

Reference: 18/00994/FUL	Site: Former Harrow Inn Harrow Lane Bulphan Essex RM14 3RL
Ward: Orsett	Proposal: Proposed ancillary Manager's accommodation with double garage.

Plan Number(s):		
Reference	Name	Received
10893.P100.C	Proposed Floor Plans	10th September 2018
10893.P200.B	Proposed Elevations	10th September 2018
10893.P110	Proposed Elevations	12th July 2018
10893.S01	Location Plan	12th July 2018
10893-S02	Proposed Site Layout	12th July 2018
10893-S03	Proposed Site Layout	12th July 2018
JD/HI/01	Landscaping	12th July 2018

The application is also accompanied by:

- Design & Access Statement
- Flood Risk Assessment
- Letter in Response to Health & Safety Officer comments
- Gallagher Insurance letter re Glasshouse Fire Strategy Report

Applicant: Mr & Mrs B & J Jarvis	Validated: 11 July 2018 Date of expiry: 30 November 2018 (Extension of Time as Agreed with the Applicant)
Recommendation: Refusal	

1.0 BACKGROUND

- 1.1. At the meeting of the Planning Committee held on 18 October 2018 Members considered a report on the above proposal. The report recommended that planning permission be refused for reasons based upon the following:
- 1) The proposal constitutes inappropriate development in the Green Belt which is harmful by definition. Further harm is also identified through the loss of openness due to the siting and substantial increase in the scale of the buildings proposed on the site.
 - 2) The proposal would have a detrimental impact to visual amenity and the openness and character of the flat, fenland area.
 - 3) The information submitted did not demonstrate that the proposal would not result in flood risk.
- 1.2 A copy of the report presented to the October 2018 meeting is attached as Appendix 1.
- 1.3 During the debate Members indicated support for the application on the basis of the following:
- There is a need for the business to have a Senior Manager on site;
 - Without Senior Manager being onsite they cannot obtain insurance;
 - The Council needs to provide lots of homes in the Green Belt in the future, and this will just be one home;
 - Planning conditions could be used to link the use of the dwelling to the use of the business;
 - No loss of openness to the Green Belt by the development;
- 1.4 During the debate members also sought clarification over the flood risk zone that the site is located in.
- 1.5 In accordance with Chapter 5, part 3, section 7 of the Council's Constitution, the item was deferred to allow Officers to prepare a report outlining the implications of making a decision contrary to the Planning Officer's recommendation and to provide clarification on the flood risk zone.

2.0 ASSESMENT

- 2.1 The assessment contained below focuses upon the following areas:

1. Impact on green belt and very special circumstances
2. Flood Risk Zone

1. IMPACT ON GREEN BELT AND VERY SPECIAL CIRCUMSTANCES

- 2.2 As set out in the original report (Appendix 1), the Council is required to consider the following questions in order to determine whether the proposal is acceptable in the Green Belt:

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

- 2.3 In order to determine whether the proposal constitutes inappropriate development the relevant development plan policies and paragraphs of the NPPF must be considered.
- 2.4 The application site is located within the Green Belt as defined within the Thurrock Local Development Framework, Core Strategy (2015). Policy PMD6 applies and states that permission will only be granted for development in the Green Belt providing it meets the requirements of the NPPF and specific restrictions within PMD6.
- 2.5 The starting point for this assessment is paragraph 143 of the NPPF. This states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 2.6 The NPPF sets out a limited number of exceptions and the current proposal does not fall within the listed exempt categories.
- 2.7 The proposal would introduce a new detached dwelling and detached double garage onto the site with a substantial private rear garden, in addition to the approved Wellness Centre. Consequently, the proposals comprise inappropriate development, which is harmful by definition, with reference to the NPPF and Policy PMD6. In accordance with the NPPF and Policy PMD6, substantial weight should be given to this harm.

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

- 2.8 In this instance the proposal would significantly increase the amount of built form on site, by virtue of the construction of a two storey dwelling, detached double garage and store, hardstanding and fencing enclosure; these new buildings would reduce the openness of the Green Belt by introducing built form where there is presently none.
- 2.9 During their address to Planning Committee in October, the applicant indicated that the height of the fencing could be reduced from 3m as set out on the submitted plans to 2 metres, although no details have been received. Nevertheless, notwithstanding the final height of the fencing, the proposal

would clearly have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. In accordance with the NPPF and Policy PMD6, substantial weight should be given to this harm.

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

- 2.10 Having established that the proposal represents inappropriate development and identified further harm to openness, it is necessary for the applicant to demonstrate Very Special Circumstances. Neither the NPPF nor the Adopted Core Strategy provide guidance as to what can comprise 'Very Special Circumstances', either singly or in combination. However, some interpretation of Very Special Circumstances has been provided by the Courts. The rarity or uniqueness of a factor may make it very special, but it has also been held that the aggregation of commonplace factors could combine to create very special circumstances (i.e. 'very special' is not necessarily to be interpreted as the converse of 'commonplace'). However, the demonstration of very special circumstances is a 'high' test and the circumstances which are relied upon must be genuinely 'very special'.
- 2.11 In considering whether 'very special circumstances' exist, factors put forward by an applicant which are generic or capable of being easily replicated on other sites should not be accepted.
- 2.12 The provisions of very special circumstances which are specific and not easily replicable may help to reduce the risk of such a precedent being created. Mitigation measures designed to reduce the impact of a proposal are generally not capable of being 'very special circumstances'. Ultimately, whether any particular combination of factors amounts to very special circumstances will be a matter of planning judgment for the decision-taker.
- 2.13 At the 18 October 2018 meeting, Members considered the following circumstances. Each is assessed below.
- I. There is a need for the business to have a Senior Manager on site;
 - II. Without a Senior Manager being on site the applicant cannot obtain insurance;
 - III. The Council needs to provide homes in the Green Belt in the future and this will just be one;
 - IV. Planning conditions could be used to link the use of the dwelling to the use of the business;
 - V. No loss of openness to the Green Belt by the development.

I. There is a need for the business to have a Senior Manager on site

- 2.14 At the previous meeting there was some discussion in relation to the business need for a Senior Manager on site. The applicant considers the Manager's

accommodation to be integral to the success of the Wellness Centre and suggests that Very Special Circumstances identified for the Wellness Centre should also apply to the Manager's accommodation.

- 2.15 As previously detailed in Appendix 1, the applicant's desire to live adjacent to their new business is appreciated however the 'need' for the accommodation appears to be nothing more than that. No further evidence in relation to the essential need for the detached dwelling has been demonstrated. Furthermore, the original approval (under planning ref. 16/01446/FUL) included on site manager's accommodation within the main building which the applicant has elected to lose in favour of additional staffing facilities. The Wellness Centre has capacity for manager's accommodation should the applicant chose to do so. The need for an additional detached dwelling and double garage/store, additional hardstanding and garden has not been demonstrated.
- 2.16 Members also engaged in some discussion in relation to the viability of the business should the application for the dwelling not go ahead, as implied by the applicant at the meeting. As detailed in the report in Appendix 1, no evidence has been submitted to uphold the applicant's claim in relation to the viability of the scheme via the potential loss of rooms or alteration of the use of other areas in the main building. The approved scheme included manager's accommodation and the applicant has the option of including such facilities within the existing scheme at present should they choose to do so.
- 2.17 This factor should be given no weight in the assessment of this case.

II. Without a Senior Manager being on site the applicant cannot obtain insurance

- 2.18 During the previous meeting discussions took place in relation to the insurance cover for the proposed business. The applicant has implemented the original planning approval for the Wellness Centre and sought further changes to the internal layout (approved under application ref. 18/00986/CV). The applicant asserted that for building insurance purposes the facility would not be able to operate without the proposed amendments made under application 18/00986/CV in relation to the layout of the Wellness Centre including the provision of the detached Manager's dwelling. The proposed layout changes to the Wellness Centre were approved at the previous meeting.
- 2.19 The letter from the applicant's insurance company that was submitted in support of the applicant's case states that due to the operational hours of the facility, i.e. 24 hours, the business will require the presence of a senior manager and offers suggestions on how to address this. The letter does not maintain or stipulate that erecting a detached two storey dwelling, with a garden, fencing and a double garage and store are all essential for insurance purposes. No further evidence of the potential limitations of any business insurance cover has been provided by the applicant in relation to the

insurance need for a dwelling on the site. With the lack of any further evidence, along with the potential to provide manager's accommodation within the main building, it is considered that it is the applicant's desire to provide a detached dwelling for the use of the Manager rather than any insurance cover requirement.

2.20 This factor should be given no weight in the assessment of the application.

III. *The Council needs to provide homes in the Green Belt in the future and this will just be one*

2.21 The latest [May 2016] Strategic Housing Marketing Assessment [SHMA] and the update Addendum [May 2017] states that more homes are required in Thurrock. Nonetheless, this application seeks planning permission for a dwelling for the use of the manager of the site. The provision of one dwelling would have no tangible benefit to the stock of housing in the Borough and it is an argument that could easily be replicated on other sites in the Borough. Therefore, this factor should be given no weight in the assessment of the application.

IV. *Planning conditions could be used to link the use of the dwelling to the use of the business*

2.22 At the previous meeting Members discussed the potential to impose a planning condition to tie the use of the dwelling to the use of the business. Notwithstanding the fact that a condition could be imposed, as previously stated there is considered to be no demonstrable need for the detached dwelling to support the business. The proposal would need to demonstrate that Very Special Circumstances exist for the detached dwelling which would justify an exception to local and national Green Belt policy, prior to the consideration of how might the use of the dwelling in association with the business be controlled.

2.23 This factor should be given no weight in the assessment of the application.

V. *No loss of openness to the Green Belt by the development*

2.24 At the previous meeting the report included a table for Members indicating the increase in footprint and volume on the site. The proposal would represent a significant increase in the footprint and volume over and above the original buildings at the site. The proposed dwelling would provide a floor area which would normally be comparable to a modern 3-bedroom house. Similarly, the area of the double garage could be comparable to the area occupied by modest two bedroom flats. Furthermore, the additional private garden space at 344 sq.m and the 334 sq.m hardstanding represent excessive and harmful domestic features in the Green Belt. There is no doubt that the provision of this proposal would reduce the openness of this flat fenland site.

2.25 This factor should be given no weight in the assessment of the application.

2. FLOOD RISK

- 2.26 Since the deferral of the application, the Council has been in further discussion with the Environment Agency (EA). The EA has advised that the site for the dwelling house is located in high flood risk zone 2, with a small part of the site falling within flood risk zone 1. Parts of the wider site falls within Flood Zone 3.
- 2.27 The EA has advised that the Council should adopt the higher flood risk zone for the purposes of assessing the proposal. The EA has reiterated that it has no objections to the proposal subject to the Council being satisfied that the development meets the Sequential Test.
- 2.28 The 'Sequential Test' is designed to steer new development to areas with the lowest probability of flooding. Table 2 in the 'Flood risk and coastal change' chapter of Planning Practice Guidance (PPG) categorizes residential dwellings as 'More Vulnerable' development.
- 2.29 The PPG advises that *'the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed'*. Whilst there is a degree of flexibility in the catchment area for considering alternative sites, the applicant has not provided any evidence to show that any alternative locations have been considered for the dwelling in a lower risk flood zone (Flood Risk Zone 1).
- 2.30 Whilst it is recognised that it is the applicants desire to have the dwelling adjacent to the Wellness Centre, National Planning Policy requires applicants to consider alternative locations for More Vulnerable uses such as dwelling houses in lower flood risk zones. In the absence of any evidence demonstrating a sequential approach to the location of the site, the proposal cannot pass the Sequential Test.
- 2.31 Consequently, it is considered that the proposal is contrary to the objectives of Core Strategy Policies CSTP27, PMD15 and the NPPF in relation to flood risk.

3.0 CONCLUSIONS

- 3.1 This application seeks planning permission for a new dwelling and double garage in the Green Belt. When considered against the Council's Development Plan, the proposal is found to be unacceptable, constituting 'inappropriate development' which is harmful by definition. Further harm has been identified through the scale of the development upon the openness of this flat, fenland location.
- 3.2 The proposal is therefore unacceptable when assessed against Policy PMD6 and the NPPF. Substantial weight should be given to any harm to the Green

Belt.

- 3.3 Officers have considered the case put forward but remain of the opinion that it falls some considerable way short of constituting the very special circumstances that are required to allow a departure to be made from national and local planning policy. The matters discussed are not considered either individually or collectively to constitute very special circumstances. In fact, they fall someway short of that stringent test. As a result, these cannot clearly outweigh the harm arising. Accordingly the application fails the relevant Green Belt tests and should be refused.
- 3.4 The reasons for supporting the application, as put forward by the Planning Committee, on 18 October 2018, are not considered to provide sufficient grounds to approve the application. Therefore the recommendation remains the same as previously advised.
- 3.5 In terms of the implications of granting planning permission contrary to the development plan and national policy this would potentially set a precedent for development in the Green Belt. Whilst every application is assessed on its own merits, a similar logic and interpretation of policy should be applied to ensure consistency of decision making. By granting planning permission for inappropriate development in the Green Belt contrary to policy on the basis of circumstances that are easily replicated elsewhere Members would potentially be establishing a precedent for development in the Green Belt.
- 3.6 The Environment Agency has advised that the site is located in high flood risk zone 2. It follows that the Council should apply the Sequential Tests, as required by national planning guidance. In response to clarification by the EA, the Exceptions Test is no longer applicable.
- 3.7 The Council considers that the Sequential Test has still not been met and the Council is, therefore, unsatisfied that the proposal would not be at risk of flooding. As a consequence, the proposal is contrary to the objectives of Core Strategy Policies CSTP27, PMD15 and the NPPF in relation to flood risk.

4.0 RECOMMENDATION

4.1 Refuse for the following reasons:

1. The proposed development would, by reason of its scale, siting and location within the rural setting result in inappropriate development in the Green Belt which is by definition harmful. In addition, the development would also cause actual loss of openness due to the siting and substantial increase in the scale of the buildings proposed on the site. The circumstances put forward by the applicant do not constitute very special circumstances to justify inappropriate development in the Green Belt. The proposal is therefore contrary to Policy PMD6 of the adopted Thurrock Local Development Framework Core Strategy

and Policies for the Management of Development (as amended 2015) and the National Planning Policy Framework 2018.

2. The application site is within a fenland landscape which is typified by long open views, with a sparse settlement pattern. The proposed development would, by virtue of the siting of the buildings and forms of enclosure close to the site boundaries and the public right of way, be likely to be detrimental to visual amenity, the openness and character of the flat, fenland area. The proposal would therefore be contrary to Policies PMD2, CSTP22 of the Core Strategy and the National Planning Policy Framework 2018.
3. The proposal, by virtue of the flood risk information submitted for this more vulnerable use, fails to meet the Sequential Test as required and subsequently fails to adequately demonstrate why the development could not be located in flood risk zone 1. The proposal would be contrary to Policies CSTP27 and PMD15 of the Core Strategy and the National Planning Policy Framework 2018.

Informatives:-

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

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant/Agent. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

Documents:

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

www.thurrock.gov.uk/planning

