

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 **7 April 2022**

**Committee Room 2, Civic Offices 3, New Road, Grays, RM17 6SL**

### Membership:

Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Gary Byrne, Colin Churchman, Mike Fletcher, James Halden, Terry Piccolo, Georgette Polley and Lee Watson

Steve Taylor, Campaign to Protect Rural England Representative

### Substitutes:

Councillors Qaisar Abbas, Abbie Akinbohun, Susan Little, Bukky Okunade and Elizabeth Rigby

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### Agenda

Open to Public and Press

	<b>Page</b>
<b>1 Apologies for Absence</b>	
<b>2 Minutes</b>	<b>5 - 12</b>
To approve as a correct record the minutes of the Planning Committee meeting held on 17 March 2022.	
<b>3 Item of Urgent Business</b>	
To receive additional items that the Chair is of the opinion should be considered as a matter of urgency, in accordance with Section 100B (4) (b) of the Local Government Act 1972.	
<b>4 Declaration of Interests</b>	

**5**     **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**

**6**     **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).

**7**     **22/00101/CV : Doesgate Farm, Doesgate Lane, Bulphan, RM14 3TB**     **13 - 32**

**8**     **22/00048/ELEC : Tilbury Green Power, Tilbury Freeport, Tilbury, RM18 7NU**     **33 - 54**

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

Please contact Kenna-Victoria Healey, Senior Democratic Services Officer by sending an email to [Direct.Democracy@thurrock.gov.uk](mailto:Direct.Democracy@thurrock.gov.uk)

Agenda published on: **30 March 2022**

## Information for members of the public and councillors

### Access to Information and Meetings

#### **Advice Regarding Public Attendance at Meetings:**

Following changes to government advice there is no longer a requirement for public attendees to book seats in advance of a committee meeting. All public attendees are expected to comply with the following points when physically attending a committee meeting:

1. If you are feeling ill or have tested positive for Covid and are isolating you should remain at home, the meeting will be webcast and you can attend in that way.
2. You are recommended to wear a face covering (where able) when attending the meeting and moving around the council offices to reduce any chance of infection. Removal of any face covering would be advisable when speaking publically at the meeting.
3. Hand sanitiser will also be available at the entrance for your use.

Whilst the Council encourages all who are eligible to have vaccination and this is important in reducing risks around COVID-19, around 1 in 3 people with COVID-19 do not have any symptoms. This means they could be spreading the virus without knowing it. In line with government guidance testing twice a week increases the chances of detecting COVID-19 when you are infectious but aren't displaying symptoms, helping to make sure you do not spread COVID-19. Rapid lateral flow testing is available for free to anybody. To find out more about testing please visit <https://www.nhs.uk/conditions/coronavirus-covid-19/testing/regular-rapid-coronavirus-tests-if-you-do-not-have-symptoms/>

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#### **Recording of meetings**

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- You should connect to TBC-CIVIC
- Enter the password **Thurrock** to connect to/join the Wi-Fi network.
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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 17 March 2022 at 6.00 pm

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**Present:** Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Gary Byrne, Mike Fletcher (via Microsoft Teams), James Halden, Terry Piccolo, Georgette Polley, Elizabeth Rigby (Substituting for Colin Churchman arrived at 6.47pm) and Lee Watson

Steve Taylor, Campaign to Protect Rural England Representative

**Apologies:** Councillor Colin Churchman

**In attendance:** Leigh Nicholson, Assistant Director of Planning, Transport and Public Protection  
Nadia Houghton, Principal Planner  
Jonathan Keen, Principal Planner  
Julian Howes, Highways Engineer  
Kenna-Victoria Healey, Senior Democratic Services Officer

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

The Chair stated that there was a time limit for the use of The Springhouse Club venue which was until 9.30pm. He said that if the items on the agenda were not concluded by 9.30pm, the meeting would be adjourned and would recommence at the next Planning Committee meeting on 21 April 2022.

### **74. Minutes**

The minutes of the meeting held on 2 December 2021 were approved as a true and correct record, subject to showing Steve Taylor as attending the meeting.

### **75. Item of Urgent Business**

There were no items of urgent business.

The Chair commented that the long list of applications for the April 2022 meeting had been circulated to Members, this list had 11 Items to be considered. The Chair suggested that if Members were in agreement, it was possible to have an additional meeting in early April 2022. Members confirmed they were happy with additional meeting if one was required.

**76. Declaration of Interests**

In relation to applications 20/01572/FUL and 21/01926/FUL, Councillor Halden declared that he lived on Wharf Road, however felt that he could hear the applications with an open mind.

**77. 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**

Councillor Kelly declared the agent James Ware for application 21/02116/FUL had emailed all Members of the Planning Committee.

**78. Planning Appeals**

The Assistant Director for Planning, Transport and Public Protection presented the report to Members.

**RESOLVED:**

**That the report be noted**

The Chair of the Committee advised as applications 20/01572/FUL and 21/01926/FUL did not have any speakers registered, that he would move them to the end of the agenda. Members agreed.

**79. 21/02184/HHA: 7 Churchill Road, Grays, Essex, RM17 6TW**

The report was presented by the Principal Planner.

The Chair of the Committee commented the application was a corner plot and sought if it was uncommon for an extension of this size on such a plot as presumably it would have a bigger impact on the area. He continued by stating that with the removal of the trees from the front garden the house was now quite exposed. The Principal Planner explained that the only property with similar in size extension and wraparound proposal as this application was the property on 1 Medlar Road. She continued by advising there hadn't been anything else in the immediate area like these applications and, even though this current proposal would result in a similar separation distance, the impact of the proposed wraps around two storey side and rear extension when walking or driving, it would be much more significant. The proposal was considered out of character with the appearance of the locality for this reason.

Speaker statements were heard from:

- Mr Hatcher, Resident in objection.
- Councillor Mayes, Ward Member in objection.



The Chair explained the applicant Mrs Racinskiene was not in attendance but had submitted a statement which had been circulated to all Members.

It was queried by the representative for Campaign to Protect Rural England as to whether Churchill Road was delayed into the development which would be situated by Asda and Manor Road and as to whether this would be the entrance of the new site. The Principal Planner advised she would have to check the local plan map to be able to confirm this. The representative for Campaign to Protect Rural England continued by stating if this was the case then Churchill Road would be in access roads meaning that traffic along the road would increase significantly.

Councillor Byrne enquired as to the change on the application with regards to a home office or study. The Principal Planner explained the application before Members included a study and she considered it was unlikely this would be used for commercial usage given its size and scale. She continued by advising if Members had concerns conditions could be imposed on the application.

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

For: (7) Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Gary Byrne, James Halden, Terry Piccolo, Georgette Polley and Lee Watson

Against: (0)

Abstained (0)

**80. 21/02116/FUL: Balkan Bites, 206 London Road, Grays, Essex, RM17 5YP**

The report was presented by the Principal Planner.

Councillor Halden thanked the officer for the report and enquired as to what made the proposed application potentially worse than its previous use as a launderette. The Principal Planner explained this use would result in peaks of people attending especially at lunch times and in the evening whereas as a launderette the number of people using the service would be more consistent throughout the day without those peaks

During discussions Councillor Polley commented the photos which showed the property excluded a bus stop and a parade of shops she further mentioned there had always been an issue with traffic along London Road, and to refuse the application with regards to highways seemed confusing as any use would increase the traffic movement. The Highways Engineer advised members that a few years ago officers did look at the resident parking issue which included vehicles being parked outside of neighbour's properties and inappropriate parking on double yellow lines and driveways.

Councillor Watson sought clarification as to the use of the property over the last six years and further mentioned the traffic issue for London Road was the HGVs using the road as access to Purfleet. Officers advised the last use of the property had been as a launderette and for the last six years had been vacant.

Following a query from Councillor Halden, Members were advised that officers suspected the 600 signature petition was that of perhaps the wider area rather than those in the immediate area who would be immediately impacted upon by the use. There were however nine online comments in objection to the application as part of the consultation process.

Members of the Planning Committee sought clarification as to the parking provision should the application be approved and queried as to whether it would be general parking in nearby streets. Officers advised in along with the application there were to be three parking spaces available.

Speaker statements were heard from:

- Mr Bacon, Resident in Support
- Mr Taylor, Resident in Objection

During the debate all members agreed they had a concern with regards to traffic movement down London Road and parking facilities for the application. That being said members also highlighted that should residents go to the restaurant of an evening it was likely that they would use public transport or taxing.

Councillor Byrne stated he would be in favour of approving the application as it was investing money into the Borough and providing jobs for local people.

Councillor Piccolo commented if the property was still trading as a launderette there would still be continuous traffic movements as people would drop off and return. He commented that listening to residents, there was a need for the restaurant in the area.

Councillor Watson commented as a Ward Councillor she knew there was a restaurant further up London Road which coped even with the traffic pressures. She continued by saying the property had been vacant for six years and the application would give a business a chance with the majority of people not driving and more likely using public transport, and for reason she was mindful to approve the application.

The Chair thanked Members for their comments and moved to propose the officer's recommendation and was seconded by the Vice-Chair.

For: (2) Councillors Tom Kelly (Chair and Steve Liddiard (Vice-Chair),

Against: (5) Councillors Gary Byrne, James Halden, Terry Piccolo, Georgette Polley and Lee Watson

Abstained (0)

Councillor Halden proposed that the application be approved on the grounds that the property was in a highly urbanised area, with excellent public transport links therefore concerns with parking could be mitigated. He continued by commenting that in relation to loss of amenity the property had been vacant for six years, therefore there was no amenity and the application proposed offered regeneration in the area, which could be a benefit to local residents.

The Assistant Director of Planning, Transport and Public Protection advised the committee that in line with the constitution should a recommendation not be agreed then an alternative recommendation was to be put forward, which has been submitted by Councillor Halden. He continued by stating he had listened to the debate and discussion had by Members and had made a note of their concerns.

The Assistant Director of Planning, Transport and Public Protection summed up by advising should the committee approve the application conditions would need to be agreed by the Chair and applied to the application.

Councillor Halden proposed a recommendation in approval and was seconded by Councillor Polley.

For: (5) Councillors Gary Byrne, James Halden, Terry Piccolo, Georgette Polley and Lee Watson

Against: (2) Councillors Tom Kelly (Chair and Steve Liddiard (Vice-Chair)

Abstained (0)

*Councillor Rigby was unable to vote on the application as she arrived after the discussion had begun.*

**81. 22/00098/HHA: 33 Cherry Walk, Chadwell St Mary, Grays, Essex, RM16 4UN**

The report was presented by the Principal Planner.

Councillor Polley enquired as to whether this was backland development within a back garden. The Principal Planner explained that as the extension was to an existing ancillary outbuilding and the extension was 1.5 metres closer to the house it would not be classified as backland development, or an overdevelopment of the site. She further explained that the original outbuilding would have been constructed under PD rights at that time, which were amended in 2008.

Councillor Watson queried as to whether the outbuilding exceeded the eaves height of the main dwelling. The Principal Planner explained that as the

outbuilding had been reroofed with a flat roof was approximately 0.25m overall, and very slightly higher than the eaves of the bungalow given the outbuilding had a flat roof.

Speaker statements were heard from:

- Councillor Muldowney, Ward Member in objection
- Mr Quoodos, Applicant in support.

Following a question from the Chair with regards to Cadent Gas the Principal Planner explained there were no requirements because there were no gas utilities nearby the extension to the outbuilding. She confirmed there was no risk, if there were any issues regarding the siting of nearby gas apparatus then an informative would normally be included within the recommendation.

The representative for Campaign to Protect Rural England queried as to whether the use of the outbuilding was habitable. The Principal Planner explained that the original outbuilding was used for domestic storage and this extended outbuilding would be similarly used for storage and as a general utility room associated with the main dwelling. The officer explained that, similar to modern conservatories, outbuildings were now often built with the insulation and heating appropriate to be used for habitable areas.

Members heard how previously this outbuilding was used for the garden and domestic storage. She continued by stating it could be used for ancillary use, which could be habitable, and the applicant had stated it would be general utility, domestic utility in storage, which was not uncommon in these applications and could be controlled via suitable planning condition which had been included in the recommendation.

During the debate Members commented they were surprised to see the application at Committee; Councillor Watson commented that she was one of the Councillors who had called in the application and it was for Committee to consider matters that had been raised by residents as a concern. Members agreed that once the outbuilding had been completed and fully rendered the finished building would look a lot better than in its current state.

The Vice-Chair proposed the officer's recommendation and was seconded by the Councillor Byrne.

For: (8) Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Gary Byrne, James Halden, Terry Piccolo, Georgette Polley, Elizabeth Rigby and Lee Watson

Against: (0)

Abstained (0)

*The Committee agreed to suspend standing orders at 8.15pm to allow the agenda to be completed.*

**82. 20/01572/FUL: AB Installs, Stanhope Industrial Park, Wharf Road, Stanford Le Hope**

The report was presented by the Principal Planner. There were no questions from Members.

During the debate Councillor Byrne commented he was pleased to see investment in Stanford Le Hope which would include jobs for local people and less HGV movements within the area.

The representative for Campaign to Protect Rural England commented saying his only concern would be keeping the HGV and vehicle movements to a minimum and as this was already covered within conditions on the application, he felt there would be no major changes to the current traffic movements.

Councillor Piccolo stated he was pleased to say there was no usage of HGVs included within the application thus safeguarding Wharf Road, which he felt was a positive part of the application.

Councillor Byrne proposed the officer's recommendation and was seconded by the Councillor Halden.

For: (8) Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Gary Byrne, James Halden, Terry Piccolo, Georgette Polley, Elizabeth Rigby and Lee Watson

Against: (0)

Abstained (0)

**83. 21/01926/FUL: Vanderkamp, Stanhope Industrial Park, Wharf Road, Stanford Le Hope, Essex, SS17 0EH**

The report was presented by the Principal Planner.

Steve Taylor queried as to what the different lines were on the site map. The Principal Planner explained it highlighted where the land dropped away from the site and sloped towards the sea wall.

Councillor Piccolo enquired as to the condition regarding HGV movements and whether this meant if additional movements were required these could be requested on a daily or weekly basis to the Local Planning Authority. The Principal Planner explained that to be able to amend the conditions relating to HGV movements the applicant would have to put in for a new application and if necessary, the application would be presented to the committee.

Councillor Byrne echoed his previous thoughts that he was pleased to see investment within Stanford Le Hope, more jobs for local people and less traffic through the area.

Councillor Piccolo stated his only concern was with the possibility of additional HGV movements within the town however was placed to hear should the condition require amending this would be presented back to Members.

Councillor Byrne proposed the officer's recommendation A and was seconded by the Councillor Halden.

For: (8) Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Gary Byrne, James Halden, Terry Piccolo, Georgette Polley, Elizabeth Rigby and Lee Watson

Against: (0)

Abstained (0)

Councillor Byrne proposed the officer's recommendation B and was seconded by the Councillor Halden.

For: (8) Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Gary Byrne, James Halden, Terry Piccolo, Georgette Polley, Elizabeth Rigby and Lee Watson

Against: (0)

Abstained (0)

**The meeting finished at 8.30 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](mailto:Direct.Democracy@thurrock.gov.uk)**

<b>Reference:</b> 22/00101/CV	<b>Site:</b> Doesgate Farm Doesgate Lane Bulphan RM14 3TB
<b>Ward:</b> Orsett	<b>Proposal:</b> Application for the variation of condition no 2 (Plans) of planning permission ref 20/01402/FUL (Demolition of existing buildings and redevelopment for residential use (Use Class C3) comprising the construction of 5 detached dwellings with associated access and landscaping) to include 5 detached single garages

<b>Plan Number(s):</b>		
Reference	Name	Received
PLAN - 2387_102 REV - _BARN 1	Proposed Plans	26th January 2022
PLAN - 2387_103 REV - _BARN 2	Proposed Plans	26th January 2022
PLAN - 2387_200 REV	Existing Plans	26th January 2022
2021/02/DF/11 PLOTS 1-5	Proposed Plans	26th January 2022
(No Nos.)	Location Plan	26th January 2022
2021/02/DF/25	Plan – Overall Scheme	26th January 2022

<p>The application is also accompanied by:</p> <ul style="list-style-type: none"> <li>- Cover Letter, dated 25 January 2022</li> <li>- Decision Notice 20/01402/FUL</li> <li>- Topography Plan 2721-01</li> <li>- Existing and Proposed Floorspace and Volumes</li> <li>- Landscape and Visual Impact Assessment and Green Belt Assessment, ref. CSA/5195/02 May 2021</li> <li>- Landscape Visuals Type 1, drawing ref. CSA/5195/102 September 2020</li> <li>- Building Condition Report, October 2020</li> </ul>
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- CGI Images	
<b>Applicant:</b> Mr Eddie Wright	<b>Validated:</b> 27 January 2022  <b>Date of expiry:</b> 22 April 2022  <b>(Extension of Time as Agreed)</b>
<b>Recommendation:</b> To Refuse	

This application is scheduled for determination by the Council’s Planning Committee as the application has been called-in by Cllrs Johnson, Gledhill, Duffin, Hebb and Maney in order that the Planning Committee give full consideration to the use of the entire and original curtilage of this Green Belt (GB) site.

**1.0 DESCRIPTION OF PROPOSAL**

- 1.1 Approval has already been granted for the demolition of existing structures and erection of 5no. 4-bedroom houses at the site, which are currently under construction (ref. 20/01402/FUL). The approved plans showed car parking for each plot in the form of open, in-curtilage parking, rather than the provision of garages.
- 1.2 This is an application seeks to amend the approved plans to introduce a detached single garage measuring 6m x 3.1m for each of the approved properties.
- 1.3 This application follows the refusal of a similar proposal under ref. 21/00219/CV in April 2021. This previous application was refused for two reasons: i) contrary to GB in principle and without any considerations clearly outweighing GB and any other harm so as to amount to Very Special Circumstances; ii) harm to character and appearance of the locality. In an attempt to overcome the previous reason for refusal, the current application has reduced the footprint of the proposed garages and provided further information with regards the previous and original barn building.

**2.0 SITE DESCRIPTION**

- 2.1 The application site is a largely rectangular area of land on the southern side of Doesgate Lane, outside any settlement. Horndon on the Hill is located to the south and Bulphan to the west. The site is located within the Metropolitan Green Belt. A Grade II listed building (Doesgate Farmhouse) is located to the east of the site.



**3.0 RELEVANT HISTORY**

Application Reference	Description of Proposal	Decision
21/01540/CONDC	Application for the approval of details reserved by condition no 3 (Details of Materials), 4 (CEMP) and 6 (Landscaping Scheme) of planning permission ref. 20/01402/FUL (Demolition of existing buildings and redevelopment for residential use (Use Class C3) comprising the construction of 5 detached dwellings with associated access and landscaping.)	Approved
21/00902/CV	Application for the variation of condition no. 2 [Plans] of planning permission ref: 20/01402/FUL (Demolition of existing buildings and redevelopment for residential use (Use Class C3) comprising the construction of 5 detached dwellings with associated access and landscaping).	Withdrawn
21/00769/CONDC	Application for the approval of details reserved by condition no 4 (Windows and Doors) of planning permission ref 20/01660/LBC & 20/01659/HHA (Single storey side extension)	Approved
21/00219/CV	Application for the variation of condition no 2 (Plans) of planning permission ref 20/01402/FUL (Demolition of existing buildings and redevelopment for residential use (Use Class C3) comprising the construction of 5 detached dwellings with associated access and landscaping.)	Refused 13.04.21
21/00237/CONDC	Application for the approval of details reserved by condition no 7 (Bat Survey), of planning permission ref. 20/01402/FUL (Demolition of existing buildings and redevelopment for residential use (Use Class C3) comprising the construction of 5 detached dwellings with associated access and landscaping.)	Approved
20/01659/HHA	Single storey side extension	Approved
20/01660/LBC	Single storey side extension	Approved
20/01402/FUL	Demolition of existing buildings and redevelopment for residential use (Use Class C3) comprising the construction of 5 detached dwellings with associated access and landscaping.	Approved
94/00640/FUL	Change of use and conversion of existing stabling facilities and rest room to 2 No.	Refused

	semi-detached dwellings (including partial demolition)	
89/00394/FUL	Extension of stabling facilities for brood mares	Approved
88/00192/OUT	Detached Two Storey Dwelling & Detached Double Garage (Outline).	Refused
69/01040/FUL	Driveway and lean-to (As amended by letter dated 16.12.69.)	Approved
57/00585/FUL	Garage and alterations to form bathroom and lavatories	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](http://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 comments have been received.

#### 4.3 ECC SPECILIAST ARCHAEOLOGICAL ADVICE:

No recommendations made.

#### 4.4 ENVIRONMENTAL HEALTH OFFICER:

No recommendations made.

#### 4.5 HERITAGE ADVISOR:

No objections, subject to condition.

#### 4.6 HIGHWAYS:

No objections.

#### 4.7 LANDSCAPE AND ECOLOGY ADVISOR:

No objections.

#### 4.8 ESSEX POLICE:

No comments. Recommend Secured by Design assessment.

## **5.0 POLICY CONTEXT**

### National Planning Policy Framework (NPPF)

- 5.1 The NPPF was published on 20 July 2021. 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:

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

4. Promoting sustainable transport
5. Delivering a sufficient supply of homes
12. Achieving well-designed places
13. Protecting Green Belt and
16. Conserving and enhancing the historic environment

### National Planning Practice Guidance

- 5.2 In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains 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
- Green Belt
- Historic environment
- Use of planning conditions.

### **Local Planning Policy**

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

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

#### SPATIAL POLICIES

- CSSP1: Sustainable Housing and Locations
- CSSP4: Sustainable Green Belt
- CSTP1: Strategic Housing Provision
- CSTP2: The Provision of Affordable Housing

#### THEMATIC POLICIES

- CSTP22: Thurrock Design
- CSTP23: Thurrock Character and Distinctiveness
- CSTP24: Heritage Assets and the Historic Environment
- CSTP25: Addressing Climate Change

#### POLICIES FOR MANAGEMENT OF DEVELOPMENT

- PMD1: Minimising Pollution and Impacts on Amenity
- PMD2: Design and Layout
- PMD4: Historic Environment
- PMD6: Development in the Green Belt
- PMD8: Parking Standards
- 

#### Thurrock Local Development Framework 1997

Annex 1 – Criteria relating to the control of development in residential areas

Thurrock Design Guide – Residential Alterations and Extensions (RAE): September 2017 - SPD

#### Thurrock Local Plan

5.4 In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an 'Issues and Options (Stage 1)' document and simultaneously undertook a 'Call for Sites' exercise. In December 2018 the Council began consultation on an Issues and Options [Stage 2 Spatial Options and Sites] document, 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 (ref.20/01402/FUL) and the current proposal would comprise and the current proposal 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 application proposes to vary condition number 2 of planning permission 20/01402/FUL to amend approved plans of the approved application, to introduce 5 detached single garages, one per dwelling.
- 6.4 The assessment below covers the following areas:
- I. Principle of the Development in the GB
  - II. Design and Layout and Impact upon the Area
  - III. Impact Upon Ecology and Biodiversity
  - IV. Archaeology and Historic Buildings
  - V. Traffic Impact, Access and Car Parking

### **I. PRINCIPLE OF THE DEVELOPMENT IN THE GREEN BELT**

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

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

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

6.6 The site is identified on the LDF Core Strategy Proposals Map as being within the Green Belt wherein policies CSSP4 and PMD6 apply. Policies CSSP4 and PMD6 state that the Council will maintain, protect and enhance the open character of the Green Belt in Thurrock. These policies aim to prevent urban sprawl and maintain the essential characteristics of the openness and permanence of the Green Belt to accord with the requirements of the NPPF. The NPPF at paragraph 149 states that a local planning authority should regard the construction of new buildings as inappropriate development in the Green Belt. Exceptions to this include:

g) limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the development would re-use Previously Developed Land (PDL) and contribute to meeting an identified affordable housing need within the area of the local planning authority.

The first sub-heading of paragraph 149 is relevant to this case.

6.7 Policy PMD6 of the Core Strategy allows for the infilling and partial or complete redevelopment of a previously developed site comprising more than a single building, and located outside of Established Residential Frontages.

6.8 In establishing whether the proposal would constitute appropriate development in the Green Belt paragraph 149 (g) of the NPPF comprises an exception to inappropriate development for new buildings and refers to the limited infilling or the partial or complete redevelopment of PDL which would “not have a greater impact

on the openness of the GB than the existing development”. The glossary at Annex 2 of the NPPF defines PDL as:

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

- 6.9 As the buildings on-site were previously used as livery stables, there are not ‘agricultural buildings’ and so the exclusion to the definition of PDL engages. In this particular instance it is considered that part of the application site can be considered to constitute PDL. The application could subsequently be considered as appropriate development in principle provided other matters relating to the footprint, volume, impact of openness and the ‘feel’ of the site (as recently referenced in several appeal decisions) would be unharmed.
- 6.10 The approved development granted under 20/01420/FUL includes the removal of the three existing equestrian and storage buildings on the site. These original buildings have been demolished and removed and development has commenced on the new dwellings. In order to determine whether the development would have a greater impact upon openness consideration must be given to the respective scale of the existing, approved and proposed development on the site.
- 6.11 Footprint and volume comparisons are a starting point for the PDL test of “no greater impact on the openness of the GB than the existing development”, however the relative character of the existing and proposed structures are also important in the assessment.
- 6.12 The table below clarifies the footprints and volumes that were included for removal, not including existing hardstanding, and considered under the original planning application 20/01402/FUL:

<b>Existing Building</b>	<b>Max. Height (m)</b>	<b>Footprint (m<sup>2</sup>)</b>	<b>Volume (m<sup>3</sup>)</b>
Stable Block	6.15	539.3	1,632
Barn Store	5.4	108.2	508.7
Riding Hall	6.5	377.5	2016.4
<b>Total</b>	-	<b>1,025</b>	<b>4,157</b>

6.13 The table below clarifies the footprint and volume for the approved scheme (20/01420/FUL):

<b>Proposed Building Approved under 20/01420/FUL</b>	<b>Max. Height (m)</b>	<b>Footprint (m<sup>2</sup>)</b>	<b>Volume (m<sup>3</sup>)</b>
Plot 1	7.9	203	725
Plot 2	7.9	203	725
Plot 3	7.9	203	725
Plot 4	7.9	207	770
Plot 5	7.9	207	770
<b>Total</b>	-	<b>1,023</b>	<b>3,715</b>

6.14 Following the refusal of the previous s.73 application (ref. 21/00219/CV) the applicant has come forward with a revised footprint and volumes assessment of the original buildings, including reference to a mezzanine floor to the barn store which was considered an unsafe area. The table below details the footprint and volume for the proposed scheme (i.e. the previously approved scheme plus the proposed garages):

<b>Proposed Building</b>	<b>Max. Height (m)</b>	<b>Footprint (m<sup>2</sup>)</b>	<b>Volume (m<sup>3</sup>)</b>
Plot 1	7.9	203	725
Plot 2	7.9	203	725
Plot 3	7.9	203	725
Plot 4	7.9	207	770
Plot 5	7.9	207	770
<b>Garages (x5)</b>	<b>4</b>	<b>93</b>	<b>268</b>
<b>Total</b>	-	<b>1,116</b>	<b>3,983</b>

6.15 As can be clearly seen from the above table, the proposal would result in additional footprint of 93 sq. m, 91 sq. m above the footprint of the original buildings on the site; these original buildings have since been demolished and cannot be taken into account retrospectively. Additional volume of 268m<sup>3</sup> would also be added to the built form on the site above and beyond what was previously approved. The applicant has referenced 93 sq. m floorspace created by an unusable mezzanine floor within the original barn store building and considers that this should have been included within the original planning application and overall assessment of floor area calculations. However, the building that contained this floor area has been demolished and no longer exists. Furthermore, as an unsafe and unusable mezzanine it is unclear how this area could have been included within any of the original calculations. The approved development is well underway. It is, therefore, considered that this floor area cannot be included retrospectively in any



assessment as neither this additional floor area nor the building exist. The 93 sq. m cannot subsequently be included in any calculations of the development in regard to its Green Belt impact.

6.16 The overall height of built form would increase by approximately 1.5m, and as a result of the addition of the proposed 5 garages, the footprint of built form on site would exceed that of the previously existing development. Similarly, given that the garages would be detached this would result in an additional 5 new buildings on site. As such there would be a greater impact on the openness of the Green Belt as a result of the spread of built development.

6.17 In light of the above, the proposals do not fall within any of the exceptions to inappropriate development as defined in paragraph 149 of the NPPF, and the proposal comprises inappropriate development in the GB, which is harmful by definition with reference to the NPPF and Core Strategy Policies PMD6 and CSSP4. In accordance with the NPPF (para. 148), substantial weight should be given to this harm.

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

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

6.19 Paragraph 138 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.

6.20 In response to each of these five purposes:

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

6.21 The site is situated at in a small area of housing along Doesgate Lane, between Bulphan and Laindon. For the purposes of the NPPF, the site is considered to be

outside of any 'large built up areas'. It would not therefore result in the sprawling of an existing built up area, but it would nonetheless represent the addition of new urban form on the site.

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

- 6.22 The site is situated away from nearby towns and therefore would not result in the confluence of any towns. Therefore the development would not conflict with this Green Belt purpose.

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

- 6.23 With regards to the third Green Belt purpose, it is acknowledged that the proposed dwellings would not be sited exactly within the footprint of the existing buildings however, the re-location would still consolidate the built form within the site. Plot nos. 1 – 4 would be sited broadly within the 'spread' current buildings. Although plot 5 would not be sited on the footprint of any existing building, it would not project beyond the southern extent of the existing built envelope. Therefore the development would not conflict with this Green Belt purpose.

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

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

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

- 6.25 In general terms, the development could occur in the urban area and, in principle; there is no spatial imperative why Green Belt land is required to accommodate the proposals.

- 6.26 In light of the above analysis, it is considered that the proposals would be contrary to purpose (e) of the above listed purposes of including land in the Green Belt. In addition, the proposed introduction of 5 garage building would, de-facto, be harmful to the openness of the GB. Paragraph no. 137 of the NPPF defines the essential characteristics of the GB as its openness and permanence. Substantial weight should be afforded to these factors.

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

- 6.27 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 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 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 sites leading to a decrease in the openness of the GB. 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 VSC will be a matter of planning judgment for the decision-taker.

- 6.28 With regard to the NPPF, paragraph 147 states that *'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'*. Paragraph 148 goes on to state that, when considering any planning application, local planning authorities *"should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations"*.
- 6.29 For reasons noted above, the Council takes the view that the proposal would constitute inappropriate development.
- 6.30 The applicant has not submitted any formal arguments or considerations which could clearly outweigh harm such that VSC exist, but the Green Belt Assessment submitted indicates that the applicant considers the previously existing mezzanine floor within the barn store building, which comprised 93 sq. m, should be included retrospectively in the consideration of the available floor area for the resulting proposed development. This 93 sq. m equates to 1 sq. m greater than the 92 sq. m floor area provided by the total of each of the 5 detached garages proposed. The applicant consequently considers that the development would be acceptable in GB terms.
- 6.31 There is no justification within the additional information submitted to warrant the inclusion of floor area which no longer exists, within a building which also no longer exists, to be included in an assessment already carried out on a development which has commenced. Officers consider the argument put forward by the applicant is a means to retrofit the calculations of the floor area of the original building in order to provide garaging which had not been included in the approved

scheme. There are alternative options available to the applicant should garage parking be desired; the applicant could submit a s.73 application to revise the approved plans to include integral garaging within each dwelling or retain detached garages with a corresponding reduction in the footprint and volume of the dwellinghouses. This would not need to involve the creation of additional built form or floor area to the GB and would be unlikely to raise an objection in principle if the alterations did not exceed the previously considered floor areas and volumes. The applicant has elected to not take this approach instead submitting an application which results in further built form and development on the site, by way of revising what the applicant considers to be the original floor area, in comparison to the previous approved plans. In light of the above, application is continued to be considered to represent inappropriate development harmful in principle and also harmful to GB openness.

- 6.32 Where a proposal represents inappropriate development, paragraph nos. 147 and 148 of the NPPF require that:
- 6.33 Inappropriate development should not be approved except in VSC. 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.
- 6.34 It is considered that the applicant has not advanced any factors which would amount to very special circumstances that could clearly outweigh and overcome the harm that would result by way of inappropriateness and the other harm identified in the assessment. There are no planning conditions that could be used to make the proposal acceptable in planning terms. The proposal is clearly contrary to Policies CSSP4, PMD2 and PMD6 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) and the National Planning Policy Framework 2021.
- 6.35 While the construction of the dwellings granted under the original approval has commenced on site, an assessment of the proposed changes to the approved scheme via the inclusion of the additional built form and development will need to be carried out.

## II. DESIGN AND LAYOUT AND IMPACT UPON THE AREA

- 6.36 The existing buildings and hard surfaces would be replaced by five dwellings laid out in an L-shape. A single access and a private estate road would be provided in largely the same position as existing arrangements. The site frontage would broadly retain the existing vegetation, with the addition of re-contoured sight splays, and an access gate within the site. Since the granting of planning permission, a discharge of conditions application (ref. 21/01540/CONDC) has been approved relating to the

agreement of conditions relating to the detailed materials and landscaping scheme for the development and it would therefore not be reasonable to impose the same condition. If the application was being recommended favourably, a condition stipulating the materials to be used for the garaging should be included.

- 6.37 The new houses have been designed to respect the forms, height and massing of typical rural barns and houses in this part of Essex. The proposed dwellings would sit comfortably within their respective plots. The plans submitted show the development to take the form of two storey dwellings of traditional proportions and detailing. The proposed ridge heights and proportions would be consistent and typical of traditional outbuildings. The proposed new dwellings would appear as a group set back from the road and cut-off from views by some retained native mature hedging. However, the introduction of a detached garage for each property would result in a far more urban feel, and the development would no longer appear as rural outbuildings.
- 6.38 The proposed dwellings closest to Doesgate Lane, and the neighbouring property at 2 Doesgate Cottages, is designed in such a way that there would be no first floor windows within the flank elevation, to avoid concerns of overlooking or amenity, with existing site screening to be retained.
- 6.39 The proposal would adequately comply with Council minimum standards with regard to levels of private amenity area, with generous plot sizes to provide a high standard of amenity for residents and to respect the established amenity of the locality.
- 6.40 The applicant proposes to use good quality materials as would be expected for a development in this location. The fenestration and fine detailing of the scheme is considered acceptable.
- 6.41 The proposed layout and design, resulting from the introduction of the detached garages would, impact upon the rural character of the site and is therefore considered unacceptable contrary to policies CSTP22, CSTP23, PMD1 and PMD2 of the adopted Core Strategy, and the NPPF.

### III. IMPACT UPON ECOLOGY AND BIODIVERSITY

- 6.42 In the approved application, no objection was raised but conditions were imposed in relation to undertaking a bat survey on site. This condition has since been discharged (ref: 21/00237/CONDC) and it would therefore not be reasonable to impose the same condition if the application were recommended for approval.
- 6.43 A landscape and visual impact assessment has been submitted which concludes

that the scheme will not have any significant effects on landscape character or visual amenity. The proposed houses are a little taller than the existing barns but have an overall lower volume.

- 6.44 As described above the boundary hedges are generally in a poor condition and the approved landscape scheme includes measures for enhancing these.
- 6.45 The site is within the Essex Coast RAMS zone of influence and the proposed development falls within the scope of the RAMS as relevant development. Without mitigation the proposed development is likely to have a significant effect on the Thames Estuary and Marshes Special Protection Area. To avoid the developer needing to undertake their own individual Habitat Regulations Assessment the Essex Local Planning Authorities within the Zones of Influence have developed a mitigation strategy to deliver the necessary mitigation to address mitigation impacts to be funded through a tariff applicable to all new additional dwellings. The current tariff is £127.30 per additional dwelling. This scheme would result in a net increase of 5 units; therefore it would be necessary to apply a tariff of £636.50 in order to fund works to mitigate the in-combination effects of recreational disturbance on SPA, however this tariff has already been paid as part of the extant approval.

#### IV. ARCHAEOLOGY AND HISTORIC BUILDINGS

- 6.46 Policy PMD4 states *'the Council will follow the approach set out in the NPPF in the determination of applications affecting Thurrock's built or archaeological heritage assets'*. When assessing the impact upon a designated heritage asset the NPPF advises on differing levels of assessment, these are 'total loss of the heritage asset', 'substantial harm' and 'less than substantial harm'.
- 6.47 Doesgate Farm is adjacent and to the east of the site and is a Grade II Listed timber framed and plastered farmhouse, with red plain tile roof, dating to the seventeenth century (List UID: 1146666).
- 6.48 Within the approved application, the Council's Built Heritage Advisor raised concerns that the proposed dwellings were visibly domestic in nature, incongruous with the character of the listed building's setting. However on balance, it was considered that the benefits of the scheme would outweigh the 'less than substantial harm' impact upon the listed farmhouse adjacent.
- 6.49 The Heritage Advisor considers that the proposed amendments would not result in an increase in the less than substantial level of harm that already results from the demolition of the existing farm buildings and the residential development of the site. However, to ensure the development was appropriate it would be necessary to impose relevant conditions, were permission granted.

## V. TRAFFIC IMPACT, ACCESS AND CAR PARKING

- 6.50 There are no proposed changes to the detailed access arrangements to the overall site. The proposal would continue to provide 3 parking spaces per dwelling. The Highways Officer raises no objections to the size and location of the garages proposed. The proposal would comply with Policies PMD8 and PMD2 with respect to highway matters.

## 7.0 CONCLUSIONS AND REASON(S) FOR REFUSAL

- 7.1 The proposed development is sited within the GB and is considered to fall outside of the exceptions to inappropriate development as set out in the NPPF Paragraph 149(g). This is because the introduction of five garages would increase the built footprint beyond the footprint of the buildings to be demolished. The proposal would represent an inappropriate form of development which would affect the openness of the GB. There would be an increase in built form on site, both in terms of the footprint and the number of buildings.
- 7.2 Thus, where a proposal represents inappropriate development, considerations which clearly outweigh the harm to the GB must exist for VSC to exist. In this case it is not considered that the argument put forward by the applicant, in relation to the inclusion of floor area which previously existing within the main building which has since been demolished, clearly outweighs the identified harm to the GB.
- 7.3 The proposal is clearly contrary to Policies CSSP4, PMD2 and PMD6 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) and the National Planning Policy Framework 2021.
- 7.4 The addition of 5 detached garages would urbanise the site, detracting from the rural setting and thus harmful to the character and visual amenities of the property and wider area contrary to guidance in the NPPF, Policies CSTP22 and PMD2 of the Core Strategy and Policies for the Management of Development DPD (as amended) 2015.

## 8.0 RECOMMENDATION

- 8.1 Refuse, for the following reasons:

- 1 The application site is located within the Green Belt, as identified on the Policies Map accompanying the adopted Thurrock Local Development Framework Core

Strategy and Policies for the Management of Development (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. 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).

- 2 The proposal would, by reason of its siting, scale and massing, urbanise the site, failing to respect the rural context and setting. The proposal is therefore harmful to the character and visual amenities of the property and wider area contrary to guidance in the NPPF, Policies CSTP22 and PMD2 of the Core Strategy and Policies for the Management of Development DPD (as amended) 2015.

### **Informative(s)**

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

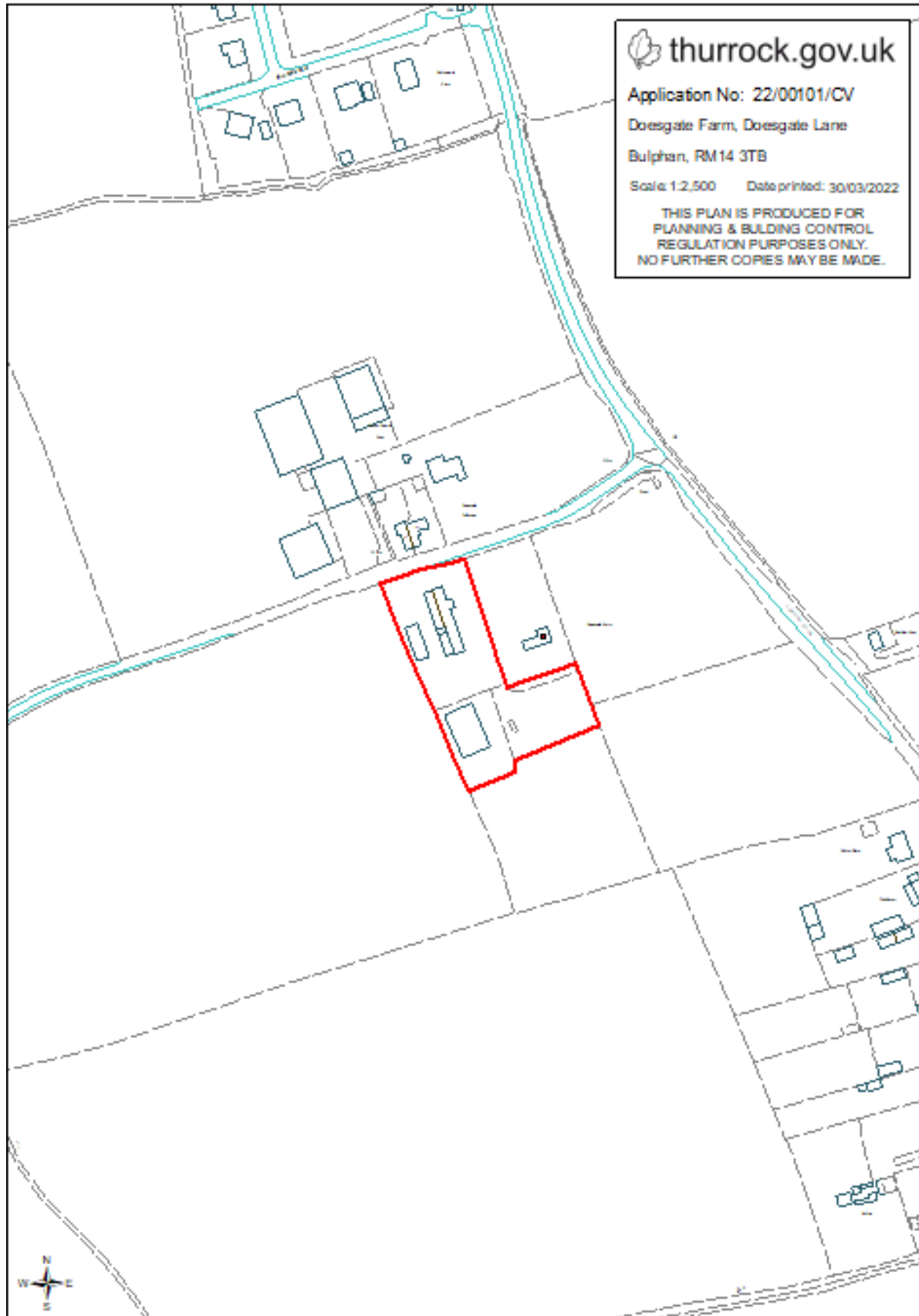
The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant/Agent the opportunity to 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](http://www.thurrock.gov.uk/planning)





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# Agenda Item 8

Planning Committee 7 April 2022	Application Reference: 22/00048/ELEC
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<b>Reference:</b> 22/00048/ELEC	<b>Site:</b> Tilbury Green Power Tilbury Freeport Tilbury RM18 7NU
<b>Ward:</b> Tilbury Riverside and Thurrock Park	<b>Proposal:</b> Proposed variation of s36 (Electricity Act) consent and deemed planning permission for the construction and operation of a biomass and energy from waste fuelled electricity generating station (Tilbury Green Power) - proposed amendment to increase electrical capacity from 80MW to 88MW.

<b>Plan Number(s):</b>		
<u>Reference</u>	<u>Name</u>	<u>Received</u>
Figure 1.1	Proposed Site Location Plan	31.07.2020
Figure 1.2	Section 36 Application Boundary March 2020	31.07.2020
Figure 1.2	Section 36 Boundary Modifications June 2020	31.07.2020
Figure 1.2A	Section 36 Application Boundary	31.07.2020

<p>The application is also accompanied by:</p> <ul style="list-style-type: none"> <li>• Covering letter</li> <li>• Supporting Statement (January 2022) with appendices comprising –           <ul style="list-style-type: none"> <li>- Location Plan and Section 36 Consent Boundary Plan</li> <li>- Relevant Section 36 Consent, Feb 2021 and Deemed Planning Permission</li> <li>- Proposed amendments to Section 36 Consent and to Deemed Planning Permission Explanatory Memorandum</li> <li>- Pre- Application Consultation Correspondence</li> </ul> </li> </ul>	
<b>Applicant:</b> Tilbury Green Power Limited (TGP)	<b>Validated</b> 2 <sup>nd</sup> March 2022  <b>Date of expiry:</b> 11 <sup>th</sup> May 2022
<b>Recommendation:</b> That Planning Committee agree that the content of paragraph reference 8.1 (below) comprises the consultation response to be provided by Thurrock Council in its role as the relevant planning authority to the Department for Business, Energy & Industrial Strategy.	

## 1.0 BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1.1 This report considers the issues raised by an application submitted by Tilbury Green Power (TGP) to the Secretary of State (SoS) for Business, Enterprise & Industrial Strategy (BEIS – formerly the Department for Energy & Climate Change (DECC)) to vary an existing s36 (Electricity Act 1989) consent and deemed planning permission for the construction and operation of a biomass and energy from waste fuelled electricity generation station at Tilbury Docks.
- 1.2 s36(c) of the Electricity Act 1989 (inserted by s20 of the Growth and Infrastructure Act 2013) allows for the SoS to vary a s36 consent and the process for an applicant to seek a variation is set out in the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013. A guidance note (July 2013) accompanying the Regulations confirms that the SoS has the power to make “such variations as appear to be appropriate”. However, paragraph 26 of the guidance notes that the variation procedure is not intended as a way of authorising any change to a developer’s plans that would result in development that would be fundamentally different in character or scale from what is authorised by the existing consent
- 1.3 The Council is defined as the ‘relevant planning authority’ and is required to be consulted by BEIS along with the following bodies:
- Natural England;
  - Historic England;
  - NATS (National Air Traffic Services);
  - Met Office
  - Defence Infrastructure Organisation;
  - Port of London Authority;
  - Environment Agency;
  - Highways England;
  - Civil Aviation Authority;
  - Health and Safety Executive; and
  - Met Office Property Management.
- 1.4 A formal consultation was received from BEIS dated 2<sup>nd</sup> March 2022 requesting that any comments are submitted no later than 11<sup>th</sup> May 2022. Paragraph 8 (1) of the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 states:

- 8(1) *The appropriate authority (SoS) may cause a public inquiry to be held into a variation application if it considers it appropriate to do so having considered -*
- (a) any representations made about a variation application to the appropriate authority –*
    - (i) which a relevant planning authority makes within two months of the date on which a copy of the application was served on it under regulation 5(2)(b); and*
    - (ii) which any other person makes on or before the date specified in accordance with regulation 5(5)(b)(iii), where those representations are not withdrawn; and*
  - (b) all other material considerations.*

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

- 1.5 Members of the Planning Committee will be aware that with the enactment of the Planning Act 2008 (November 2008) a different consenting regime for onshore electricity generating stations with a capacity of more than 50MW was introduced. Under this Act such proposals are defined as Nationally Significant Infrastructure Projects (NSIPs) where permission is granted via a Development Consent Order issued by the relevant SoS. However, as the TGP proposal was submitted before the 2008 Act came into force, the provisions of the Electricity Act 1989 apply.
- 1.6 By way of background, the s36 consent and deemed planning permission were implemented and a first phase of the development, comprising a waste wood biomass plant with a c.40MW output became operational in April 2018. This electrical output is generated from no more than 300,000 tonnes of waste wood biomass per annum (from a consented total of no more than 650,000 tonnes waste input per annum).
- 1.7 In summary, the current submission to the SoS seeks to amend paragraph 2 of the Section 36 Consent and Condition (1) in the Section 90 (2ZA) deemed planning permission to increase the electrical export capacity of the development from 80 MW to 88 MW.
- 1.8 The applicant's background and reason for submitting the application is described as:

*"Since Tilbury Green Power was first permitted in 2009, significant developments in*

*technology have led to very substantial improvements in the conversion of waste to electrical energy. At Tilbury Green Power this has resulted in the electrical capacity of the operating waste wood biomass facility (Phase 1) increasing up to 43 MW. The electrical capacity of the energy from waste facility (Phase 2) is expected to be up to 45 MW. Therefore, the total electricity export capacity for the Tilbury Green Power development is now predicted to be up to 88 MW.*

*The increase in electrical capacity will be achieved mainly due to technology improvements leading to higher energy conversion efficiency. No increase in annual waste throughput, traffic, air emissions, noise or any other matter assessed in the Environmental Impact Assessment will arise as a result. Therefore, the significance of the environmental effects will not differ from that predicted for the original Consent. Moreover, the increase in efficient use of energy is beneficial to the environment in that more electricity is produced for the same waste throughput thus avoiding the need for electricity generation from other sources including fossil fuels ... No amendment to the previously consented maximum annual waste throughput of 650,000 tonnes is being sought ... This application seeks to increase the electricity capacity of the development from 80 MW to 88 MW. The increase results in the main from more efficient technology now available in the marketplace which generates more power. Otherwise, the application does not seek any changes to the development, either in character or scale, from what is authorised by the existing consent. Likewise, no change to the S36 consent red line boundary is proposed by this application.”*

## **2.0 SITE DESCRIPTION**

- 2.1 The TGP site is located within the Port of Tilbury, at the north-western end of the port complex and covers an area of some 9.3 hectares. The River Thames is located to the south-west of the site. The north and north-western boundary of the site is formed by a drainage channel known as Botney Channel, which is defined as a ‘main river’ by the Environment Agency. On the northern side of this channel is Grays Beach park, with mixed commercial and residential areas located further east at Manor Way and Curzon Drive. The north-eastern boundary of the site is formed by the Grays to Tilbury railway corridor. Land and buildings within the Port of Tilbury complex, including the internal port access roads, form all other boundaries to the site.
- 2.2 The TGP site is irregular in shape and comprises the following elements. On the landward (north-eastern) side of the flood defence is an open area used for the storage of biomass awaiting use at the facility. The westernmost part of the site is occupied by Phase 1 of the TGP facility comprising principally a waste wood processing building, boiler hall, turbine building, air cooled condensers, chimney stack and associated ancillary buildings and plant.

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

**3.0 RELEVANT PLANNING HISTORY**

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

<b>Application Ref</b>	<b>Description of Proposal</b>	<b>Decision</b>
08/00175/ELEC	Application for s36 Electricity Act consent and deemed planning	Consent and deemed planning permission issued

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



	Green Power Biomass and Energy from Waste Power facility	
13/00427/SCO	Request for Scoping Opinions for a proposed waste wood storage and processing facility at Tilbury Green Power Biomass and Energy from Waste Power facility	Advice given
13/00453/NMA	Non-Material Amendment: To allow permitted preliminary works to be undertaken in advance of the submission and approval of details associated with conditions 19 and 23 (Planning Permission - 11/50376/TTGCND)	Approved
13/01079/NMA	Non-Material Amendment: To revise the requirement under Condition 12 of planning permission 11/50376/TTGCND for a green/brown roof on the administration/visitor building, replacing it with alternative ground level habitat adjacent to the proposed ecological area	Approved
13/01170/CONDC	Discharge of condition 13 (rainwater harvesting) of approved planning application 11/50376/CONDC	Approved
13/01179/FUL	The construction and operation of a waste wood processing facility incorporating process building, a visual screen to the River Thames, external plant and equipment, storage areas and car parking	Approved
14/00239/CONDC	Application for approval of details reserved by condition 9 (temporary buildings etc.) of planning permission ref. 11/50376/TTGCND	Advice Given
14/00439/CONDC	Application for approval of details reserved by condition no. 18 (river transport opportunities) of planning permission reference 11/50376/TTGCND	Advice Given
14/00561/CONDC	Application for approval of details reserved by condition 8 (demolition materials recovery target) of planning	Approved

	permission ref. 11/50376/TTGCND	
14/00599/CONDC	Application for approval of details reserved by conditions 19 (travel plan) and 20 (vehicle and accident monitoring scheme) of planning permission reference 11/50376/TTGCND	Advice Given
14/00603/CONDC	reserved by condition 23 (pile driving) of planning permission reference 11/50376/TTGCND	Approved
14/00648/CONDC	Application for approval of details reserved by condition no. 10 (site layout and design) of planning permission ref. 11/50376/TTGCND	Advice Given
14/00658/CONDC	Application for approval of details reserved by condition nos. 49 and 50 (landscaping and creative conservation) of planning permission ref. 11/50376/TTGCND	Advice Given
14/00660/CONDC	Application for the approval of details reserved by conditions 33 and 34 (method and working of drainage) of planning permission ref. 11/50376/TTGCND	Advice Given
14/01139/CONDC	Application for approval of details reserved by condition 9 (Travel Plan) of planning permission ref. 13/01179/FUL	Advice Given
14/01141/CONDC	Application for approval of details reserved by condition no. 3 (Construction Environment Management Plan) of planning permission ref. 13/01179/FUL	Advice Given
14/01212/NMA	Application for a non-material amendment following the grant of planning permission - removal of condition 15 (biomass storage building foundation details) of planning permission ref. 11/50376/TTGCND and s.36 (Electricity Act) deemed planning permission variation ref. 12.04.09.04/266C issued by the	Approved

	Department of Energy Climate Change dated 20 August 2014	
14/01287/CONDC	Application for the approval of details reserved by condition 5 (foundation design details) and 6 (pile driving scheme) of planning permission ref. 13/01179/FUL	Advice Given
14/01298/CONDC	Application for approval of details reserved by condition no.15 (surface water management strategy) of planning permission ref. 13/01179/FUL	Advice Given
16/00102/CONDC	Discharge of condition 66 (Stack Aviation Lighting) from approved planning permission 11/50361/TTGFUL. For Phase 1 Stack Only	Approved
16/00873/NMA	Non material amendments to condition 10 of planning application 11/50376/TTGCND; A series of detailed design driven amendments to the layout and design of the generation station phase 1, including the on site electricity substation	Approved
16/00991/CONDC	Application for the approval of details reserved by condition no. 64 (air pollution monitoring) of deemed planning permission ref. 12.04.09.04/266C (biomass and energy from waste fuelled electricity generating station at Tilbury Docks) in respect of phase 1 of the development (biomass power plant).	Approved
16/01709/CONDC	reserved by condition nos. 4 (wheel washing) and 5 (wheel washing) of DECC deemed planning permission ref. 12.04.09.04/266	Approved
17/00843/CONDC	Application for the approval of details reserved by condition no. 29 (noise and vibration management plan) of the deemed planning permission for the Tilbury Green Power power plant facility (as amended by	Advice Given

	11/50376/TTGCND).	
17/00844/CONDC	Application for the approval of details reserved by condition no. 13 (noise and vibration management plan) of planning permission ref. 13/01179/FUL	Advice Given
17/01093/CONDC	Application for the approval of details reserved by condition no. 53 (pest and vermin control) of DECC deemed planning permission ref. 12.04.09.04/266 - Thurrock Council ref. 11/50376/TTGCND	Advice Given
17/01266/CONDC	Application for the approval of details reserved by condition nos. 63 (disposal and re-use of post combustion residues) of planning permission ref. 11/50376/TTGCND	Advice Given
17/01590/CONDC	Application for the approval of details reserved by condition no. 17 (flood response plan) of planning permission ref. 11/50376/TTGCND	Advice Given
17/01591/CONDC	Application for the approval of details reserved by condition nos. 68 of planning permission ref. 11/50361/TTGETL	Advice Given
19/00499/ELEC	Proposed variation of s36 (Electricity Act) consent and deemed planning permission for the construction and operation of a biomass and energy from waste fuelled electricity generating station (Tilbury Green Power) - proposed increase in generating capacity to 80MW and variations to conditions including restrictions on source and quantity of waste material components.	Consultation response provided to SoS – Variation approved by SoS March 2020
20/00983/ELEC	Proposed variation of s36 (Electricity Act) consent and deemed planning permission for the construction and operation of a biomass and energy from waste fuelled electricity generating station (Tilbury Green Power) - proposed amendment to	Consultation response provided to SoS – Variation approved by SoS February 2021

	<p>condition no. 56 in order to remove the restriction on the tonnage of feedstock material to be delivered to the site by road and replace with a requirement to regularly assess alternative modes of transport to minimise impact on the road network and also amend the site boundary to exclude jetty infrastructure.</p>	
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3.2 The applications of principal importance from the above table are:

- 08/00175/ELEC – this refers to an application submitted to the SoS (DECC) for (i) consent under section 36 of the Electricity Act 1989 to construct and operate a 60 megawatt (MW) biomass and energy from waste fuelled electricity generating station and (ii) a direction under section 90(2) of the Town and Country Planning Act 1990 that planning permission for the development be deemed to be granted. Thurrock Council were a consultee and in responding to DECC raised an objection and requested that a public inquiry be held before the SoS reached a decision on the application. The former Thurrock Thames Gateway Development Corporation (TTGDC) were also a consultee (as they performed the function as the relevant planning authority at that time) and did not maintain any objection to the application, subject to planning conditions and obligations within a s106 legal agreement. After considering all material planning matters the SoS granted a s36 consent and a direction (deemed planning permission) in August 2009 (DECC reference 01.08.10.04/87C. In September 2009 DECC issued an errata to one of the planning conditions. In July 2011 TGP sought a direction from the SoS pursuant to condition 3(2) of the s36 consent to extend the period within which commencement of the development was required to occur (from 26.08.12 to 26.08.14). The SoS issued a s36 direction in July 2011 allowing commencement of development no later than 26.08.14. However, the SoS noted that consent from the relevant planning authority would also be required to extend the life of the deemed planning permission.
- In 2011 TGP submitted two applications to TTGDC (the relevant planning authority at that time). Application ref. 11/50361/TTGETL sought an extension to the time limit for implementing the deemed planning permission (DECC ref. 01.08.10.04/87C) for two further years until 26.08.14. This application was approved by TTGDC subject to planning conditions and a deed of variation to the s106 unilateral undertaking signed by TGP. At the same time TGP submitted a s73 (Planning Act) application to TTGDC seeking variation of condition nos. 58-60 of the deemed planning permission which related to the

sources and transportation of fuels to the site. The Council (as a consultee) raised no strategic policy objection to the proposal and permission was granted, subject to a deed of variation to the s106 unilateral undertaking, in January 2012.

- In April 2014 TGP applied to the SoS (DECC) for (i) a variation to the s36 (Electricity Act) consent to extend the time period for implementation by one year (until 26.08.15) (ii) clarification that TGP has the right to assign the benefit of the s36 consent and (iii) a s90 direction (deemed planning permission) the extending the time period for commencement until 26.08.15 and replication of planning permission ref. 11/50376/TTGCND with regards to conditions and progress on discharging the requirements thereof. In August 2014 the SoS approved the application (ref. 12.04.09.04/266C).
- In March 2019 TGP applied to the SoS (DECC) for (i) a variation to the s36 (Electricity Act) consent to increase the generating capacity of the facility to 80MW and (ii) vary planning conditions attached to the deemed planning consent, including restrictions on source and quantity of waste material components. It is notable that this application included a proposal to delete condition no. 56. In March 2020 the SoS approved the application, but considered that condition no. 56 should be retained.
- In August 2020 TGP applied to the SoS to vary the s36 consent to firstly amend the extent of the application site (as delineated by a red line boundary) in order to exclude a jetty and associated infrastructure from the application site and secondly to amend planning condition no. 56 of the deemed planning permission to remove restrictions on the amount of feedstock to be delivered by road. In February 2021 the SoS approved the application, but with amendments to condition no. 56 to require the submission of reports on the delivery modes of feedstock and investigation of more sustainable modes of transport.

## **4.0 CONSULTATIONS AND REPRESENTATIONS**

- 4.1 As this is an application submitted by TGP to the SoS pursuant to the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 there is no requirement for the relevant planning authority to undertake any formal consultation or notification. Instead the applicant is required to include within their submission to the Department for Business, Energy & Industrial Strategy (BEIS - formerly DECC) a statement of what account has been taken of views expressed by persons consulted by the applicant. The application includes, at Appendix 4, details of 'Pre-Application Consultation Correspondence'. This report confirms that TGP consulted with the following bodies:

- Thurrock Council;
- Environment Agency; and
- Natural England.

4.2 TGP received the following consultation replies:

4.3 ENVIRONMENT AGENCY:

Having considered the proposal, based on the information provided, we would not object to this proposal. The increase in total electricity exported is a positive outcome of technological improvements and supported by a requirement of the site Environmental Permit to improve energy efficiency.

4.4 NATURAL ENGLAND:

No comments to make on this proposed variation.

## 5.0 POLICY CONTEXT

### 5.1 National Policy Statements (NPS)

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

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

Identifies a general need and urgency for new energy infrastructure to be consented and built with the objective of contributing to a secure, diverse and affordable energy supply and supporting the Government's policies on sustainable development, in particular by mitigating and adapting to climate change and also highlights the role of renewable electricity generation,. Generic impacts associated with proposals for generating stations include traffic and transport and waste management.

### 5.3 Renewable Energy Infrastructure (EN-3)

Part 2 of this NPS refers to assessment and technology-specific information and part 2.5 covers biomass and waste combustion. Part 2.5.1 states that the combustion of biomass for electricity generation is likely to play an increasingly important role in meeting the UK's renewable energy targets. Part 2.5.2 goes on to note that the recovery of energy from the combustion of waste, where in accordance with the waste hierarchy, will play an increasingly important role in meeting the UK's energy needs. Where the waste burned is deemed renewable, this can also contribute to meeting the UK's renewable energy targets. Further, the recovery of energy from the combustion of waste forms an important element of waste management strategies in both England and Wales.

### 5.4 **National Planning Guidance**

#### National Planning Policy Framework (NPPF)

The revised NPPF was published on 20<sup>th</sup> July 2021. Paragraph 11 of the Framework sets out a presumption in favour of sustainable development. This paragraph goes on to state that for decision taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date<sup>1</sup>, 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 proposed<sup>2</sup>; 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.

<sup>1</sup> 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 ...

<sup>2</sup> 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 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 headings and content of the NPPF are relevant to the consideration of the current proposals:

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

#### 5.5 Planning Policy Guidance (NPPG)

In March 2014 the Department for Communities and Local Government (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 this application include:

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

#### 5.6 Waste (England and Wales) Regulations 2011

The Regulations transpose the European Directive on waste and, inter-alia, impose duties in relation to waste management and the improve use of waste as a resource. The Regulations refer to a waste hierarchy comprising: prevention;

preparing for re-use; recycling; other recovery (for example energy recovery); and disposal.

#### 5.7 Waste Management Plan for England 2013

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

#### 5.8 National Planning Policy for Waste 2014

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

#### 5.9 **Local Planning Policy**

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

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

Overarching Sustainable Development Policy:

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

Spatial Policies:

- CSSP3 (Infrastructure)

Thematic Policies:

- CSTP28 (River Thames)

Policies for the Management of Development:

- PMD1 (Minimising Pollution and Impacts on Amenity)

#### 5.10 Thurrock Local Plan

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

#### 5.11 Thurrock Design Strategy

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

### 6.0 ASSESSMENT

- 6.1 As set out above, this application is submitted to the SoS for consideration and decision, although the Council as the relevant planning authority is invited by BEIS to submit its views. The purpose of this report is to provide the Committee with an appraisal of the proposed variation to the s36 consent and deemed planning permission in order to inform a consultation response to BEIS. Also as confirmed above, before determining the application the SoS may cause a discretionary public inquiry to be held if it is deemed appropriate to do so having considered the representations received and all other material considerations.
- 6.2 Unlike the previous amendments to the s36 consent and deemed planning permission referred to above, the current application is relatively straightforward in proposing limited changes. Two amendments are proposed as follows (deletions to existing wording shown as ~~striketrough~~, new wording shown in *italics*):

S36 Electricity Act Consent – paragraph 2

“Subject to paragraph 3(1), the Development shall be up to ~~80~~ 88MW capacity and comprise...”

Deemed Planning Permission – Condition no.1 (Definitions):

““the Development” means an electricity generating station of up to ~~80~~ 88MW, comprising...”

- 6.3 In simple terms the application only seeks to increase the generating capacity of the development from 80MW to 88MW. As summarised at paragraph 1.8 (above), the reasons for the application and technical justification are that since the project received consent from the SoS in 2009 technological advances have improved the

conversion of waste to electrical output. The operational waste wood and biomass power plant (Phase 1 of the project) has a generating capacity of 43MW and it is intended that the energy from waste facility (Phase 2) will generate 45MW of electrical power. As noted at paragraph no. 1.2 above, the process of amending a s36 Electricity Act consent is set out by the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013. An accompanying guidance note published by the former Department of Energy and Climate Change (now BEIS) in July 2013 states that:

*“Generating station development consents are often not implemented until some years after they are granted. Each consent reflects technology and industry practice at the time it was applied for, but such practices do not stand still, even in relatively mature sectors. This means that when a developer comes to construct a generating station, it will sometimes be uneconomic or have more detrimental effects on the environment to do so according to all of the details specified in the consent. In practice, this means changes to the original proposals to make the project feasible. The changes concerned may not be very great, but they may nevertheless involve work which would not be consistent with the terms of the existing consent, for example installing more efficient technology generating more power without radically changing the physical dimensions of the buildings and/or structures.”*

The guidance therefore recognises that there is delay between the approval of electricity generating stations and their operation, during which time technology advances. Changes to approved projects are inevitable, including:

*“installing more efficient technology generating more power without radically changing the physical dimensions of the buildings and/or structures”,* as is the case here.

6.4 The applicant emphasises that, as no increases to the annual tonnage of feedstock imported to the facility (650,000 tonnes) are proposed, there will be no additional impacts beyond those already assessed and approved. The findings of the original Environmental Impact Assessment, as supplemented by a previously submitted Supplementary Environmental Information Report and a Further Environmental Information report remain relevant and are not affected by the current proposal. Accordingly, there are no changes to the assessed impacts on:

- ecology;
- water quality;
- geology, hydrology, land contamination, flood risk;

- transport;
- noise & vibration;
- visual impact;
- cultural heritage;
- air quality; and
- socio-economics.

6.5 The applicant refers to the terms of the Environmental Permits, granted by the Environment Agency, which require (inter-alia) the operator to:

- take measures to ensure that energy is recovered with a high level of efficiency;
- regularly review opportunities to improve energy efficiency; and
- take measures if identified by a review.

The proposals comply with these requirements.

## **7.0 CONCLUSIONS AND REASONS FOR RECOMMENDATION**

7.1 The purpose of this report is to provide the SoS (BEIS) with the Council's views on an application to amend the s36 (Electricity Act) consent and deemed planning permission for the TGP facility. The proposed increase in electrical capacity will be achieved as a result of technological improvements leading to higher energy conversion efficiency. No increase in annual feedstock throughput is proposed and there would be no additional impacts on traffic, air emissions, noise or any other matter relevant to Environmental Impact Assessment beyond those already assessed. In light of the above analysis it is concluded that no objection should be raised to the application to vary the s36 consent as proposed,

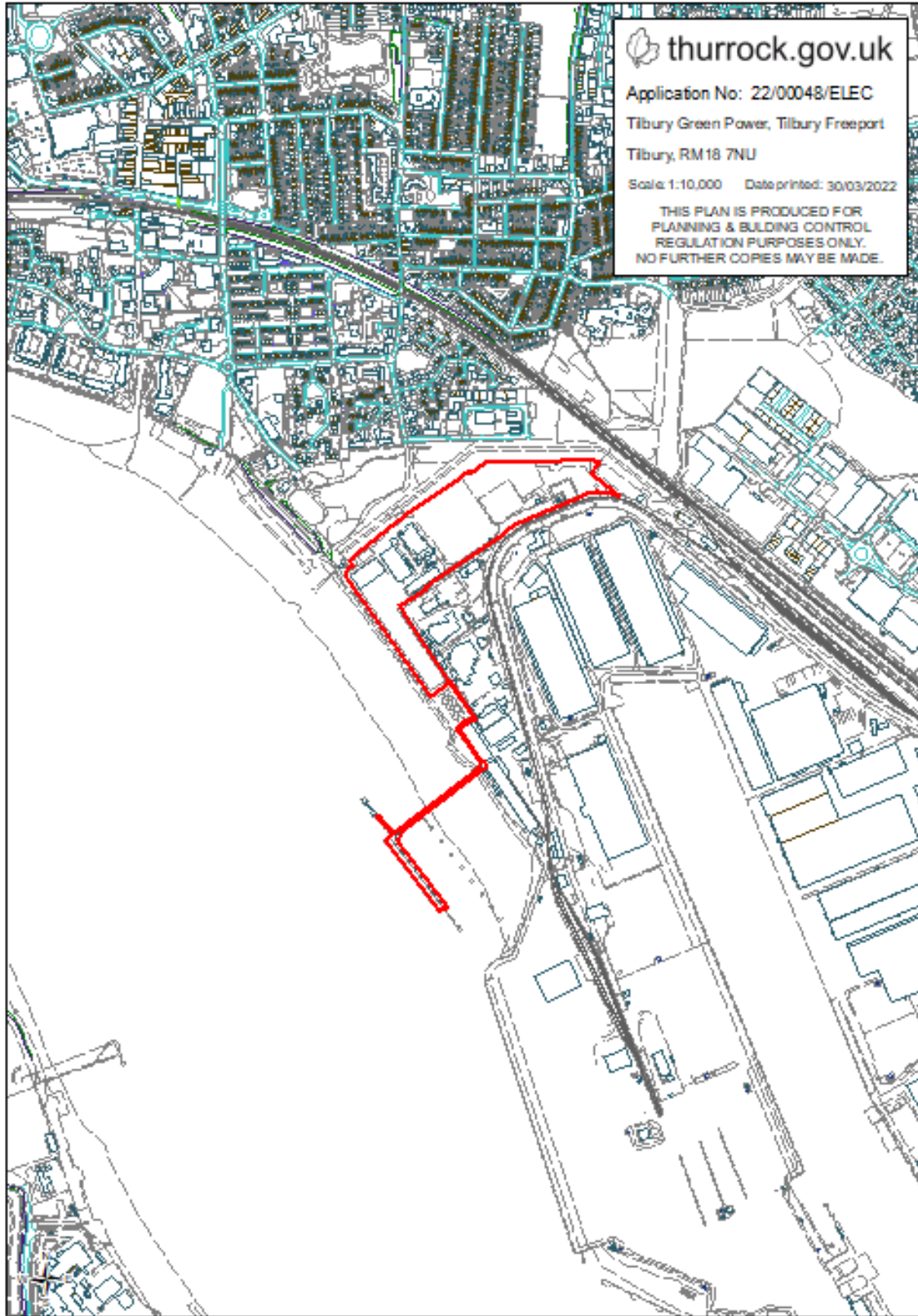
## **8.0 RECOMMENDATION**

8.1 That Planning Committee agree that the consultation response to be provided by the relevant planning authority to the Department for BEIS raises no objection to the proposal.

### **Documents:**

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

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



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