

Reference: 18/01041/FUL	Site: Dahlia Cottage Kirkham Shaw Horndon On The Hill Essex SS17 8QE
Ward: Orsett	Proposal: Two bedroom bungalow

Plan Number(s):		
Reference	Name	Received
MAGLOC	Location Plan	23rd July 2018
MAG 1	Proposed Plans	23rd July 2018
BLP	Proposed Site Layout	23rd July 2018

The application is also accompanied by:

- Design and access statement

Applicant: Mrs Jenifer Eaton	Validated: 23 July 2018 Date of expiry 23 October 2018 [Extension of time agreed with applicant]
Recommendation: Refuse	

This application is scheduled for determination by the Council's Planning Committee because it has been called in by Cllrs Kelly, Johnson and Halden in accordance with Part 3 (b) 2.1 (d)(i) of the Council's constitution to consider building on Green Belt.

1.0 DESCRIPTION OF PROPOSAL

- 1.1 The application seeks planning permission for the construction of a 2 bedroom bungalow with amenity space together with two hard surfaced parking spaces with access taken from Kirkham Shaw.

2.0 SITE DESCRIPTION

- 2.1 The application site is located to the southern side of Kirkham Shaw. Access to the site is through an existing gated entrance located to the northern corner of the site. An access road runs west to east through the site.

3.0 RELEVANT PLANNING HISTORY

Application Reference	Description of Proposal	Decision
91/00245/OUT	Erection of dwelling to replace existing dwelling	Refused
06/00591/LDC	The residential use of the 5 bed roomed detached single storey property known as Dahlia Cottage, residential curtilage, commercial breeding, rearing of Weimermar dogs (14 bitches, 24 dogs total), internal track & buildings as shown on the attached plan dated 19/7/2006	Deemed lawful
06/01032/FUL	Replacement of existing bungalow with five bedroom detached single storey dwelling.	Refused
07/00754/LDC	Extent of use of land as residential curtilage.	Deemed unlawful
07/01160/FUL	Replacement chalet bungalow	Refused
08/00005/FUL	Replacement chalet bungalow	Approved
09/00208/OUT	Outline application for the residential development of 4 detached dwellings, together with access road on land to the north of Dahlia cottage.	Refused and Appeal dismissed
11/00125/FUL	Cessation of use of site for dog breeding purposes, demolition of 3 buildings and conversion of 3 buildings to residential properties with associated parking, gardens and landscaping	Approved
12/00937/FUL	Cessation of use of site for dog breeding purposes, demolition of 3 buildings and conversion of two buildings and the rebuild of one building to residential properties with associated parking, gardens and landscaping	Approved
13/00918/FUL	Cessation of use of site for dog breeding purposes, demolition of 3 buildings and conversion of two buildings and the rebuild of one building to residential properties with associated parking, gardens and landscaping (retention of Building 5 as built and reduction in size of Building 6)	Refused
13/01120/FUL	Cessation of use of site for dog breeding purposes, demolition of 3	Approved

	buildings and conversion of two buildings and the rebuild of one building to residential properties with associated parking, gardens and landscaping (retention of Building 5 as built and reduction in size of Building 6)	
14/01182/NMA	Non material amendment to planning permission 13/01120/FUL comprising provision of four roof lights to roof (two to front and two to the rear) and rear window to bedroom to be replaced with French doors on building no 4.	Approved
16/01408/FUL	Replacement chalet bungalow [revised design from 08/00005/FUL]	Approved

4.0 CONSULTATIONS AND REPRESENTATIONS

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

PUBLICITY:

- 4.2 The application has been advertised by way of individual neighbour notification letters and public site notice which has been displayed nearby. One letter of objection has been received raising the following concerns:
- The road leading to the proposed bungalow directly passes properties from an unmade road;
 - Additional traffic will cause more dust which presents a health risk;
 - Parking to the new dwelling will cause concern due to its close proximity to a kitchen and outside dining area with car fumes.

4.3 LANDSCAPE AND ECOLOGY ADVISOR:

No objection subject to landscaping conditions.

4.4 HIGHWAYS:

No objection.

5.0 POLICY CONTEXT

National Planning Guidance

5.1 National Planning Policy Framework

The updated NPPF was published on in July 2018. Paragraph 13 of the Framework sets out a presumption in favour of sustainable development. Paragraph 196 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 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

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

- Core Planning Principles
- 12. Achieving well designed places
- 13. Protecting Green Belt land
- 15. Conserving and enhancing the natural environment

Planning Policy Guidance

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

- Design
- Determining a planning application
- Natural Environment

Local Planning Policy

Thurrock Local Development Framework (2015)

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

Spatial Policies:

- CSSP4 (Sustainable Green Belt)

Thematic Policies:

- CSTEP22 (Thurrock Design)
- CSTEP23 (Thurrock Character and Distinctiveness)²

Policies for the Management of Development:

- PMD1 (Minimising Pollution and Impacts on Amenity)²
- PMD2 (Design and Layout)²
- PMD6 (Development in the Green Belt)²
- PMD8 (Parking Standards)³

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

Thurrock Local Plan

- 5.5 In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an Issues and Options (Stage 1) document and simultaneously undertook a 'Call for Sites' exercise. It is currently anticipated that consultation on an Issues and Options (Stage 2 Spatial Options and Sites) document will be undertaken in 2018.

Thurrock Design Strategy

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

Thurrock Residential Alterations and Extensions Design Guide (RAE)

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

6.0 ASSESSMENT

6.1 The principal issues to be considered in this case are:

- I. Background
- II. Plan designation and principle of the development
- III. Design and Layout and Impact upon the Area
- IV. Effect on neighbouring properties.
- V. Traffic Impact, Access and Car Parking

I. BACKGROUND

- 6.2 The wider application site has a significant planning history in relation to residential use, going back to 2006 when the structure on the site of Dahlia Cottage was first considered via an application.
- 6.3 In 2006, the structure on the site was subject to a Lawful Development Certificate application 06/00591/LDC for *“the residential use of the 5 bed roomed detached single storey property known as Dahlia Cottage, residential curtilage, commercial breeding, rearing of Weimermar dogs (14 bitches, 24 dogs total), internal track & buildings as shown on the attached plan dated 19/7/2006”*. This application was approved and the use deemed Lawful.
- 6.4 Planning permission for a replacement dwelling at Dahlia Cottage was later granted consent under reference 08/00005/FUL.
- 6.5 In 2011, an application was approved on the wider site (ref: 11/00125/FUL) for *“the cessation of use of the site for dog breeding purposes, demolition of 3 buildings and conversion of 3 buildings to residential properties with associated parking, gardens and landscaping”*
- 6.6 In granting planning permission, the Council considered the proposal to be beneficial to the Green Belt as it resulted in the removal of buildings and significant areas of hard surfacing from the site along with the cessation of a non-conforming, albeit lawful use. Additionally, the proposal resulted in large areas of the site being landscaped enhancing the rural character and improving the visual amenities of the Green Belt at this point. The buildings retained were converted to residential properties with minimal alterations.
- 6.7 The development approved by the 2011 and subsequent variation applications has been carried out.
- 6.8 In 2016 planning permission was granted for a replacement chalet bungalow at Dahlia Cottage itself. This permission sought a revised design from an earlier approval in 2008.
- 6.9 The location of the proposed dwelling is an area that was to be left open and landscaped under the previous approvals.

II. PRINCIPLE OF THE DEVELOPMENT IN THE GREEN BELT

6.10 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
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

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

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

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

- not have a greater impact on the openness of the Green Belt than the existing development; or*
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

6.13 In relation to Policy PMD6 pertaining to infill the following are the relevant criteria from the Core Strategy:

I. Infilling should:

- i. have no greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development*

- ii. not exceed the height of the existing buildings discounting any abnormally tall existing structures; and*
- iii. not lead to a major increase in the developed proportion of the site.*

II. Redevelopment should:

- i. have no greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development taking into account any proposed enclosure of open land*
- ii. contribute to the achievement of the objectives for the use of land in the Green Belt*
- iii. not exceed the height of the existing buildings discounting any abnormally tall existing structures*
- iv. not occupy a larger area of the site than the existing buildings unless this would achieve a reduction in height which would benefit visual amenity, and*
- v. satisfactorily integrate with its landscape surroundings and, where it may be appropriate in order to meet that objective, buildings should be sited closer to existing buildings.*

The relevant area for the purposes of II iv above is the aggregate ground floor area of the existing buildings excluding temporary buildings. Any buildings demolished prior to the grant of permission for redevelopment will not count as developed area.

The Council will expect the site to be considered as a whole, whether or not all buildings are to be redeveloped, and the floor area limitation at II iv above relates to the redevelopment of the entire site. Any proposals for partial redevelopment should be put forward in the context of comprehensive, long-term plans for the site as a whole.

In granting permission the Council may impose conditions to ensure that buildings which are not to be permanently retained are demolished as new buildings are erected in order to keep the total development area under control so that there is no adverse effect on openness.

- 6.14 The proposal represents a new two bedroom bungalow within the Green Belt. The relevant criteria of PMD6 for consideration of this application is *i.* that the proposal should have no greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
- 6.15 The proposed two bedroom bungalow would be constructed to the south of the main access road through the site. The dwelling would be 11.7 m (w) by 6.1m (d) with a rear conservatory measuring 4.8m (w) by 3.3m (d). The bungalow would have a gable pitched roof; the front porch would also feature a gable pitch roof. The bungalow would have a floor area of 90.00 sq.m.
- 6.16 The area in which the bungalow is proposed to be located was one of the areas that was shown in the previous applications as an area of open space on the approved plans for the development on the wider site.

- 6.17 The proposed development does not comply with any of the criteria set out in policy PMD6 or the NPPF relating to infill development detailed above and accordingly is considered to be inappropriate development.

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

- 6.18 Having established that the proposals constitute 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. In this instance the proposed bungalow and hardstanding for vehicle parking is harmful to the character, openness and visual amenities of the Green Belt. This development would be harmful to the Green Belt and would result in a loss of openness. It is considered that the proposal would result in harm to openness in addition to the harm by reason of inappropriateness.

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

- 6.19 Having established the proposal constitutes inappropriate development and further harm would arise, consideration must be given to whether there are any very special circumstances which clearly outweigh the harm to the Green Belt. Paragraph 144 of the NPPF states that, when considering any planning application, Local Planning Authorities “should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.
- 6.20 Neither the NPPF nor the Adopted Core Strategy provide guidance as to what can comprise ‘very special circumstances’, either singly or in combination. However, the demonstration of very special circumstances is a ‘high’ test and the circumstances which are relied upon must be genuinely ‘very special’. In considering whether ‘very special circumstances’ exist, factors put forward by the applicant however are to further develop this site, and consideration to the openness of the Green Belt will need to be assessed.
- 6.21 In this case the agent has not put forward any very special circumstances however the contents of the Design and Access statement makes reference in principal to a ‘one to one’ replacement dwelling in habitable area that has a floor space equivalent of that of the reduction to ‘Dahlia Cottage’ under approval 08/00005/FUL.
- 6.22 The applicant’s case is based on the reduction in floor space between the replacement Dahlia Cottage, granted consent in 2008 and the amended plan approved in 2016 for a replacement dwelling. The applicant states that the

2008 had a total floor area of 177.8 sq.m and the area of the approved scheme in 2016 was 103.2 sq.m giving a reduction of 74.6 sq.m. The proposed bungalow, it is asserted has a floor area of 61.8sq.m, representing a 'saving' of 12.8 sq.m.

- 6.23 The applicant considers that utilising this floor area as a new dwelling would be no more harmful to the Green Belt than having a larger single replacement dwelling as envisaged under the 2008 consent.
- 6.24 It is considered this reasoning is seriously flawed. The proposal would result in a new, additional, dwelling on the site; the built form of the dwelling together with a domestic garden and areas for parking would clearly reduce the openness of the Green Belt and harm the rural character of the location by encroaching into areas of land where there is no development presently. Measured from the applicant's scaled plans, the bungalow would have a floor area of 90.00 sq.m.
- 6.25 Importantly, the applicant does not have a viable "fall-back" position. The applicant has implemented the 2016 planning permission and is presently constructing the replacement 'Dahlia Cottage'. The 2008 planning consent is therefore considered to have lapsed.
- 6.26 In reaching a conclusion on Green Belt issues, a judgement as to the balance between harm and whether the harm is clearly outweighed must be reached. In this case there is significant harm to the Green Belt with reference to inappropriate development and loss of openness. Having taken into account all Green Belt considerations, it is considered that the identified harm to the Green Belt is not clearly outweighed by very special circumstances justifying inappropriate development.

II. DESIGN AND LAYOUT AND IMPACT UPON THE AREA

- 6.27 The area is characterised by dwellings of similar scale and design. The proposal considered acceptable in design terms and no specific objection is raised under policy PMD2 or PMD22, but this does not absolve the applicant from the principle objections raised above.

III. EFFECT ON NEIGHBOURING PROPERTIES

- 6.28 The proposed bungalow would be set 19m from the nearest residential neighbours. Given the separation distance it is not considered that there would be any loss of light, overbearing impact or loss of privacy as a result of the proposal. The proposal would therefore accord with the requirements of Policy PMD1 in terms of the impact upon neighbouring amenity.

IV. TRAFFIC IMPACT, ACCESS & CAR PARKING

- 6.29 The proposal would not alter the vehicular access to the site and there would be space within the proposed parking area "hardstanding" for the parking of a two vehicles on the site. This is considered to be appropriate for a dwelling of

this size and therefore no concerns are raised with regards to the impact of the proposal on the highway network or parking arrangements within the site.

7.0 CONCLUSIONS AND REASONS FOR REFUSAL

- 7.1 The site lies within the Metropolitan Green Belt and the proposal has been found to constitute inappropriate development which is harmful by definition. Further harm has been identified through the introduction of the built form, domestic garden and areas of hard surfacing in an areas where there is presently no development. Significant weight should be placed upon any harm identified.
- 7.2 Where a proposal represents inappropriate development the applicant must demonstrate very special circumstances which clearly outweigh the harm to the Green Belt. The case presented by the applicant would not clearly outweigh the harm that would be caused to the Green Belt.
- 7.3 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.

8.0 RECOMMENDATION

- 8.1 To Refuse for the following reason:

- 1 The proposed two bedroom bungalow is considered to constitute inappropriate development with reference to paragraph 143 of the NPPF and would therefore be by definition harmful to the Green Belt. It is also considered that the proposed development would harm the openness of the Green Belt through the introduction of new built form, domestic garden and hardstanding in an area where there is presently no development. The identified harm to the Green Belt is not clearly outweighed by other considerations so as to amount to the very special circumstances, with reference to paragraph 144 of the NPPF, required to justify inappropriate development. The proposals are therefore contrary to Chapter 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 DPD (as amended) 2015

Positive and Proactive Statement

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

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and clearly setting these out in the reason(s) for refusal. Furthermore,

Members of the planning committee which took the decision to refuse planning permission have been asked to consider whether there are opportunities to amend the development to address this harm. Where a potential way forward has been identified, this has been communicated to the Applicant/Agent. 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

