

Planning Committee 25 June 2020	Application Reference: 19/01373/OUT
---------------------------------	-------------------------------------

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

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

The application is also accompanied by:

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

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

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

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

1.0 BRIEF SUMMARY

- 1.1 This application seeks outline planning permission for a residential scheme comprising of 57 houses and 18 flats with all matters reserved. Detached, semi-detached and terraced dwellings are proposed and indicative plans have been submitted for these house types. Some of these house types have been allocated car ports.
- 1.2 The site plan indicates an illustrative layout and the indicative point of access would be from Wood View on the site’s northern boundary and towards the eastern end of the site. Areas of hardstanding are also proposed to accommodate a new vehicular access and new associated roads.

2.0 DESCRIPTION OF PROPOSAL

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

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

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

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

3.0 SITE DESCRIPTION

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

4.0 RELEVANT HISTORY

- 4.1 No relevant planning history.

5.0 CONSULTATIONS AND REPRESENTATIONS

5.1 PUBLICITY:

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

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

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

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

5.3 CONSULTATION RESPONSES:

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

5.4 ANGLIAN WATER:

Advisory comments provided,

5.5 ARCHAEOLOGICAL HERITAGE ADVICE:

No objection, subject to conditions.

5.6 CADENT:

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

5.7 EDUCATION:

s.106 contribution required to mitigate impact of development.

5.8 ENVIRONMENTAL HEALTH:

No objection, subject to conditions.

5.9 ESSEX FIELD CLUB:

Objection raised regarding loss of habitat.

5.10 ESSEX POLICE:

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

5.11 FLOOD RISK MANAGER:

No objection, subject to conditions.

5.12 HIGHWAYS;

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

5.12 HOUSING:

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

5.13 NATURAL ENGLAND;

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

6.0 POLICY CONTEXT

6.1 National Planning Policy Framework (NPPF)

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

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

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

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

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

As the proposals comprise of residential development, paragraph 11(d) is relevant to a degree in respect of the five year supply of deliverable housing. The Council's most recently published figure for housing land supply (July 2016) refers to a supply of between 2.5 to 2.7 years and it is to be expected that this figure has reduced as completions on large development sites have progressed. Accordingly, as residential development is proposed, the 'tilted balance' in favour of granting permission would ordinarily be engaged. However, the 'tilted balance' does not apply to land designated as Green Belt (paragraph 11 (d) (i) and (ii)).

Paragraph 2 of the NPPF confirms the tests in s.38 (6) of the Planning and Compulsory Purchase Act 2004 and s.70 of the Town and Country Planning Act 1990 and that the Framework is a material consideration in planning decisions. The following chapter headings and content of the NPPF are particularly relevant to the consideration of the current proposals:

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

6.2 National Planning Practice Guidance (NPPG)

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

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

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

6.3 Local Planning Policy: Thurrock Local Development Framework (2015)

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

Overarching Sustainable Development Policy:

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

Spatial Policies:

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

Thematic Policies:

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

Policies for the Management of Development

- PMD1: Minimising Pollution and Impacts on Amenity
- PMD2: Design and Layout
- PMD4: Historic Environment
- PMD5: Open Spaces, Outdoor Sports and Recreational Facilities
- PMD6: Development in the Green Belt
- PMD7: Biodiversity, Geological Conservation and Development
- PMD8: Parking Standards
- PMD9: Road Network Hierarchy
- PMD10: Transport Assessments and Travel Plans
- PMD13: Decentralised, Renewable and Low Carbon Energy Generation
- PMD15: Flood Risk Assessment
- PMD16: Developer Contributions

6.4 Thurrock Local Plan

In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an 'Issues and Options (Stage 1)' document and simultaneously undertook a 'Call for Sites' exercise. In December 2018 the Council began consultation on an 'Issues and Options (Stage 2 Spatial Options and Sites)' document, this consultation has now closed and the responses have been considered and reported to Council. On 23 October 2019 the Council agreed the publication of the Issues and Options 2 Report of Consultation on the Council's website and agreed the approach to preparing the Local Plan.

6.5 Thurrock Design Strategy

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

7.0 **ASSESSMENT**

7.1 Procedure:

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

which to 'call-in' the application for determination via a public inquiry. In reaching a decision as to whether to call-in an application, the Secretary of State will be guided by the published policy for calling-in planning applications and relevant planning policies.

7.2 The assessment below covers the following areas:

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

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

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

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

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

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

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

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

Paragraph 143 of the NPPF states that

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

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

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

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the GB and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the GB than the existing development; or
 - not cause substantial harm to the openness of the GB, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

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

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

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

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

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

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

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

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

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

7.13 Paragraph 134 of the NPPF sets out the five purposes which the GB serves as follows:

- a. to check the unrestricted sprawl of large built-up areas;
- b. to prevent neighbouring towns from merging into one another;
- c. to assist in safeguarding the countryside from encroachment;
- d. to preserve the setting and special character of historic towns; and
- e. to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

7.14 In response to each of these five purposes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.21 Neither the NPPF nor the adopted Core Strategy provide guidance as to what can comprise VSC, either singly or in combination. However, some interpretation of VSC has been provided by the Courts. The rarity or uniqueness of a factor may make it very special, but it has also been held that the aggregation of commonplace factors could combine to create VSC (i.e. ‘very special’ is not necessarily to be interpreted as the converse of ‘commonplace’). However, the demonstration of VSC is a ‘high’ test and the circumstances which are relied upon must be genuinely ‘very special’.

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

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

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

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

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

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

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

Consideration

The issue of housing land supply (including affordable housing) has been considered by the Committee regularly with regard to proposals for residential development in the GB and it is acknowledged that there is presently a lack of 5 year housing supply. The most recently published analysis of the Borough's housing land supply is provided in the Thurrock Local Plan Five Year Housing Land Supply Position Statement (July 2016). This statement notes that "*the dwelling requirement set out in the Core Strategy is now considered to be out of date*". Instead, the South Essex Strategic Housing Market Assessment identifies a range of objectively assessed need for Thurrock of between 919 and 973 dwellings per annum (2014 base date). The Statement also assesses the supply of deliverable housing in the five year period

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

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

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

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

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

Paragraph 68 of the NPPF states:

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

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

7.28 Consideration

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

7.29 c) Importance to Green Belt Purposes

Consideration

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

7.30 d) 'Achieving Sustainable Development'

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

7.31 Consideration

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

(c) approving development proposals that accord with an up-to-date development plan without delay; or

(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:

(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or

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

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

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

7.33 e) Making Effective Use of Land

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

7.34 Consideration

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

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

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

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

7.37 f) Achieving well-designed places

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

7.38 Consideration

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

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

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

II. ACCESS, TRAFFIC IMPACT AND CAR PARKING

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

III. FLOODING AND SITE DRAINAGE

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

IV. PLANNING OBLIGATIONS / CONTRIBUTIONS

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

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

V. OTHER MATTERS

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

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

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

Paragraph 6.4 of the Noise Assessment further states:

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

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

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

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

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

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

7.54 VI. OVERALL BALANCING EXERCISE

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

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

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

7.55 As ever, in reaching a conclusion on GB issues, a judgement as to the balance between harm and whether the harm is clearly outweighed must be reached. In this case there is harm to the GB with reference to inappropriate development, loss of openness, harm to a number of GB purposes and visual harm associated with acoustic mitigation. Several benefits and factors have been promoted by the applicant as VSC and it is for the Committee to judge:

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

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

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

7.57 Therefore, and although every case falls to be determined on its own merits, the benefits of the proposals must clearly or decisively outweigh the harm for VSC to exist. If the balancing exercise is finely balanced, then VSC will not exist. The applicant has not advanced any factors which would singly or in combination amount to VSC that could clearly outweigh the harm that would result by way of inappropriateness and the other harm identified in the assessment. There are no planning conditions that could be used to make the proposal acceptable in planning terms. The proposal is clearly contrary to Policies CSSP4, PMD6 and PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (as amended 2015) and the National Planning Policy Framework 2019.

8.0 CONCLUSIONS AND REASONS FOR RECOMMENDATION

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

9.0 RECOMMENDATION

9.1 The Committee is recommended to:

Refuse planning permission for the following reasons:

1. The application site is located within the Green Belt, as identified on the Policies Map accompanying the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015). National and local planning policies for the Green Belt set out within the NPPF and Core Strategy set out a presumption against inappropriate development in the Green Belt. The proposals are considered to constitute inappropriate development with reference to policy and would by definition be harmful to the Green Belt. It is also considered that the proposals would harm the openness of the Green Belt and would be contrary Green Belt purposes (a), (c) and (e) as described by paragraph 134 of the NPPF. The identified harm to the Green Belt is not clearly outweighed by other considerations so as to amount to the very special circumstances required to justify inappropriate development. The proposal is therefore contrary to Policies CSSP4 and PMD6 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (as amended 2015) and chapter 13 of the National Planning Policy Framework 2019.
2. The proposal would, by reason of the likely siting and scale of the proposed acoustic fencing necessary to mitigate the impact of noise and ensure that the quality of amenity spaces are not degraded, result in an overbearing and over-dominant impact harmful to visual amenity. The proposal is therefore contrary to Policy PMD1, PMD2, CSTP22 and CST23 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (as amended 2015) and chapter 12 of the National Planning Policy Framework 2019.

Informative(s):-

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

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing with the Applicant/Agent. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Documents:

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

www.thurrock.gov.uk/planning

