

Reference: 22/00210/FUL	Site: High Fields Lower Dunton Road Bulphan Upminster Essex RM14 3TD
Ward: Orsett	Proposal: Demolition of existing detached chalet style dwelling. Erection of one four bedroom dwelling including associated landscaping, hardstanding, cycle store and refuse/ recycle storage area

Plan Number(s):		
Reference	Name	Received
HLLDR-06	Existing and Proposed Roof Plans	7th March 2022
LDR-1	Location Plan	25th February 2022
HLLDR-04	Proposed Elevations	25th February 2022
HLLDR-01	Existing Floor Plans and Elevations	17th February 2022
HLLDR-02	Proposed Floor Plans	25th February 2022
HLLDR-03	Proposed Floor Plans	25th February 2022
HLLDR-05	Proposed Site Layout	25th February 2022

The application is also accompanied by:

- Planning Statement, dated 27 April 2022
- Volume Calculations, received 27 April 2022

Applicant: Mr Mark Breden	Validated: 25 February 2022 Date of expiry: 22 August 2022 (Extension of Time agreed)
Recommendation: Refusal	

1.0 BACKGROUND

- 1.1 At the meeting of the Planning Committee held on 9th June 2022 Members considered a report assessing the above proposal. Members of the Planning Committee voted to defer the application in order for Members of the Planning Committee to undertake a site visit. The site visit duly occurred on 22nd June

2022. A copy of the report presented to the June Committee meeting is attached.

1.2 The report recommended that planning permission be refused for the following reasons:

- 1) The proposal would, by reason of its scale, mass, height and footprint, represent inappropriate development in the Green Belt which is, by definition, harmful. The proposal would also cause a reduction in the openness. Very special circumstances have been put forward and 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 the National Planning Policy Framework 2021.
- 2) The proposal would, by virtue of its design, scale, bulk and increased height, result in an unsympathetic dwelling which poorly integrates with the character and appearance of the immediate street scene resulting in an incongruous and discordant development. The development is therefore contrary to Policies CSTP22, CSTP23, PMD1 and PMD2 of the adopted the Thurrock Local Development Framework Core Strategy and Policies for Management of Development 2015 and the National Planning Policy Framework 2021.

1.3 At the meeting of the Planning Committee held on 14 July 2022 Members considered an Update Report on the above proposal. For completeness this is also attached.

1.4 During the debate Members indicated support for the application on the basis of the following, each of which were afforded moderate weight:

- A) The visual impact of the development being acceptable.
- B) The presence of other recent developments within the vicinity of the site.
- C) The condition of the existing building.
- D) The well-being of occupiers.
- E) The environmental credentials of the proposal
- F) The size of the plot.

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 consider appropriate conditions that could be imposed.

2.0 ASSESMENT

2.1 The officer recommendation gives two separate reasons for refusal, set out fully in paragraphs 1.2 and 5.1 of this report. To achieve a lawful decision to the contrary, each reason for refusal should be dealt with individually, accompanied by reasons why the recommended grounds for refusal should be rejected. These

reasons are required to be material planning considerations, relevant to the points made and also to be underpinned with cogent evidence. This is important.

- 2.2 Unlike technical matters (such as dimensions), or matters requiring evidence (such as ecological credentials), subjective matters such as design leave room for different opinions (provided clearly stated).
- 2.3 When material, relevant, evidenced reasons have addressed each ground of the officer recommendation, then, as benefits of the proposal they can weighed against the harms to the Green Belt.
- 2.4 As explained in detail elsewhere in the report, the proposal is inappropriate development in the Green Belt, in essence because it is not policy compliant due to its scale thereby causing harm to the Green Belt, and also could be of a better design.
- 2.5 The NPPF states:
- '147. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*
- 148. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from*
- 2.6 To carry out the weighing exercise, the reasons for refusal are individually placed on one side of the scales, as these cumulatively represent the harms to the Green Belt. The benefits of the proposal can then be placed on the other side of the scales, and cumulatively weighed against the harms which paragraph 148 of the NPPF says carry 'substantial weight'.
- 2.7 If, when the benefits are all placed on the scales together, they clearly outweigh the harms (this means more than evenly balanced, so the scales are clearly tipped), then very special circumstances are shown to exist, which will give the green light to an approval decision.
- 2.8 If however, the scales do not clearly tip in favour of benefits, then it is advisable to follow the officer recommendation to refuse because compliance with policy has not been met and departure from policy has not been justified, and to avoid judicial review challenge. Other implications are mentioned elsewhere in the report.
- 2.9 As set out in the original report, 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;

- 2.10 In order to determine whether the proposal constitutes inappropriate development the relevant development plan policies and paragraphs of the NPPF must be considered.
- 2.11 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.
- 2.12 The starting point for this assessment is paragraph 147 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.
- 2.13 There are a number of exceptions to inappropriate development in the Green Belt set out in paragraph 149. In this instance the relevant exception is the following:
- 'd) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;'*
- 2.14 In this regard, Policy PMD6 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development 2015 is consistent with the NPPF. This states that:
- i. Replacement dwellings in the Green Belt will only be permitted provided that the replacement dwelling is not materially larger than the original building.*
 - ii. The replacement of other buildings shall only be for the same use, and the replacement building shall not be materially larger than the one it replaces.*
- 2.15 Footprint, floorspace and volume calculation were set out within the previous report, which unequivocally demonstrate that the replacement dwelling would be materially larger than the existing building at the site, mindful that the original building appears to have been extended.

2.16 However, noting the debate that occurred in respect of this application, it is considered relevant to highlight that it appears to Officers that the original dwelling is likely to have measured 90 square metres and was probably single storey. Given the limited evidence provided by the applicant in relation to the size of the original dwelling, it is a professional estimate with regard to the size of the original dwelling.

2.17 At the previous committee meeting the following table was presented which summarised the size of the existing and proposed dwelling. This is shown again below but an additional line has been added to highlight the size of what is presumed to be the original dwelling.

	Assumed Original Dwelling	Existing Dwelling	Proposed Dwelling	Increases Relative to Original/Existing	%age Increase Relative to Original/Existing
Footprint	90m ²	137m ²	214m ²	124 / 77m ²	137% / 56%
Floorspace	90m ²	171m ²	417m ²	327 / 246m ²	363% / 144%
Volume	Unknown	448m ³	967m ³	519m ³	116%

2.18 Officers have previously taken the stance that calculations relative to the existing building at the site are sufficient to demonstrate that the proposed building would be materially larger than the original building at the site. However, at the most recent committee meeting, the presence of a detached garage was mentioned. This appears to have been built since 1947 and, therefore, could also be calculated as an addition above and beyond the size of the original dwelling. Adding this building to the figures set out above would compound the view that the resultant built form at the site would be materially larger than the original dwelling.

2.19 The development is, therefore, inappropriate development in the Green Belt. In all future considerations, it is a requirement of paragraph 148 of the NPPF that the harm arising from this is afforded substantial weight

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

2.20 As established above, the proposed building would be significantly larger than the existing or original buildings at the site and would, therefore, cause a reduction of openness. The increase of the height of the building from 4.7 metres to 6.3 metres would amplify the harm caused in this respect and it is also relevant that the building would be 0.5 metres wider than the existing dwelling and attached garage combined. The harm to openness caused by the proposal should be found unacceptable and afforded substantial weight.

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.

- 2.21 For the reasons set out above, officers are firmly of the view that the development is inappropriate development in the Green Belt. Moreover, further harm to openness has been identified. The NPPF is clear that the development should not be approved unless Very Special Circumstances exist.
- 2.22 Therefore, 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'.
- 2.23 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.
- 2.24 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.
- 2.25 At the Planning Committee Meeting of 14 July 2022, Members considered the circumstances set out above and afforded them each moderate weight. Each is assessed below.
- A) The visual impact of the development being acceptable.
- 2.26 For reasons that have been set out previously, Officers disagree that the development is visually acceptable. It is considered that the proposal, by virtue of its design, scale, bulk and increased height, would result in an unsympathetic dwelling, which poorly integrates with the character and appearance of the immediate street scene resulting in an incongruous and discordant development. The development is therefore considered to be contrary to Policies CSTP22, CSTP23, PMD1 and PMD2 of the adopted the Thurrock Local Development Framework Core Strategy and Policies for Management of Development 2015 and the National Planning Policy Framework 2021. It therefore follows that Officers would afford this consideration no weight.
- 2.27 It can be accepted that the assessment of the visual impact can be a matter of

judgement and it is not unreasonable for a decision-maker to reach a different view in respect of the acceptability of a proposal in design terms. However, this is not reason to consider that the size of the replacement dwelling is acceptable in terms of complying with the limitations of Green Belt policy and is not a reason to reach a different view in respect of the proposal representing inappropriate development. The harm identified in this respect must continue to be given substantial weight.

2.28 Setting the above aside, even if a view is taken that the detailing and appearance of the dwelling is acceptable, this is considered to be a minimum requirement and does not represent a factor that can be a Very Special Circumstance.

2.29 The NPPF states that *“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”* As it is fundamental to what planning should achieve, being of acceptable design should not be viewed as an achievement or a benefit of the proposal, it should be taken as an expectation.

2.30 Whilst the view has been stated that the dwelling would represent a visual improvement relative to the existing dwelling, it has not been demonstrated that this could also be achieved by a dwelling that accords with Green Belt policy and there is no reason to conclude that this proposal would be the only method to achieving a net gain in this regard. Moreover, for the same reason as set out above, this is considered to be an expectation rather than a factor that should be afforded weight. Further, it is not considered that any weight should be afforded to the change in the appearance of the site brought about by the recent removal of trees from the site and the siting of a caravan, which have both altered the appearance of the site which, in turn, makes the content of the site more prominent and more harmful respectively.

2.31 For these reasons, even if the view is taken that the proposal is visually acceptable or an enhancement, it is not considered that this should be afforded weight, particularly given that this outcome is fundamental to what planning should achieve in all instances.

B) The presence of other recent developments within the vicinity of the site.

2.32 It is a core principle of planning that each case should be considered on its own merits. Other developments have been justified for reasons that were applicable to those developments. The developments discussed at the recent Planning Committee meeting are wholly different to this proposal in terms of their nature and the factors that would have been applicable in their assessment.

2.33 No case has been made by the applicant that any comparable factors justify this proposal. This proposal for a replacement dwelling is viewed in an entirely different context to the other developments that have been mentioned and, as such, they do not change the setting or context of this dwelling in such a way that should override Green Belt Policy.

2.34 Even if nearby recent developments were materially similar, the presence of other developments in the locality is not special as it would apply to any site within Lower Dunton Road or the surrounding area more generally. This is, therefore, a readily repeatable matter. As such, the presence of other developments nearby cannot be considered a special factor, even in this context where it is recognised that other, substantial developments have been approved.

2.35 For these reasons, it is not recommended that this factor is afforded any weight as a very special circumstance.

C) The condition of the existing building.

2.36 As set out previously, the condition of the existing building has not been ratified through the submission of a structural survey. Accordingly, it could be argued that it would be inappropriate to afford weight to a matter that has not been established or demonstrated. It is considered relevant to highlight that all reasons must be supported by evidence and, in this regard, it is the case that no evidence has been provided.

2.37 Moreover, as with factor B) above, it is considered that this factor could be applicable to many dwellings within Thurrock and, as such, is a readily replicable factor that is not special.

2.38 Even recognising that the view exists that the dwelling is currently in poor condition, this is not in itself justification to build a replacement dwelling which does not comply with local or national policy in terms of the size as is proposed. A replacement dwelling that accords with national and local Green Belt policies could also enable the replacement of the dwelling.

2.39 For these reasons, it is not recommended that this factor is afforded any weight as a very special circumstance.

D) The well-being of occupiers.

2.40 The benefits to the applicant are clear to establish, with generous living conditions being provided that would include four bedrooms as opposed to two bedrooms. The dwelling would also feature a cinema room, a study, a utility room, and an expansive area hosting a lounge, a sitting area, a kitchen and a dining area.

2.41 However, this does not represent a public benefit and it is respectfully highlighted that purpose of planning is the public interest rather than private gain. It is known that the property was purchased relatively recently in a condition similar to that which it is currently in and, as such, it can reasonably be expected that the occupiers would or should have been aware of the condition of the building when it was purchased and occupied. Green Belt policy allows for the erection of a replacement dwelling and there is no known reason that a policy compliant dwelling could not provide suitable living conditions for future occupiers.

2.42 For these reasons, it is not recommended that this factor is afforded any weight as a very special circumstance.

E) The environmental credentials of the proposal

- 2.43 Similar to C) above, the benefits arising in this regard have not been identified in detail nor quantified and it is therefore respectfully suggested that it could be viewed as inappropriate to afford weight to a factor that has not been quantified.
- 2.44 The applicant contends that the proposal would provide a high specification dwelling and carbon efficiency, meeting today's building control standards. These standards are a requirement and the bare minimum, so is not special. The attendant viewpoint of an improvement to the carbon footprint and efficiency to that of the existing building could readily be applied to and replicated in relation to many buildings throughout the Borough, and therefore is not special. Further, a negative point cannot be used as a positive reason.
- 2.45 Notwithstanding the above, it is considered relevant to highlight that Building Regulations would require a relative upgrade of the dwelling at this site regardless of its size. However, a policy compliant replacement dwelling might also achieve this benefit and there is no known reason to conclude that a larger dwelling would be more efficient to occupy than a smaller dwelling. Indeed, it is illogical to argue that a larger dwelling would be better for the environment than a smaller dwelling that would have a smaller carbon footprint during the build and over its lifetime.
- 2.46 The applicant has provided no details that the dwelling would achieve carbon reduction or energy generation beyond the requirements of Building Regulations. Accordingly, the development is not shown to be special in relation to its energy efficiency or generation and, as such, it should not be afforded weight as a very special circumstance.

F) The size of the plot.

- 2.47 The plot being large is not considered to be relevant to the size of the dwelling that can be built upon it and, as such, whilst it is recognised that the plot is large, this is not reason to enable a larger dwelling and, as such, it should not be afforded weight as a very special circumstance. There is no national or local policy that provides a ratio of plot size to dwelling size and as such there is no basis to support this premise.

Overall Assessment

- 2.48 The principle of a replacement dwelling is a stated exception with the NPPF policy on Green belt. However, the details of this proposal cause it to be inappropriate development.
- 2.49 For the reasons set out above, Officers considered that the other matters that have been raised do not represent the very special circumstances necessary to justify the approval of inappropriate development in the Green Belt.

- 2.50 No evidence has been presented by Members as the evidential basis for their conclusions
- 2.51 Even if weight was to be afforded to any or all of the other matters, the sum of them being afforded moderate weight means that they do not clearly outweigh the substantial weight that is required to be afforded to the harm caused by inappropriate development in the Green Belt and the loss of openness, whether these are considered individually or collectively. In this regard, it is considered important to note that the other considerations must clearly outweigh the potential harm to the Green Belt by way of the inappropriateness of the development in order for the Very Special Circumstances to exist that would justify such development.

3.0 OTHER MATTERS

- 3.1 Consideration has been given to potential conditions that could be imposed in the event that permission is granted. For reference, a suggested list of conditions are included at the end of this report. These conditions are set out without prejudice and, it is the opinion of officers that these conditions would not mitigate the effect of the development or make it acceptable in planning terms.
- 3.2 Particular consideration has been given to the imposition of a condition removing permitted development rights to prevent further extensions and alterations without planning permission. Given the scale of the dwelling that is proposed relative to the existing dwelling, it is considered that removing permitted development rights set out within Classes A, B, D and E of Part 1 of Schedule 2 of The GPDO meets the relevant tests for a planning condition. In this regard, if approved, the resultant dwelling should certainly be viewed as the upper limit of what can be acceptable in the Green Belt.

4.0 CONCLUSIONS

- 4.1 This application seeks planning permission for a replacement dwelling 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. The proposal would also cause a loss of openness as a result of it being materially larger than the original dwelling at the site or the dwelling it would replace, although the former is the test that is set out within national and local policy. 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.
- 4.2 Further harm has been identified through the design, form, massing and bulk of the dwelling, particularly at first floor and roof level at the front and rear of the resultant dwelling. It is accepted that this is more of a matter of judgement but, even if the view is taken that this is not a concern, this should have a neutral effect

on the assessment in relation to the acceptability of the development in the Green Belt.

- 4.3 Officers have reconsidered 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 somewhat 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.
- 4.4 The reasons for supporting the application, as put forward by the Planning Committee on 14 July 2022, are not considered to provide sufficient grounds to approve the application. In particular, no evidence has been presented concerning the condition of the extant building nor of what environmental benefits Members would be relying on to underpin these reasons, without which these reasons are not substantiated. Therefore, the recommendation remains the same as previously advised.
- 4.5 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.
- 4.6 The application has been advertised as a departure from the development plan as any decision to grant planning permission would be contrary to local and national policy.

5.0 RECOMMENDATION

- 5.1 The application is recommended for refusal for the following reasons:
- 1) The proposal would, by reason of its scale, mass, height and footprint, represent inappropriate development in the Green Belt which is, by definition, harmful. The proposal would also cause a reduction in the openness. Very special circumstances have been put forward and 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 the National Planning Policy Framework 2021.

- 2) The proposal would, by virtue of its design, scale, bulk and increased height, result in an unsympathetic dwelling which poorly integrates with the character and appearance of the immediate street scene resulting in an incongruous and discordant development. The development is therefore contrary to Policies CSTP22, CSTP23, PMD1 and PMD2 of the adopted the Thurrock Local Development Framework Core Strategy and Policies for Management of Development 2015 and the National Planning Policy Framework 2021.

