

<p>Reference: 23/00642/CV</p>	<p>Site: Land adjacent Fen Farm Judds Farm and part of Bulphan Fen Harrow Lane Bulphan Essex</p>
<p>Ward: Orsett</p>	<p>Proposal: Application for the approval of variation of details reserved by condition no.s 6 (Construction Traffic Management Plan (CTMP)) and no. 9 (HGV movements) of planning permission ref. 22/01145/CV (Application for the variation of condition nos. 5 (construction period) and 9 (HGV booking system) of planning permission ref 22/00552/CV (Application for the variation of condition no. 3 (time period and decommissioning) to extend the time period from 35 years to 40 years of planning permission ref. 21/00077/FUL (Installation of renewable led energy generating station comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with substation, inverter/transformer stations, site accesses, grid connection cable, internal access tracks, security measures, access gates, other ancillary infrastructure, landscaping and biodiversity enhancements)) to remove restriction on overall HGV numbers and increase daily HGV numbers</p>

<p>Plan Number(s):</p>		
<p>Reference</p>	<p>Name</p>	<p>Received</p>
<p>BF1.0 Revision v.b</p>	<p>Consolidated Location Plan</p>	<p>30 May 2023</p>

The application is also accompanied by:

- Application form
- Cover letter, dated 26th May 2023
- Applicant Rebuttal to Consultation Responses, DLP Planning Ltd. Ref: G5117/2, August 2023
- Construction Traffic Management Plan, Transport Planning Associates, Ref: 2303-068/CTMP/01, May 2023, Revision C 1 August 2023

- Planning Statement, DLP Planning Ltd. Ref: G5117/2P, June 2023
- Technical Note 01: Response to Thurrock Council Highways Comments, Transport Planning Associates, Ref: Reference: 2303-068/TN/01, July 2023
- Transport Statement, Transport Planning Associates, Ref: 2303-068/TA/01, May 2023, Revision A

Applicant:

Warley Green Limited

Validated:

8 June 2023

Date of expiry:

7 September 2023

Recommendation: Refuse

This application is scheduled for determination by the Council's Planning Committee because the application was called in by Cllr Johnson, Cllr D Arnold, Cllr Carter, Cllr B Maney and Cllr Snell in accordance with Part 3 (b) 2.1 (d) (i) of the Council's constitution to consider the effect to residential amenity and highways safety.

1.0 DESCRIPTION OF PROPOSAL

- 1.1 Application 22/01145/CV was approved in November 2022 subject to 15 planning conditions. This application has been submitted pursuant to s73 of the 1990 Act and seeks to vary conditions 6 (Construction Traffic Management Plan (CTMP)) and 9 (HGV movements).
- 1.2 The new CTMP seeks delivery times between 08:00 and 18:00 hours but are seeking to avoid school drop off and pick at time.
- 1.3 The applicant proposes to the increase HGV movements and has stated that this is required following a full pre-construction procurement exercise providing confirmation on the numbers of HGV trips required for the construction programme. The current approved total of HGV numbers is 2,040 two-way movements and the proposal is for an increase to allow for 5,200 two-way HGV movements. The daily HGV movements currently would not exceed 22 two-way movements per day (11 in and 11 out movements). The proposal is for this to be increased to 50 two-way movements per day (25 in and 25 out movements).

2.0 SITE DESCRIPTION

- 2.1 The site comprises 18 adjoining arable fields with associated hedgerows on Bulphan Fen approximately 600m to the west of Bulphan village. The Thurrock site area is approximately 138 hectares (the overall site area (including land falling within London Borough of Havering) is approximately 143 hectares). The site is relatively low-lying, flat fenland and is all Grade 3b ‘Moderate’ soil within the applicant’s Agricultural Land Classification (ALC).
- 2.2 Access to the site is via Harrow Road and Fen Lane. There are a number of public rights of way within the site area. The site lies within flood zones 1, 2 and 3a. The site is within the Green Belt. There are no statutory ecological designations affecting the site. However, the site is within ‘impact zones’ drawn around Sites of Special Scientific Interest (SSSIs) located to the north-east and north-west. The proposed route of the Lower Thames Crossing (LTC) lies immediately to the south-west of the site.

3.0 RELEVANT HISTORY

3.1 There is the following relevant planning history at the site:

<u>Application Ref.</u>	<u>Description of Proposal</u>	<u>Decision</u>
23/00354/NMA	Application for a non-material amendment to planning application 22/01145/CV (Application for the variation of condition nos. 5 (construction period) and 9 (HGV booking system) of planning permission ref 22/00552/CV for detailed layout and configuration plans for the Battery Energy Storage System (BESS) facility and the substation area.	Approved
23/00193/CONDC	Application for the approval of details reserved by condition no 5 (construction period) of planning permission ref: 22/01145/CV (Application for the variation of condition nos. 5 (construction period) and 9 (HGV booking system) of planning permission ref 22/00552/CV to inform Council of commencement.	Approved
23/00046/NMA	Application for Non-Material Amendment of planning permission	Approved

	22/01145/CV (Application for the variation of condition nos. 5 (construction period) and 9 (HGV booking system) of planning permission ref 22/00552/CV for revised layout of solar farm equipment, reduced size of ancillary buildings, changes to the fence and access track alignment, reduction of CCTV and changes to perimeter fence type.	
22/01145/CV	Application for the variation of condition nos. 5 (construction period) and 9 (HGV booking system) of planning permission ref 22/00552/CV (Application for the variation of condition no. 3 (time period and decommissioning) to extend the time period from 35 years to 40 years of planning permission ref. 21/00077/FUL.	Approved
22/01137/CONDC	Application for the approval of details reserved by condition no.7 (Construction Environment Management Plan) of planning permission ref. 22/00552/CV (Application for the variation of condition no. 3 (time period and decommissioning) to extend the time period from 35 years to 40 years of planning permission ref. 21/00077/FUL.	Approved
22/01109/CONDC	Application for the approval of details reserved by condition no 8 (road condition survey) of planning permission ref: 22/00552/CV (Application for the variation of condition no. 3 (time period and decommissioning) to extend the time period from 35 years to 40 years of planning permission ref. 21/00077/FUL.	Approved
22/00552/CV	Application for the variation of condition no. 3 (time period and	Approved

	decommissioning) to extend the time period from 35 years to 40 years of planning permission ref. 21/00077/FUL.	
21/00077/FUL	Installation of renewable led energy generating station comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with substation, inverter/transformer stations, site accesses, grid connection cable, internal access tracks, security measures, access gates, other ancillary infrastructure, landscaping and biodiversity enhancements	Approved
P0059.21 (London Borough of Havering)	Installation of renewable led energy generating station comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with substation, inverter/transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure, grid connection cable, landscaping and biodiversity enhancements	Approved
20/01296/SCO	Request for an Environmental Impact Assessment (EIA) Scoping Opinion: Proposed solar farm and battery storage.	Advice given
20/01178/SCR	Request for a Screening Opinion under Part 2 (6) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017: Proposed development comprising solar farm and battery storage facility.	EIA required

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 This application has been advertised by way of individual neighbour notification letters, a press advert and public site notice which has been displayed nearby. There were 20 representations of objection received, in summary these refer to increased pollution levels, HGVs movements and the issues with these through the village, such as dangers to other road users and pedestrians.

- 4.3 **ENVIRONMENTAL HEALTH:**

No objections.

- 4.4 **HIGHWAYS:**

Recommend refusal.

- 4.5 **NATIONAL HIGHWAYS:**

No objections.

5.0 POLICY CONTEXT

National Planning Guidance

National Planning Policy Framework (NPPF)

- 5.1 The revised NPPF was published on 20 December 2023 and sets out the Government's planning policies. Paragraph 2 of the Framework confirms the tests in s.38 (6) of the Planning and Compulsory Purchase Act 2004 and s.70 of the Town and Country Planning Act 1990 and that the Framework is a material consideration in planning decisions. Paragraph 11 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. The following headings and content of the NPPF are relevant to the consideration of the current proposals.

- 2. Achieving sustainable development
- 6. Building a strong, competitive economy
- 9. Promoting sustainable transport

- 14. Meeting the challenge of climate change, flooding and coastal change

National Planning Practice Guidance (PPG)

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

- Air Quality
- Climate change
- Determining a planning application
- Renewable and low carbon energy
- Transport evidence bases in plan making and decision taking
- Travel plans, transport assessments and statements in decision-taking
- Use of Planning Conditions

Local Planning Policy

Thurrock Local Development Framework (as amended) 2015

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

OVERARCHING SUSTAINABLE DEVELOPMENT POLICY:

- OSDP1: Promotion of Sustainable Growth and Regeneration in Thurrock

SPATIAL POLICIES:

- CSSP3: Sustainable Infrastructure
- CSSP4: Sustainable Green Belt
- CSSP5: Sustainable Green grid

THEMATIC POLICIES:

- CSTP15: Transport in Greater Thurrock

POLICIES FOR THE MANAGEMENT OF DEVELOPMENT

- PMD1: Minimising Pollution and Impacts on Amenity
- PMD9: Road Network Hierarchy
- PMD10: Transport Assessments and Travel Plans

Thurrock Local Plan

5.4 In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016, the Council consulted formally on an Issues and Options (Stage 1) document and simultaneously undertook a 'Call for Sites' exercise. In December 2018 the Council began consultation on an 'Issues and Options' (Stage 2 Spatial Options and Sites) document, this consultation has now closed, and the responses have been considered and reported to Council. On 23 October 2019 the Council agreed the publication of the Issues and Options 2 Report of Consultation on the Council's website and agreed the approach to preparing a new Local Plan. In December 2023 the Council began Initial Proposals Consultation (Regulation 18).

6.0 ASSESSMENT

- 6.1 This is an application under section 73 of the Town and Country Planning Act 1990 to vary conditions attached to a grant of planning permission. Where an application submitted under s73 of the 1990 Act is approved, the legal effect is to issue a new grant of planning permission, whilst leaving the original planning consent unaffected. Accordingly, if the current application is approved, the original consent, the previous condition variation applications and the current proposal would comprise 'self-contained' planning permissions. Although the latter permission can be assumed to represent the more 'up to date' consent.
- 6.2 The proposal seeks variations to condition numbers 6 (Construction Traffic Management Plan (CTMP)) and no. 9 (HGV movements). These are assessed below.

Condition 6 (Construction Traffic Management Plan CTMP)

6.3 The current condition reads:

Construction and decommissioning works on site shall only take place in accordance with the CTMP (ref. R005 dated June 2021) and in particular the following elements of that document:

- *Routing of construction vehicles; and*

- *Time of HGVs accessing the site*

Reason: In order to minimise any adverse impacts arising from the construction of the development in accordance with policy PMD1 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015).

6.4 This application seeks to vary this condition to read as follows:

Construction and decommissioning works on site shall only take place in accordance with the CTMP (dated May 2023) and in particular the following elements of that document:

- *Routing of construction vehicles; and*
- *Time of HGVs accessing the site*

6.5 The variation of condition 6 is required in relation to condition 9, for the number of HGV movements. There are other changes within the CTMP which are of concern. The construction traffic would not be controlled as agreed, this was to be coordinated to ensure arrivals and departures occur between 09:30 and 14:30, Monday to Friday and between 08:00 and 13:30 on Saturdays. No construction activities or deliveries will occur on Sunday or Public Holidays.

6.6 The new CTMP seeks delivery times between 08:00 and 18:00 hours but are seeking to avoid school drop off and pick at time so no construction vehicles would arrive between the following: times:

- Between 08:15 and 09:15 Hours (Monday to Friday)
- Between 14:30 and 15:30 Hours (Monday to Friday)
- Between 16:00 and 16:30 Hours on Monday to Wednesday to accommodate after school clubs.

6.7 The applicant confirms that deliveries would not take place between 18.00 and 20.00 hours. The delivery window of 18:00 to 20:00 hours was referenced within the approved discharge of conditions application ref. 22/01137/CONDC. However, the proposed new timings are not acceptable as they would allow for longer hours of construction traffic through the village alongside the increase in HGV movements.

6.8 A table provided in the CTMP appears to further complicate the hours which are being proposed, see table 1 below, stating that school holidays could have HGV movements at any time.

Term Time	School Holidays
08:00-09:00	08:00-09:00
09:00-10:00	09:00-10:00
10:00-11:00	10:00-11:00
11:00-12:00	11:00-12:00
12:00-13:00	12:00-13:00
13:00-14:00	13:00-14:00
14:00-15:00	14:00-15:00
15:00-16:00	15:00-16:00
16:00-17:00	16:00-17:00
17:00-18:00	17:00-18:00
18:00-19:00	18:00-19:00
19:00-20:00	19:00-20:00

	HGV deliveries permitted
	HGV deliveries avoided where possible
	HGV deliveries not permitted

Table 1 – HGV Movement – proposed permitted hours.

- 6.9 The Council has requested HGV logs, as required by condition 9 when complaints are received. The submission from the applicant was not in a form which can be assessed and took a significant amount of time to be sent to the Council. It is claimed that all traffic was included but the data submitted is unclear and appears to be in breach of condition 9. The applicant confirmed that the information was not in an easily understandable format, with some data missing entirely. This appears to indicate that the applicant has not been monitoring the HGV movements at the site as stated within in the CTMP.
- 6.10 The proposed amendments to the CTMP with increased HGV movements and timings of HGV accessing the site are not acceptable. The approved proposal was very carefully assessed in terms of the proposed parameters. This condition variation application has exceeded these approved parameters significantly and is not acceptable. The proposal would be contrary to policies PMD1 and PMD9 and the NPPF.

Condition 9 - HGV movements

6.11 The current condition reads:

HGV movements from the site shall not exceed 2,040 two-way vehicle movements over the construction period and shall not exceed 22 two-way movements per day (11 in and 11 out movements). A log of HGV movements shall be kept and submitted to the local planning authority for review upon written request. This log shall record details of the registration, origin, destination and operators of each HGV entering and leaving the site and the time of such movements.

Reason: In the interests of amenity and highway and pedestrian safety, in accordance with policy PMD1 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015).

6.12 This application seeks to vary the condition to read as follows:

HGV movements to the site will not exceed 50 two-way movements per day (25 in and 25 out movements). A log of HGV movements shall be kept and submitted to the local planning authority for review upon written request. This log shall record details of the registration, origin, destination and operators of each HGV entering and leaving the site and the time of such movements.

6.13 The proposal seeks to vary Condition 9 of 22/01145/CV to remove the limit on total HGV movements across the construction period and to allow a significant increase in the number of deliveries. This follows a pre-construction procurement exercise providing confirmation on the number of HGV deliveries required for the construction programme and has highlighted the need for a degree of flexibility.

6.14 The applicant has stated that at the time of the s73 application (ref. 22/01145/CV), an Engineering, Procurement and Construction contract had not been obtained. Therefore, the previous calculations failed to include relevant data and figures to adequately inform the Section 73. This includes the following:

- The calculations failed to adequately account for mounting equipment and cable needs.
- The calculations did not capture the requirements for extra materials required to accommodate the 'no-dig' archaeology areas.
- The calculations underestimated the number of deliveries associated with laying the access track and providing all the materials for the SuDS for ancillary buildings.

Activity	Type of Vehicle (Largest Vehicle)	Total Number of Deliveries	
		Minimum	Maximum
Solar Modules	16.5 Articulated	180	300
Single Axis Tracker	16.5 Articulated	240	400
Combiner Boxes	10m Rigid and 16.5 Articulated	20	40
Transformers/ Invertors	10m Rigid	20	40
Substation	10m Rigid and 16.5 Articulated	140	345
Cables	10m Rigid and 16.5 Articulated	130	260
Internal Access Track	10m Rigid	440	720
General	10m Rigid and 16.5 Articulated	80	160
Other	10m Rigid and 16.5 Articulated	95	205
Battery Units	10m Rigid and 16.5 Articulated	65	130
Deliveries		1,410	2,600
Movements (arrival plus departure)		2,820	5,200

Table 2 - Construction Vehicle: HGV Deliveries

- 6.15 Table 2 above shows the proposed number of HGV movements. The application is proposing over double of what had been agreed for the site (not exceed 2,040 two-way vehicle movements over the construction period and shall not exceed 22 two-way movements per day (11 in and 11 out movements)). The Council has been pursuing the HGV log, which is part of this condition. The applicant has taken a long time to get this over to the Council, despite numerous requests, and the submission is not in a form which is acceptable. Therefore, the Council considers the management of the site in terms of HGV movement numbers and timings is not being monitored. This is a matter which is required by condition and currently represents a breach of the planning condition which could result in future planning enforcement action being taken.
- 6.16 The applicant states that the agreed flat rate of daily HGV movements is not realistic. This is what was proposed and what the original application and previous condition variation applications were assessed upon. What is a concern is the level of the proposed increase, as this is a materially significant increase on a road through a village. The effect of more than doubling the HGV movements through a village is unacceptable in terms of highway safety to Bulphan.
- 6.17 PMD1 states that development will not be permitted where it would cause or is likely to cause unacceptable effects on the amenities of the area. The more than doubling of the daily figure of HGVs and the total number of HGVs would cause unacceptable disturbance to amenities of residents and visitors within the village of Bulphan.

- 6.18 National Highways has no objections in terms of effect to the strategic road network (SRN). However, Thurrock Council's Highway Officer objects to the proposal. Fen Lane is a Level 2 Route and very narrow in a number of locations, it also runs through a village and past a primary school. Any significant increase in heavy vehicular traffic on this route would raise issues of road safety and traffic impact. At present it is not considered that the Transport Assessment sufficiently sets out the potential impact of the increased heavy vehicles on the highway particularly in regards road safety. A complicated system of timings with respect to arrivals and departures times and number of vehicles exiting and entering the site is unacceptable, considering the nature of the route and the facilities along the route. It is considered that the current application and information provided is contrary to policies PMD1, PMD9 and PMD10 and a reason for refusal can be substantiated on highways safety grounds, prejudicing road safety.
- 6.17 The NPPF states in paragraph 115 that *Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.* The conclusion is that the substantial increase in HGV movements and amendments to the timings of these movements through Bulphan village would result in an unacceptable impact on highway safety and amenity.

7.0 CONCLUSIONS AND REASON(S) FOR REFUSAL

- 7.1 The application seeks, via s73, permission for amendments to the approved scheme, necessitating changes to the wording of conditions 6 (Construction Traffic Management Plan (CTMP)) and no. 9 (HGV movements). These changes are considered to be unacceptable as they would result in a significant increase in HGV movements through a village which has roads which are not able to safely accommodate the number of proposed HGV movements.

8.0 RECOMMENDATION

- 8.1 To Refuse planning permission for the following reason:

1. The proposal would result in an unacceptably high level of HGV movements through the village of Bulphan to the detriment of highway safety and the amenities of local residents and visitors to the village. In addition, the proposed increased hours of accessing the site are considered unnecessarily complicated and unworkable. For these reasons the proposal is contrary to policies PMD1, PMD9 and PMD10 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015] and the guidance contained within the NPPF.

Informative

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:

<http://regs.thurrock.gov.uk/online-applications>

