis added) outweighed by other considerations."

A very recent decision dismissing an appeal against the refusal of a continuing care retirement centre in the West Midlands GB (APP/Q4625/W/19/3237026) addressed the GB balancing exercise and concluded:

"When drawing this together, it is my judgement that the other considerations advanced by the appellants would result in a very finely balanced decision. However, for VSC to exist, the other considerations would need to clearly outweigh the substantial harm to the GB by reason of inappropriateness, openness and purposes of the GB ... In other words, for the appeal to succeed, the overall balance would have to favour the appellants' case, not just marginally, but decisively."

Therefore, and although every case falls to be determined on its own merits, the benefits of the proposals must clearly or decisively outweigh the harm for VSC to exist. If the balancing exercise is finely balanced, then VSC will not exist. In this case, it is considered that the benefits of the proposals do not clearly outweigh the GB harm and as a consequence VSC do not apply.

7.71 II. HIGHWAYS & TRAFFIC CONSIDERATIONS:

The planning application is accompanied by a Transport Assessment (TA) and a Travel Plan. Although this is an application for outline planning permission, details of access (i.e. accessibility to and within the site in terms of the positioning and treatment of circulation routes) are for consideration as part of this submission.

- 7.72 Two points of access for vehicles are proposed to serve the development. Firstly, to serve the proposed residential development Churchill Road would be extended on its current alignment (north-east to south-west) and at its current dimensions (7.3m wide carriageway with two 2m wide footpaths). A series of lower category roads would penetrate through the site to serve the proposed dwellings. The second point of access for vehicles would be located from Thurrock Parkway to the south of the site, to serve the proposed commercial uses. The site connects to the public highway at Thurrock Parkway via a right of way for vehicles and pedestrians across land in private ownership within the 'Clipper Park' commercial estate. The applicant has confirmed that this right of way has the benefit of being held in perpetuity. This commercial access would provide a short section of link road, parking and turning areas serving the proposed commercial uses only.
- 7.73 The proposed access arrangements would therefore separate the residential access (via Churchill Road) from the commercial access (via Thurrock Parkway). Nevertheless, the submitted plans indicate that a potential cycle path / secure emergency vehicle access would link the residential development to Thurrock Parkway. As noted above, the submitted masterplan drawing also indicates the position of a potential cyclepath access to Manor Road at the north-western corner of the site and a potential future access to the off-road cycle network west of Thurrock Park Way. The development therefore has potential to provide satisfactory connection for vehicles, cyclists and pedestrians.
- 7.74 As the site is located adjacent to the strategic road network (A1089) and because traffic associated with the development could impact upon that network via the Marshfoot Road junction, Highways England (HE) has been consulted on the proposals. In responding to the originally submitted TA, a number of queries were raised by HE. Responding to a subsequent revision to the TA, HE confirmed no objection to the proposals on the grounds of impact on the strategic road network. Members will note that the Port of Tilbury has expressed concerns that the proposals will impact on the Asda roundabout junction and that the TA does not fully assess the impact of the development on this junction. This roundabout junction and the A1089 Dock Road and St. Andrew's Road carriageways form part of the strategic road network and are therefore a HE asset. As the updated HE consultation response raises no objection, it must be concluded that the proposals would not harm the operation of this junction.

7.75 The Council's Highways Officer has also considered the content of the revised TA and considers that a contribution towards mitigation measures at the Marshfoot Road junction with the A1089 slip road is required. A number of detailed comments are offered by the Highways Officer referring to the internal highways layout. However, as layout is a reserved matter it is not considered that the queries raised would stop the local planning authority considering the application as submitted. Similarly as the matter of layout is reserved for future approval, vehicle parking on the site would be considered at a later stage, if outline planning permission were to be granted.

7.76 Member of the Committee will note that a number of objections from residents refer to the matter of access and potential traffic congestion. Similar objections were raised to the 2015 application and the matter was assessed by the Planning Inspector as follows:

“Residential access would be from Churchill Road. Residents on this estate were concerned about the impact of the additional traffic, including at the roundabout junction with the Dock Road, especially at peak times. Whilst I can appreciate that traffic flows would increase there is no evidence that this would lead to dangerous conditions either along Churchill Road or at the roundabout. I appreciate that the Dock Road can become congested especially at peak periods and when there are problems on the A13. However, this is not unusual in an urban area and the TA indicates that the proportional increase in traffic flows would be relatively small.

I understand there have been some accidents and “near misses” along Churchill Road but the recorded history does not show this residential street to be of particular risk in this respect. The council as Highway Authority has not objected to the proposals on the grounds of highway safety or junction capacity. Highways England was also consulted but concluded there would be no harm to the strategic highway network. In the circumstances I do not consider that there would be unacceptable harm in respect of this matter.”

7.77 As the planning policy context has not significantly changed since the appeal decision, it is concluded that there are no reasons on highways grounds to object to his application.

7.78 III. ECOLOGICAL CONSIDERATIONS:

The site does not form part of any statutory site of designated ecological interest. The nearest such statutory designation to the site being the Globe Pit SSSI, designated for its geological interest and located some 650m to the north-west of the site. The north-eastern corner of the application site is located a short distance to the west of the Little Thurrock Reedbeds Local Wildlife Site (LWS), designated on a non-statutory basis for its reedbed habitat. However, land within the site close to the LWS would be retained in its existing open state and would not be developed. Consequently, there would be no immediate impact on the LWS. The site also forms part of the larger Little Thurrock Marshes 'Potential LWS', included as an appendix to the Thurrock Greengrid Strategy. This potential LWS

designation was based on the status of the site as remnant grazing marsh. However, this potential non-statutory designation has not been confirmed.

7.79 Objections to the application have been received from Buglife, Essex Field Club and Cambridgeshire & Essex Butterfly Conservation on the grounds of impact on ecological interests and biodiversity. Although comments from the Council's landscape and ecology advisor are awaited, in responding to the 2015 application the Advisor considered that the general principles set out within the Ecological Mitigation Strategy were appropriate for the site. Proposals for habitat mitigation and enhancement were also considered to be broadly acceptable.

7.80 An updated Ecological Mitigation Strategy and Habitat Enhancement Plan accompanies the current application which provides mitigation measures for protected species on the site, mitigation for loss of habitats and additional enhancements. Planning conditions could be used to secure the proposed mitigation measures and consequently there are no objections to the proposals on ecological grounds.

7.81 IV. NOISE AND AIR QUALITY:

There are no air quality issues arising from the proposed development, the closest Air Quality Management Areas being located to the west within Grays and east at Tilbury. A Noise Assessment accompanies the application and concludes that acceptable noise levels for new residents can be achieved with the use of standard thermal double glazing and background ventilation provided by standard non acoustic trickle ventilators.

7.82 V. FLOOD RISK & SITE DRAINAGE:

The site, along with surrounding areas in all directions, is located in the high probability flood risk area (Zone 3a). The Tilbury Flood Storage Area (FSA), which is designated as a functional floodplain with the highest flood risk (Zone 3b), is located to the east of the site on the opposite side of the A1089. The Tilbury FSA is separated from surrounding areas within Zone 3a by flood defences. Furthermore, the site and surrounding areas benefit from tidal defences on the banks of the River Thames. These tidal defences protect the site and surrounding land to a 1 in 1,000 year flood event standard. There are also 'main rivers', as defined by the Environment Agency (EA) close to the application site comprising the Chadwell New Cross Sewer which passes through the northern part of the site, the East Tilbury Dock sewer to the south and Chadwell Cross Sewer to the east.

7.83 Table 2 of PPG (Paragraph: 066 Reference ID: 7-066-20140306) comprises a 'Flood Risk Vulnerability Classification' for different types of development which, in combination with the flood zone classification, determines whether development is appropriate, should not be permitted or should be subject to the Exception Test. The proposed residential development comprises 'more vulnerable' development with reference to Table 2, whilst the proposed commercial floorspace is defined as 'less vulnerable'. Table 3 of PPG comprises a 'Flood Risk Vulnerability and Flood Zone Compatibility' table which defines the proposed 'less vulnerable' commercial

development as appropriate in Flood Zone 3a. However, the 'more vulnerable' residential development should be subject to an Exception Test. In addition to the Exception Test, the development proposals are also subject to the requirements of the Sequential Test which aims to steer new development to areas with the lowest risk of flooding.

7.84 Sequential / Exception Test

The Thurrock Strategic Flood Risk Assessment (SFRA) has applied the Sequential and Exception tests to the Borough's broad regeneration and growth areas, including the Grays and Tilbury urban areas. However, this is a 'windfall' site and PPG advises for individual planning applications that 'the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed'. For individual applications like this a pragmatic approach needs to be taken to Sequential Testing as all of the Tilbury broad regeneration area (to the south) and land surrounding the site to the north, east and west, as the catchment area, is also located within in the high risk flood zone. It is considered that there are no alternative available sites identified in the Development Plan within this catchment area that could accommodate the proposed development in a lower flood zone. For these reasons the proposal is considered to pass the Sequential Test.

7.85 For the 'Exception Test' to be passed, the proposed development needs to provide 'wider sustainability benefits to the community that outweigh flood risk', and demonstrate that the development will be 'safe for its lifetime'. In addition to the reasons stated in the 'Sequential Test' assessment (which also apply here) and based on the site's location, the development is considered to provide 'wider sustainability benefits to the community that outweigh flood risk'. Paragraph 8 of the NPPF sets out three dimensions to sustainable development, namely economic, social and environmental. The NPPF definition of the economic role includes reference to "*building a strong, responsive and competitive economy ... ensuring sufficient land is available to support growth*". The definition of the social role of sustainable development includes reference to "*providing the supply of housing required to meet the needs of present and future generations*". Judged against these definitions of sustainable development, the proposals are considered to pass the first limb of the Exception Test (i.e. there are wider sustainability benefit which outweigh flood risk).

7.86 The FRA and associated addendum demonstrates that the development will be 'safe for its lifetime'. The proposed development will not result in a significant increase in flood risk elsewhere. Flood storage compensation, maintenance of the storage area, finished floor levels, resistance and resilience measures and safe access and egress have all been designed to incorporate climate change allowances. Safe refuge will be provided above the 1 in 1000-year plus climate change breach level as requested by the EA

7.87 Detailed Flood Risk Mitigation Measures

The existing topography of the site and surrounding areas is generally flat and low lying with levels ranging between +1.1m AOD on the north-western part of the site reducing to -0.5m AOD adjacent to the A1089. Levels at the bottom of the Chadwell New Cross Sewer at the site's north-west corner are -1.8m AOD. In order to address potential flood risk issues by placing the proposed development above the modelled flood event the proposals include a raising of ground levels across the site to +1.5m AOD in order to create a development platform. In addition, surface water attenuation storage would be provided on-site through the formation of a box culvert in the north-western corner and an attenuation basin with a storage capacity of c.29,000 cu.m. adjacent to the eastern boundary. Levels would be reduced to form this basin, though it is unclear whether a net importation of material is required to achieve the formation of the development platform.

- 7.88 Subject to relevant planning conditions, there are no flood risk or drainage objections to the application.

8.0 CONCLUSIONS AND REASONS FOR RECOMMENDATION

- 8.1 The principle issue for consideration in this case is the assessment of the proposals against planning policies for the GB and whether there are very special circumstances which clearly outweigh harm such that a departure from normal policy can be justified. The proposals are 'inappropriate development' in the GB would lead to the loss of openness and would cause some harm to the purposes of the Green Belt. Substantial weight should be attached to this harm in the balance of considerations. Although the current proposals would be relatively less harmful to the GB when compared to the 2015 scheme, harm would still result which attracts substantial weight. Although significant weight can be given to some of the benefits of the proposals, the identified harm must be clearly or decisively outweighed for vsc to exist. The principal GB objection therefore remains, and in-line, with the findings of the Planning Inspector it is concluded that harm outweighs benefit.
- 8.2 Subject to potential planning obligations and conditions there are no objections to the proposals with regard to highways issues, impact on ecology, noise or flood risk. However, the GB issues remain the primary issue of paramount importance in the consideration of this case. Consequently it is recommended that planning permission is refused.

9.0 RECOMMENDATION

- 9.1 The Committee is recommended to refuse planning permission for the following reason:
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 (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 to purposes a), b) and c) of the Green Belt, as set out 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 (2015).

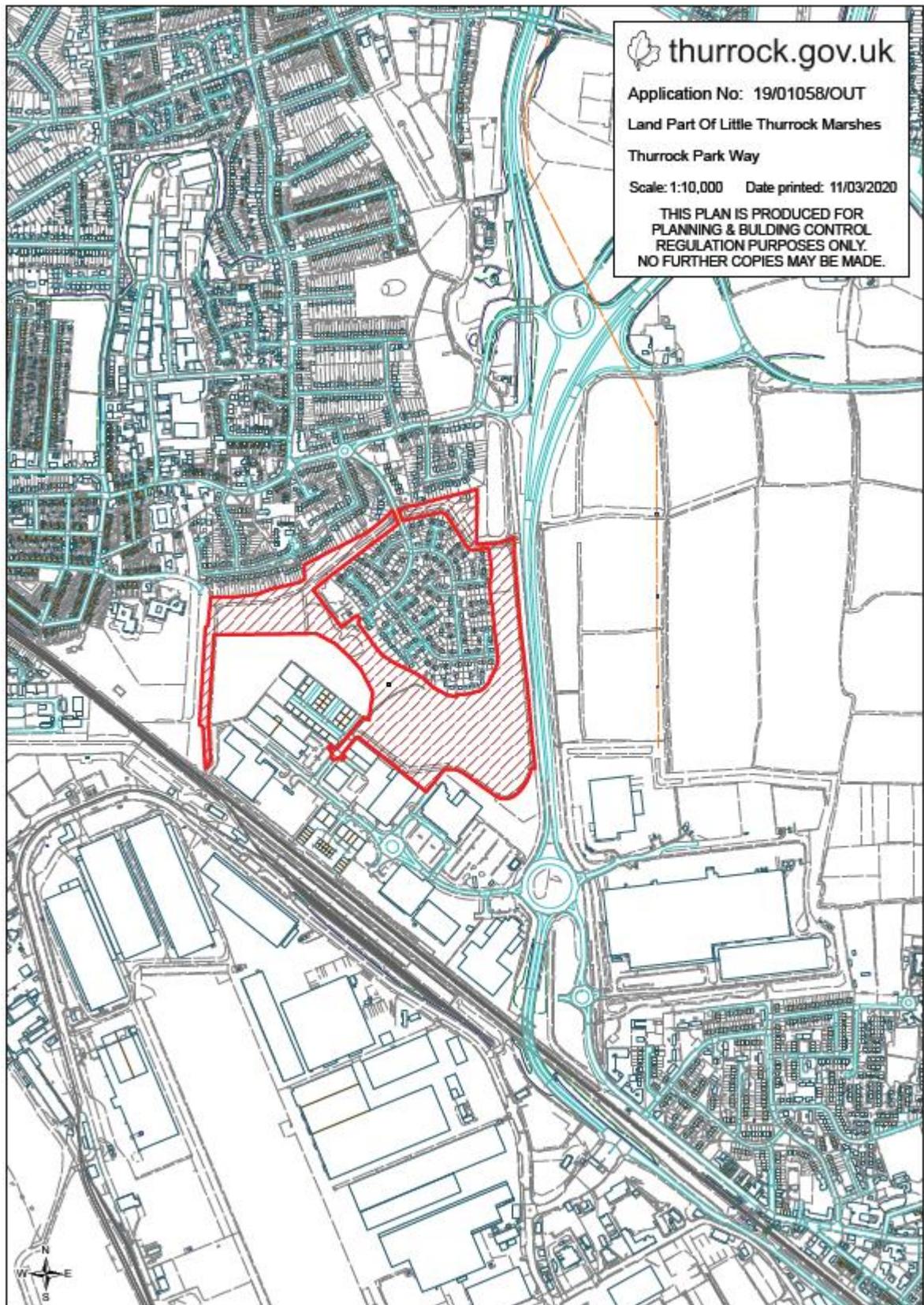
Positive and Proactive Statement

The local planning authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and 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 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:

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Planning Committee: 8 June 2020	Application Reference: 19/01058/FUL
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Reference: 19/01058/OUT	Site: Land part of Little Thurrock Marshes Thurrock Park Way Tilbury
Ward: Tilbury Riverside and Thurrock Park	Proposal: Application for outline planning permission with some matters reserved (appearance, landscaping, layout and scale): Proposed construction of up to 161 new dwellings (C3) with vehicular access from Churchill Road; construction of 7,650 sq.m (GEA) of flexible employment floorspace (Use Class B1c / B2 / B8) with vehicular access from Thurrock Park Way; provision of open space including landscaping and drainage measures; new pedestrian / cycle links; and associated parking and access.

Plan Number(s):		
Reference	Name	Received
110D	Master Plan / Site Plan	07.11.19
111A	Site Location Plan	10.07.19
112A	Master Plan / Site Plan	07.11.19
113	Master Plan / Site Plan: Building Parameters: Indicative Heights	10.07.19
114E	Master Plan / Site Plan	07.11.19
A232-LA04A	Landscape Strategy Plan	10.07.19
CC1442-CAM-22-00-DR- C-90-1103 Rev. P01	Flood Compensation Storage	17.09.19
CC1442-130 Rev. P3	Access Roads Layout Overall Plan	07.11.19
CC1442-131 Rev. P3	Access Roads Layout Sheet 1 of 6	07.11.19
CC1442-132 Rev. P3	Access Roads Layout Sheet 2 of 6	07.11.19
CC1442-133 Rev. P3	Access Roads Layout Sheet 3 of 6	07.11.19
CC1442-134 Rev. P3	Access Roads Layout Sheet 4 of 6	07.11.19
CC1442-135 Rev. P3	Access Roads Layout Sheet 5 of 6	07.11.19
CC1442-136 Rev. P3	Access Roads Layout Sheet 6 of 6	07.11.19
CC1442-141 Rev. P3	Access Roads Vehicle Tracking Sheet 1 of 6	07.11.19
CC1442-142 Rev. P3	Access Roads Vehicle Tracking Sheet 2 of 6	07.11.19
CC1442-143 Rev. P3	Access Roads Vehicle Tracking Sheet 3 of 6	07.11.19
CC1442-144 Rev. P3	Access Roads Vehicle Tracking Sheet 4 of 6	07.11.19
CC1442-145 Rev. P3	Access Roads Vehicle Tracking Sheet 5 of 6	07.11.19
CC1442-146 Rev. P3	Access Roads Vehicle Tracking Sheet 6 of 6	07.11.19

- Archaeological desk based assessment;
- Breeding bird survey report;
- Commercial market report;
- Design and access statement;
- Energy and sustainability statement;
- Environmental noise assessment;
- Essex recorders datasearch report;
- Flood risk assessment;
- Great Crested Newt surveys;
- Landscape and visual impact appraisal;
- Phase 1 habitat assessment;
- Planning statement;
- Reptile survey report;
- Statement of consultation;
- Travel plan;
- Water Vole survey;
- Botanical survey;
- Ecological mitigation strategy and habitat enhancement plan;
- Invertebrate surveys and assessments;
- Surface and foul drainage strategy; and
- Transport assessment

Applicant:
Nordor Holdings Ltd

Validated:
11 July 2019
Date of expiry:
30 April 2020 (Extension of time agreed)

Recommendation: Refuse planning permission

1.0 BACKGROUND

- 1.1 At the meeting of the Planning Committee held on 19 March 2020 Members considered a report assessing the above proposal. The report recommended that planning permission be refused because:

The site is located in the Metropolitan Green Belt (GB) and the benefits of the scheme do not clearly outweigh the harm to the GB and thus constitute the very special circumstances to justify a departure from local and national planning policies.

- 1.2 A copy of the report presented to the March Committee meeting is attached.
- 1.3 At the March Committee meeting Members were minded to resolve to grant planning permission for the proposed development based upon the following reasons:
1. *the opening of Tilbury 2 port expansion would create new jobs which would attract out of Borough workers that would result in a demand in local housing that the proposal could provide for;*
 2. *there was no flooding issue and that the Environment Agency had funds for flood defence in Tilbury;*
 3. *Thurrock needed social housing;*
 4. *the applicant had worked to address previous objections and the proposals included more open space; and*
 5. *connectivity improvements within the proposals.*
- 1.4 In accordance with Part 3(b) – Planning Committee Procedures and in particular Paragraphs 7.2 and 7.3 of the Constitution, the Committee agreed that the item should be deferred to enable a further report outlining the implications of making a decision contrary to the Planning Officer’s recommendation. This report also assesses the reasons formulated by the Committee.

2.0 FACTUAL UPDATES

- 2.1 Since the March Committee meeting the applicant has confirmed that the scheme will provide policy compliant (35%) affordable housing and that the proposals will also comply with the unit mix in terms of affordable rent / social rent as required by the Council’s Housing Officer. In addition, the applicant has confirmed that the financial contributions sought by the Council’s Education Officer (£1,228,646.43) and by NHS England (£63,549) in order to mitigate the impacts of the proposed development are acceptable. The amount of financial contributions required to mitigate the impact of

the development on the surrounding highways network have yet to be finalised. However, there is currently no reason to suggest that the applicant would object to reasonable and necessary contributions.

3.0 CONSULTATION AND REPRESENTATIONS

3.1 Since the previous Committee report was published additional representations have been received as follows:

- Confirmation of objection from Councillor Okunade (Ward Councillor);
- Two letters objecting to the proposals and raising concerns regarding loss of GB, flood risk, harm to ecology, ground conditions, access and traffic generation; and
- Three letters expressing disappointment at the resolution of the Planning Committee to grant planning permission, contrary to recommendation and the recent appeal decision.

4.0 PLANNING ASSESSMENT & IMPLICATIONS

4.1 As required by the Constitution, an outline of the implications of making a decision contrary to the Officer recommendations is provided below. The recommended reason for refusal from the March Committee report is set out in italics below, with the implications considered subsequently.

4.2 REASON 1: PRINCIPLE OF DEVELOPMENT AND HARM TO THE GB

- 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 (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 to purposes a), b) and c) of the Green Belt, as set out 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 (2015).*

4.3 Implications of approving the application contrary to recommendation

As noted in the report to the March Committee, the proposals do not accord with relevant policies in the Core Strategy and NPPF. Consequently, the application has been advertised as a departure from the development plan. If the Committee resolve to grant planning permission the provisions of the Town and Country Planning (Consultation) (England) Direction 2009 would engage. In particular, the description of the development falls within the ambit of paragraph 4 of the Direction. Therefore, prior to the local planning authority (LPA) issuing any formal decision on the application, the Secretary of State (SOS) for Housing, Communities and Local Government (Planning Casework Unit) would be consulted pursuant to paragraph 9 of the Direction. In consulting with the SOS the LPA is required to provide copies of the following:

- a copy of the application, drawings and supporting information;
- a copy of statutory notices;
- copies of representations received;
- a copy of the Officer's report: and
- unless included in the Officer's report, a statement of the material considerations which the LPA consider indicate the application should be determined otherwise than in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004.

4.4 As expressed in National Planning Practice Guidance (NPPG) the purpose of the Direction is to give the SOS an opportunity to consider using the power to call-in an application under section 77 of the Town and Country Planning Act 1990. If a planning application is called-in, the decision on whether or not to grant planning permission will be taken by the SOS, usually after a public inquiry, rather than the LPA. NPPG goes on to state that in considering whether to call-in a planning application, the SOS is generally concerned with whether the application involves planning issues of more than local importance that warrant the decision being made by him rather than the LPA. However each case will be considered on its merits. The call-in policy was updated on 26 October 2012 in a written ministerial statement. This Statement, inter-alia, notes that:

“The SOS will, in general, only consider the use of his call-in powers if planning issues of more than local importance are involved. Such cases may include, for example, those which in his opinion:

- *may conflict with national policies on important matters;*
- *may have significant long-term impact on economic growth and meeting housing needs across a wider area than a single local authority;*
- *could have significant effects beyond their immediate locality;*
- *give rise to substantial cross-boundary or national controversy;*
- *raise significant architectural and urban design issues; or*
- *may involve the interests of national security or of foreign Governments.*

However, each case will continue to be considered on its individual merits”.

- 4.5 Officers consider that the proposals conflict with national policies on important matters (i.e. GB). Furthermore, as any resolution to grant planning permission would be at odds with the findings of the Planning Inspector appointed by the SOS to consider the earlier appeal for a similar proposal, it is considered that there is a higher likelihood of the proposal being called-in by the Secretary of State. Members are also reminded that the planning merits of the earlier application were considered at a public inquiry, with the evidence of the applicant and LPA tested via the cross-examination of witnesses.
- 4.6 If the application were to be called-in by the SOS it is likely that a public inquiry would be held where the LPA would be represented. As Officers have recommended the application for refusal, there may be a practical issue in allocating staff to participate in the Inquiry. This is because some staff members are also chartered members of the Royal Town Planning Institute and the Institute’s Code of Professional Conduct (para. 12) states that:
- “Members must not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions ...”*
- 4.7 For information, when a resolution to grant planning permission contrary to recommendation for residential development at the Aveley Sports & Social Club site in Aveley was called-in by the SOS in 2014, the LPA were represented by the then Chair of the Planning Committee.
- 4.8 A further practical implication of any resolution to grant planning permission is the potential for the local planning authority to be able to resist similar proposals involving inappropriate development in the GB. Paragraph 47 of the NPPF states that:

“Planning law requires that applications for planning permission are determined in accordance with the development plan, unless material considerations indicate otherwise.”

- 4.9 The “*planning law*” referred to in paragraph 47 comprises s70 (2) of the Town and Country Planning Act 1990 and s38 (6) of the Planning and Compulsory Purchase Act 2004, which are reproduced below for ease of reference:

s70 (2) Town and Country Planning Act 1990 -

In dealing with an application for planning permission or permission in principle the authority shall have regard

(a) the provisions of the development plan, so far as material to the application

S38 (6) Planning and Compulsory Purchase Act 2004 -

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise

- 4.10 Although each planning application must be judged on its individual merits, it is the clear opinion of Officers that there are no material considerations (i.e. no considerations which would amount to very special circumstances (VSC)) which would warrant a decision being taken otherwise than in accordance with the development plan.

4.11 Assessment of the Committee’s reasons for being minded to grant permission

The following list of reasons were raised by Members as reasons to approve the application and these are considered in more detail below to assess whether these comprise the VSC necessary for approving inappropriate development in the GB. The reasons are:

1. *the opening of Tilbury 2 port expansion would create new jobs which would attract out of Borough workers that would result in a demand in local housing that the proposal could provide for;*
2. *there is no flooding issue and that the Environment Agency has funds for flood defence in Tilbury;*
3. *Thurrock needs social housing;*
4. *the applicant has worked to address previous objections and the proposals included more open space; and*
5. *connectivity improvements within the proposals.*

- 4.12 *Reason 1: The opening of Tilbury 2 port expansion would create new jobs which would attract out of Borough workers that would result in a demand in local housing that the proposal could provide for.*

Assessment

The Tilbury2 expansion, promoted by the Port of Tilbury London Limited, was subject to an application for a Development Consent Order (DCO) to the SOS, as the proposals comprised a 'Nationally Significant Infrastructure Project'. The DCO was granted by the SOS in February 2019 and construction works commenced in April 2019. It is understood that the port expansion was expected to be partly operational in April 2020 and fully operational later in 2020. In summary, the DCO permits development comprising:

- the construction of a new roll-on / roll-off port (Ro-Ro) terminal for containers and trailers;
- the construction of a new Construction Materials and Aggregates Terminal (CMAT);
- a new jetty and extension to existing jetty; and
- the formation of a new rail and road corridor to link to the Ro-Ro and CMAT

- 4.13 The 'Outline Business Case' put forward by the Port of Tilbury to support their application, and considered by the SOS refers to the following employment figures (based on full-time equivalents (FTE)):

Existing Port of Tilbury (Tilbury1) jobs c.8,600 (year 2017)

Tilbury1 jobs at full capacity on existing site c.10,800

Tilbury2 short-term construction phase jobs c.270 (maximum)

Tilbury2 operational phase jobs c.500

- 4.14 Therefore, when fully operational the Tilbury2 port expansion is expected to generate around 500 new jobs. Although this is a large number of jobs, it is considerably less than the 4-5,000 jobs which were referred to at Planning Committee.
- 4.15 Prior to the decision to approve the DCO, Officers negotiated a s106 agreement with the Port of Tilbury which includes obligations on the Port to operate a Skills & Employment Strategy, aimed partly at maximising local employment opportunities. The agreed Strategy includes a breakdown of the home addresses of the c.650 employees directly employed by the Port in 2017 which records that 57% of these direct employees lived within the Borough. If this percentage is applied to the c.500 jobs created by Tilbury2 then c.285 new employees could be expected to live within

the Borough. The Strategy does not contain any further breakdown for existing employees residing within Tilbury. However, the Strategy also records that the employment rate (57.7%) within Tilbury in 2016 was below the Thurrock (65.9%) and national (62.1%) rates. The corollary of the employment rates above is that rates of unemployment in Tilbury are higher than the Borough-wide and national rates. The Strategy therefore aims to maximise opportunities for existing residents of Tilbury who are unemployed to access the new jobs created at Tilbury2.

- 4.16 The conclusion of the above analysis is that of the c.500 new jobs created by Tilbury2 c.285 could be filled by residents of the Borough. Furthermore the Tilbury2 Skills & Employment Strategy recognises and aims to address the higher rates of unemployment amongst existing residents of Tilbury. Consequently it is considered that there is no convincing link between job creation at Tilbury2 and the need for new housing in Tilbury which would clearly outweigh the harm to the Green Belt.
- 4.17 Paragraphs 7.61 to 7.63 of the report to the March Committee considered the economic benefits of the proposals with reference to the proposed commercial floorspace on-site. In combination with any potential links between the proposed residential development Tilbury2, it is still concluded that only limited positive weight should be given to this factor.
- 4.18 *Reason 2: There is no flooding issue and that the Environment Agency has funds for flood defence in Tilbury*

Assessment

The flood risk implications of the development are considered at paragraphs 7.82 to 7.88 of the March Committee report. Subject to planning conditions, there are no objections to the application from the Environment Agency and the Council's Flood Risk Manager. However, the lack of objection from these consultees should not be attributed positive weight in the balance of GB considerations. As with any planning application where flood risk is a material planning consideration, the need to ensure that the development is safe from the risk of flooding and does not increase flood risk elsewhere are necessary requirements of planning policies.

- 4.19 The applicant considers that flood alleviation measures within the proposals should be considered as a benefit and paragraph 7.64 of the report to the March Committee notes that additional flood storage capacity of c.1,000 cu.m would be provided above the requirements of the development. Limited positive weight in the balance of GB considerations can therefore be attributed to this factor.
- 4.20 At the March meeting reference was made to works to be undertaken by the Environment Agency (EA) to flood defences at Tilbury. The Local Planning Authority

was approached by the EA in October 2019 to confirm whether the proposed replacement of the 3 sets of lock gates and associated machine houses located at the main lock entrance to the port required planning permission. These lock gates are separate from the EA flood defence gate located on the River Thames side of the lock gates, but nevertheless the lock gates are of critical importance to the operations of the Port of Tilbury. The Local Planning Authority subsequently confirmed that replacement of the lock gates and machine houses would be permitted development and would not require planning permission. It is important to note that this investment by the EA is for replacement of existing infrastructure and does not comprise new flood defence works. This factor is therefore considered to be immaterial to the consideration of the current planning application.

4.21 *Reason 3: Thurrock needs social housing*

Assessment

The provision of new market and affordable housing was cited by the applicant as a factor contributing towards VSC and the consideration of this issue is dealt with at paragraphs 7.34 to 7.41 of the March Committee report. The report concluded that, in line with the Planning Inspector's report, very significant weight should be attached to the matter of both market and affordable housing. Nevertheless, this factor will need to combine with other benefits of the scheme to comprise VSC.

4.22 It is notable that the appeal proposal (total up to 280 dwellings) would have delivered up to 98 affordable dwellings, whereas the current proposal (total up to 161 dwellings) would only deliver up to 56 affordable dwellings. Although this factor still attracts very significant weight, compared to the previous scheme dismissed at appeal the total of affordable housing is actually reduced.

4.23 *4. the applicant has worked to address previous objections and the proposals included more open space*

Assessment

The report presented to the Committee in March provides a comparison of the appeal scheme and the current proposal with reference to impact on the openness of the GB and its purposes. The previous report makes clear that the current scheme involves less development and would retain more open land located on the eastern and south-eastern part of the site. Nevertheless, harm by way of inappropriate development, harm to openness and harm to a number of the purposes of the GB would occur. In accordance with paragraph 144 of the NPPF, this harm must be afforded "substantial weight". The in-principle GB objections to the proposals remain, despite the reduction in the extent of harm.

4.24 5. Connectivity improvements within the proposals

Assessment

This factor is promoted by the applicant as a benefit of the proposals and is considered at paragraphs 7.42 to 7.49 of the March Committee report. Connectivity improvements were considered by the Planning Inspector and were considered to be a benefit of moderate / significant weight. Nevertheless, this benefit in combination with the other benefits of the proposals did not clearly outweigh the harm to the GB and thereby comprise the VSC necessary to justify a departure from planning policies.

4.25 Consequently this issue has been fully considered and would not comprise a reason to grant planning permission in this case.

4.26 Summary

Members of the Planning Committee are reminded of the content of NPPF paragraph 144 which states:

“Very Special Circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly (emphasis added) outweighed by other considerations.”

4.27 Members are also of reminded of the content of paragraph 7.70 of the March Committee report which referred to a very recent appeal case in the West Midlands GB. The Inspector for that appeal addressed the Green Belt balancing exercise and concluded:

“When drawing this together, it is my judgement that the other considerations advanced by the appellants would result in a very finely balanced decision. However, for Very Special Circumstances to exist, the other considerations would need to clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness, openness and purposes of the Green Belt ... In other words, for the appeal to succeed, the overall balance would have to favour the appellants’ case, not just marginally, but decisively.”

4.28 Therefore, and although every case falls to be determined on its own merits, the benefits of the proposals must clearly or decisively outweigh the harm for VSC to exist. If the balancing exercise is finely balanced, then VSC will not exist. For this application it is considered that the benefits of the proposals do not clearly outweigh the GB harm and as a consequence VSC do not apply.

4.29 The five reasons put forward by Members for approving this development have been carefully considered but do not clearly outweigh the identified harm to the GB. Furthermore the approach taken in the above mentioned appeal is relevant in considering VSC and these do not clearly or decisively outweigh the harm to the GB. Therefore the reason for refusal has not been addressed for the development to be considered acceptable.

5.0 LEGAL IMPLICATIONS OF DECISION

5.1 Members are reminded that in making their decision, they are required to comply with the general law, national and local Policies and the Council's Constitution. Only material considerations can be taken into account and reasons given must be cogent, clear and convincing. In addition, considerations and reasons must be evidence based.

5.2 It is important to note that deviation from the above would potentially be unlawful and challengeable in the courts.

5.3 If Members are mindful of departing from the contents and recommendations of the officer reports, they are required strictly to adhere to the legal rules and principles of decision making.

5.4 As a matter of law, under s. 38(6) Town and Country Planning Act, planning applications should be determined in accordance with the development plan, unless there are material considerations which indicate otherwise.

5.5 The policies contained in the "Core Strategy and Policies for the Management of Development Plan Document" (as amended) in 2015 are current and carry the legal status of the development plan.

5.6 Accordingly, to permit a departure from the Core Strategy, considerations are required to be 'material'. This is an imperative and a legal requirement.

5.7 This application is contrary to the development plan, and a grant of planning permission in this case would be referred to the Secretary of State. However, referral to the Secretary of State is not a material consideration and cannot legally be taken into account or support a reason to grant planning permission.

5.8 In addition, unless underpinned by clear and cogent evidence, opinions and anecdotes are not material considerations and cannot legally be taken into account when making a decision or to support a reason. Further, reasons supporting a motion to approve the application against officer recommendation are required to be material

planning considerations, with cogent supporting evidence. Duplication of a matter already taken into account in the officer reports should not be offered as a reason to reject officer conclusions unless the detailed nature and meaning of the disagreement is distilled into a precise and unequivocal material planning consideration, supported by cogent evidence, and which importantly, avoids involving a point of law. What this means in practice, is described in more detail further down.

5.9 The site is located within the Green Belt and decisions concerning Green Belt applications must be made strictly in accordance with:

1. Green Belt Policy and
2. Current Green Belt boundaries

This means speculation as to the outcome of a future Green Belt review as part of the Local Plan process cannot be taken into account when considering the planning application and/or could not be afforded weight.

5.10 In addition to being contrary to the development plan the development proposes inappropriate development in the Green Belt, which is 'by definition, harmful to the Green Belt' (NPPF paragraph 143).

As a matter of national policy the NPPF paragraph 144 states:

'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 resulting from the proposal is clearly outweighed by other considerations.'

This paragraph is required to be followed in its entirety.

5.11 Planning permission for development in the Green Belt should only be granted if the benefits are shown clearly to outweigh the potential harm to:

1. The Green Belt and
2. Any other harm resulting from the proposal

and the planning balance gives rise to very special circumstances.

- 5.12 A recent appeal case¹ clarifies the meaning of the term ‘clearly’ in paragraph 144 NPPF to mean ‘not just marginally, but decisively’.

Accordingly, very special circumstances will not exist unless the benefits are shown to outweigh the harm clearly and decisively.

Note: that the NPPF unequivocally requires the scales to be tipped in favour of harm unless outweighed clearly (i.e. decisively) by benefits.

- 5.13 If the outcome of this planning balance is not clear (i.e. decisive), then, according to NPPF 144, very special circumstances will not exist, and planning permission should be refused.
- 5.14 The benefits of this proposal have been evaluated in this report and the March report. Account has been taken of changes to the scheme and further information provided by the applicant as well as each of the reasons given by Members in support of a motion to grant planning permission in March. All the benefits have been weighed and put on the planning scales to ascertain whether they outweigh the harm to the Green Belt by reason of appropriateness and any other harm resulting from the proposal.
- 5.15 NPPF paragraph 144 expressly requires harm to the Green Belt to be given substantial weight. The summary in the March officer report showed that in itself, the harm to the Green Belt clearly outweighs the benefits in this case, and planning permission should be refused.
- 5.16 With regard to 5-year housing supply, this factor has already been taken into account in the report and would not provide an extra consideration to add weight to benefits. It is pertinent for Members to note that, although the Council does not have a 5-year housing land supply, this does not of itself override the policy presumption against the grant of permission for inappropriate development in the Green Belt. In particular, paragraph 11 of the NPPF specifically indicates that a shortfall in the 5-year housing land does not engage the “tilted balance” if the site is in the Green Belt and the development is inappropriate, as in this case. In any event, this consideration has already been given significant weight.

Summary of Legal Advice

- 5.17 From a legal (as well as a planning perspective): In addition to being contrary to the development plan, the application also proposes inappropriate development in the

¹ APP/Q4625/W/193237026 Oak Farm, Hampton Lane, Catherine De Barnes Solihull B92 0jB decision date: 14th February 2020 (Continuing Care Retirement Community under Use Class C2 with wellness centre in Green Belt)

Green Belt. The outcome of the planning balance of all the benefits and all the harms weighs clearly, heavily and decisively to harm, indicating the proposals are positively harmful to the Green Belt. Accordingly, no very special circumstances exist in this case and planning permission should be refused.

5.18 Failure to follow the legal process would be unlawful and could result in a High Court Challenge.

6.0 OVERALL CONCLUSIONS

As required by the Constitution the implications of the Committee approving this application, which is a departure from national and local planning policies, are set out above. This report goes on to analyse the 5 reasons for approving the application contrary to recommendation provided by the Committee. These reasons to a large degree reflect the benefits of the scheme promoted by the applicant and are also those matters which were considered by a Planning Inspector in 2018. It is not considered that these reasons clearly outweigh the identified harm to the Green Belt and therefore the reason for refusal has not been addressed sufficiently for the development to be considered acceptable. The reason for refusal therefore remains relevant.

7.0 RECOMMENDATION

The Committee is recommended to refuse planning permission for the following reason:

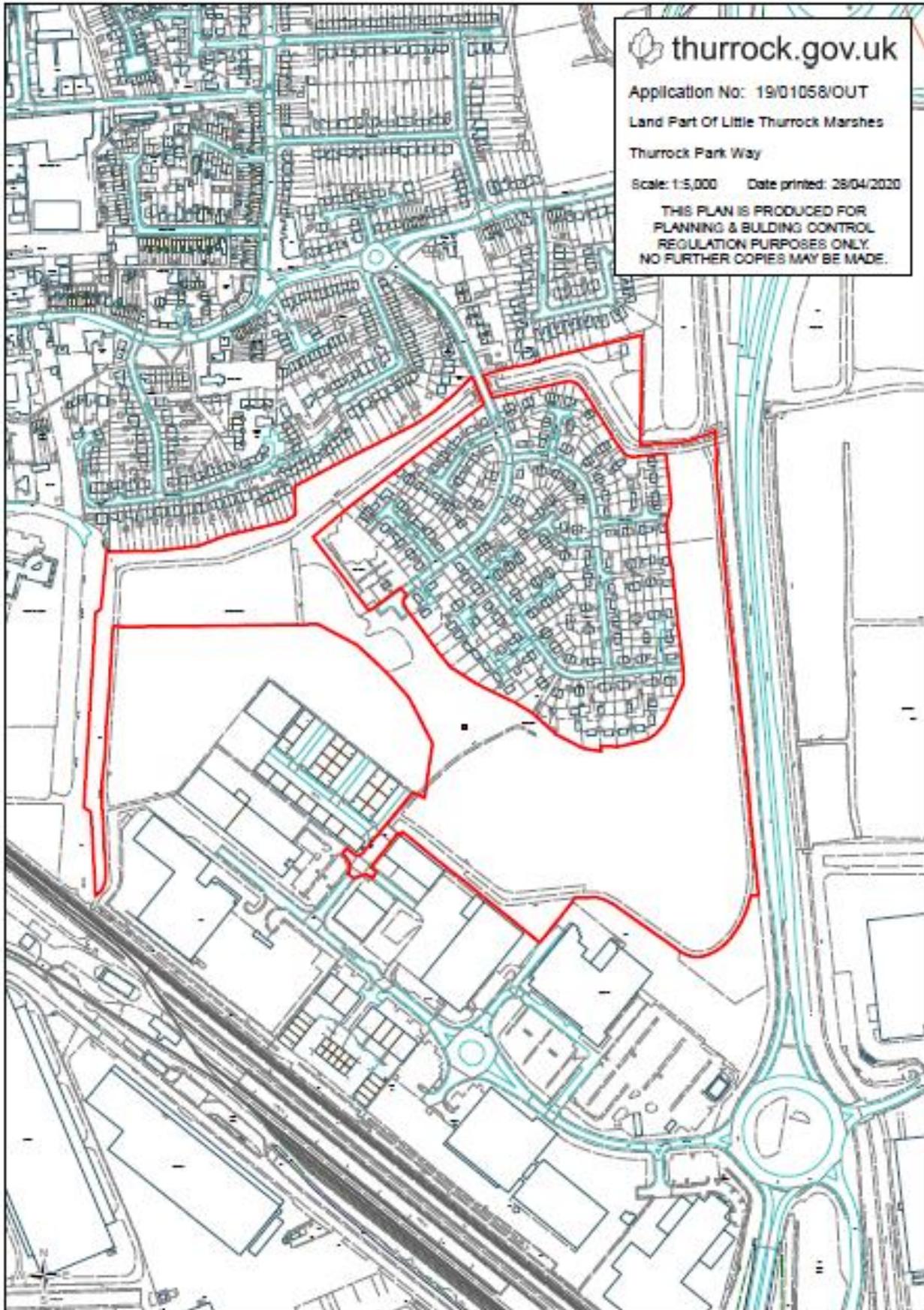
1. The application site is located within the Green Belt, as identified on the Policies Map accompanying the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (2015). National and local planning policies for the Green Belt set out within the NPPF 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 to purposes a), b) and c) of the Green Belt, as set out 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 (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 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 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: <http://regs.thurrock.gov.uk/online-applications>



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<p>Reference: 19/01394/FUL</p>	<p>Site: Little Malgraves Farm Lower Dunton Road Bulphan Essex RM14 3TD</p>
<p>Ward: Orsett</p>	<p>Proposal: Detailed planning permission for the creation of a new hospice (Use Class C2) GIA 1,407sq.m (15,145sq.ft); 80 new homes (Use Class C3); the creation of publicly accessible open space; flood attenuation area, and vehicular access onto Lower Dunton Road - amendments through revised house types for 57 dwellings.</p>

Plan Number(s):		
Reference	Name	Received
LP.01 A	Location Plan	12 September 2019
002 B	Site Location Plan	12 September 2019
003 C	Site Plan as Existing	12 September 2019
004 B	Block Plan: Satellite View	12 September 2019
005 C	Site Layout	12 September 2019
006 A	Topographic Survey	12 September 2019
007 A	Site History 1868	12 September 2019
008 A	Site History 1897	12 September 2019
009 A	Site History 1922	12 September 2019
010 A	Site History 1947	12 September 2019
011 A	Site History 1987	12 September 2019
012 A	Site History 2017	12 September 2019
013 A	Existing Built Form 2017	12 September 2019
014 A	Existing Site Uses 2017	12 September 2019
015 A	Existing Movement Route 2017	12 September 2019
016 A	Existing Orientation and Aspect 2017	12 September 2019
017 A	Existing Landform 2017	12 September 2019
018 A	Existing Surface Water 2017	12 September 2019
019 A	Existing Trees and Hedgerows 2017	12 September 2019
020 A	Existing Habitats 2017	12 September 2019

021 A	Concept Retained and New Structural Planting	12 September 2019
022 D	Concept Plan: Roads and Paths	12 September 2019
023 A	Concept Plan Surface Water Strategy	12 September 2019
024 F	Concept Plan Open Space	12 September 2019
027 D	Concept Plan Landscape Management	12 September 2019
107 J	Landscape Strategy	22 June 2020
6040 P3	Typical Adoptable Pavement Details	12 September 2019
6070 P4	Long Sections Sheet 1	12 September 2019
6071 P7	Long Sections Sheet 2	12 September 2019
6072 P5	Long Sections Sheet 3	12 September 2019
6074 P6	Long Sections Sheet 5	12 September 2019
6075 P5	Long Sections Sheet 6	12 September 2019
6076 P5	Long Sections Sheet 7	12 September 2019
6077 P6	Long Sections Sheet 8	12 September 2019
6078 P6	Long Sections Sheet 9	12 September 2019
6079 P4	Long Sections Sheet 10	12 September 2019
6090 P8	Site Access Section	12 September 2019
6091 P3	Proposed Mitigation Measures General Arrangement	12 September 2019
6092 P10	Site Access Section	12 September 2019
6093 P2	Proposed Mitigation Measures Layout	12 September 2019
6095 P8	External Works Layout	12 September 2019
6096 P5	Pavement Details Sheet 1	12 September 2019
6097 P7	Pavement Details Sheet 2	12 September 2019
6098 P2	Sign Details	12 September 2019
6100 P4	Access Existing & Proposed Contours Layout	12 September 2019
6101 P1	Mitigations Works Existing Contours Layout	12 September 2019
6105 P3	Large Refuse Tracking	12 September 2019
8002 P2	Proposed Drainage Layout	22 June 2020
8003 P2	Surface Water Catchment Plan	22 June 2020
8015 P1	Attenuation Pond Details	12 September 2019
8055 P2	Proposed Highway Levels Sheet 1	22 June 2020

8056 P2	Proposed Highway Levels Sheet 2	22 June 2020
8085 P2	On Site Visibility Splays	22 June 2020
8200 P2	Environmental Plan	22 June 2020
8300 P2	Boundary Treatments	22 June 2020
8504-43-04-200 C4	Materials Plan	3 July 2020
KN.01 A	Key Note Reference Guide	3 July 2020
GAR01.PE A	Double Garage Floor Plans and Elevations	12 September 2019
GAR02.PE B	Single Garage Floor Plans and Elevations	01 July 2020
SL01 D	Site Layout	03 June 2020
BDML.01 D	Boundary and Dwelling Material Layout	03 June 2020
BALM (6).E1 A	House Type Balmoral Elevations Sheet 1	26 June 2020
BALM (6).E2 A	House Type Balmoral Elevations Sheet 2	26 June 2020
BALM (6).P C	Proposed Plans	03 June 2020
CAMB-1.PE B	House Type Cambridge Floor Plans and Elevations Option 1 - Brick	26 June 2020
CAMB-2.PE B	House Type Cambridge Floor Plans and Elevations Option 1 - Render	26 June 2020
HARR (8).P A	Proposed Plans	03 June 2020
HARR-1 (8).E A	House Type Harrogate Elevations Option 1 - Brick	26 June 2020
HARR-2 (8).E1 A	House Type Harrogate Elevations Option 2 – Render Sheet 1	26 June 2020
HARR-2 (8).E2 A	House Type Harrogate Elevations Option 2 – Render Sheet 2	26 June 2020
HARR-SP (B).PE E	House Type Harrogate Special Floor Plans and Elevations	26 June 2020
HENL (6).E1 A	House Type Henley Elevations Sheet 1	26 June 2020
HENL (6).E2 A	House Type Henley Elevations Sheet 2	26 June 2020

HENL (6).P C	Proposed Plans	03 June 2020
LEAM.E1 A	House Type Leamington Elevations Sheet 1	26 June 2020
LEAM.E2 A	House Type Leamington Elevations Sheet 2	26 June 2020
LEAM.P A	Proposed Plans	03 June 2020
MARB.E1 A	House Type Marlborough Elevations Sheet 1	26 June 2020
MARB.E2 A	House Type Marlborough Elevations Sheet 2	26 June 2020
MARB.P B	Proposed Plans	03 June 2020
OXFILFE-1.PE C	House Type Oxford Lifestyle Floor Plans and Elevations Option 1 - Brick	26 June 2020
OXFILFE-2.PE B	House Type Oxford Lifestyle Floor Plans and Elevations Option 1 - Render	26 June 2020
OXFO.E1 A	House Type Oxford Elevations Sheet 1	26 June 2020
OXFO.E2 A	House Type Oxford Elevations Sheet 2	26 June 2020
OXFO.P A	Proposed Plans	03 June 2020
RICH (6).E1 A	House Type Richmond Elevations Sheet 1	26 June 2020
RICH (6).E2 A	House Type Richmond Elevations Sheet 2	26 June 2020
RICH (6).P C	Proposed Plans	03 June 2020
SHAFT.E B	House Type Shaftesbury Elevations	26 June 2020
SHAFT.P A	Proposed Plans	03 June 2020
SHAFT-SP.E B	House Type Shaftesbury Special Elevations	26 June 2020
SHAFT-SP.P A	Proposed Plans	03 June 2020
STR.PE B	House Type Stratford Floor Plans and Elevations	26 June 2020
WAR.E1 A	House Type Warwick Elevations Sheet 1	26 June 2020

WAR.E2 A	House Type Warwick Elevations Sheet 2	26 June 2020
WAR.P A	Proposed Plans	03 June 2020
WELW (7).E1 A	House Type Welwyn Elevations Sheet 1	26 June 2020
WELW (7).E2 A	House Type Welwyn Elevations Sheet 2	26 June 2020
WELW (7).P C	Proposed Plans	03 June 2020
SE01 F	Street Elevations 01	03 July 2020
SE02 F	Street Elevations 02	03 July 2020
0616/002 J	Hospice Proposed plans	12 September 2019
0616/003 E	Hospice Proposed Elevations	12 September 2019
0616/004 E	Hospice North West Elevation and Section	12 September 2019
0616/005 C	Hospice 3D Views	12 September 2019
0616/006 (B)	Hospice Materials Board	3 July 2020

The application is also accompanied by:

- Planning Statement
- Arboricultural Report and Tree Condition Survey
- Archaeological Evaluation
- Badger Survey
- Bat Inspection
- Biodiversity Mitigation, Enhancement and Management Plan
- Breeding Bird Survey
- Construction Environment Management Plan and Build Strategy Plan
- Design and Access Statement
- Dormouse Survey
- Ecological Surveys and Assessment
- Ecology Update
- Extended Phase 1 Habitat Survey
- Financial Viability Assessment
- Flood Risk Assessment
- Great Crested New Survey
- Hedgerow Survey
- Hospice Details
- Hospice Details and Maintenance Plan
- Hospice Soundproofing
- Invertebrate Assessment

- Landscape and Visual Impact Assessment
- Landscape Management Plan
- Reptile Survey
- Statement of Community Engagement
- Surface Water Drainage Details
- Surface Water Calculations
- Surface Water Drainage Technical Note
- Sustainability and Energy Statement
- Transport Assessment
- Travel Plan
- Winter Bird Survey

Applicant:

Redrow Homes

Validated:

12 September 2019

Date of expiry:

31 July 2020 (extension of time agreed)

1.0 BACKGROUND AND DESCRIPTION OF PROPOSAL

1.1 This application seeks full planning permission for the creation of a new hospice (Use Class C2) GIA 1,407sq.m (15,145sq.ft); 80 new homes (Use Class C3); the creation of publicly accessible open space; flood attenuation area, and vehicular access onto Lower Dunton Road. The application follows recent similar applications.

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

Site Area (Gross)	Residential site area approx. 7.8 hectares Hospice site area approx. 2.1 hectares Public Open Space site area approx. 6.2 hectares Total site area = 16.1 hectares			
No. of dwellings	Total 80 dwellings comprising: 14 three bedroom houses 59 four-bedroom houses 7 five-bedroom houses			
	House Type		Numbers	Bedrooms
	A	Balmoral	6	4
	B	Cambridge	4	4

	C	Harrogate	8	4
	D	Harrogate Special	4	4
	E	Henley	13	4
	F	Leamington	9	3
	G	Marlborough	7	5
	H	Oxford	3	4
	I	Oxford Life	3	3
	J	Richmond	8	4
	K	Shaftsbury	4	4
	L	Shaftsbury Special	1	4
	M	Stratford	2	4
	N	Warwick	2	3
	O	Welwyn	6	4
Floorspace	Hospice (Use Class C2) 1,407 sq.m. GIA 6 no. hospice bedrooms + 1 no. relative's bedroom			
Height	Houses: 2 storeys (up to 9.3m high) Hospice: 2 storeys (up to 9.7m high)			
Dwelling density	Approx. 10.3 dwellings per hectare (based on residential site area of approx. 7.8 hectares).			
Car Parking	Houses: total of 328 parking spaces which includes 2 spaces per dwelling (plus garages) and 20 additional visitor spaces. Hospice: 50 spaces, including 3 spaces for disabled users			

Residential Development

- 1.3 The proposed residential development would remain as a development for 80 dwellings, alongside the hospice, but would result in a revised housing mix compared to the previous scheme. The table below shows the differences in housing mix through each of the previous planning permissions:

Application	Total Units	Mix		
		3 bed	4 bed	5 bed
14/00990/FUL	50	5	20	25
17/01683/FUL	80	40	40	
18/01685/CV	80	40	40	
Current	80	14	59	7

- 1.4 The revised housing mix has introduced some larger house types for 4 and 5 bedroom dwellings. A modern take on the 'arts and crafts' design approach is proposed through this application. The proposed layout of the residential development is the same as previous applications in terms of road layout, open

space and landscaping. The proposed plots are in the roughly the same position but are subject to the revised house types and some minor alignment changes. The development proposes two storey houses throughout with single storey garages.

Hospice

- 1.5 The proposed hospice is identical to the extant permission. An updated business case has been provided which demonstrates the continued need for the hospice to serve the Borough.

Nature of Enabling Development:

- 1.6 The application is presented on the basis that the development of 80 no. dwellings is necessary as 'enabling' development in order to deliver the proposed hospice.

Access and Off-Site Highway Works

- 1.7 There is an existing point of access from Lower Dunton Road located at the north-western corner of the site. The proposals would involve the stopping-up of this access and the creation of a new, single point of access onto Lower Dunton Road located approximately 97m from the north-western corner of the site.
- 1.8 Similarly to the extant permission the proposals include a number of off-site highway measures as follows:
- Improved road signage, road markings and anti-skid surfacing at the Lower Dunton Road / North Hill / South Hill junction;
 - Additional road signage, road markings and the installation of a convex mirror at the Lower Dunton Road / Kirkham Road junction; and
 - A contribution of £150,000 to improve Lower Dunton Road and its junction with B1007 South Hill – to be made before 40 houses are occupied or before the hospice is brought into use.

2.0 SITE DESCRIPTION

- 2.1 This 16.1 hectare site is located on the eastern side of Lower Dunton Road, in between its junctions with Kirkham Road (to the south) and Old Church Hill to the north. The site is broadly equidistant from the built-up areas of Horndon on the Hill to the south, Bulphan to the west and Langdon Hills to the north-east. The site is roughly rectangular in shape with a maximum frontage to Lower

Dunton Road (measured north-south) of approximately 340m and a maximum depth (measured east-west) of approximately 635m.

- 2.2 The site was formerly in equestrian uses, which included a collection of stable buildings, fenced paddocks, an open area of rough grazing occupying, a car park, and a dwelling. The site is now a construction site subject to the implementation of the recent planning application listed in the planning history below. Construction work has commenced and some dwellings have already been constructed where they front Lower Dunton Road. The hospice building has also been constructed.
- 2.3 All boundaries of the site are characterised by hedgerow and tree planting and there is a distinct hedgerow within the site separating the area of rough grazing from the western part of the site.
- 2.4 To the west of the site and on the opposite side of Lower Dunton Road is the site of Langdon Hills Golf Club. To the south-west the site is adjoined by a small field which contains a barn structure at its north-western corner. Adjoining the site to the south-east are open fields used as paddocks. To the east of the site is a small area of broadleaf woodland. To the north-east of the site are open fields. Adjacent to the central northern boundary of the site is a private fishing lake. The dwelling known as Little Malgraves Hall adjoins the site to the north-west.
- 2.5 The site is within the Green Belt and within the low risk flood area (Flood Zone 1). Ground levels generally fall from south to north across the site from a high point of 62m AOD at the south-western corner of the site to a lowest point of 38m AOD on the northern boundary. There is a moderate slope (falling south to north) across the southern part of the site, although the nature of this slope decreases to the north.

3.0 RELEVANT PLANNING HISTORY

3.1 The following table provides the planning history:

Reference	Description	Decision
14/00990/FUL	Detailed planning permission for the creation of a new hospice (Use Class C2) GIA 1,407 sq.m. (15,145sq.ft.), 50 new homes (Use Class C3), the creation of publicly accessible open space, flood	Approved 15.12. 2015 3 year consent

	attenuation area and vehicular access onto Lower Dunton Road.	
17/01683/FUL	Detailed planning permission for the creation of a new hospice (Use Class C2) GIA 1,407sq.m (15,145sq.ft); 80 new homes (Use Class C3); the creation of publically accessible open space; flood attenuation area, and vehicular access onto Lower Dunton Road.	Approved 22.06.2018 3 year consent
18/01685/CV	Application for the variation of conditions no. 2 (approved plans), 4 (Landscaping Implementation), 6 (materials), 7(boundary treatments), 11(highway junction improvement), 12(access from the highway), 13(highway details), 14(sight splays), 21(CEMP), 26(renewable energy), 30(surface water drainage scheme), 31(scheme to minimise off site flooding), 32(maintenance plan for the surface water scheme) and 34(secured by design) of planning permission ref 17/01683/FUL (Detailed planning permission for the creation of a new hospice (Use Class C2) GIA 1,407sq.m (15,145sq.ft); 80 new homes (Use Class C3); the creation of publically accessible open space; flood attenuation area, and vehicular access onto Lower Dunton Road).	Approved 14.05.2019 3 year consent

3.2 In addition to the above applications there have been a number of non-material amendment applications and applications to discharge planning conditions.

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, press advert and public site notice which has been displayed nearby.

No responses received.

4.3 EDUCATION:

No objection subject to a financial contribution towards nursery, primary and secondary education

4.4 ENVIRONMENTAL HEALTH:

No objection.

4.5 ESSEX COUNTY COUNCIL ARCHAEOLOGY:

No objection.

4.6 FLOOD RISK ADVISOR:

No objection.

4.7 HIGHWAYS:

Concern raised to the location of the site, if approved it is recommended conditions and planning obligations are needed to mitigate the impact of the proposals.

4.8 HOUSING:

No objection subject to a viability assessment being undertaken to identify if any affordable housing can be provided.

4.9 LANDSCAPE AND ECOLOGY ADVISOR:

No objection, requirement of contribution towards the Essex RAMS.

4.10 NHS ENGLAND:

No objection subject to a planning obligation towards local healthcare provision.

5.0 POLICY CONTEXT

5.1 National Planning Policy Framework

The revised NPPF was published on 19 February 2019 and sets out the government's planning policies. Paragraph 14 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
- 8. Promoting healthy and safe communities
- 9. Promoting sustainable transport
- 11. Making effective use of land
- 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 Planning Policy Guidance

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

- Design
- Flood Risk and Coastal Change
- Health and wellbeing
- Housing and economic development needs assessments
- Housing and economic land availability assessment
- Light pollution
- Natural Environment
- Noise

- Open space, sports and recreation facilities, public rights of way and local green space
- Planning obligations
- Renewable and low carbon energy
- Transport evidence bases in plan making and decision taking
- Travel plans, transport assessments and statements in decision-taking
- Use of Planning Conditions
- Viability

5.3 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 28th February 2015. The following 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)
- CSSP4 (Sustainable Green Belt)

THEMATIC POLICIES

- CSTP1 (Strategic Housing Provision)
- CSTP2 (The Provision Of Affordable Housing)
- CSTP15 (Transport in Greater Thurrock)
- CSTP18 (Green Infrastructure)
- CSTP19 (Biodiversity)
- CSTP20 (Open Space)
- CSTP22 (Thurrock Design)
- CSTP23 (Thurrock Character and Distinctiveness)
- CSTP25 (Addressing Climate Change)
- CSTP26 (Renewable or Low-Carbon Energy Generation)
- CSTP27 (Management and Reduction of Flood Risk)

POLICIES FOR 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)
- PMD12 (Sustainable Buildings)
- 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. In December 2018 the Council began consultation on an Issues and Options (Stage 2 Spatial Options and Sites) document, this consultation has now closed and the responses have been considered and reported to Council. On 23 October 2019 the Council agreed the publication of the Issues and Options 2 Report of Consultation on the Council's website and agreed the approach to preparing a new Local Plan.

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 procedure, this application has been advertised (inter-alia) as being a departure from the Development Plan. Should the Planning Committee resolve to grant planning permission, the application will first need to be referred to the Secretary of State under the terms of the Town and Country Planning (Consultation) (England) Direction 2009 with reference to the 'other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the GB'.
- 6.2 The Direction allows the Secretary of State a period of 21 days (unless extended by direction) within which to 'call-in' the application 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.

6.3 The material considerations for this application are as follows:

- I. The Extant Permission, Principle of the Development and the Impact upon the Green Belt
- II. Sustainability, Traffic Impact, Access and Car Parking
- III. Design and Layout and Impact upon the Area
- IV. Landscape and Visual Impact
- V. Open Space, Green Infrastructure and Landscaping
- VI. Impact upon Ecology and Biodiversity
- VII. Flood Risk and Drainage
- VIII. Impact upon Amenity
- IX. Energy and Sustainable Buildings
- X. Viability and Planning Obligations
- XI. Sustainability
- XII. Other Matters

- I. THE EXTANT PERMISSION, PRINCIPLE OF THE DEVELOPMENT AND THE IMPACT UPON THE GREEN BELT

6.4 The grant of the original planning permission in 2015 established the principle of housing to support the provision of a hospice in this location. Since then there have been two further planning permissions approved in 2018 (17/01683/FUL) and 2019 (18/01685/CV).

6.5 As the site is located within the Green Belt policies CSSP4 and PMD6 apply. Policy CSSP4 identifies that the Council will *'maintain the purpose function and open character of the Green Belt in Thurrock'*, and policy PMD6 states that the Council will *'maintain, protect and enhance the open character of the Green Belt in Thurrock'*. These policies aim to prevent urban sprawl and maintain the essential characteristics of the openness and permanence of the Green Belt in accordance with the requirements of the NPPF.

6.6 Paragraph 133 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 Belts are their openness and their permanence'*.

- 6.7 In terms of Green Belt policy 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;
- 6.8 Paragraph 143 of the NPPF defines 'inappropriate development' as definitional harm to the Green Belt and should not be approved except in 'Very Special Circumstances'. Policies CSSP4 and PMD6 both seek to maintain, protect and enhance the open character of the Green Belt in Thurrock in accordance with the provisions of the NPPF'.
- 6.9 Policy PMD6 and paragraph 145 of the NPPF both allow for 'exceptions' certain types of development in the Green Belt and relevant to the consideration of development on this site are:
- 2. Replacement dwellings/buildings;*
- 6. Infilling and partial or complete redevelopment of a previously developed site comprising more than a single building.*
- 6.10 The replacement dwellings/buildings exception applies for buildings that are the same use and size of those they replace. The dwelling and equestrian buildings and structures at the site would have allowed for one replacement dwelling but not the scale of the development proposed. Similarly part of the land would have been previously developed land and therefore some elements of infilling or partial or complete redevelopment would have been allowed but again but not the scale of the development proposed.
- 6.11 Therefore, similar to the approach to previous applications at this site the current proposal represents inappropriate development in the Green Belt. However, the fall-back position is that the previous recent planning permissions have established the acceptability of development on this site and therefore consideration needs to be given to the proposed changes in this application. The proposed changes are for change to the housing development part of the

application and not the hospice, which remains the same as previously approved.

6.12 The table below provides a comparison of the difference between the applications in terms of land coverage and gross internal floor area:

	14/00990/FUL – 50 home scheme	17/01683/FUL – 80 home scheme	18/01685/CV – 80 home scheme with revised house types	19/01394/FUL – current application for revised house types and housing mix
Volume	48,836m ³	48,165m ³	37,985m ³	46,459m ³
Gross Internal Area (GIA)	11,927m ²	11,879m ²	11,890m ²	14,228m ²

6.13 Based on the table above the proposed GIA would increase by 2,379m² or 20% when compared to planning permission 17/01683/FUL but would also result in a decrease in volume by 1,706m³. The applicant claims that the reduced volume would help ensure that the openness of the Green Belt is maintained. It is recognised that the most recent application proposed less volume and floorspace than the current application but it should be noted that both the 14/00990/FUL and 17/01683/FUL permissions proposed larger dwellings than the current application.

6.14 The original level of openness at the site would not be maintained as the extant planning permissions have already compromised the openness of the Green Belt in this location. It is however recognised that the proposed changes would appear in visual and openness terms very similar to the extant planning permissions at the site. The proposed layout of the development in terms of road layout, plots and landscaping is the same as previously approved. Nevertheless, in terms of this policy consideration the proposed development, along with the extant planning permissions on the site, would be ‘inappropriate development’, which is, by definition, harmful to the Green Belt as defined in paragraph 143 of the NPPF and also contrary to policy PMD6.

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

- 6.15 Having assessed the proposed development as inappropriate development in the Green Belt the next step is to consider the impact of the proposal upon the open nature of the Green Belt and the purposes of including land within it.
- 6.16 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.
- 6.17 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.
- 6.18 In response to each of these five purposes:
- a. to check the unrestricted sprawl of large built-up areas;*
- 6.19 The site occupies a relatively isolated position in the Borough, with only a ribbon of built development close-by along Lower Dunton Road. The site is distant from the modest settlements of Bulphan and Horndon on the Hill, with the nearest large built-up area located to the north and north-east within Basildon District. The proposals would spread the existing extent of built development (located on the eastern side Lower Dunton Road between the South Hill and Old Church Hill junctions) further into this part of the Green Belt.
- 6.20 This would result in an amount of ‘sprawl’ which would be harmful to a degree and is therefore inappropriate development in the Green Belt. However, as the NPPF refers to “large built up areas” it is considered on balance that the proposals would not significantly impact upon the purpose of the Green Belt in checking the unrestricted sprawl of large built-up areas.
- 6.21 Therefore there is no conflict with purpose (a).
- b. to prevent neighbouring towns from merging into one another;*
- 6.22 At a wider geographical level, the site forms part of an area of Green Belt which separates the built-up areas of Stanford-le-Hope / Corringham (in the south)

and Langdon Hills / Laindon (in the north). The application site forms only a small part of the Green Belt 'corridor' separating the two settlements. Nevertheless, the development proposals would result in some harm to the purpose of the Green Belt in preventing neighbouring towns from merging into one another.

6.23 Therefore there is no conflict with purpose (b).

c. to assist in safeguarding the countryside from encroachment;

6.24 The proposals would comprise a substantial amount of new building in an area which, apart from the dwelling and equestrian buildings, was, until recent commencement of an extant planning permission, free from development. The quantum of built development and associated residential curtilages and car parking areas would be inappropriate development and would reduce the openness of the area conflicting with the purpose of the Green Belt of safeguarding the countryside from encroachment. Consequently, there would be harm to this Green Belt purpose.

6.25 Therefore the proposal is in conflict with purpose (c).

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

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

6.27 Therefore there is no conflict with purpose (d).

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

6.28 In general terms the development of a hospice and residential 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. Consequently, development of the site would be contrary to the Green Belt purpose of assisting in urban regeneration as the development should recycle derelict and other urban land.

6.29 In light of the above analysis, the proposal would be fundamentally contrary to point (c) and point (e) as it would lead to significant development within the Green Belt which would have an adverse impact upon the openness of the Green Belt and would be contrary to the five purpose of the Green Belt as defined in paragraph 134 of the NPPF, and policies CSSP4 and PMD6.

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.

- 6.30 Paragraph 144 of the NPPF states that, when considering any planning application, local planning authorities *'should ensure that substantial weight is given to any harm to the Green Belt. 'Very Special Circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations'*.
- 6.31 Neither the NPPF nor the adopted Core Strategy provide guidance as to what can comprise 'Very Special Circumstances', either singly or in combination. Some interpretation of 'Very Special Circumstances' has been provided by the Courts and this includes 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 on other sites, could be used on different sites leading to a decrease in the openness of the Green Belt should not be accepted. The provisions of 'Very Special Circumstances' which are specific and not easily replicable may help to reduce the risk of such a precedent being created. Mitigation measures designed to reduce the impact of a proposal are generally not capable of being 'Very Special Circumstances'. Ultimately, whether any particular combination of factors amounts to 'Very Special Circumstances' will be a matter of planning judgment for the decision taker.
- 6.32 The applicant's Planning Statement sets out the applicant's factors for 'Very Special Circumstances' under the following headings:
- 1) The site has an implemented planning permission;
 - 2) The principle of development and alternative sites;
 - 3) Positively responding to an aging population in Thurrock;
 - 4) Ability to prioritise delivery of healthcare improvements in Thurrock;
 - 5) The role of the application site in the Green Belt;
 - 6) Ability to positively contribute towards housing land supply;
 - 7) Maintaining momentum and delivery of regeneration within the Thames Gateway;

- 8) Linkages to London Gateway Port and Logistics Park and Thames Enterprise Park;
- 9) Highway / safety improvements within the nearby vicinity;
- 10) Newly created publicly accessible open space, with enhanced ecological value, and
- 11) The sustainability of the site.

6.33 The applicant's case for 'Very Special Circumstances' is very similar to that which was presented in support of the previous applications. Given that the continued need for a hospice has been accepted it is not considered necessary to revisit the applicant's case for the hospice. Points 2-5 are therefore not examined in any further detail and are accepted. Points 1 and 6 – 11 these are considered below:

1) *The site has an implemented planning permission;*

6.34 The applicant's case under this heading refers the previous planning permissions that have confirmed the harm to the Green Belt has been outweighed by other considerations as to amount to 'Very Special Circumstances' to justify the development. It is also recognised that the previous planning applications had been referred to the Secretary of State, as required by the process as explained in paragraph 6.1 of this report, and the Secretary of State has determined that those previous planning applications can be determined by the Council.

6.35 The applicant's case refers to the proposed changes through this application in comparison to the fall-back position of the existing live extant planning permissions at the site. Reference is made to the increase in floorspace, the reduction in volume and the same layout of road pattern, plots and landscaping that would not result in a disproportionately larger development than the extant planning permission at the site. It is claimed that the Landscape and Visual Impact Assessment report confirms these conclusions in regard to the visual perspective of the development.

Consideration:

6.36 As set out above, the extant planning permission weighs in favour of the revised scheme. 'Significant weight' is given to this factor.

6) *Ability to positively contribute towards housing land supply;*

6.37 The applicant refers to NPPF requirements regarding 5 year housing land supply and the requirement for a 20% buffer where there has been persistent

underachievement measured against the 5-year target. The Strategic Housing Market Assessment (SHMA) for South Essex (May 2016) identifies that the objectively assessed housing needs in Thurrock range between 919 to 973 dwellings per annum for the period 2014-2037. The Council's latest Five Year Housing Land Supply Position Statement (July 2016) identifies a supply of between 2.5 to 2.7 years when compared to the housing requirement.

- 6.38 The applicant states that the Council's failure to deliver a 5-year housing land supply has been widely accepted by many, including the Planning Inspectorate and the Secretary of State. Reference is made to the appeal decision for the Little Thurrock Marshes application (ref 15/01534/OUT) where the delivery of housing and a lack of a five year housing land supply was afforded significant weight by the Planning Inspectorate. Reference is also made to other appeal decisions where Council's was unable to demonstrate a five year housing land supply, although these referenced decisions were not sites in the Green Belt.

Consideration:

- 6.39 The issue of housing land supply has been regularly considered by the Committee through planning applications within the Green Belt.
- 6.40 The future level of housing supply is being considered through the preparation work for the new Local Plan and it is inevitable that the housing needs of the Borough will increase as a result, based on future demographic predictions for the Borough.
- 6.41 As identified above the Council's latest Five Year Housing Land Supply Position Statement (July 2016) identifies a supply of between 2.5 to 2.7 years when compared to the housing requirement.
- 6.42 Reference is made to the SHMA and the need for 42% 3 bedroom homes and 18% for 4 bedroom homes in the Borough. However, there are have been a number of applications for larger developments including 3 and 4 bedroom units within the Green Belt and the SHMA predates some of these planning permissions, such as 19 large dwellings at Pieris Place in Buphan. This site and other sites would have a reducing impact upon the percentages stated in the SHMA.
- 6.43 The table below provides the comparison of housing mixes: the proposal would increase the 4 bedroom units, decrease the 3 bedroom units and re-introduce 5 bedroom units, when compared to the two most recent planning permissions. The SHMA identifies there is more of a need for the 3 bedroom units than 4 and 5 bedroom units but given the history of the site's recent planning applications

including the original 2014 reference which included 5 bedroom units, the revised mix is not considered grounds to warrant refusal of the planning application.

Application	Total Units	Mix		
		3 bed	4 bed	5 bed
14/00990/FUL	50	5	20	25
17/01683/FUL	80	40	40	
18/01685/CV	80	40	40	
Current	80	14	59	7

- 6.44 Reference is made to the Little Thurrock Marshes site where ‘significant weight’ was afforded to that proposal, however, that appeal was still dismissed as a result of its impact upon the Green Belt.
- 6.45 The housing land supply consideration is consistently considered to carry ‘significant weight’ as a factor for a very special circumstance in planning applications within the Borough.

7) Maintaining momentum and delivery of regeneration within the Thames Gateway:

- 6.46 The applicant refers to the Thames Gateway area remaining a national growth area and it is necessary to provide housing to support growth. The applicant explains that the new homes must be well-integrated, should include different types of tenures and support a range of household sizes, ages and incomes.
- 6.47 The applicant also references the Secretary of State for Transport’s announcement of the preferred route for the Lower Thames Crossing with plan for the Lower Thames Crossing to be open by 2027.

Consideration:

- 6.48 The applicant makes reference to the Sustainable Communities Plan published by the former Office of the Deputy Prime Minister (ODPM) in 2003. Members may recall that the Plan envisaged major growth in four areas of the south-east, including the Thames Gateway. Page 52 of the Plan notes that the Thames Gateway area presents a huge opportunity due to its location close to London, its major transport links, the large concentration of brownfield sites and the potential to regenerate existing deprived communities. The Plan goes on to state:

“The regeneration of the Gateway is a broad-based project that needs to tackle brownfield development, economic growth, environmental improvement and urban renewal in an integrated way.”

6.49 Although the Thames Gateway zone clearly includes areas of Green Belt, the focus of the Plan is arguably urban renewal and regeneration of brownfield sites.

6.50 Consequently the Plan gives no support for growth in preference to the protection of the Green Belt. In these circumstances, and despite the designation of Thames Gateway as a national growth area, only very limited weight should be given to this matter in the overall balance of considerations. A similar view was taken by the Planning Inspector for the Bata Field appeal as follows:

“I do not consider that the development would contribute significantly to maintaining the momentum of regeneration in the Thames Gateway.”
(Inspector’s Report para 353).

6.51 The Lower Thames Crossing is proposed to allow improved connectivity to Kent from Essex and vice versa by alleviating traffic volumes associated with the existing Dartford river crossing and the M25 area to the west of the Borough.. This has no relevance for developing this site, or other sites, in the Green Belt.

6.52 This factor is therefore given ‘very limited weight’ as a Very Special Circumstance.

8) Linkages to London Gateway Port and Logistics Park and Thames Enterprise Park;

6.53 The applicant refers to the on and off-site employment opportunities generated by London Gateway. The applicant refers to a net labour supply figure (for 2011) of 16,000 people in Thurrock and suggests that the majority of new jobs at London Gateway will be occupied by people from outside of the Borough. The applicant considers that there is a risk that the economic benefits of London Gateway (employee income) will be lost from Thurrock. The applicant refers to a potential imbalance between housing and employment growth and cites the Bata Field appeal decision (ref: 09/50045/TTGOUT) where the Planning Inspector attached “moderate weight” to the location of the Bata site near to London Gateway and recognised the synergies between employment and housing opportunities. The potential for future employment creation at the former Coryton oil refinery site is also highlighted by the applicant and the creation of 5,000 jobs.

Consideration:

- 6.54 This factor formed part of the case for 'Very Special Circumstances' for the planning appeal at the Bata Field site, where the appellant there argued that the proximity of Bata Field to London Gateway and the Port of Tilbury sites meant that new housing could support employment growth at those locations.
- 6.55 The Malgraves Farm site is located some 6km to the north-west of London Gateway, whereas Bata Field is some 4.7km to the south-west. Both locations can be considered to be within the reasonable catchment of potential employees for the London Gateway site. However, the potential link between employment growth and new housing seems to be based on geographical proximity rather than a deliberate attempt to link employment and housing growth through, for instance, improvements to transport linkages. The links between the application site and London Gateway / Coryton should be treated as incidental (i.e. there is no guarantee that occupiers of the proposed residential development would be employees at either the London Gateway or Coryton sites). Nevertheless, the Planning Inspector at the Bata Field inquiry concluded that "moderate weight" should be attached to this consideration. As the current application site is reasonably well located in relation to employment potential it is also concluded that this factor attracts 'moderate weight' as a Very Special Circumstance.

9) Highway / safety improvements within the nearby vicinity;

- 6.56 The applicant refers to the potential housing / employment links between the site and London Gateway / Thames Enterprise Park (noted above) and stresses the importance of vehicular links between the two. Attention is drawn to the Lower Dunton Road / North Hill (B1007) / South Hill (B1007) road junction, a number of accidents at this junction and concerns raised during pre-application public consultation. In response to the accident data and public concern, the applicant proposes improvement works (to be secured via a s106 agreement) to this junction to mitigate the impact of the development and traffic associated with London Gateway and Thames Enterprise Park. (These details are referred to earlier in the report).

Consideration:

- 6.57 In this case, the applicant's Planning Statement notes that "*whilst the number of accidents within the study area is low there have been a number of accidents at this junction (Lower Dunton Road / North Hill (B1007) / South Hill (B1007)) over a 5-year period.*" Accident data from the Transport Assessment identifies

that the number of accidents is '*below the regional and national average*' over a five year period.

6.58 The Council's Highways Officer has raised concern to the application for the reasons stated in the highway assessment section of this report (below). A package of mitigation measures has been put forward by the applicant and is discussed in detail below. For the purposes of this section of the report it can be concluded that the highway improvements are necessary to mitigate the impact of the development. However, only 'limited weight' can be given to this factor as a Very Special Circumstance.

10)The sustainability of the site.

6.59 The applicant makes reference to the three dimensions of sustainable development set out in the NPPF, the applicant considers that the proposals offer:

- *Social:* the proposed hospice will support the wider community of Thurrock by providing specialist care and treatment. The proposed dwellings will complement economic growth at London Gateway and Thames Enterprise Park and will contribute to housing land supply. The dwellings will meet Lifetime Homes Standards. Social benefits also include the proposed highway safety improvements.
- *Economic:* the proposals strengthen the local economy by providing new homes alongside job opportunities. The development seeks the introduction of a high quality communications infrastructure. The hospice would create 26 full time jobs alongside construction jobs associated with the development.
- *Environmental:* new public open space and habitat enhancements would be created. The development would be constructed to relevant Code for Sustainable Homes / BREEAM standards and would provide on-site renewable energy.

Consideration:

6.60 The applicant's above considerations are based on an older version of the NPPF as paragraph 8 of the NPPF now refers to the 'three dimensions' as the '3 overarching objectives' and these are the 'economic objective', 'social objective' and the environmental objective'. Paragraph 7 of the NPPF states that 'the purpose of the planning system is to contribute to the achievement of

sustainable development'. There is no doubt that, if approved, the proposals would deliver a number of benefits under these headings as described by the applicant.

6.61 However, the NPPF sets out a presumption in favour of sustainable development, the NPPF is clear that the 'presumption' does not apply to development in the Green Belt. In these circumstances, only 'limited weight' can be attached to contribution the proposals would make towards sustainable development.

Conclusion to this section

6.62 Taking into account all the above Green Belt considerations, notably the applicant's fall-back position with live extant planning permissions, it is considered that, the principle of development for this site has already been established. However, the overall harm upon the Green Belt will need to be balanced with the other material considerations within this report (stated in the report sections below).

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

Summary of Green Belt Harm and 'Very Special Circumstances'			
Harm	Weight	Factors Promoted as 'Very Special Circumstances'	Weight
Inappropriate Development	Substantial	The site has an implemented planning permission	Significant Weight
Reduction in the openness of the Green Belt		Principle of Development and Alternative Sites	Moderate Weight
		Positively responding to an ageing population in Thurrock	Limited Weight
		Ability to prioritise delivery of healthcare improvements in Thurrock	Limited Weight
		Role of the application site in the Green Belt	No Weight

		Ability to positively contribute towards housing land supply	Significant weight
		Maintaining momentum and delivery of regeneration within the Thames Gateway	Very Limited Weight
		Linkages to London Gateway and Logistics Park and Thames Enterprise Park	Moderate weight
		Highway/Safety improvements within the nearby vicinity	Limited Weight
		The sustainability of the site	Limited Weight

6.64 '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 has to be considered against the factors promoted as 'Very Special Circumstances'. Several factors have been promoted by the applicant as 'Very Special Circumstances' and it is important 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'.

6.65 Taking into account all Green Belt considerations, notably the applicant's fall-back position, it is considered that, on balance, the applicant has demonstrated factors as 'Very Special Circumstances' which clearly outweigh the identified harm to the Green Belt.

II. TRAFFIC IMPACT, ACCESS AND CAR PARKING

Sustainability

6.66 The site is in an unsustainable location on the eastern side of Lower Dunton Road. There are no footways on either side of the road and the nearest footpaths are located away from the site and involve paths crossing fields and

woodlands. There are no cycle routes serving this area and there are no bus routes. The nearest bus route (no.374) serves Horndon on the Hill. Laindon railway station is 2.9km from the site and would require private vehicle usage to access the railway station.

6.67 Access to shops and services are the following distances away:

- Laindon Hills Shopping Centre - just over 4 kilometres away
- Stanford-le-Hope train Station - approximately 5 kilometres away
- Corringham - approximately 6 kilometres from the site, and
- Basildon - approximately 9 kilometres from the site

6.68 As the site is located in an unsustainable location it is likely to be highly dependent on private vehicle usage contrary to requirements of the paragraph 108 of the NPPF, which seek to exploit the opportunities for the use of sustainable transport modes and minimise the need to travel in rural areas.

6.69 However, it must be recognised the extant permissions have established the principle of housing and a hospice in this location. Therefore, consideration should be focussed on any additional traffic impact from this application.

6.70 In seeking to address these issues the applicant seeks to promote sustainable transport opportunities through a Framework Travel Plan (FTP), which includes the following measures:

- welcome pack / travel pack for householders detailing information for local bus, rail and cycle services and links;
- provision of secure cycle storage areas;
- promotion of cycling;
- potential for discounts at cycle shops and a bike tagging scheme;
- journey and timetable information for public transport;
- encouragement of car-share opportunities;
- contact details of local sustainable transport groups and organisations; and
- details of local and national sustainable travel events, such as walk to work and cycle to work week.

6.71 Whilst these measures are encouraged, they should be seen in the context of the relative isolation of the site from bus and rail services and cycle and footpath links. Therefore, despite the promotion of public transport journey and timetable information it is considered highly unlikely that future residents would walk or cycle to these links, given the distance from the site and the nature of road conditions along Lower Dunton Road. In all probability future residents of the

development would be wholly reliable on private vehicles to access employment, shops, school and other services and amenities.

Access and Traffic Impact

- 6.72 Access arrangements would remain the same for this proposal as the extant permission. The pre-existing site access has been closed up and a new bellmouth road junction access has been created 90m further south along the eastern boundary of Lower Dunton Road. These junction works on Lower Dunton Road have been facilitated through widening of the road, within highway land, to create a right hand turn filter lane into the site from the northbound carriageway.
- 6.73 From the bellmouth junction into the site a series of internal roads are proposed with one main road linking all the residential areas and the hospice. A series of internal roads are proposed comprising cul-de-sac and crescent road arrangements.
- 6.74 When considering the highway impact of the current application it is necessary to recognise the extant permission represents the fall-back for the applicant. In support of the application the Transport Assessment (TA) identifies that the proposed residential and hospice uses would lead to trip generation of 91 two-way traffic movements in the AM weekday peak hour and 121 PM peak hour. The TA states that the level of trip generation can be *'comfortably accommodated within the surrounding highway network without detriment to either safety or capacity'* and that the existing highway network can *'continue to operate on similar levels of operational capacity with both the consented development and the proposed development traffic'*. The Council's Highway Officer raises concern with the findings of the TA but recognises that a range of improvements could address the road safety concerns to make the development proposals acceptable.
- 6.75 The TA proposes a number of mitigation measures to improve the local highway network as detailed earlier in the report.
- 6.76 The Council's Highways Officer agrees with the mitigation measures proposed and has advised that the improvements to the junction of Lower Dunton Road and South Hill/North Hill in particular, are necessary to mitigate the current proposal. These shall be secured through planning conditions and obligations. For the construction phase a Construction Environmental Management Plan would be needed. This matter could be addressed through the use of a planning condition.

Parking

- 6.77 The applicant's TA demonstrates that each dwelling would have two off-street parking spaces (160 spaces). The site will also include 148) garage spaces, 20 visitor car parking spaces and cycle parking. Parking provision for the dwellings therefore complies with the Council's draft standards.
- 6.78 The Hospice proposals include the provision of 50 parking spaces (including 3 spaces for disabled users) for the staff (26 employees) and visitors. When considering the range of services which the hospice intends to provide and the potential use by patients and visitors, it is considered that this level of parking is appropriate.
- 6.79 The level of parking provision is considered acceptable with regard to the requirements of policy PMD8.

III. DESIGN AND LAYOUT AND IMPACT UPON THE AREA

- 6.80 The majority of the site was undeveloped land apart from a dwelling and equestrian buildings which have since been demolished. The site is currently a building site with work commenced and some of the houses already constructed where they front Lower Dunton Road. The hospice building has also been constructed.
- 6.81 The proposal is considered against policy CSTP22, which requires proposals to have a *'positive response to the local context'*, and policy CSTP23 seeks to *'protect, manage and enhance the character of Thurrock to ensure improved quality and strengthened sense of place'* with proposals needed to be considered where there character is a *'rural landscape'* and within the *'Green Belt'*. Policy PMD2 states *'Development must contribute positively to the character of the area in which it is proposed, and to surrounding areas that may be affected by it. It should seek to contribute positively to local views....and natural features'*.

Layout

- 6.82 The extant planning permission allows for development of the hospice in the eastern field within the site and 80 dwellings covering an area of approximately 80% of the western half of the site.
- 6.83 The current application includes the same siting and land take for the hospice associated car parking facilities as the extant permission. The hospice itself remains unchanged throughout these proposals.

6.84 The residential land take of 7.8 hectares would also be the same as the extant planning permission, with the same suburban layout when compared earlier permissions. The variation in the housing mix has resulted in minor changes to the layout of the housing development in relation to the extant permission. It is also recognised that the overall volume of the development would be greater than the extant permission (ref: 18/01685/CV), but less than previous reiterations (ref: 17/01683/FUL, 14/00990/FUL). Therefore, whilst the layout would be more suburban it would still be spaciouly laid out and would be built to a low housing density of 10 dwellings per hectare.

6.85 There are fifteen individual house types proposed with this development. Each house type has either a detached, attached or integrated single or double garage. The individual layout for each plot raises no objection.

Scale and Design

6.86 The scale of the development would be consistent with the extant permission. The hospice would be approximately 9.7m high and the tallest building on site. Residential units would not exceed the approved 2-storey building height.

6.87 The design approach is similar to the extant planning permission for both the hospice and residential units. The house types would incorporate individual design detailing to create a varied mix in character and appearance. Key to the successfulness of the development is the space between the buildings and the detailed landscaping of the development. It is proposed to retain a similar spacious housing layout and all landscaping. In terms of materials less timber would be used in favour of a mix of brick and render finishes. In light of all these considerations the proposed 'arts and crafts' approach would be acceptable.

Impact upon the Area

6.88 Overall, the impact upon the area from the design and layout of the development would be very similar to the extant permission and in granting planning permission for the 2014 scheme, and subsequent schemes in 2018 and 2019, it has already been accepted that the development would change the character and appearance of the site and wider area.

6.89 The test under this section is whether the increased density resulting from a varied mix of unit sizes would have a harmful impact on the appearance on the area beyond what has already been consented. It is recognised that the proposal would reduce the spaces in between certain dwellings when compared to the extant permission but the residential land area has not

increased, and the proposed road layout and landscape layout would remain the same as the extant permission. It is also recognised that the overall volume of the development, though greater than the extant permission, would be less than previous recent permissions on site. Therefore taking into account these matters it is considered, on balance, that the proposed changes would not have an adverse impact upon the rural countryside in this location when compared to the extant planning permissions, and in consideration of the text contained within policies CSTP22, CSTP23 and PMD2.

IV. LANDSCAPE AND VISUAL IMPACT

6.90 With regard to the Council's Landscape Capacity Study (2005) the site is designated within the 'B2 - Langdon Hills rolling farmland / wooded hills' landscape character area, with land to the west on the opposite side of Lower Dunton Road designated as within the 'B1 - Sticking Hill rolling farmland / wooded hills' landscape character area. The key landscape characteristics of the two areas, as described by the Capacity Study are:

B2 –

- *small scale steep, rounded sand and gravel hills;*
- *sense of elevation and intimacy;*
- *woodland is a strong, unifying element;*
- *irregularly shaped fields on higher slopes adjacent to woodland;*
- *horse grazing within the lower slopes in the north east of the character area;*
- *rough texture;*
- *absence of detracting vertical features.*

B1 –

- *area of gently undulating terrain;*
- *arable and pasture farmland;*
- *sparse pattern of settlement with a few individual farmsteads mainly located close to existing rural roads;*
- *important nucleated historic settlements of Horndon on the Hill and Orsett;*
- *mature hedgerows in places;*
- *woodland clumps in the southern half of the area;*
- *tranquil rural character.*

6.91 The applicant's Landscape and Visual Impact Assessment (LVIA) considers that the development would have '*no effect of consequence*' to landscape character and the effects on landscape value.

6.92 Given the limited differences between the extant permissions and this application it is considered that the proposal would not have any further adverse impact upon the landscape than the extant permission, and the Council's Landscape and Ecology raises no objection on landscape grounds, and when considered with policies CSTP22, CSTP223 and PMD2.

V. OPEN SPACE, GREEN INFRASTRUCTURE AND LANDSCAPING

6.93 The planning application is supported by a number of plans detailing open space and soft landscaping proposals for the site. The 'Hospice Open Space' extends to approximately 2 hectares in area. However, this figure includes the footprint of the hospice building and parking / circulation areas. The actual open space associated with the hospice is therefore a little over 1 hectare in area. The Public Open Space Plan also allocates a more extensive area (approximately 6.2 hectares) of 'Public Open Space' adjacent to the southern boundary of the site. This plan also indicates the position of incidental areas of open space at road junctions within the site and an ecology zone / attenuation basin adjacent to the northern boundary. These areas are more fragmented than the 6.2 hectare area and partly serve other purposes (ecology / surface water attenuation). Therefore, although shown as 'Public Open Space', these areas serve the purposes of mitigation and adding character to the development rather than providing usable open space.

6.94 The submitted 'Landscape Strategy' plan provides detailed planting proposals for the areas of open space. A variety of soft landscaping is proposed to enhance existing and create new habitats on the site. The key elements of the Proposed Landscape Strategy are: new

- new native hedgerow planting;
- tree planting throughout the site, including a community orchard;
- extended woodland planting at the south-eastern corner of the site;
- native wildflower meadow;
- aquatic planting to new ponds;
- natural play area; and
- bird / bat boxes and hibernacula.

6.95 In addition to the above, the applicant's Arboricultural Report and Tree Condition Survey identifies that the proposals have been designed to retain and protect existing trees on site. The 'Tree Removal Plan' within this assessment shows that all existing trees within the main parts of the site would be removed, including trees near the proposed vehicle access into the site. None of these trees are protected by Tree Preservation Orders and some of these trees need

removing due to their poor condition. The 'Landscape Strategy' plan demonstrates the site would result in a beneficial increase in tree planting and overall landscaping improvements.

- 6.96 A Management Plan drawing indicates that details of the management of other areas of open space within the site will need to be agreed through a planning condition. The applicant's written Landscape Management Plan provides a detailed specification for the long term management of landscaped areas, including the open space.
- 6.97 The submission provides sufficient detail to enable an assessment of the proposals against the open space policies referred to above. Assessed against CSTP18, the proposals provide areas of new habitat creation which are required, to a degree, to mitigate impact on ecological interests. The proposals would also deliver some benefit in diversifying the range of habitat on the site. Assessed against CSTP20 it is considered that the proposals would provide adequate provision of open space for occupiers of the development, both residents and users of the hospice. It is considered that the proposed open space provision would meet the needs of the development with regard to the 'new development' part of policy PMD5.

VI. IMPACT UPON ECOLOGY AND BIODIVERSITY

- 6.98 The site does not form part of a designated site for nature conservation interest (on either a statutory or non-statutory basis). The Council's Landscape and Ecology Advisor has stated that the site falls within the 'Zone of Influence' of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS), which requires a planning obligation. The nearest European designation is the Thames Estuary and Marshes SPA (Special Protection Area) and Ramsar Site. The Local Planning Authority is therefore required to undertake a Habitat Regulations Assessment to understand the impact.

Habitats Regulations Assessment

- 6.99 In considering the European site interest, the local planning authority, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that the proposals may have. The Habitat Regulations, which are a UK transposition of EU Directives relating to the conservation of natural habitats, flora and fauna and specifically wild birds, apply to certain designated sites including Special Protection Areas (SPA) and Ramsar sites. Of particular relevance to this application, regulation 63 of the Habitats Regulations requires, inter-alia, that:

Before deciding to give any permission for a plan which:

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

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

6.100 The table below is the Habitats Regulation Assessment (HRA) as required under the Conservation of Habitats and Species Regulations 2017. The procedure for assessment follows a number of key stages, which for this assessment are stages 1 to 3 as explained in the table below with the LPA’s response to each stage:

Stage	LPA response
<p>Stage 1 is to identify whether the proposals are directly connected with or necessary to site management for conservation;</p>	<p>The eastern half of Thurrock is within the zone of influence (Zol) for the Essex Coast RAMS. The following developments within the Zol qualify:</p> <ul style="list-style-type: none"> • New dwellings of 1+ units (excludes replacement dwellings and extensions) • Houses of Multiple Occupancy (HMOs) • Residential care homes and residential institutions (excluding nursing homes) • Residential caravan sites (excludes holiday caravans and campsites) • Gypsies, travellers and travelling show people plots <p>It is anticipated that such development is likely to have a significant effect upon the interest features of the Thames Estuary and Marshes Special Protection Area and Ramsar through increased recreational pressure, when considered either alone or in-combination with other plans and projects. Therefore, an appropriate assessment is needed to assess recreational disturbance impacts. The qualifying features of these sites are set out at the end of this report.</p>
<p>Stage 2 (Screening for Significance of Likely Effects) is necessary to</p>	<p>If the proposal is within or directly adjacent to the above European designated site a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Record evidence that this mitigation measure has been secured in the</p>

<p>examine if the proposals, in the absence of mitigation are 'likely to have a significant effect' on the internationally important features of the European sites, either alone or in combination with other plans or projects;</p>	<p>'summary' section below. Consideration of further bespoke recreational mitigation measures may also be required in this case.</p> <p>If the proposal is not within or directly adjacent to the above European designated site then a proportionate financial contribution should be secure in line with the Essex Coast RAMS requirements.</p> <p>A contribution in line with the Essex Coast RAMS should be secured to address likely significant effects in-combination.</p> <p>Natural England must be consulted on the appropriate assessment and proposed mitigation measures.</p>
<p>Stage 3 (Appropriate Assessment) is if 'likely to have significant effects' on a European site were to occur solutions should be established to avoid or have a lesser effect on European sites.</p>	<p>The application would result in a net increase of 80 units and is within the Essex Coast RAMS Zol. It therefore meets the criteria set out in Test 1 showing that the scheme is would have likely significant effects to the Thames Estuary and Marshes SPA and therefore requires an Appropriate Assessment</p> <p>Summary of recreational disturbance mitigation package:</p> <p>The application is for a net increase of 80 dwellings. The site is not within or adjacent to the SPA. It is therefore considered that a proportionate financial contribution in line with Essex Coast RAMS should be made to contribute towards the funding of mitigation measures detailed in the Essex Coast RAMS Strategy.</p> <p>The current tariff is £122.30 per unit. Therefore the financial contribution should be £10,046.50 and this can be secured through a planning obligation. Natural England advice confirms that RAMS is applicable to all net increases in residential dwellings that fall within the ZOI.</p>

6.101 Having considered the proposed avoidance and mitigation measures above, it is concluded that with mitigation the project will not have an Adverse Effect on

the Integrity of the European sites included within the Essex Coast RAMS. Having made this appropriate assessment of the implications of the plan or project for the site in view of that site's conservation objectives, and having consulted Natural England and fully considered any representation received, the authority may now agree to the plan or project under regulation 63 of the Conservation of Habitats and Species Regulations.

- 6.102 If the application were to be approved the proposed development would require the mitigation identified through a financial contribution of £10,046.50 towards the funding of mitigation measures detailed in the Essex Coast RAMS Strategy.
- 6.103 It is therefore recommended that the local planning authority formally determine that, on the basis of the information available and the mitigation identified, the proposed development would not have a likely significant impact on a European site either alone or in combination with other plans or projects, and this forms 'Recommendation A'.

On Site Ecological Assessment

- 6.104 An extended Phase 1 Habitat Survey accompanies the application and confirms that the majority of the site comprises semi-improved grassland associated with the paddocks and grazing area. The boundaries of the site, and field boundaries within the site are characterised by hedgerow, scrub and ruderal habitats. The hedgerows both surrounding and within the site are identified as being of biodiversity interest. The Habitat Survey identifies that a habitat management will be beneficial for a range of protected species including foraging and commuting bats, badger, breeding, foraging birds, great crested newt, common reptiles and hedgehog through protection of existing hedgerows and new hedgerows, and retained grassland areas. The plans show that around the field boundaries and southern and eastern parts of the site ecological corridors can be retained and enhanced for the benefit of ecology and biodiversity.
- 6.105 The application includes a number of ecology surveys including badgers, bats, breeding birds, dormice, Great Crested Newts (GCN), invertebrates, reptiles and wintering birds. From the surveys breeding birds were identified and there maybe the presence of a bat roost in the small gabled shed building within the site. From the surveys it has been identified that various mitigation measures are required, including retention and enhancement of hedgerows and new planting, the creation of new habitat, such as flower-rich grassland and ponds, the introduction of hibernacula and habitat creation, all of which can be subject to planning conditions.

6.106 The Council's Landscape and Ecology Advisor has advised that proposed changes with this application compared to the previous applications would not result in any significant impacts upon ecology. However, if planning permission were to be granted planning conditions would be necessary in the form of an ecological mitigation and management strategy, which is offered by the applicant and is necessary to meet the requirements of policy PMD7 which requires *'development proposals to incorporate biodiversity or geological features into the design as far as possible'*. The proposal identifies the opportunities for ecological and biodiversity enhancements.

VII. FLOOD RISK AND DRAINAGE

6.107 The application site is located within the low risk flood zone (Flood Zone 1) and therefore there is no requirement for application of the Sequential Test or Exception Test. As the site area exceeds 1 hectare, the application is accompanied by a flood risk assessment (FRA) which principally addresses the matter of surface water drainage. Although there are no 'main rivers' (as defined by the Environment Agency) on or close to the site, a watercourse within a ditch forms the northern boundary of the site. It is stated within the application that all foul drainage would be discharged into the mains foul sewer.

6.108 The FRA includes a surface water drainage strategy with on-site attenuation storage areas comprising an open basin adjacent to the northern boundary and underground tanks at the north-western corner of the site and in the ground of the proposed hospice. The FRA identifies that the north part of the site will need to be raised for gravity drainage systems. Via the proposed attenuation, the FRA states that run-off from the site during a 1 in 100 year event (plus climate change) will be limited and the risk of surface water flooding elsewhere will be reduced. The Flood Risk Manager raises no objection subject to the use of a planning condition, which will ensure the drainage requirements to accord with the NPPF and PPG, and policy PMD15.

VIII. IMPACT UPON AMENITY

6.109 The nearest neighbouring dwelling is located directly to the north of the site known as Little Malgraves Hall approximately 30m from the northern site boundary. Plots no.'s 1, 8, 9 and 20 are closest to the site between 11 and 18m from boundary, which is demarcated by existing trees and hedging.

6.110 To the south, dwellings at Haycock Cottages are located approximately 45m from the south-western corner of the application site. As a buffer of open space is proposed on the southern part of the application site, the proposed dwellings would be located approximately 120m from Haycock Cottages.

- 6.111 Existing dwellings located on the northern side of Kirkham Road (to the south of the site) would be separated from the nearest proposed dwellings by a distance of some 200m.
- 6.112 Hope Farm, located on the southern side of Old Church Hill, is positioned approximately 150m to the north of the north-eastern corner of the site. As the proposals show that the eastern part of the site would remain undeveloped the closest built development to this would be the hospice and associated car park located in the centre of the site.
- 6.113 The development would result in the introduction of domestic activity, vehicle movements, deliveries and activities associated with users, staff and visitors of the proposed hospice and whilst this would change the character of the area this change would not harm nearby residential amenity. The current proposal is very similar in terms of layout and future activity to the extant planning permissions. It is considered that the development would cause no harm to adjoining residential amenity by reason of loss of privacy, outlook or sunlight / daylight. For these reasons the proposal does not raise objection with regard to the requirements of the policy PMD1.

IX. ENERGY AND SUSTAINABLE BUILDINGS

- 6.114 In terms of meeting the requirements of policies PMD12 (Sustainable Buildings) and PMD13 (Decentralised, Renewable and Low Carbon Energy Generation) it is proposed that the hospice would achieve a BREEAM 2014 'Very Good' rating with regard to policy PMD12, however, this policy requires an 'Excellent' rating to be achieved from 2016 onwards. In the 2017 and 2018 applications, the applicant argued that it will be difficult to achieve an 'Excellent' rating and, as then, is relying upon the extant permission as justification for retaining a 'Very Good' rating. It was determined at that time a departure from policy was PMD12 was justified. The current BREEAM requirement is to achieve an 'Outstanding' rating but the fall-back position (extant permissions) means the proposed hospice can be implemented to meet the 'Very Good' BREEAM rating. As this application does not propose any changes to the proposed hospice, just the residential element of the development, it is difficult to insist upon the achievement of the 'Outstanding' reason and the application is subject to financial viability constraints which is relying upon the residential element of the development to help fund the hospice as enabling development. Therefore for this reason the same condition requiring a 'Very Good' BREEAM rating shall be imposed through the planning condition.

6.115 The applicant's Sustainability and Energy Strategy does identify that renewable technology would be used through the proposed installation of photovoltaic solar panels, energy efficiency measures, low flow water fittings, sustainable drainage systems, new planting and recycling opportunities. It is considered that this is acceptable with regard to policy and further details of such measures would need to be agreed through the use of a planning condition to ensure some compliance with policies PMD12 and PMD13, particularly the photovoltaic solar panels with regard to impacting upon the design of the buildings on site.

X. VIABILITY AND PLANNING OBLIGATIONS

6.116 Policy PMD16 of the Core Strategy 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 contribute to proposals to deliver 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.

6.117 In April 2015 the Council produced its Infrastructure Requirement List (IRL) which changed the way in which planning obligations through section 106 agreements can be sought. The Council continues to maintain the Infrastructure Requirement List (IRL) to provide an up to date list of physical, social and green infrastructure to support new development in Thurrock. The IRL applies a number of different development scenarios.

6.118 Certain Core Strategy policies identify requirements for planning obligations and this depends upon the type of development proposed and consultation responses from the application process. The consultation process and a review of the IRL has identified the requirements for the following planning obligations:

- For 35% of the development to provide for affordable housing contribution in accordance with policy CSTP2;
- A financial contribution of £644,848.77 towards nursery, primary and secondary education;
- A financial contribution of £31,533 towards NHS healthcare improvements at the West Horndon Surgery;
- A financial contribution of circa £150,000 towards highway improvements on Lower Dunton Road and to the junction of Lower Dunton Road and South Hill/North Hill; and,

- A financial contribution of £10,046.50 towards the funding of mitigation measures detailed in the Essex Coast RAMS Strategy.

6.119 The application has been subject to a viability assessment which has been considered by the Council's independent viability assessors. The independently reviewed report identifies that the scheme can provide £437,486 to fund planning obligations. Whilst this demonstrates that a policy CSTP2 compliant level (35%) of affordable housing cannot be provided this contribution can be used for funding towards an off site affordable housing contribution and towards NHS healthcare improvements.

6.120 Since the previous application was approved, the NPPF has been updated. Paragraph 64 of the NPPF, February 2019 states:

Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership²⁹, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:

- (a) provides solely for Build to Rent homes;*
- (b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);*
- (c) is proposed to be developed by people who wish to build or commission their own homes; or*
- (d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.*

6.121 The applicant has not factored this into their viability assessment and has not put forward the 10% affordable housing as required by the NPPF. However, para 64 b) recognises that 10% affordable housing is not required where a specialist form of housing is provided. The Hospice will provide very specific accommodation for a need which has been identified for the Borough. These types of sites are rare and allocations as such are very infrequent. Accordingly, it is considered the proposal meet this exception of para 64.

6.122 In addition, as detailed elsewhere in this report the residential development is required as an enabling development to fund the hospice. There were no alternative options of funding for the hospice to be provided at this time and without the residential accommodation the hospice could not have been built.

The hospice has now been built and will shortly be ready for occupation. A need for a hospice existed and this presented the unique set of circumstances to allow development in the Green Belt. It has been accepted through the previous three applications that full levels of affordable housing or contributions could not be provided, specifically because the housing was funding the hospice.

- 6.123 Whilst there has been a change at national level and although this is a new standalone application, given the unique set of circumstances above it is not considered that the Council could insist that there is a need to provide 10% affordable housing.
- 6.124 As per the previous applications a financial contribution of £150,000 towards highway improvement works is required and is agreed to be funded by the applicant. A financial payment of £10,046.40 towards the Essex Coast RAMS Strategy is also required as the site falls within the zone of influence (Zol) for the Essex Coast RAMS and this has been agreed with the applicant.
- 6.125 The independent viability advisor states that *'if the Council were minded to grant planning permission then a viability review mechanism should be included within the s106 legal agreement'*. Normally this trigger would be if a scheme has not reached slab level on 20 units within 2 years of the commencement of development. The existing development is currently under construction and appears to have already constructed 24 homes (not all complete) so therefore the viability trigger will need to be amended to 50 units instead of the 20 units as suggested. The viability review mechanism clause could still be included in any recommendation to grant planning permission.
- 6.126 Whilst the site is unviable to support the usual planning obligations sought for a residential development the applicant is offering the following non-financial planning obligations and triggers, which are the same as recent extant planning permissions. These are considered necessary and are in addition to those stated above. The applicant's planning obligations and triggers are as follows:
- *To commence the construction of the hospice simultaneously with the construction of the residential element of the development.*
 - *Construction of the main access road to the development from Lower Dunton Road, including the junction with Lower Dunton Road, will proceed up to base course level such that construction traffic will have access to both the residential and hospice elements of the development. Completion of the access road will be prior to the first occupation of any dwelling or the completion of the hospice, whichever is the sooner.*

- *Once the access road is constructed to base course level construction of both the houses and the hospice will proceed and Practical Completion of the hospice will be reached within 11 months of commencement of construction of the hospice.*
- *Construction of the highway improvements to Lower Dunton Road will proceed and be completed prior to occupation of any dwellings or completion of the hospice, whichever is the sooner. Off site highway works, which include improved road markings, improved signage, improved anti-skid surfacing, rumble strips and improvements to the Lower Dunton Road / Kirkham Road junction.*

6.127 The above planning obligations identified through the application process, the independent viability assessment and the offered planning obligations from the applicant shall need to form the planning obligations if this proposed revised development is recommended for approval.

XI. SUSTAINABILITY

6.128 Paragraph 7 of the NPPF explains that the purpose of the planning system is to achieve sustainable development and as part of the planning balance consideration has to be given to the Environmental, Social and Economic objectives as outlined in paragraph 8 of the NPPF with all three needing to be satisfied to achieve sustainable development.

6.129 For the economic role the positive impacts would lead to job creation for construction and operational phase and would contribute to housing land supply. In terms of the negative, the site located in an unsustainable location which means higher costs of accessing the site in a sustainable location.

6.130 For the social role the positives include provision of the hospice and the creation of a new residential community. The negatives include the creation of an isolated community remote from nearby services, no choice of public transport, and no details regarding affordability of development.

6.131 For the environmental role the proposal would lead to the creation of public open space, habitat and biodiversity enhancement, delivery of on-site surface water management and renewable energy sources. However there are multiple negatives arising from the development including the impact upon the Green Belt through inappropriate development and a loss of openness, although this has previously been considered acceptable; an urbanising impact upon the

area; an unsustainable location with poor access to transport choice and likely private vehicle usage which is poor for the environment; and, increased traffic generation in rural location.

6.132 For these reasons stated above the proposed development cannot satisfy all three objectives and for this reason the proposal would not achieve sustainable development.

6.133 Paragraph 11 of the NPPF expresses 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.*

6.134 The 'presumption in favour of sustainable development' cannot apply in this instance as the site is located within the Green Belt and as such is contrary to paragraph 11 (d) (i).

XII. OTHER MATTERS

6.135 The applicant's Archaeological Evaluation Report explains that the site has been subject to forty two (42) trenches with archaeological remains

encountered in four (4) trenches. Essex County Council's Archaeology Advisor does not consider the need for any planning conditions requiring further archaeological investigations based on archaeological report and the excavation of trial trenches across the site.

6.136 The Design and Access Statement makes reference to refuse and recycling provision and routes through the site. It is considered that each dwelling has sufficient space to accommodate refuse and recycling facilities.

6.137 Given the site's location within the Green Belt and in terms of consistency with previous planning permission it is necessary to remove permitted development rights for extensions, roof extensions and outbuildings, which would need to be subject to separate future planning applications.

7.0 CONCLUSIONS AND REASONS FOR APPROVAL

7.1 The site is within the Green Belt but the previous planning permission's have established the principle of the development for a housing development and a hospice. As this proposal is to change the housing mix and provide some larger dwellings it is considered acceptable with regard to the proposed development's impact upon the Green Belt and the area/landscape when compared to the extant planning permissions. There is no change to the hospice element of the development.

7.2 The 'Impact upon the Green Belt' balancing table has weighed up the harm versus the factors promoted as 'Very Special Circumstances' and there is no further harm identified through the assessment of the material planning considerations that cannot be addressed through planning conditions or obligations. Taking into account the differences between the extant planning permissions and the current application, it is considered that the factors put as 'Very Special Circumstances' clearly outweigh the identified harm to the Green Belt.

7.3 Therefore the recommendation is for approval of planning permission is subject to referral to the Secretary of State, completion of a section 106 agreement and subject to the planning conditions, this 'Recommendation B' as before consideration of the planning permission is made a decision is needed to determine that the development would not have a likely significant effect on a European site either alone or in combination with other plans or projects, which is 'Recommendation A'.

8.0 RECOMMENDATION

Recommendation A:

8.1 That the local planning authority formally determine pursuant to regulation 61 of the Conservation of Habitats and Species Regulations 2017 (as amended), and on the basis of the information available, that the development proposed will not have a likely significant effect on a European site either alone or in combination with other plans or projects.

Recommendation B:

8.2 Approve, subject to the following:

- i) Referral to the Secretary of State and subject to the application not being called in;
- ii) the completion and signing of an obligation under s.106 of the Town and Country Planning Act 1990 relating to the following heads of terms:

Planning obligations offered by the applicant include:

- To commence the construction of the hospice simultaneously with the construction of the residential element of the development.
- Construction of the main access road to the development from Lower Dunton Road, including the junction with Lower Dunton Road, will proceed up to base course level such that construction traffic will have access to both the residential and hospice elements of the development. Completion of the access road will be prior to the first occupation of any dwelling or the completion of the hospice, whichever is the sooner.
- Once the access road is constructed to base course level construction of both the houses and the hospice will proceed and Practical Completion of the hospice will be reached within 11 months of commencement of construction of the hospice.
- Construction of the highway improvements to Lower Dunton Road will proceed and be completed prior to occupation of any dwellings or completion of the hospice, whichever is the sooner. Off site highway works, which include improved road markings, improved signage, improved anti-skid surfacing, rumble strips and

improvements to the Lower Dunton Road / Kirkham Road junction.

In addition to the offered planning obligations the Council requires the following mitigation measures:

- A financial contribution of £437,486 for an off site affordable housing contribution and to fund (£31,533) NHS healthcare improvements at the Horndon Surgery (IRL Project 466).
- A financial contribution of circa £150,000 towards highway improvements on Lower Dunton Road and to the junction of Lower Dunton Road and South Hill/North Hill.
- A financial contribution of £10,046.40 towards Essex Coast RAMS Strategy as the site falls within the zone of influence (Zol) for the Essex Coast RAMS as it is anticipated that the development is likely to have a significant effect upon the interest features of the Thames Estuary and Marshes Special Protection Area and Ramsar through increased recreational pressure, when considered either alone or in-combination with other plans and projects.

Viability review mechanism

- In the event that development has not reached slab level for 50 plots within 2 years of the grant of planning permission, a financial viability review shall be undertaken by the applicant / developer / owner to assess whether the development can generate a commuted sum towards affordable housing and / or relevant infrastructure.

iii) the following planning conditions:

Standard Time

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

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

Approved Plans

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

Plan Number(s):		
Reference	Name	Received
LP.01 A	Location Plan	12 September 2019
002 B	Site Location Plan	12 September 2019
003 C	Site Plan as Existing	12 September 2019
004 B	Block Plan: Satellite View	12 September 2019
005 C	Site Layout	12 September 2019
006 A	Topographic Survey	12 September 2019
007 A	Site History 1868	12 September 2019
008 A	Site History 1897	12 September 2019
009 A	Site History 1922	12 September 2019
010 A	Site History 1947	12 September 2019
011 A	Site History 1987	12 September 2019
012 A	Site History 2017	12 September 2019
013 A	Existing Built Form 2017	12 September 2019
014 A	Existing Site Uses 2017	12 September 2019
015 A	Existing Movement Route 2017	12 September 2019
016 A	Existing Orientation and Aspect 2017	12 September 2019
017 A	Existing Landform 2017	12 September 2019
018 A	Existing Surface Water 2017	12 September 2019
019 A	Existing Trees and Hedgerows 2017	12 September 2019
020 A	Existing Habitats 2017	12 September 2019
021 A	Concept Retained and New Structural Planting	12 September 2019
022 D	Concept Plan: Roads and Paths	12 September 2019
023 A	Concept Plan Surface Water Strategy	12 September 2019
024 F	Concept Plan Open Space	12 September 2019
027 D	Concept Plan Landscape Management	12 September 2019
107 J	Landscape Strategy	22 June 2020
6040 P3	Typical Adoptable Pavement Details	12 September 2019
6070 P4	Long Sections Sheet 1	12 September 2019

6071 P7	Long Sections Sheet 2	12 September 2019
6072 P5	Long Sections Sheet 3	12 September 2019
6074 P6	Long Sections Sheet 5	12 September 2019
6075 P5	Long Sections Sheet 6	12 September 2019
6076 P5	Long Sections Sheet 7	12 September 2019
6077 P6	Long Sections Sheet 8	12 September 2019
6078 P6	Long Sections Sheet 9	12 September 2019
6079 P4	Long Sections Sheet 10	12 September 2019
6090 P8	Site Access Section	12 September 2019
6091 P3	Proposed Mitigation Measures General Arrangement	12 September 2019
6092 P10	Site Access Section	12 September 2019
6093 P2	Proposed Mitigation Measures Layout	12 September 2019
6095 P8	External Works Layout	12 September 2019
6096 P5	Pavement Details Sheet 1	12 September 2019
6097 P7	Pavement Details Sheet 2	12 September 2019
6098 P2	Sign Details	12 September 2019
6100 P4	Access Existing & Proposed Contours Layout	12 September 2019
6101 P1	Mitigations Works Existing Contours Layout	12 September 2019
6105 P3	Large Refuse Tracking	12 September 2019
8002 P2	Proposed Drainage Layout	22 June 2020
8003 P2	Surface Water Catchment Plan	22 June 2020
8015 P1	Attenuation Pond Details	12 September 2019
8055 P2	Proposed Highway Levels Sheet 1	22 June 2020
8056 P2	Proposed Highway Levels Sheet 2	22 June 2020
8085 P2	On Site Visibility Splays	22 June 2020
8200 P2	Environmental Plan	22 June 2020
8300 P2	Boundary Treatments	22 June 2020
8504-43-04- 200 C4	Materials Plan	3 July 2020
KN.01 A	Key Note Reference Guide	3 July 2020
GAR01.PE A	Double Garage Floor Plans and Elevations	12 September 2019
GAR02.PE B	Single Garage Floor Plans and Elevations	01 July 2020

SL01 D	Site Layout	03 June 2020
BDML.01 D	Boundary and Dwelling Material Layout	03 June 2020
BALM (6).E1 A	House Type Balmoral Elevations Sheet 1	26 June 2020
BALM (6).E2 A	House Type Balmoral Elevations Sheet 2	26 June 2020
BALM (6).P C	Proposed Plans	03 June 2020
CAMB-1.PE B	House Type Cambridge Floor Plans and Elevations Option 1 - Brick	26 June 2020
CAMB-2.PE B	House Type Cambridge Floor Plans and Elevations Option 1 - Render	26 June 2020
HARR (8).P A	Proposed Plans	03 June 2020
HARR-1 (8).E A	House Type Harrogate Elevations Option 1 - Brick	26 June 2020
HARR-2 (8).E1 A	House Type Harrogate Elevations Option 2 – Render Sheet 1	26 June 2020
HARR-2 (8).E2 A	House Type Harrogate Elevations Option 2 – Render Sheet 2	26 June 2020
HARR-SP (B).PE E	House Type Harrogate Special Floor Plans and Elevations	26 June 2020
HENL (6).E1 A	House Type Henley Elevations Sheet 1	26 June 2020
HENL (6).E2 A	House Type Henley Elevations Sheet 2	26 June 2020
HENL (6).P C	Proposed Plans	03 June 2020
LEAM.E1 A	House Type Leamington Elevations Sheet 1	26 June 2020
LEAM.E2 A	House Type Leamington Elevations Sheet 2	26 June 2020
LEAM.P A	Proposed Plans	03 June 2020
MARB.E1 A	House Type Marlborough	26 June 2020

	Elevations Sheet 1	
MARB.E2 A	House Type Marlborough Elevations Sheet 2	26 June 2020
MARB.P B	Proposed Plans	03 June 2020
OXFILFE- 1.PE C	House Type Oxford Lifestyle Floor Plans and Elevations Option 1 - Brick	26 June 2020
OXFILFE- 2.PE B	House Type Oxford Lifestyle Floor Plans and Elevations Option 1 - Render	26 June 2020
OXFO.E1 A	House Type Oxford Elevations Sheet 1	26 June 2020
OXFO.E2 A	House Type Oxford Elevations Sheet 2	26 June 2020
OXFO.P A	Proposed Plans	03 June 2020
RICH (6).E1 A	House Type Richmond Elevations Sheet 1	26 June 2020
RICH (6).E2 A	House Type Richmond Elevations Sheet 2	26 June 2020
RICH (6).P C	Proposed Plans	03 June 2020
SHAFT.E B	House Type Shaftesbury Elevations	26 June 2020
SHAFT.P A	Proposed Plans	03 June 2020
SHAFT- SP.E B	House Type Shaftesbury Special Elevations	26 June 2020
SHAFT- SP.P A	Proposed Plans	03 June 2020
STR.PE B	House Type Stratford Floor Plans and Elevations	26 June 2020
WAR.E1 A	House Type Warwick Elevations Sheet 1	26 June 2020
WAR.E2 A	House Type Warwick Elevations Sheet 2	26 June 2020
WAR.P A	Proposed Plans	03 June 2020
WELW (7).E1 A	House Type Welwyn Elevations Sheet 1	26 June 2020

WELW (7).E2 A	House Type Welwyn Elevations Sheet 2	26 June 2020
WELW (7).P C	Proposed Plans	03 June 2020
SE01 F	Street Elevations 01	03 July 2020
SE02 F	Street Elevations 02	03 July 2020
0616/002 J	Hospice Proposed plans	12 September 2019
0616/003 E	Hospice Proposed Elevations	12 September 2019
0616/004 E	Hospice North West Elevation and Section	12 September 2019
0616/005 C	Hospice 3D Views	12 September 2019
0616/006 (B)	Hospice Materials Board	3 July 2020

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the details as approved with regards to policies pMD1 and PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015).

Landscaping – Retention

- All trees, shrubs and hedgerows shown to be retained on the site shall be protected by chestnut paling fencing for the duration of the demolition and construction period at a distance equivalent to not less than the spread from the trunk. Such fencing shall be erected prior to the commencement of any works on the site. No materials, vehicles, fuel or any other ancillary items shall be stored or buildings erected inside this fencing; no changes in ground level may be made or underground services installed within the spread of any tree or shrub including hedges without the previous written consent of the local planning authority.

Reason: To ensure that all existing trees are properly protected, in the interests of visual amenity and to accord with policies CSTP18 and PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

Landscape Implementation

- The proposed development shall be implemented in accordance with the 'Landscape Management Plan' dated December 2017 and within the first available planting season (October to March inclusive) following the

commencement of the development the landscaping works as shown on the approved plan drawing number 107J and specifications attached to and forming part of this permission shall be fully implemented. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

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

Landscaping Management and Maintenance

5. Prior to first use/occupation of the development details of the future management arrangements for the maintenance of the landscaping of the site shall be submitted to and approved in writing by the local planning authority. The management details as approved shall be implemented and the site shall be landscape managed at all times thereafter.

Reason: In the interests of visual amenity and to accord with policies CSTP18 and PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

Materials

6. The residential development shall be implemented in accordance with the approved materials specified on the Boundary and Dwelling Material Layout BDML.01 rev. D, 8504-43-04-200 C4 - Materials Plan, KN.01 A - Key Note Reference Guide and as shown on the elevation plans identified in condition 2 of this permission, unless otherwise agreed in writing by the local planning authority.

The approved materials are:

- Facing walls
 - (D6) Ibstock Kevington Special Shape Sill Bricks and Tile Creasing Detail
 - (D16) F-SD0415 – Tile Creasing Kneeler Detail
 - (M1) Ibstock Leicester Autumn Multi Spec Sheet

- (M2) Istock Leicester Red Stock Spec Sheet
- (M3) Weber Roughcast Render 'Silver Pearl'
- Roofs, canopies and brackets
 - (D1) Fascia - White PVCu
 - (D2) Guttering - Half Round Guttering in Black PVCu
 - (D3) Rain Water Pipe - Round pipe in Black PVCu
 - (D7) EX01799 - Leamington, Shaftesbury, Shaftesbury SP and Cambridge GRP Post
 - (D7) EX02647 – Warwick Canopy
 - (D7) EX02666 – Harrogate and Harrogate Special Canopy
 - (D7) EX03123 – Stratford Canopy
 - (D7) EX03136 – Shaftesbury, Shaftesbury SP and Cambridge Canopy
 - (D7) EX03278 – Leamington Canopy
 - (D10) F-SD0532 – Gallows Bracket Detail
 - (D11) Tudor Boarding - 200x25mm Pressure impregnated softwood in Black
 - (D12) Bargeboard - White PVCu
 - (D14) Lead Flashing
 - (D15) Waney Edge Boarding - Natural Larch Wood Boarding with Waney Edge. Nominal Width 250mm, Nominal Thickness 20mm.
 - (M4) Forticrete Gemini Rooftiles
 - (M5) Forticrete Plain Tile Product Specification
- House Doors and windows
 - (D4) Door Set - White UPVC frame. Double glazed and P1A laminated
 - (D5) Windows - White UPVC frames with Georgian style internal bars, Redrow Homes Window and Glazing Specification and Example Window Spec Following Tender Process
 - (D8) IG Doors - Redrow Homes Heritage and Affordable Range Specification. Door colours as per the colour scheme provided in an email dated 7 August 2019
 - (D9) Utility Door - White PVCu framed Steel door with half height obscured double glazed panel
- Garage Doors
 - (D13) Novoferm Berwick Garage Door. Door colours as per the colour scheme provided in an email dated 7 August 2019

The approved plans below are the annotated versions to show the materials to be used to the elevations of each house type and are as follows:

- BALM(6).e1 B – House Type Balmoral (DM-6) Elevations Sheet 1
- BALM(6).e2 B – House Type Balmoral (DM-6) Elevations Sheet 2

- CAMB-1.PE C – House Type Cambridge Floor Plans and Elevations – Option 1 – Brick
- CAMB-2.PE C – House Type Cambridge Floor Plans and Elevations – Option 2 – Render
- HARR-2.PE C – House Type Harrogate Floor Plans and Elevations – Option 2 - Render
- HARR-SP(8).PE F - House Type Harrogate Special (DM-8) Floor Plans and Elevations
- HENL(6).E1 B - House Type Henley (DM-6) Elevations Sheet 1
- HENL(6).E2 B - House Type Henley (DM-6) Elevations Sheet 2
- LEAM-1.PE D – House Type Leamington Floor Plans and Elevations – Option 1 – Brick
- LEAM-2.PE D – House Type Leamington Floor Plans and Elevations – Option 2 – Render
- MARB.E1 B - House Type Marlborough Elevations Sheet 1
- MARB.E2 B - House Type Marlborough Elevations Sheet 2
- OXF LIFE-1.PE D – House Type Oxford Lifestyle Plans and Elevations – Option 1 – Brick
- OXF LIFE-2.PE D – House Type Oxford Lifestyle Plans and Elevations – Option 2 – Render
- OXF O.PE D – House Type Oxford Floor Plans and Elevations
- RICH(6).E1 B - House Type Richmond (DM-6) Elevations Sheet 1
- RICH(6).E2 B - House Type Richmond (DM-6) Elevations Sheet 2
- SHAFT.E D – House Type Shaftesbury Elevations
- SHAFT-SP.E E – House Type Shaftesbury Special Elevations
- STR-1.PE D – House Type Stratford Plans and Elevations – Option 1 – Brick
- STR-2.PE D – House Type Stratford Plans and Elevations – Option 2 – Render
- WAR-1.PE D – House Type Warwick Plans and Elevations – Option 1 – Brick
- WAR-2.PE D – House Type Warwick Plans and Elevations – Option 2 – Render Front
- WELW(7).E1 B - House Type Welwyn (DM-7) Elevations Sheet 1
- WELW(7).E2 B - House Type Welwyn (DM-7) Elevations Sheet 2
- SE01 F – Street Elevations 01
- SE02 F – Street Elevations 02

Reason: In the interests of visual amenity and to ensure that the proposed development is satisfactorily integrated with its surroundings in accordance

with Policy PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

7. The hospice shall be implemented in accordance with the approved materials Hospice Materials Board 0616/006 (B), unless otherwise agreed in writing by the local planning authority.

The approved materials are:

- Facing brick – Istock Ivanhoe Cream
- Contrasting facing brick – Blockleys Porcelain White
- Timber cladding – European larch with SIOO-X weathering coating
- Aluminium windows and doors – Powder Coated RAL 7044 Silk Grey

Reason: In the interests of visual amenity and to ensure that the proposed development is satisfactorily integrated with its surroundings in accordance with Policy PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

Boundary Treatments

8. Prior to first occupation of the development the boundary treatments as detailed in the approved Boundary and Dwelling Material Layout plan reference BDML.01 rev. D and Boundary Treatment plan reference 8300 P2 shall be implemented and completed in accordance with the approved details and shall retained and maintained at all times thereafter.

Reason: In the interests of visual amenity, privacy and to ensure that the proposed development is satisfactorily integrated with its immediate surroundings as required by policies CSTP22 and PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

Soundproofing

9. Prior to the use of any plant or machinery the scheme of soundproofing for the hospice building outlined in report 19035.PCR.01.01 dated 16/04/2019 shall be implemented as approved and shall be permanently retained and maintained at all times thereafter.

Reason: In the interests of amenity and to ensure that the proposed development is integrated within its immediate surroundings as required by

policy PMD1 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

External Lighting

10. Prior to the first use/occupation of the development details of any external lighting, including details of the spread and intensity of light together with the size, scale and design of any light fittings and supports, shall be submitted to and agreed in writing by the local planning authority. Thereafter external lighting shall only be provided and operated in accordance with the agreed details or in accordance with any variation agreed in writing by the local planning authority.

Reason: In the interests of amenity and to ensure that the proposed development is integrated within its surroundings as required by policy PMD1 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

BREEAM

11. Unless otherwise agreed in writing by the local planning authority, the hospice building hereby permitted shall be built to the "Very Good" standard under the Building Research Establishment Environmental Assessment Method (BREEAM).

Within three months following the first occupation of the hospice building hereby permitted a copy of the Post Construction Completion Certificate for the building verifying that the relevant BREEAM rating has been achieved shall be submitted to the Local Planning Authority.

Reason: In order to reduce carbon dioxide emissions in the interests of sustainable development, as required by policy PMD12 of the Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

Highway Junction Improvements

12. Prior to first use/occupation of the development the proposed improvements to Lower Dunton Road and the junction of Lower Dunton Road and South Hill/North Hill shall be implemented in accordance with the approved plans identified in condition 2 of this permission. The approved highway

improvement works shall be maintained and retained as such at all times thereafter.

Reason: In the interests of highway safety and amenity in accordance with policy PMD2 of the Thurrock Core Strategy and Policies for the Management of Development DPD (2015).

Access from the Highway

13. Prior to first use/occupation of the development the layout, dimensions and construction specification of the proposed accesses to the highway shall be implemented in accordance with the approved plans identified in condition 2 of this permission. The approved highway accesses shall be maintained and retained as such at all times thereafter.

Reason: In the interests of highway safety and amenity in accordance with policy PMD2 of the Thurrock Core Strategy and Policies for the Management of Development DPD (2015).

Highway Details

14. Prior to first use/occupation of the development the estate roads, footways, visibility splays, accesses and turning spaces shall be constructed and surface finished in accordance with the approved plans identified in condition 2 of this permission. The approved highway details shall be maintained and retained as such at all times thereafter.

Reason: In the interests of highway safety and amenity in accordance with policy PMD2 of the Thurrock Core Strategy and Policies for the Management of Development DPD (2015).

Sight Splays

15. The sight splays and speed reduction measures provided at all junctions and bends in the road shall be implemented in accordance with the approved plans identified in condition 2 of this permission and shall be retained and maintained at all times so that there are no obstruction within the sight line area above the level of the adjoining highway carriageway.

Reason: In the interests of highway safety and amenity in accordance with policy PMD2 of the Thurrock Core Strategy and Policies for the Management of Development DPD (2015).

Visibility Splays

16. Before any vehicle access is first used, clear to ground level sight splays of 1.5 metres x 1.5 metres from the back of the footway shall be laid out either side of the proposed access within the site and maintained at all times thereafter.

Reason: In the interests of highway safety and amenity in accordance with policy PMD2 of the Thurrock Core Strategy and Policies for the Management of Development DPD (2015).

Hospice Parking

17. Prior to the first occupation / operational use of the hospice the car parking spaces shown on drawing number SL.01D shall be provided and delineated on-site in accordance with the approved plans. Notwithstanding the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development shall be carried out on the site so as to preclude the use of those car parking spaces. The car parking spaces shall be available in their entirety during the whole of the time that the building is open to users and visitors of the hospice.

Reason: In the interests of highway safety and amenity and to ensure that adequate car parking provision is available in accordance with policy PMD8 of the Thurrock Core Strategy and Policies for the Management of Development DPD (2015).

Residential Parking

18. Prior to the first occupation of the dwelling(s) the areas shown on drawing number SL.01D as car parking space(s) or garage(s) shall be provided for off street parking purposes. Notwithstanding the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no permanent development shall be carried out on the site so as to preclude the use of these parking space(s) or garage(s).

Reason: In the interests of highway safety and amenity and to ensure that adequate car parking provision is available in accordance with policy PMD8

of the Thurrock Core Strategy and Policies for the Management of Development DPD (2015).

Travel Plan Hospice

19. Prior to the first operation / occupation of the hospice building hereby permitted, a Travel Plan shall be submitted to and agreed in writing with the local planning authority. The Travel Plan shall include detailed and specific measures to reduce the number of journeys made by car to the hospice building hereby permitted and shall include specific details of the operation and management of the proposed measures. The commitments explicitly stated in the Travel Plan shall be binding on the applicants or their successors in title. The measures shall be implemented upon the first operational use / occupation of the building hereby permitted and shall be permanently kept in place unless otherwise agreed in writing with the local planning authority. Upon written request, the applicant or their successors in title shall provide the local planning authority with written details of how the agreed measures contained in the Travel Plan are being undertaken at any given time.

Reason: To reduce reliance on the use of private cars, in the interests of sustainability, highway safety and amenity in accordance with Policy PMD10 of the Adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development DPD (2015).

Travel Plan Residential

20. Prior to the first occupation of any of the dwellings hereby permitted, a Travel Plan shall be submitted to and agreed in writing with the local planning authority. The Travel Plan shall include detailed and specific measures to reduce the number of journeys made by car to the residential development hereby permitted and shall include specific details of the operation and management of the proposed measures. The commitments explicitly stated in the Travel Plan shall be binding on the applicants or their successors in title. The measures shall be implemented upon the occupation of any dwelling hereby permitted and shall be permanently kept in place unless otherwise agreed in writing with the local planning authority. Upon written request, the applicant or their successors in title shall provide the local planning authority with written details of how the agreed measures contained in the Travel Plan are being undertaken at any given time.

Reason: To reduce reliance on the use of private cars, in the interests of sustainability, highway safety and amenity in accordance with Policy PMD10 of the Adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development DPD (2015).

Construction Environmental Management Plan

21. The demolition and construction works shall only take place in accordance with the Construction Environmental Management Plan and Build Strategy Plan Rev A (plan reference 1000), unless otherwise agreed in writing by the local planning authority.

Reason: In order to minimise any adverse impacts arising from the construction of the development in accordance with Policy PMD1 of the Adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development DPD (2015).

Construction Hours:

22. No demolition or construction works in connection with the development shall take place on the site at any time on any Sunday or Bank / Public Holiday, nor on any other day except between the following times:

- Monday to Friday 0800 – 1800 hours
- Saturdays 0800 – 1300 hours.

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

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

Use of Hospice

23. The hospice building shall be used as a hospice only and for no other purpose including any purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any

provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: In the interests of amenity and to ensure that the development remains integrated with its immediate as required by policy PMD1 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

Hospice Offices

24. The offices and ancillary floorspace within the hospice building hereby permitted shall be used solely for purposes in conjunction with and ancillary to the main use of this building as a hospice and shall not be occupied separately.

Reason: In the interests of amenity and to ensure that the development remains integrated with its immediate as required by policy PMD1 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

Removal of Permitted Development Rights

25. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, C and E of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extensions, roof extensions or outbuildings shall be erected on the dwellings.

Reason: To ensure that the proposed development is satisfactorily integrated with its immediate surroundings and to ensure the design quality and integrity of the development in accordance with Policy PMD2 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development DPD (2015).

Renewable Energy

26. Prior to first use/ occupation of the buildings hereby permitted the renewable energy measures as detailed 'Sustainability and Energy Statement' dated August 2019 (residential) and 'Energy Statement' Dated September 2018 (hospice) shall be implemented as approved and shall be maintained and retained at all times thereafter., unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that development takes place in an environmentally sensitive way in accordance with Policy PMD13 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

Nesting Birds

27. Demolition and clearance of vegetation or other potential bird nesting sites shall not be undertaken within the breeding season of birds (i.e. within 1st March to the 31st July) except where a suitably qualified ecological consultant has confirmed in writing that such clearance works would not affect any nesting birds. In the event that an active bird nest is discovered outside of this period and once works have commenced, then a suitable standoff period and associated exclusion zone shall be implemented until the young have fledged the nest.

Reason: To ensure effects of the development upon the natural environmental are adequately mitigated in accordance with Policy PMD7 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

Biodiversity and Reptiles

28. The proposed development shall be implemented in accordance with the mitigation and management measures as set out in sections 3.0 to 6.0 of the 'Biodiversity Mitigation, Enhancement and Management Plan' dated July 2018, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure effects of the development upon the natural environmental are adequately mitigated in accordance with Policy PMD7 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

Surface Water Drainage Scheme

29. Prior to first occupation of the development the surface water drainage scheme shall be implemented in accordance with the approved surface water drainage details ('Technical Note relating to Surface Water Drainage' dated August 2019 and the 'Surface Water Calculations') and drainage plans (8002 P2, 8003 P2, 8015 P1) as identified in condition 2 of this planning permission. The scheme shall subsequently be retained and

maintained at all times thereafter in accordance the management and maintenance arrangements as identified in the 'Maintenance Plan' dated September 2018 and the drainage plans (8002 P2, 8003 P2, 8015 P1) in condition 2 of this planning permission, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

All in accordance with Policy PMD15 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

Surface Water Yearly Logs

30. The applicant or any successor in title must maintain yearly logs of maintenance which shall be carried out in accordance with the 'Maintenance Plan' dated September 2018. These shall be made available for inspection upon the written request of the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk. All in accordance with Policy PMD15 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development DPD (2015).

Secured By Design

31. The development shall be carried out in accordance with the agreed measures and specifications outlined in the Secured by Design Principles and Practices Statement, unless otherwise agreed in writing by the local planning authority.

Reason: In the interest of creating safer, sustainable communities in accordance with Policy PMD2 of the adopted Thurrock LDF Core Strategy

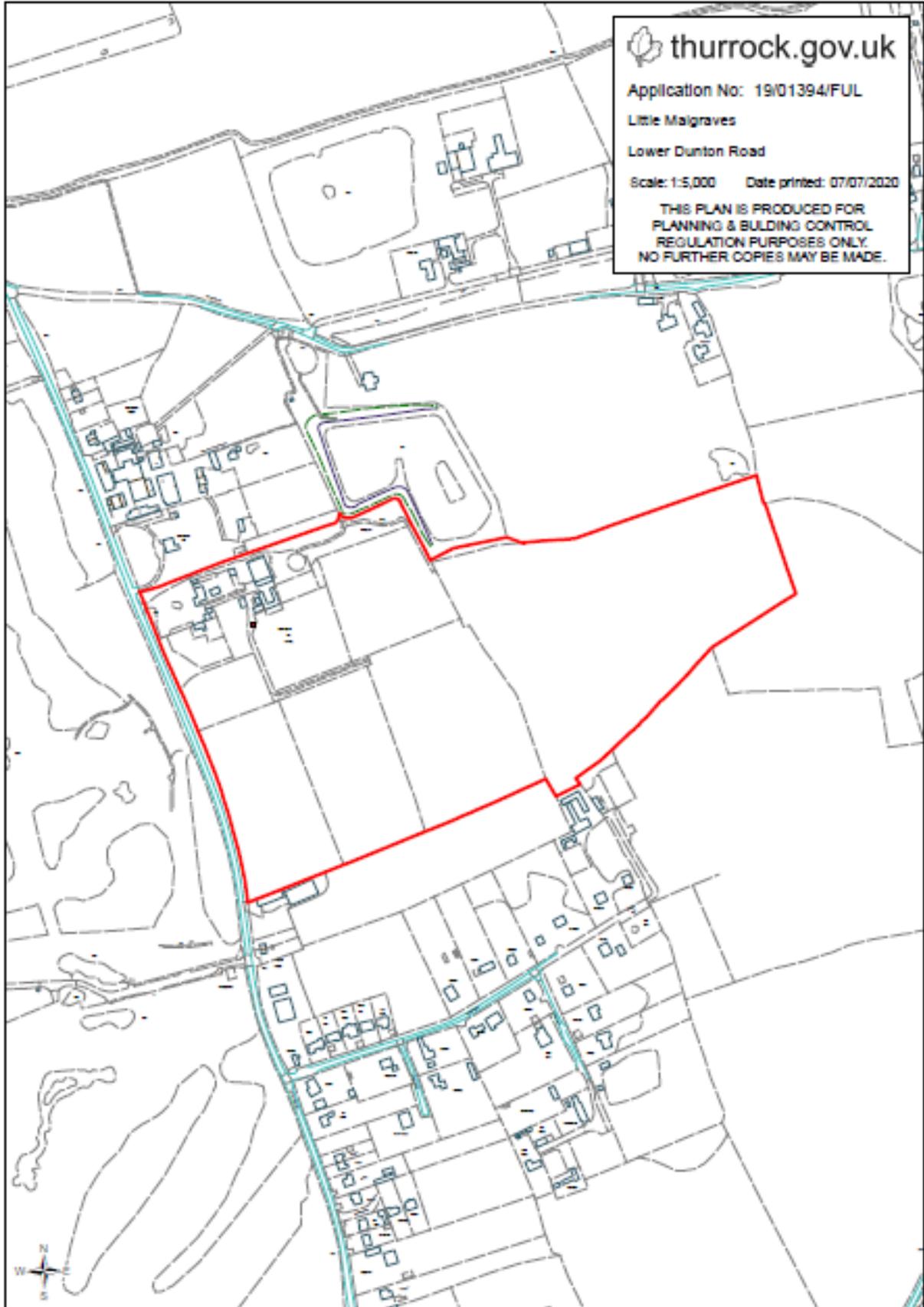
and Policies for the Management of Development DPD (2015).

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant/Agent, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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>



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Reference: 19/01739/CV	Site: Unit E2 Stanhope Industrial Park Wharf Road Stanford Le Hope Essex SS17 0EH
Ward: Stanford Le Hope West	Proposal: Variation of condition 7 (Hours of movement for commercial vehicles) of planning permission ref: 00/00037/FUL to extend the hours of movement for commercial vehicles by 1 hour in the morning only to between the hours of 6 a.m. to 7 p.m. Monday to Saturday and not at all on Sundays or Bank Holidays.

Plan Number(s):		
Reference	Name	Received
No nos.	Location Plan	27 November 2019

The application is also accompanied by: Correspondence from the Applicant – received 20 th March 2020	
Applicant: Mr Sam Barr	Validated: 29 November 2019 Date of expiry: 20 July 2020 (Extension of time agreed with applicant)
Recommendation: To Refuse	

This application is scheduled for determination by the Council’s Planning Committee because the application has been called in by Councillors Hebb, Jefferies, Gledhill, Johnson, Watkins and Maney. The reason given is that the Committee is requested to investigate the loss of amenity associated with earlier operating hours in accordance with Part 3 (b) 2.1 (c) of the Council’s constitution.

1.0 DESCRIPTION OF PROPOSAL

1.1 This is an application submitted pursuant to s73 of the 1990 Act for the variation of conditions attached to the planning permission (ref. 00/00037/FUL) for the use of the land for storage. Planning permission for this development was granted in August 2000. The planning permission was subject to a number of conditions. Condition 7 of

this permission reads:

No commercial vehicles of any kind shall visit or leave the site between the hours of 7 p.m. and 7 a.m. Monday to Saturday and not at all on Sundays or Bank Holidays.

Reason: To protect the amenities of nearby residents

- 1.2 Permission is now sought to vary the condition by extending the hours of movement for commercial vehicles by 1 hour in the morning to allow vehicles to access the site from 06:00 onwards, rather than 07:00 on weekdays and Saturdays only. No changes are proposed for Sundays or Bank Holidays, when movements are prohibited.

2.0 SITE DESCRIPTION

- 2.1 The application site lies within the Stanhope Industrial Estate which is designated as a Secondary Commercial and Industrial Area in the Development Plan.
- 2.2 The site is currently used as a scaffolders’ yard and is on the southern side of the central access road that runs through the industrial estate, diagonally opposite the Travis Perkins premises.

3.0 RELEVANT PLANNING HISTORY

- 3.1 The following table provides the relevant planning history:

Application Reference	Description of Proposal	Decision
00/00037/FUL	Use of land for storage of motor vehicles	Approved
02/00192/OUT	Erection of building for the purpose of tyre shredding. Overnight parking of lorry. Vehicle de-pollution.	Approved
03/00282/REM	Erection of building for purpose of tyre shredding and vehicle de-pollution, overnight lorry parking	Approved
04/00888/OUT	Proposed facility for the manufacture of rubber matting from re-cycled tyres.	Refused
18/01635/FUL	Construction of flexible industrial units (B1(c)) with associated new access road and parking, sewage treatment and new incoming services.	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

4.2 PUBLICITY:

This application was publicised by way of individual neighbour notification letters and public site notice which has been displayed nearby.

4.3 Sixteen letters of objection have been received on the following grounds:

- Additional traffic
- Excessive noise
- Environmental pollution
- Litter and smell

4.4 ENVIRONMENTAL HEALTH:

No specific comments raised.

4.5 HIGHWAYS:

Recommend refusal.

4.6 LANDSCAPE AND ECOLOGY ADVISOR:

No objection.

5.0 POLICY CONTEXT

5.1 National Planning Policy Framework (NPPF)

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

- 2. Achieving sustainable development

- 4. Decision-making
- 6. Building a strong, competitive economy

5.2 National Planning Policy Guidance (NPPG)

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:

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

5.3 The Development Plan

Thurrock Local Development Framework (as amended) 2015

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

OVERARCHING SUSTAINABLE DEVELOPMENT POLICY

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

SPATIAL POLICIES

- CSSP2 (Sustainable Employment Growth)

THEMATIC POLICIES

- CSTP6 (Strategic Employment Provision)

POLICIES FOR MANAGEMENT OF DEVELOPMENT

- PMD1 (Minimising Pollution and Impacts on Amenity)

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, this consultation has now closed and the responses have been considered and reported to Council. On 23 October 2019 the Council agreed the publication of the Issues and Options 2 Report of Consultation on the Council's website and agreed the approach to preparing a new Local Plan.

6.0 ASSESSMENT

6.1 This is an application under section 73 of the Town and Country Planning Act 1990 to vary conditions attached to a grant of planning permission. Where an application submitted under S.73 of the 1990 Act is approved, the legal effect is to issue a new grant of planning permission, whilst leaving the original planning consent unaffected.

6.2 Accordingly, if the current application is approved both the original consent (00/00037/FUL) and this application would comprise 'self-contained' planning permissions, although the latter permission can be assumed to represent the more 'up to date' consent. When considering an application under s.73, the Council as Local Planning Authority should consider matters related to the conditions only and not the planning permission itself.

6.3 The assessment below covers the following areas:

I. Neighbour Amenity Impacts

i. NEIGHBOUR AMENITY IMPACTS

6.4 The reason for the imposition of the condition in 2000 was "*To protect the amenities of nearby residents*". The assessment of this application is therefore based solely on the impact of an extension of the operating hours on the amenity and living conditions of the nearby residential occupiers. The Stanhope Industrial Estate is accessed via Wharf Road where there are a number residential properties, accordingly any vehicle traffic will pass these residential properties.

6.5 Although the condition was imposed in 2000 its purpose and reason remains valid today. The use of conditions in this form is consistent with the provisions in the NPPG, which advise that authorities can use planning conditions to restrict activities allowed on sites at certain times and differentiating as appropriate between different times of day, such as evenings and late at night as one way of addressing the adverse effect of noise.

6.6 Paragraph 180 of the NPPF requires that planning policies and decisions should ensure new development is appropriate for its location, taking into account likely effects on living conditions and that LPAs should "*mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life*"

- 6.7 Policy PMD1 states that development will not be permitted where it would cause or is likely to cause unacceptable effects on amongst other matters the amenities of the area and the amenity, health or safety of others which includes local residents.
- 6.8 In the supporting statement accompanying the application, the applicant states that the extension to operating hours relates to 5 HGVs and that no additional vehicles are involved. Furthermore, they claim that nuisance levels are low and drivers adhere to speed and time restrictions and vehicles are fitted with tachometers. No further justification has been provided in support of the proposed extension of hours.
- 6.9 The information put forward is limited and does not provide any substantial justification for an extension to the hours. The 06:00 to 07:00 time period is one in which residents could reasonably expect low levels of vehicle movements and no disturbance to sleep from large vehicle movements. It is considered that allowing an extension of time would cause noise and disturbance, and therefore harm to the amenity of residents in Wharf Road.
- 6.10 Although every application is determined on the basis of individual circumstances and its merits it should be noted that the condition attached to the 2000 permission covers almost every other plot consented before and since this application. Allowing this occupier to extend their hours of operation would make it very difficult to refuse other similar applications which would lead to a significant increase in vehicle traffic at early hours in the morning which would seriously impact on the amenities of nearby neighbours.
- 6.11 Accordingly, the proposed extension of time, would result in large vehicle movements at antisocial hours which would be detrimental to the amenities and peaceful enjoyment of the dwellings for occupiers in Wharf Road, contrary to Policy PMD1 of the Core Strategy and guidance in the NPPF.

7.0 CONCLUSIONS AND REASON FOR REFUSAL

- 7.1 The proposed extension to the hours of operation is undesirable, would be likely to lead to an environment prejudicial to the amenity of the nearby residential occupiers and would be contrary to Core Strategy policy PMD1 and guidance in the NPPF.

8.0 RECOMMENDATION

- 8.1 Refuse for the following reason:

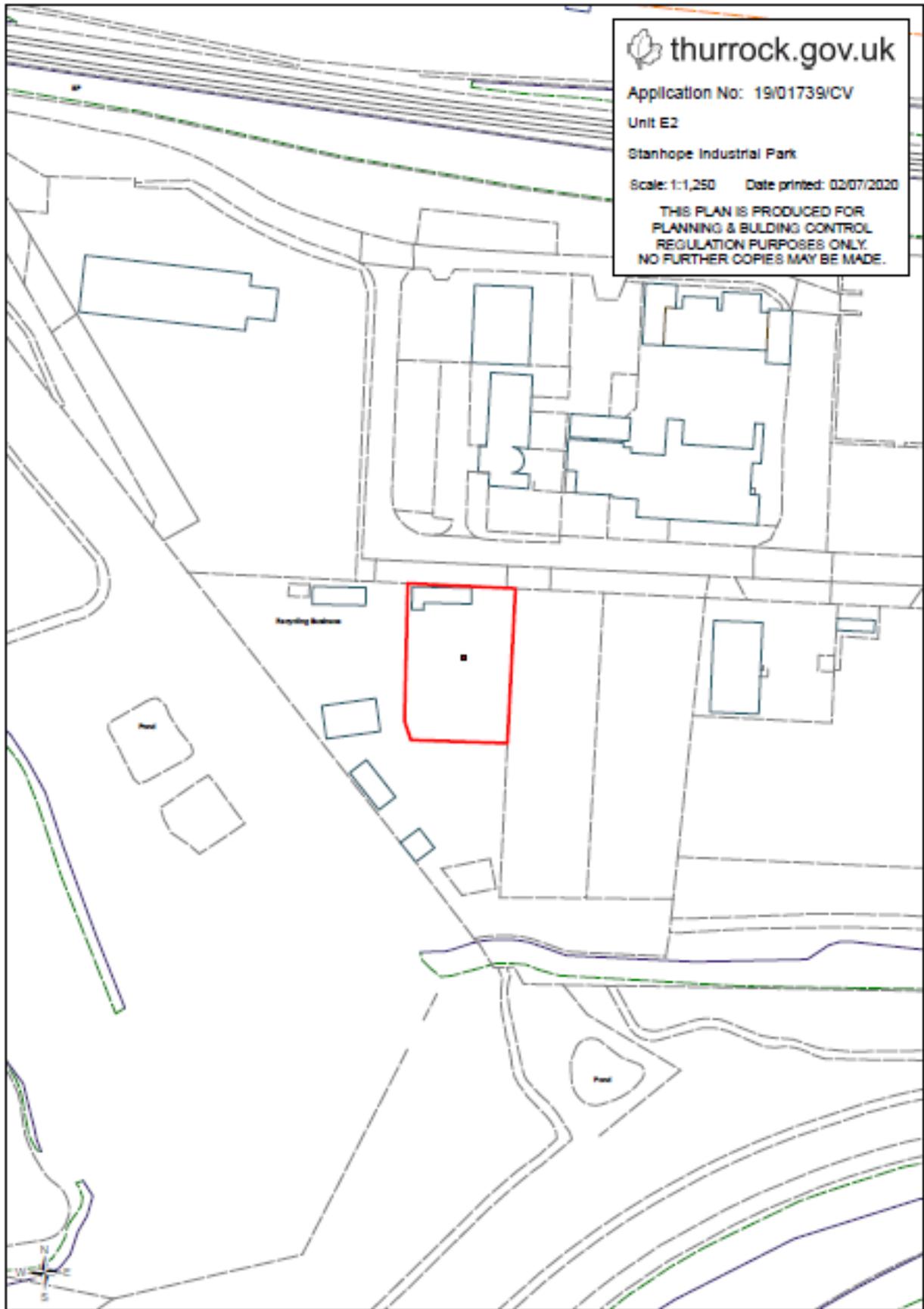
The proposed extension to the hours of operation is undesirable, would result in additional large scale vehicle movements which would be harmful to the amenities and living conditions of the nearby residential occupiers in Wharf Road, contrary to Policy PMD1 of the Core Strategy 2015 and paragraph 180 of the NPPF.

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by discussing the application process with the Agent and seeking to determine this at the first available opportunity. Unfortunately, due to the principle concern with the development it was not possible to negotiate on the application to achieve a positive outcome. However, the Local Planning Authority has clearly set out, within its report, the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is 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>



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Agenda Item 12

Planning Committee 16 July 2020	Application Reference: 20/00251/FUL
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Reference: 20/00251/FUL	Site: 32 Lancaster Road Chafford Hundred Grays Essex RM16 6BB
Ward: South Chafford	Proposal: Demolition of existing double garage, subdivision of existing plot and the construction of a new detached dwelling, including off-street parking, private garden amenity space.

Plan Number(s):		
Reference	Name	Received
19-017-200-06	Proposed Site Layout	28th February 2020
19-017-205-05	Proposed Plans	28th February 2020
19-017-202-05	Proposed Plans	28th February 2020
19-017-203-04	Site Layout	28th February 2020
24010EA-01	Other	28th February 2020

The application is also accompanied by: <ul style="list-style-type: none"> Design and Access Statement Planning Statement Topographical Survey 	
Applicant: C/O Agent	Validated: 3 March 2020 Date of expiry: 31 July 2020 Extension of time agreed by applicant
Recommendation: Refusal	

This application is scheduled for determination by the Council's Planning Committee because the application was called in by Cllr M. Fletcher, Cllr J. Potheary, Cllr. S Liddiard, Cllr S. Shinnick and Cllr S. Muldowney in accordance with Part 3 (b) 2.1 (d)(ii) of the Council's constitution to consider the proposal on the grounds amenity and character of the area.

1.0 DESCRIPTION OF PROPOSAL

- 1.1 The application seeks permission for the subdivision of an existing plot, demolition of the existing double garage and construction of a new 2-bedroom dwelling, including private amenity space and off-street parking. The dwelling would be two storey with a pitched roof and of a traditional design.
- 1.2 The application is a revised scheme following the refusal of application: 19/00783/FUL in September 2019.

2.0 SITE DESCRIPTION

- 2.1 The application site is a largely triangular shaped plot on the north-western side of Lancaster Road and is bordered to the west by a wooded area subject to a Tree Preservation Order (11/2000).
- 2.2 The site comprises a detached 4-bedroom property and a detached double garage. The land is within a residentially allocated area in the Core Strategy.

3.0 RELEVANT HISTORY

Application Reference	Description of Proposal	Decision
19/00783/FUL	Demolition of existing double garage, and subdivide existing plot to construct new dwelling, including associated development and off-street parking	Refused
19/01001/HHA	Two storey side extension.	Approved
00/00443/FUL	82 no. dwellings, parking and roads	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 and public site notice which has been displayed nearby. No comments have been received.

4.3 ENVIRONMENTAL HEALTH:

No objection subject to conditions.

4.4 EMERGENCY PLANNING:

No objections.

4.5 HIGHWAYS

No objection subject to conditions.

4.6 LANDSCAPE AND ECOLOGY

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
- 12. Achieving well-designed places
- 15. Conserving the enhancing the natural environment

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 number 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
- Housing supply and delivery
- Tree Preservation Orders and trees in conservation areas

Local Planning Policy

5.3 Thurrock Local Development Framework (as amended) 2015

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

Spatial Policies:

- CSSP1 (Sustainable Housing and Locations);

Thematic Policies:

- CSTP1 (Strategic Housing Provision)
- 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)
- PMD8 (Parking Standards)
- PMD9 (Road Network Hierarchy)

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, this consultation has now closed and the responses have been considered and reported to Council. On 23 October 2019 the Council agreed the publication of the Issues and Options 2 Report

of Consultation on the Council's website and agreed the approach to preparing the Local Plan.

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

BACKGROUND

6.1 In September 2019] an application (19/00783/FUL) was submitted, seeking planning permission for the demolition of the existing double garage and subdivision of the existing plot to construct new 3-bedroom dwelling. The application was refused for the following reason:

- 1 *The proposed new dwelling by reason of its siting, forward projection and scale would lead to cramped form of development within close proximity to the highway and would have an over-dominant and overbearing impact upon the street scene significantly forward of existing dwellings on this side of the road. As such the proposal would be out of character with the appearance of the streetscene. Furthermore, the proposal would result in insufficient private amenity space for both the proposed and existing dwelling, and a poor layout of private amenity space for the proposed dwelling, detrimental to the living conditions of future occupiers. For these reasons the proposal is considered to constitute overdevelopment and is therefore contrary to policies PMD1, PMD2, CSTP22, and CSTP23 of the adopted Thurrock Core Strategy and Policies for Development DPD (as amended) 2015 and the National Planning Policy Framework 2019.*

6.2 The current application has been submitted in an attempt to overcome the previous reason for refusal by reducing the depth and overall dimensions of the dwelling house to make it smaller.

The assessment below covers the following areas:

- I. Principle of the Development
- II. Design and Layout
- III. Traffic Impact, Access and Car Parking

IV. Impacts upon Amenity

V. Impact upon Ecology and Biodiversity

I. PRINCIPLE OF THE DEVELOPMENT

- 6.3 The site is located within a residential area and currently forms part of the residential curtilage of the existing property. There are no objections in principle to accommodating a dwelling on the site, subject to the development being in compliance with all relevant development management policies.

II. DESIGN AND LAYOUT

- 6.4 The National Planning Policy Framework (NPPF) emphasises that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.
- 6.5 Policy CSTP22 of the Core Strategy 2015 highlights the importance of good design and indicates that development proposals must demonstrate high quality design founded on an understanding of, and response to the local context.
- 6.6 Policy PMD2 of the Core Strategy 2015 requires that all design proposals should respond to the sensitivity of the site and its surroundings and must contribute positively to the character of the area in which it is proposed and should seek to contribute positively to local views, townscape, heritage assets and natural features and contribute to the creation of a positive sense of place.
- 6.7 The existing, single-storey garage is located further forwards towards the highway than the residential properties within the streetscene but this is seen as a subservient building to the property and is well screened by existing trees and vegetation.
- 6.8 The proposal would see the existing garage demolished and replaced with a two storey detached dwelling. The proposed dwelling would be located very close to the pavement which would be unusual on this side of Lancaster Road. The location of the dwelling would be at a point where the plot tapers considerably, meaning the dwelling would appear cramped on an uncharacteristically small plot. It is considered that the proposed dwelling by reason of its siting and scale would lead to cramped form of development within close proximity to the highway which would have an over-dominant and overbearing impact upon the street scene significantly forward of existing dwellings on this side of the road. As such the proposal would be out of

character with the appearance of the streetscene.

- 6.9 Due to the irregular shape of the site, the proposed dwelling would have the majority of its private amenity space to its flank, on a non-private side of the dwelling. Where the space would be provided to the rear, it would be on average 3m deep. This layout would again be uncharacteristic within the wider area, appearing cramped, overdeveloped and out of keeping with the prevailing character of the area. Owing to the limited depth of the garden it is considered the proposal and would fail to ensure a suitable outdoor living environment for occupiers of the dwelling.
- 6.10 In light of the above, the proposal is contrary to policies CSTP22 and PMD2 of the adopted Core Strategy and the NPPF.

III. TRAFFIC IMPACT, ACCESS AND CAR PARKING

- 6.11 The current vehicle access would be used for accessing both the existing property and the proposed dwelling. The plans show sufficient off street parking provision for both the existing properties and the access arrangements are also acceptable, from a technical highway perspective.

The Council's Highways Officer has raised no objection to the proposal, but has recommended conditions, if permission were to be granted, requiring the parking area to be completed and sight splays provided prior to occupation. Therefore in respect of highways matters the proposal complies with policies PMD2, PMD8 and PMD9 of the Core Strategy.

IV. IMPACTS UPON AMENITY

- 6.12 The proposed dwelling would be sited a suitable distance from the nearest residential neighbour located on the opposite side of Lancaster Road such that there would not be a significant loss of light, overbearing impact or loss of privacy to neighbours.

V. IMPACTS UPON ECOLOGY AND BIODIVERSITY

- 6.13 The trees to the rear of the application site are covered by a Tree Preservation Order 11/2000. As such, the previous application (19/00783/FUL) was supported by an arboricultural method statement to which the Council's Landscape and Ecology consultant raised no objection, provided the approved method statement was adhered to and necessary root protection measures were secured through planning condition.

- 6.14 No such method statement has been provided to support the current application, however as recommended by the Council's Landscape and Ecology consultant, were permission to be granted an Arboricultural Method Statement and Landscape Scheme would need to be approved in writing by the Local Authority

7.0 CONCLUSIONS AND REASON(S) FOR REFUSAL

- 7.1 The proposed dwelling would appear cramped on an uncharacteristically small plot, resulting in an over-dominant and overbearing impact upon the streetscene.
- 7.2 The proposed rear garden would be very shallow, appearing cramped and overdeveloped within the surrounding area.
- 7.3 Owing to this limited depth, and location of usable amenity space to the flank elevation, the proposal would result in an unsuitable habitable environment for future occupiers.

8.0 RECOMMENDATION

- 8.1 Refuse planning permission for the following reason(s):

1. The proposed new dwelling by reason of its siting, forward projection and scale would lead to a cramped form of development within close proximity to the highway and would have an over-dominant and overbearing impact upon the street scene significantly forward of existing dwellings on this side of the road. As such the proposal would be out of character with the appearance of the streetscene.

Furthermore, the proposal would result in a poor layout of private amenity space for the proposed dwelling, detrimental to the living conditions of future occupiers.

For these reasons the proposal constitutes overdevelopment and is contrary to policies PMD2 and CSTP22 of the Thurrock Core Strategy 2015 and the National Planning Policy Framework 2019.

Positive and Proactive Statement

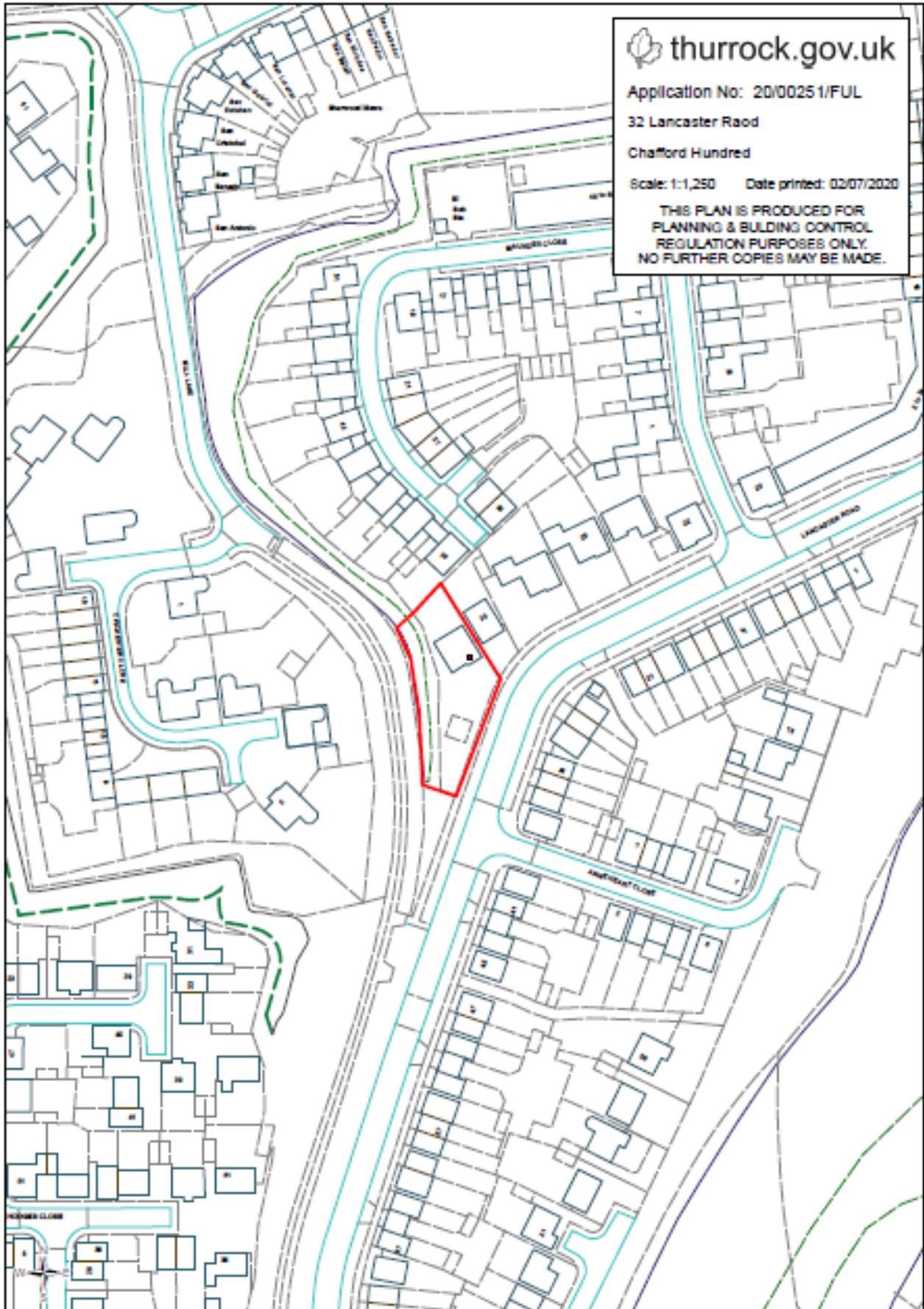
Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) - Positive and Proactive Statement:

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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Planning Committee 16 July 2020	Application Reference: 20/00593/TBC
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Reference: 20/00593/TBC	Site: Former Whiteacre Daiglen Drive South Ockendon Essex
Ward: Belhus	Proposal: Retrospective temporary planning permission sought for a period of 3 years for timber site hoarding.

Plan Number(s):		
Reference	Name	Received
10059-00-3100-S3-A	Location Plan	20th May 2020
10059-00-3101-S3-A	Proposed site layout	20th May 2020

The application is also accompanied by: N/A	
Applicant: Thurrock Council	Validated: 1 June 2020 Date of expiry: 27 July 2020
Recommendation: Approve subject to conditions	

This application is scheduled as a Committee item because the Council is the applicant and landowner (in accordance with Part 3 (b) Section 2 2.1 (b) of the Council's constitution).

1.0 DESCRIPTION OF PROPOSAL

- 1.1 The application seeks temporary permission for a period of 3 years, for the hoarding which measures 2.4m in height and is located around the curtilage of the site. The erection of the hoarding commenced on 11 May 2020.
- 1.2 The intention of the hoarding is to provide security and ensure the safety of the site and for members of the public.

2.0 SITE DESCRIPTION

- 2.1 The application site is a currently vacant piece of land that measures 5674sqm. The site is located to the south of the Bluebell Surgery located on Darenth Lane.

- 2.2 The land has been vacant for a period of 14 years, the buildings that were previously located within the site named have been demolished.

3.0 RELEVANT HISTORY

- 3.1 None

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 The application has been advertised by way of neighbour letters and a site notice erected nearby to the site. No comments were received.

4.3 HIGHWAYS:

No objections.

4.4 LANDSCAPE AND ECOLOGY:

No objections

5.0 POLICY CONTEXT

5.1 National Planning Policy Framework (NPPF)

The revised NPPF was published on 19th February 2019. The NPPF sets out the Government's planning policies. 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:

- 4. Decision-making
- 12. Achieving well-designed places

5.2 National Planning Practice Guidance (NPPG)

In March 2014 the former 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.

NPPG contains a range of subject areas, with each area containing several sub-topics. Those of particular relevance to the determination of this planning application include:

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

5.3 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:

Thematic Policies:

- CSTP22 - Thurrock Design

Policies for the Management of Development

- PMD1 - Minimising Pollution and Impacts on Amenity
- PMD2 - Design and Layout
- PMD9 - Road Network Hierarchy

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, this consultation has now closed and the responses have been considered and reported to Council. On 23 October 2019 the Council agreed the publication of the Issues and Options 2 Report of Consultation on the Council’s website and agreed the approach to preparing a new Local Plan.

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 assessment below covers the following areas:

- i. Principle of development
- ii. Design of development and relationship with surroundings
- iii. Amenity Impacts
- iv. Landscape and Ecology
- v. Highways

I. PRINCIPLE OF DEVELOPMENT

6.2 There is no extant planning permission for the site, however the hoarding will provide security for the site whilst it is vacant and protect members of the public. The application seeks temporary permission for a period of 3 years while consideration is given the potential future use of the site. In principle the erection of the hoarding for security purposes is considered acceptable for a temporary period.

II. DESIGN OF DEVELOPMENT AND RELATIONSHIP WITH SURROUNDINGS

6.3 The hoarding appears as a somewhat utilitarian feature within the street scene. However, the hoarding is necessary for the security of the site whilst consideration is given to any future use. Therefore, given that the hoarding is only to be erected for a temporary period of three years, while there is an impact upon the surrounding area, the impacts are only for a relatively limited period. On this basis it is considered that the impact of the hoarding is acceptable.

III. AMENITY IMPACTS

6.4 The hoarding located to the west of the application site would be within close proximity to the rear gardens of properties located within Dent Close. However, given that the hoarding is located to the rear of most of these properties, the impact of the hoarding upon amenity would be limited.

6.5 It is not considered that the proposal would have a significant adverse amenity impact for surrounding residents and the proposals would comply with Policy PMD1 in this respect.

IV. LANDSCAPE AND ECOLOGY

6.6 There are a number of trees within the site in close proximity to the hoarding. The Council's Landscape and Ecology Advisor was consulted and advised that the trees within the site are not of high amenity value nor are they of a good quality. Therefore no concerns were raised in regards to the impact upon trees within the site.

V. HIGHWAYS

6.7 The proposal would not affect the adjacent highways in regards to visibility or vehicular or pedestrian safety. There are no objections to the proposal from the Council's Highway Officer.

7.0 CONCLUSIONS

7.1 The proposal would be compliant with the relevant Core Strategy policies, as well as relevant chapters of the NPPF and would be acceptable, given that the hoarding is only to be erected for a temporary period of three years.

8.0 RECOMMENDATION

8.1 Approve, subject to conditions.

RETROSPECTIVE TIME LIMIT

1. Notwithstanding the time limits given to implement planning permission as prescribed by Sections 91 and 92 of the Town and Country Planning Act 1990 (as amended), this permission in so far as it relates to the development (being granted under section 73A of the Act in respect of development already carried out) shall have effect from the date of this decision notice.

REASON: To ensure clarification of the works commenced in accordance with Section 73A of Chapter 8, Part III, of the Town and Country Planning Act 1990 (as amended).

TEMPORARY PERMISSION

2. The hoarding hereby permitted is limited to a temporary period expiring three years from the date of this permission. After this time the hoarding hereby permitted shall be removed and the land restored to its condition immediately prior to the development authorised by this permission.

REASON: In the interests of the character of the area with regard to policies PMD2 and CSTP22 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015].

PLANS

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

Plan Number(s):		
Reference	Name	Received
10059-00-3100-S3-A	Location Plan	20th May 2020
10059-00-3101-S3-A	Proposed site layout	20th May 2020

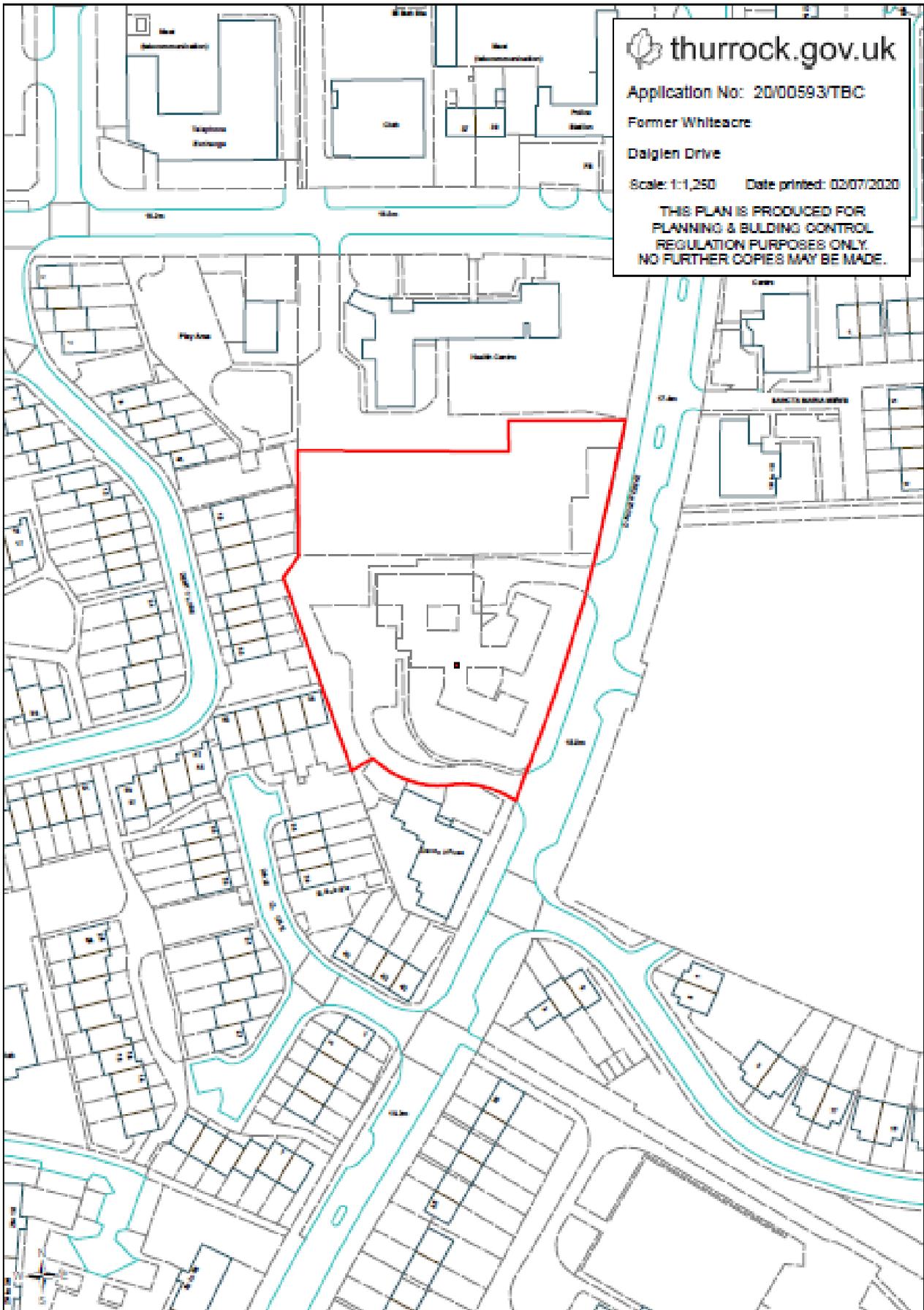
REASON: For the avoidance of doubt and in the interest of proper planning.

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



 **thurrock.gov.uk**
Application No: 20/00593/TBC
Former Whiteacre
Daiglen Drive
Scale: 1:1,250 Date printed: 02/07/2020
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