

Thurrock - An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future

Planning Committee

The meeting will be held at **6.00 pm** on **24 October 2019**

Council Chamber, Civic Offices, New Road, Grays, Essex, RM17 6SL

Membership:

Councillors Tom Kelly (Chair), Mike Fletcher (Vice-Chair), Gary Byrne, Colin Churchman, Angela Lawrence, David Potter, Gerard Rice, Sue Sammons and Sue Shinnick

Steve Taylor, Campaign to Protect Rural England Representative

Substitutes:

Councillors Abbie Akinbohun, Chris Baker, Daniel Chukwu, Garry Hague, Victoria Holloway and Susan Little

Agenda

Open to Public and Press

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1 Apologies for Absence	
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To approve as a correct record the minutes of the Planning Committee meeting held on 19 September 2019.	
3 Item of Urgent Business	
To receive additional items that the Chair is of the opinion should be considered as a matter of urgency, in accordance with Section 100B (4) (b) of the Local Government Act 1972.	
4 Declaration of Interests	
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meetings/discussions held relevant to determination of any planning application or enforcement action to be resolved at this meeting

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7 Public Address to Planning Committee

The Planning Committee may allow objectors and applicants/planning agents, and also owners of premises subject to enforcement action, or their agents to address the Committee. The rules for the conduct for addressing the Committee can be found on Thurrock Council's website at <https://www.thurrock.gov.uk/democracy/constitution> Chapter 5, Part 3 (c).

8 19/00725/FUL Treetops School, Buxton Road, Grays, RM16 2WU 23 - 60

9 19/01206/FUL Green House, Robinson Road, Horndon on the Hill, Essex, SS17 8PU 61 - 76

10 19/00563/FUL 5 King George VI Avenue, East Tilbury, Essex, RM18 8SL 77 - 88

Queries regarding this Agenda or notification of apologies:

Please contact Wendy Le, Democratic Services Officer by sending an email to Direct.Democracy@thurrock.gov.uk

Agenda published on: **16 October 2019**

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DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF

Breaching those parts identified as a pecuniary interest is potentially a criminal offence

Helpful Reminders for Members

- *Is your register of interests up to date?*
- *In particular have you declared to the Monitoring Officer all disclosable pecuniary interests?*
- *Have you checked the register to ensure that they have been recorded correctly?*

When should you declare an interest at a meeting?

- **What matters are being discussed at the meeting?** (including Council, Cabinet, Committees, Subs, Joint Committees and Joint Subs); or
- If you are a Cabinet Member making decisions other than in Cabinet **what matter is before you for single member decision?**



Does the business to be transacted at the meeting

- relate to; or
- likely to affect

any of your registered interests and in particular any of your Disclosable Pecuniary Interests?

Disclosable Pecuniary Interests shall include your interests or those of:

- your spouse or civil partner's
- a person you are living with as husband/ wife
- a person you are living with as if you were civil partners

where you are aware that this other person has the interest.

A detailed description of a disclosable pecuniary interest is included in the Members Code of Conduct at Chapter 7 of the Constitution. **Please seek advice from the Monitoring Officer about disclosable pecuniary interests.**

What is a Non-Pecuniary interest? – this is an interest which is not pecuniary (as defined) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgement of the public interest.

Pecuniary

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to be sensitive) disclose the existence and nature of the interest to the meeting

If the Interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register

Unless you have received dispensation upon previous application from the Monitoring Officer, you must:

- **Not participate or participate further in any discussion of the matter at a meeting;**
- **Not participate in any vote or further vote taken at the meeting; and**
- **leave the room while the item is being considered/voted upon**

If you are a Cabinet Member you may make arrangements for the matter to be dealt with by a third person but take no further steps

Non- pecuniary

Declare the nature and extent of your interest including enough detail to allow a member of the public to understand its nature



You may participate and vote in the usual way but you should seek advice on Predetermination and Bias from the Monitoring Officer.

Our Vision and Priorities for Thurrock

An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future.

1. **People** – a borough where people of all ages are proud to work and play, live and stay
 - High quality, consistent and accessible public services which are right first time
 - Build on our partnerships with statutory, community, voluntary and faith groups to work together to improve health and wellbeing
 - Communities are empowered to make choices and be safer and stronger together

2. **Place** – a heritage-rich borough which is ambitious for its future
 - Roads, houses and public spaces that connect people and places
 - Clean environments that everyone has reason to take pride in
 - Fewer public buildings with better services

3. **Prosperity** – a borough which enables everyone to achieve their aspirations
 - Attractive opportunities for businesses and investors to enhance the local economy
 - Vocational and academic education, skills and job opportunities for all
 - Commercial, entrepreneurial and connected public services

Minutes of the Meeting of the Planning Committee held on 19 September 2019 at 6.00 pm

Present: Councillors Tom Kelly (Chair), Mike Fletcher (Vice-Chair), Gary Byrne, Colin Churchman, Angela Lawrence, David Potter, Sue Sammons, Abbie Akinbohun (Substitute) (substitute for Gerard Rice) and Daniel Chukwu (Substitute) (substitute for Sue Shinnick)

Steve Taylor, Campaign to Protect Rural England
Representative

Apologies: Councillors Gerard Rice and Sue Shinnick

In attendance: Leigh Nicholson, Interim Assistant Director of Planning, Transport and Public Protection
Jonathan Keen, Interim Strategic Lead of Development Services
Julian Howes, Senior Highway Engineer
Steven Lines, Senior Highway Engineer
Matthew Gallagher, Principal Planner (Major Applications)
Chris Purvis, Principal Planner (Major Applications)
Graeme Parker, School Capitals Programme Manager
Bob Capstick, Locum Planning Lawyer
Wendy Le, Democratic Services Officer

Before the start of the Meeting, all present were advised that the meeting may be filmed and was being recorded, with the audio recording to be made available on the Council's website.

35. Minutes

On item 33 of the minutes, Councillors Lawrence and Byrne stated that they had not voted for the site visit to the George and Dragon and had voted against. This was amended to:

For: (4) Councillors Mike Fletcher (Vice-Chair), David Potter, Gerard Rice and Sue Sammons.

Against: (5) Councillors Tom Kelly (Chair), Colin Churchman, Gary Byrne, Angela Lawrence and Sue Shinnick.

Abstained: (0)

The minutes of the Planning Committee held on 15 August 2019 was approved as a true and correct record subject to the amendments.

36. Item of Urgent Business

There were no items of urgent business.

37. Declaration of Interests

The Chair declared a pecuniary interest on item 11 – planning application 19/01101/ELEC as he was an employee of DP World Development so would be unable to chair on that item and would be vacating the meeting upon the hearing of the item.

Councillor Sammons declared a non-pecuniary interest on item 9 – planning application 19/00828/FUL in that she was the Ward Councillor for East Tilbury and had made some comments prior to the site visit. However, after attending the site visit, she stated that she would be keeping an open mind on the application.

38. Declarations of receipt of correspondence and/or any meetings/discussions held relevant to determination of any planning application or enforcement action to be resolved at this meeting

The Chair declared that he had received a few emails in regards to 19/01095/FUL.

39. Planning Appeals

The report was presented by Jonathan Keen, Interim Strategic Lead for Development Services.

The Committee was satisfied with the report.

40. 19/00617/FUL Thurrock Council, Civic Offices, New Road, Grays, Essex, RM17 6SL (Deferred)

(In line with Thurrock Council's Constitution, Chapter 5, Part 3(d), 13.5, Councillors Akinbohun and Chukwu were unable to participate or vote on the application as they had not been present when the application was first heard at Committee on 15 August 2019.)

Before hearing the application, the Chair stated that Councillors Akinbohun and Councillor Chukwu would be unable to participate or vote on the application as they had not been present when the application was first heard at Committee on 15 August 2019.

Councillor Byrne felt that the application should be deferred to a later Committee date as the substitute Members would not be able to vote on the item. He said the application was important and affected all of Thurrock. The Chair reminded the Committee that the Planning Committee was an independent Committee and should not be voted along political views. He sought clarification from Leigh Nicholson, Interim Assistant Director of Planning, Transport and Public Protection.

Leigh Nicholson explained that the application was already published on the agenda and due to be heard at Committee that night. The application should be heard. Members could propose an alternative recommendation to defer the application to a later date if they wished to do so.

The application was presented by Chris Purvis, Principal Planner (Major Applications) who gave a brief overview of the proposal set out within pages 35 and 36 of the report. He referred the Committee to the 3 bullet points in paragraph 1.1 on page 27 of the report which were the reasons Members at the last Planning Committee had given, as they had been minded to refuse the application. The report assessed these 3 points in more detail.

There was one update to the application in which an additional letter in support of the application had been received from New River. They were the new owners of the Grays Shopping Centre and supported the application as part of the regeneration framework of Grays Town Centre.

The Chair said the concerns raised at the last Committee on the application was well researched and assessed. Referring to a past planning application at 76 High Street, Grays, he asked if it was still a live application because he had seen hoarding around the site. He went on to question whether the St Peters and Pauls Church had commented on the 76 High Street, Grays planning application at the time it was considered.

In confirmation, Chris Purvis said the 76 High Street, Grays planning application was still live and that planning permission had been granted in 2013 – 14. The development to that site would bring a benefit to that part of the High Street. St Peters and Pauls Church had objected to the 76 High Street, Grays planning application but the church had not objected to the current planning application.

Noting that the report mentioned significant benefits that would outweigh the heritage impact of the St Peters and Pauls Church, the Vice-Chair sought clarification on what the significant benefits were. He also questioned how the significant benefits would outweigh the loss of the businesses. Chris Purvis confirmed that there was no detrimental impact on the church and the proposal plan would help to open up views of the church from New Road. In addition, the plan would enable regeneration in that part of the town centre; the design of the building would not be competing with the church and it would be lower than the buildings in the surrounding area. Regarding the loss of the businesses, there would be a café in the ground floor of the building and if built, the nearby 76 High Street scheme included four commercial ground floor units as part of the plan and these could be used. The public would benefit from the facilities to be provided in the proposed Civic Offices building.

The Vice-Chair answered that 'no detrimental impact' was not a benefit and that opening up the view of the church would only bring a benefit to the church, not to the public. He questioned what the proposed plan would give to the public what they did not have already.

Chris Purvis explained that the registry office would be moved from the Thameside Theatre and into the proposed building which would be more easily accessible as it would be closer to the train station, bus station and town centre. The impact on the church would be neutral and there were no objections in terms of heritage to the church as assessed by the Heritage Officer. Therefore, a 'less than substantial harm' test for the church had been considered with the public benefits weighing in favour of the development. The Vice-Chair responded that a registry office would be gained from the plan to which Chris Purvis repeated the benefits already mentioned.

The Chair sought clarification on whether it was five buildings that they would be losing to which Chris Purvis confirmed that it was.

Councillor Lawrence questioned whether the Grays Dental Centre on the High Street would be affected. Chris Purvis answered that the Grays Dental Centre was not within the site plan so would remain where it was. Councillor Lawrence went on to ask if the benefit of the plan would be to taxpayers because the cost of the extension would be less than a refurbishment of the current civic offices. The Chair thought it was a fair point to make but was not the only benefit although the general consensus was correct.

With the Committee moving onto the debate of the application, the Chair started off by saying that the Committee had been minded to refuse the application at the last Committee meeting with the three reasons given within the report. The Church had no objections to the plan and since the last Committee meeting, Officers had also discussed with the Design Council who had also raised no objections. The site location was within the town centre that was undergoing major development and the proposed design of the building was of a modern form.

The Chair went on to note that the South East Essex College was of a larger scale than the proposed building in the application which would be of a lower built form. On the concerns on the loss of light for Pullman Court residents, the Chair understood assessments had been carried out and analysed as outlined in paragraphs 3.11 to 3.15 of the report on pages 30 and 31 of the agenda. The Chair did not think there were sufficient grounds or material considerations to go against Officer's recommendation for approval of the application.

Councillor Byrne said the proposed plans was bigger than standard plans and noted that two Members of the Committee were not in attendance and had substitutes in their place. As Substitutes were unable to participate or vote on the application as per rules, he thought that the vote should be undertaken with all Members of the Committee that had been present at the first consideration of the application last month. Therefore, he proposed to defer the application because of this.

The Chair pointed out that large scale applications were brought to Planning Committee on many occasions and Members were to be of an independent

mind to decide on planning applications following planning policies. He was concerned on pulling Members back into the Committee if it was not possible and sought clarification on Councillor Byrne's proposal regarding the number of Members. Councillor Byrne answered that it would be preferable that both Members, Councillor Rice and Councillor Shinnick were in attendance with the rest of the Committee to vote on the application.

The Vice-Chair stated that he too, wished to propose a deferral of the application but not for the same reasons as given by Councillor Byrne. The Vice-Chair referred back to Councillor Lawrence's earlier comment on the costs of the proposed plans and noted that spending more in the short term would help to save on costs in the long term. He wished to put forward a proposal to defer the application in order for Officers to bring a report back on the costs spent in the short term against long term spending and what taxpayers would save on through these.

The Chair reminded the Committee that decisions had to be made in regards to planning laws and policies and should not consider factors outside of these. He understood this could be frustrating but the Planning Committee was governed by rules.

Councillor Lawrence disagreed with the two proposed recommendations and felt the application had already been discussed in detail twice. She thought the proposed design of the plans was good and would be cost effective as she had already mentioned earlier.

(Councillor Akinbohun arrived 18.41.)

Steve Taylor commented that he was a resident of Grays so was familiar with the town and had noted that it had grown over the years. He remembered the number of council buildings around Thurrock and the costs and effort to operate the different buildings. He felt it was better to extend the current Civic Offices building rather than have the chaos of managing other buildings in different locations as was the case in the 1960s.

The Chair asked Leigh Nicholson to clarify the position of the two proposed recommendations. Leigh Nicholson stated that two motions for deferral of the application had been suggested but not as formal recommendations nor had they been seconded yet. He reminded the Committee of Chapter 5, Part 3(b), 6.5 of Thurrock Council's Constitution and said that both of the reasons put forward were not clear planning reasons. Finances and costs of the proposed plan and waiting for the full Planning Committee to be in attendance were not planning reasons. If reasons were based planning reasons, for instance based around amended plans, this would be considered a planning reason for the application to be deferred to a later date. However, the Vice-Chair and Councillor Byrne's reasons for deferral failed to meet the test as set out in the Constitution.

Regarding the benefits of the proposed plans, the Vice-Chair asked for more detail on the benefits. He pointed out that it was one of the main criteria for

him to approve the application. Chris Purvis replied that the new purpose built form would cater to more needs and be more energy efficient. There would be a positive impact on the church with an opening up of its view; easier access to the new building; and services would be brought together such as the registry office and an improved council chamber along with committee rooms.

Leigh Nicholson reminded the Committee that a seconder would be needed to support an alternative recommendation. He went on to say that for the Vice-Chair's reason for recommendation to be accepted, it would need to be re-worded based upon material planning grounds. For example, if the benefits were to be balanced against the historic build of the environment. Regarding Councillor Byrne's reason for recommendation, it could not be accepted on planning grounds.

The Vice-Chair withdrew his reason for an alternative recommendation.

With this, the Chair proposed the Officer's recommendation and was seconded by Councillor Churchman. The Committee moved onto the vote.

(In line with Thurrock Council's Constitution, Chapter 5, Part 3(d), 13.5, Councillors Akinbohun and Chukwu were unable to participate or vote on the application as they had not been present when the application was first heard at Committee on 15 August 2019.)

For: (4) Councillors Tom Kelly (Chair), Colin Churchman, Angela Lawrence and Sue Sammons.

Against: (3) Councillors Mike Fletcher (Vice-Chair), Gary Byrne and David Potter.

Abstained: (0)

Planning application 19/00617/FUL was approved subject to conditions following Officer's recommendation.

41. 19/00828/FUL Land Adjacent George And Dragon, East Tilbury Road, Linford, Essex (Deferred)

(In line with Thurrock Council's Constitution, Chapter 5, Part 3(d), 13.5, Councillors Akinbohun and Chukwu were unable to participate or vote on the application as they had not been present when the application was first heard at Committee on 15 August 2019.)

The report was introduced by Chris Purvis who gave a brief recap of the application. He reminded the Committee that trees had been removed from the site at the end of July and after the last Committee meeting, all trees and shrubbery had been removed. This now opened up the landscape of the site.

A new site plan had been received following the last Committee meeting and in light of this, reason two for recommendation of refusal of the application was removed. However, the other two recommendations for refusal remained.

Noting the new site plan, Steve Taylor sought clarification on the number of trees that was currently on the site. Chris Purvis replied that one tree had been retained at the site and the site plan proposed other trees to be planted.

Councillor Sammons noted the landscaping to the front of the site on the site plan and was that it would obscure the view of the road upon exiting the site. The road itself was often heavily congested and busy. Chris Purvis explained that the plan was indicative and if the application was to be approved, then there would be conditions attached to this which would be requested from the Highways Team in relation to access and site splays.

The Vice-Chair thought the reason for the site visit at the last Committee had been to view the road where the site was situated by. He queried if there was weight attached to this concern. Chris Purvis answered that if the application was to be approved, it would be subject to Highways conditions regarding sight lines and visibility splays.

Steven Lines, Senior Highway Engineer, explained the conditions included a keep clear marking that should be implemented across the entrance to ensure the road was kept clear at times of congestion and when the level crossing barriers were down. The Highways Team were aware of the proximity of the site to the level crossing and the Applicant had worked with the Highways Team to ensure the safest option.

Councillor Sammons understood the purpose of the keep clear box but was still concerned. She said that when the level crossing barriers for the railway was shut and traffic was queuing, vehicles often turned around thus ending up on the wrong side of the road and continued along on the wrong side of the road to overtake queuing traffic and vehicles that would exit the proposed exit of the site would not be able to see vehicles on the wrong side of the road. Steven Lines pointed out that the vehicles performing this move was illegal and was not aware of this as it had not been picked up in the surveys that had been undertaken.

Referring to the site visit that took place on 5 September at 10am, Steve Taylor mentioned that there had been a number of vehicles on the road that morning and most of those were large trucks that had little consideration for road safety. He found the road to be horrifically dangerous. Steven Lines explained that the Applicant had considered the road within the site boundary and the road was to be slightly widened to allow room for larger vehicles. Steve Taylor pointed out that the location of the site was still dangerous and there was a limit to what could be done at the site.

Councillor Sammons pointed out that large vehicles did not tend to slow down along the road and tended to mount the pavement. Steven Lines answered

that the road would be widened and as part of the investigation, accident statistics had been checked which had shown none.

Councillor Sammons queried which side of the road would the widening take place and whether a section of the pavement would be taken off for the widening. Steven Lines replied that the pavement would not be affected as the widening of the road would be on the Applicant' side of the road.

The Committee went into debate on the application which Councillor Churchman started by saying that he knew the road well which was often busy with large tipper trucks in the day time. His concerns were regarding the amount of traffic frequenting the road and access to the site.

Steve Taylor said the site was located in the Green Belt and was not a brownfield site. The site was not isolated and there were houses opposite and a pub next door. Considering the proximity of the junction, he was surprised there were no accidents and hoped there would be none but the road was still dangerous regardless.

The Chair thought the architecture of the proposed plans were unique but the issue of the road raised concerns. He proposed the Officer's recommendation which was seconded by the Vice-Chair. The Committee moved onto the vote.

(In line with Thurrock Council's Constitution, Chapter 5, Part 3(d), 13.5, Councillors Akinbohun and Chukwu were unable to participate or vote on the application as they had not been present when the application was first heard at Committee on 15 August 2019.)

For: (7) Councillors Tom Kelly (Chair), Councillors Mike Fletcher (Vice-Chair), Gary Byrne, Colin Churchman, Angela Lawrence, David Potter and Sue Sammons.

Against: (0)

Abstained: (0)

Planning application 19/00828/FUL was refused following Officer's recommendation.

42. 19/01095/FUL Treetops School, Buxton Road, Grays, Essex, RM16 2WU

The report was introduced by Matthew Gallagher, Principal Planner (Major Applications). The application proposed temporary permission for the siting of a double demountable classroom unit to the rear of the school site for a duration of 1 year in order to allow the school to accommodate pupils with Special Educational Needs and Disabilities (SEND). A current planning application for the construction of the new Treetops Free School (ref. 19/00725/FUL) was scheduled to be determined during this time and if approved, would give time for the construction to take place. Recommendation 8.1A no longer applied because the impact of the proposal

was not considered to be so significant on the openness of the Green Belt that it would need referral to the Secretary of the State given the size of the proposed demountable unit. The date given for temporary permission to be granted until in recommendation 8.1B would also be changed to 30 September 2020 as opposed to 15 August 2020 as the Applicant had asked for a full year temporary permission.

Steve Taylor agreed with giving the Applicant a full year for the temporary classroom units and that an extra year to make it two years would not affect anything. Matthew Gallagher explained that it was within the gift of the Planning Committee to grant longer than a year if they wished to do so. The Applicant had sought 12 months temporary permission but if they needed this to be extended, they would need to apply again.

Picking up on Steve Taylor's point, Councillor Churchman queried whether the Committee could give temporary permission for a longer time until the units were no longer needed, once the construction of the Treetops Free School was in place. Matthew Gallagher said that the Treetops Free School (19/00725/FUL) application was still live and under consideration so the application could not be pre-judged. The recommendation was to stick with the given time limit.

The Chair noted some of the comments from neighbouring properties referred to within the report and questioned how construction work would be managed around the area as he was aware of a road that backed around the site. Referring the Committee to condition 4 on page 101 of the agenda, Matthew Gallagher said that the vehicles accessing the site for the construction phase would be required to travel via Stanford Road and not Buxton Road. Drop off and pick up points for pupils arriving on mini-buses would be subject to recommended condition no. 3 (car park management plan). Subject to these recommended conditions there were no significant concerns raised from Highways as the construction was relatively small in size.

The Chair noted earlier comments regarding extending the proposed temporary planning permission for up to 24 months and questioned the process. Matthew Gallagher explained that the national guidance was to not grant a succession of temporary permission. However if the Committee wished to grant a longer time period of 24 months, this could be allowed. If Treetops School required a further extension, they would need to apply again.

Councillor Chukwu noted the site location was within the Green Belt and questioned why temporary permission should be granted. Matthew Gallagher confirmed the site was within the Green Belt and that a new building for a school would be deemed to be inappropriate development on the Green Belt. He went on to explain that Members should consider harm to the Green Belt on one hand and on the other hand if there were very special circumstances to outweigh the harm. In this case, there was a need for SEND places in Thurrock and there was strong support from national and planning guidance for new schools so the harm to the Green Belt was clearly outweighed.

With the Committee moving into debate, the Chair started by saying that granting temporary permission for 12 months was reasonable but would agree to extend for a longer period of time if there were good reasons to do so.

Steve Taylor said that although the site was on Green Belt, the need for school places was very special circumstances so outweighed the harm to the Green Belt. Councillor Byrne agreed with this and would support the application.

The Vice-Chair wished to propose an alternative recommendation which was to grant temporary permission for 24 months instead of the 12 months with the reason given as 'to prevent a problem arising in the event of any delay to the permanent building'. This was seconded by Councillor Byrne.

The alternative recommendation met the test set out in the Constitution, Chapter 5, Part 3(b), 6.5 and the Committee moved on to the vote.

For: (9) Councillors Tom Kelly (Chair), Mike Fletcher (Vice-Chair), Gary Byrne, Colin Churchman, Angela Lawrence, David Potter, Sue Sammons, Abbie Akinbohun and Daniel Chukwu

Against: (0)

Abstained: (0)

Planning application 19/01095/FUL was approved with an extended time period (condition no. 1) of 24 months (expiring on 30.09.2021) and subject to the other conditions set out in the report.

43. 19/01101/ELEC Land at London Gateway, The Manorway, Stanford le Hope

The Chair excused himself due to his declared pecuniary interest on this application. The Vice-Chair took over as Chair for this item.

The report was introduced by Matthew Gallagher who reminded the Committee of a similar application that had been heard in June's Planning Committee. The Applicant proposed a variation of the s36 Electricity Act consent and associated deemed planning permission for the construction and operation of Gateway Energy Centre (a gas-fired power station). Electricity Act consent and deemed planning permission had already been granted to the Applicant by the Secretary of State originally in 2011. These approvals were subject to minor amendments in 2014 and 2016. The applicant sought further amendments from the Secretary of State and Thurrock Council were a part of a group of consultees in the proposed variation to the s36 consent and deemed planning permission. The Applicant's proposed changes comprised (in summary):

- Introduction of battery storage within the consented generation capacity
- A smaller and different area set aside for carbon capture
- Extension to the time limit for implementation
- Amendment to allow for easier phasing of the development.

It was considered that the Applicant's proposed amendments were minor and there were no significant planning issues raised.

The Committee was satisfied with the application and detail provided within the report.

Councillor Churchman proposed the Officer's recommendation and was seconded by Councillor Byrne. With this, the Committee moved on to the vote.

For: (8) Councillors Mike Fletcher (Vice-Chair), Gary Byrne, Colin Churchman, Angela Lawrence, David Potter, Sue Sammons, Abbie Akinbohun and Daniel Chukwu

Against: (0)

Abstained: (0)

The suggested consultation response to the Secretary of State was agreed as per Officer's recommendation.

The meeting finished at 7.46 pm

Approved as a true and correct record

CHAIR

DATE

Any queries regarding these Minutes, please contact Democratic Services at Direct.Democracy@thurrock.gov.uk

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24 October 2019	ITEM: 6
Planning Committee	
Planning Appeals	
Wards and communities affected: All	Key Decision: N/A
Report of: Jonathan Keen, Interim Strategic Lead of Development Services	
Accountable Assistant Director: Leigh Nicholson, Interim Assistant Director of Planning, Transport and Public Protection.	
Accountable Director: Andy Millard, Interim Director of Place	

Executive Summary

This report provides Members with information with regard to planning appeal performance.

1.0 Recommendation(s)

1.1 To note the report.

2.0 Introduction and Background

2.1 This report advises the Committee of the number of appeals that have been lodged and the number of decisions that have been received in respect of planning appeals, together with dates of forthcoming inquiries and hearings.

3.0 Appeals Lodged:

3.1 **Application No:** 19/00794/HHA

Location: 75 Mayflower Road, Chafford Hundred, Grays

Proposal: Loft conversion with two rear and one front dormer

3.2 **Application No:** 19/00530/FUL

Location: Party Crown Direct Ltd, 61 Lampits Hill, Corringham

Proposal: Erection of a single storey bungalow to rear of No.61 with associated hardstanding and landscaping along with parking area to the front of No.61.

3.3 Application No: 18/00984/FUL

Location: Land To North East Of St Cleres Hall, Stanford Road, Stanford Le Hope

Proposal: Erection of a terrace of 4no. residential dwellings with associated hardstanding and landscaping following demolition of existing buildings

3.4 Application No: 18/00540/FUL

Location: Town Centre Car Park, King Street, Stanford Le Hope

Proposal: Construction of a mixed use development comprising 159sq.m of retail/leisure/commercial units (within classes A1, A2, A3, A4, A5 and D2) at ground floor level and 47 residential units on upper floors together with an undercroft and surface car park (comprising 56 car parking spaces), access, landscaping and associated works.

3.5 Application No: 19/00703/FUL

Location: Cladding UK Ltd, 12 London Road, Stanford Le Hope

Proposal: Demolish rear garage block, and erect proposed two storey side extension, part single part two storey rear extension to form four self contained flats consisting of two 2 bed Units and two 1 bed units along with associated cycle and bin store, landscaping and car parking.

4.0 Appeals Decisions:

The following appeal decisions have been received:

4.1 Application No: 18/01802/FUL

Location: Beauchamp Place, Malvern Road, Grays

Proposal: Use of land to provide 5 pitches for Gypsy / Traveller families a total of 5 mobile homes, 5 touring caravans and 1 dayroom

Decision: Appeal Allowed

4.1.1 The Inspector considered the main issues to be: the effect of the proposals on the openness of the Green Belt, and on the purposes of including land within it; the effect of the proposal on the character and appearance of the

surrounding area; the need for and supply of gypsy sites within the area; the accommodation needs and personal circumstances of the proposed occupiers of the site and whether the harm to the Green belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances.

4.1.2 The Inspector found that there was harm to the Green Belt by reason of inappropriateness, and in relation to openness and the purposes of including land in the Green Belt. She did not find there to be any undue harm to the character and appearance of the area. The need for gypsy and traveller sites carried great weight in favour of the appeal; the personal circumstances of the families and the best interests of the children were also a primary consideration.

4.1.3 On the basis of the matters put forward, the Inspector concluded the appeal should be allowed.

4.1.4 The full appeal decision can be found online.

4.2 Application No: 19/00539/FUL

Location: Fouracres, Brentwood Road, Bulphan

Proposal: Demolition of existing dwelling garage and stable and the replacement of an existing dwelling

Decision: Appeal Dismissed

4.2.1 The Inspector considered the main issues to be whether the proposal constituted inappropriate development in the Green Belt and whether the effects of the proposed development would impact the openness character of the Green Belt.

4.2.2. The Inspector commented that the proposed height would be exacerbated as the building would be a full additional storey with rooms in the roof space increasing its size and bulk close to another substantially proportioned building. It was considered the demolition of the existing buildings would offer minimal benefit in terms of reducing openness.

4.2.3 By adopting the approach from the NPPF and the Council's Local Plan Policy PMD6, the Inspector concluded that the replacement dwelling would be materially larger than the than the existing building, and original building. Furthermore, the Inspector considered the design would appear at odds and incongruous to its context and that the design would jar visually alongside the adjacent garage which has a traditional agrarian character with barn hips to the roof.

4.2.4 On this basis, the appeal application was deemed inappropriate development in the Green Belt and harmful by definition. Furthermore, the impact to the

openness of the Green Belt and the character and appearance of the immediate area was considered to give rise to additional harm. No matters were put forward to amount to very special circumstances to justify inappropriate development in the Green Belt

4.2.5 The full appeal decision can be found online.

4.3 Application No: 19/00283/HHA

Location: Raglan, Central Avenue, Stanford Le Hope

Proposal: Two storey side extension

Decision: Appeal Allowed

4.3.1 The main issue in this appeal were the effect of the proposed side extension on the character and appearance of the street scene.

4.3.2 The Inspector considered that the proposal involved a relatively modest extension within the side garden that would be set down from the host dwelling’s roof, would respect its front building line and would not be built to the full depth of the existing building. As such, it would be a typical domestic extension that would not be of disproportionate scale to the host dwelling or otherwise incongruous

4.3.3 It was considered by the inspector that the proposed side extension would not have a harmful effect on the character and appearance of the street scene. Consequently, there was found to be no conflict with Policies PMD2, CSTP22 and CSTP23 of the Core Strategy.

4.3.4 The full appeal decision can be found online.

5.0 APPEAL PERFORMANCE:

5.1 The following table shows appeal performance in relation to decisions on planning applications and enforcement appeals.

	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	
Total No of Appeals	3	7	3	1	14	5							33
No Allowed	1	0	0	0	3	0							4
% Allowed	33.33%	0%	0%	0%	21.4%	0%							12.12%

6.0 Consultation (including overview and scrutiny, if applicable)

6.1 N/A

7.0 Impact on corporate policies, priorities, performance and community impact

7.1 This report is for information only.

8.0 Implications

8.1 Financial

Implications verified by: **Laura Last**
Management Accountant

There are no direct financial implications to this report.

8.2 Legal

Implications verified by: **Tim Hallam**
Deputy Head of Law (Regeneration) and
Deputy Monitoring Officer

The Appeals lodged will either have to be dealt with by written representation procedure or (an informal) hearing or a local inquiry.

Most often, particularly following an inquiry, the parties involved will seek to recover from the other side their costs incurred in pursuing the appeal (known as 'an order as to costs' or 'award of costs').

8.3 Diversity and Equality

Implications verified by: **Natalie Warren**
Strategic Lead Community Development and
Equalities

There are no direct diversity implications to this report.

8.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None.

9.0. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

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

www.thurrock.gov.uk/planning. The planning enforcement files are not public documents and should not be disclosed to the public.

10. Appendices to the report

- None

Agenda Item 8

Planning Committee 24.10.2019	Application Reference: 19/00725/FUL
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Reference: 19/00725/FUL	Site: Treetops School Buxton Road Grays RM16 2WU
Ward: Little Thurrock Blackshots	Proposal: Erection of a new 140 pupil SEN (special educational needs) school with associated parking and landscaping.

Plan Number(s):		
Reference	Name	Received
FS0720-BBA-ZZ-ZZ-DR-L-1001 Rev. P02	Location Plan	27.09.19
FS0720-BBA-00-XX-DR-L-1.1 Rev. P03	Site Master Plan	02.10.19
FS0720-BBA-00-XX-DR-L-1.2 Rev. P01	Site Sections	10.05.19
FS0720-BBA-00-GF-DR-A-2.1-1 Rev. P02	Ground Floor GA Plan	10.05.19
FS0720-BBA-00-RF-DR-A-2.1-2 Rev. P02	Roof GA Plan	10.05.19
FS0720-BBA-00-ZZ-DR-A-2.2-1 Rev. P02	Building Sections	10.05.19
FS0720-BBA-00-ZZ-DR-A-2.3 Rev. P02	Elevations	10.05.19
FS0720-BBA-ZZ-ZZ-DR-L-2.5-1 Rev. P02	Existing Site Plan	02.10.19
FS0720-BBA-ZZ-ZZ-DR-L-2.5-2 Rev. P02	External Works	02.10.19
FS0720-BBA-ZZ-ZZ-DR-L-2.5-3 Rev. P01	External Works	02.10.19

<p>The application is also accompanied by:</p> <ul style="list-style-type: none"> • Air Quality Assessment (May 2019); • Arboricultural Impact Assessment (May 2019); • Archaeological Desk-Based Assessment (May 2018); • BREEAM New Construction 2018 Pre-Assessment Planning Report (May 2019); • Construction Environmental Management Plan (May 2019); • Phase 1 Desk Study (ground contamination) (May 2018); • Design and Access Statement (May 2019); • Energy Statement (May 2019); • Planning Statement (May 2019); • Flood Risk Assessment (August 2019); • Site Noise Survey and Feasibility (May 2018); • Transport Statement (May 2019); and • Ecological Impact Assessment (October 2018). 	
Applicant: Department for Education	Validated: 13 May 2019

	Date of expiry: 18 November 2019
Recommendation: Grant planning permission subject to referral to the Secretary of state and planning conditions.	

This application is scheduled for determination by the Council’s Planning Committee because it constitutes a major application for development in the Green Belt, which also represents a departure from the Core Strategy and NPPF, and as defined in the Council’s constitution under Section 2, 2.1 (a).

1.0 DESCRIPTION OF PROPOSAL

1.1 This application proposes the development of a new school for up to 140 pupils aged between 5 and 16 with special education needs (SEN) with alterations and extensions to the existing car park. The key components of the proposals are described in the table below:

Site Area	c. 3.7 Ha
Proposed Floorspace	3,521 sq.m (GIA)
Height	Single-storey. Main hall c. 10.5m high
No. of staff	112 full time equivalent
Capacity	140 places (ages 5 to 16 years)
Car Parking (within application site)	Existing: 121 spaces, including 2 spaces for disabled users.
	Proposed: 232 spaces, including 9 spaces for disabled users
	Net increase: 111 spaces

1.2 With reference to new buildings, the application proposes a single rectangular-shaped block measuring c.83.4m (measured east-west) and a maximum c.61.5m (measured north-south). The building would incorporate a landscaped internal courtyard and would include the following accommodation:

- 6 no. general teaching classrooms (Primary school age group);
- 8 no. general teaching classrooms (Secondary school age group);
- science, art, design technology, music and food technology classrooms;
- main hall;
- multi-purpose hall;
- school kitchen;
- staff room; and
- ancillary offices, storage, toilets etc.

1.3 The school building would be a single storey structure and would largely comprise a

flat roof design to a height of c. 5m above ground level. The tallest element of the building would be the proposed main hall, located close to the north-eastern corner, with a maximum height of c. 10.5m as measured to the top of the mono-pitched roof. The proposed northern elevation of the building, close to a proposed pupil drop-off area would incorporate a distinctive canopy topped by an asymmetrical pitched roof. Finishing materials for the proposed school building would comprise buff and dark grey coloured brickwork with contrast rainscreen cladding.

- 1.4 Externally a hardsurfaced games court for 5-a-side football, basketball and netball would be provided on the eastern side of the building to serve secondary school age pupils. The existing playing field located to the south of the proposed school building would be unaffected by the proposals, aside from the introduction of an area of habitat planting south-west of the building. At the south-west corner of the building a hardsurfaced play court would be provided for primary pupils.
- 1.5 The site area includes a large part of the existing car park serving the site and the proposals include alterations to the layout of this area as well as new parking areas. Within the 'red-line' application site there are currently 121 car parking spaces (including spaces for disabled users), as well as drop-off / pick-up areas for vehicles. The proposals include a re-configuration and southward extension of the existing parking area, as well as a new parking area at the north-western corner of the school building and drop-off / pick-up spaces close to the new school entrance.
- 1.6 The proposals would increase the number of car parking spaces within the application site by 111 to a total of 232 spaces. There are a further 25 parking spaces located at the north-western corner of the school complex but these are outside of the current application site. Access to the remodelled and extended car park would be via the existing route via Buxton Road to the west.
- 1.7 The applicant's Planning Statement confirms that the new school would accommodate predominantly ambulant pupils, with c.10% of pupils being non-ambulant. The new will provide a learning environment for pupils with a variety of needs including:
 - autism;
 - social, emotional and mental health difficulties;
 - moderate and severe learning difficulties; and
 - hearing and visual impairment.

The Planning Statement also notes that, due to the specialist nature of the school, there is a higher staff to pupil ratio and both pupils and staff originate from a wider catchment area.

2.0 SITE DESCRIPTION

- 2.1 The site of the former Torrells County Secondary School extended to an area of 10.8 Ha and included playing fields to both the south and north-west of the campus buildings. However, the current application site is 3.7 Ha in area and is situated on the central and south-western parts of the former school site. The site comprises a large part of the existing car parking area and a part of the ‘operational’ playing field and also floor slabs, foundations and hardstandings associated with the former school buildings. A number of trees and shrubs are sited on this part of the site, however aside from this landscaping and lighting columns within the car park there are no above-ground built structures on the site.
- 2.2 A hardsurfaced games area, retained from the former school use, adjoins the application site to the east and the Beacon Hill and Treetops School buildings adjoin the site to the north. To the west the site is adjoined by residential properties in Buxton Road and Carlton Road. To the south of the site are playing fields associated with Woodside Academy School. Vehicle access to the site and the existing Beacon Hill /Treetops site is from Buxton Road to the west.
- 2.3 The site and adjoining land to the north, south and east is within the Metropolitan Green Belt. The existing playing field to the south of the school buildings and the now unused field to the north-west are defined as ‘Open space’ in the adopted Core Strategy. The site is within the low risk flood zone (Zone 1). Finally the site is located within the impact zones drawn around the Hangman’s Wood & Deneholes SSSI which is situated to the south-west. This SSSI is designated for its woodland habitat and importance to bats. The deneholes themselves as also a Scheduled Ancient Monument.

3.0 RELEVANT HISTORY

- 3.1 The site has an extensive planning history associated with its recent use for educational purposes. The current site comprises part of the larger former Torrells County Secondary School site, which was developed in the post WWII years and subsequently demolished in the mid-late 2000’s. A number of hardsurfaced areas associated with the former schools remain on-site. In recent years the northern ‘footprint’ of the former schools buildings has been redeveloped via the construction of the Beacon Hill Academy (post 16 campus) which provides facilities for pupils with severe and complex learning difficulties and Treetops School which provides 290 places for pupils between the ages of 3 and 19 who experience moderate learning difficulties. The most recent planning history is set out in the table below:

Application Ref.	Description of Proposal	Decision
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06/00170/TTGFUL	Demolition of existing school building and the construction of replacement Treetops and Beacon Hill special schools plus respite / post 16 building, garage block and related works	Approved (following referral to the Secretary of State).
06/00585/TTGCND	Variation of condition 8 of planning permission 06/00170/TTGFUL (for demolition of existing school building and the construction of replacement Treetops and Beacon Hill special schools plus respite/post 16 building, garage block and related works) to permit the submission and approval of school travel plan within 6 months of commencement rather than prior to commencement	Approved
06/00800/TTGFUL	Retention of a temporary car park for 60 spaces for use by the Gateway Community College.	Approved
07/00148/TTGFUL	Amendments to planning permission 06/00170/TTGFUL (Demolition of existing school building and the construction of replacement Treetops and Beacon Hill special schools plus respite/post 16 building, garage block and related works)	Approved
10/00477/TBC	Erection of polytunnel (retention of polytunnel as erected)	Approved
10/00976/TBC	New school kitchen and dining room plus pupil changing facilities	Approved
11/00359/FUL	Erection of single storey building comprising canteen and shop	Approved
12/00279/FUL	New 4,000 sq.m car park, with soft and hard landscaping and lighting	Approved
14/00971/FUL	Replacement teaching building	Approved
19/01095/FUL	Temporary permission is sought for the siting of a double demountable classroom unit to the rear of the school site for a duration of 1 year in order to allow the school to accommodate pupils with special educational needs within the borough of Thurrock while the planning application (ref. 19/00725/FUL) for the construction of the Treetops Free School is considered	Approved

3.2 Planning permission for the comprehensive redevelopment of the former Torrells County Secondary School was granted in 2006 (ref. 06/00170/TTGFUL) and subsequently amended (ref. 07/00148/TTGFUL). These planning permissions granted consent for a phased development of the site to include five distinct elements comprising:

- (i) a mini-bus garage;
- (ii) Beacon Hill FE block;
- (iii) Treetops School;
- (iv) Shared Facilities block; and
- (v) Beacon Hill school.

Items (i), (ii), (iii) and part of (iv) have been constructed. However, as noted in the applicant's Planning Statement, elements of the approval were not built due to the removal of funding. As the 2007 planning permission has been implemented it remains technically 'live' and capable of completion. However, the development currently proposed overlaps with the unimplemented elements of the approved scheme such that, if approved and implemented, the extant approval could not be completed.

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 (sent to 112 addresses), press advert and public site notices which have been displayed nearby. The application has been advertised as a major development and as a departure from the development plan. The application was publicised after its receipt in May 2019 and again in September 2019 following the submission of revised plans. Sixteen letters of representation have been received responding to the original consultation in May 2019. Any responses to the September 2019 consultation will be reported to Committee verbally. Several of those letters express support for the principle of new school facilities, however the majority of representations received raise concerns regarding:

- increased traffic
- congestion on the surrounding road network;
- unsatisfactory access;

- road safety;
- increased noise; and
- impact on air quality.

The following consultation responses have been received:

4.3 ANGLIAN WATER:

Suggest that a number of informatives are attached to any grant of planning permission relating to foul water drainage.

4.4 CADENT GAS:

Suggest that an informative is attached to any grant of planning permission relating to underground gas assets.

4.5 EDUCATION:

Supports the application which will provide specialist school places.

4.6 ENVIRONMENTAL HEALTH OFFICER:

No objections, subject to a planning condition requiring a construction management plan.

4.7 FLOOD RISK MANAGER:

No objection, subject to planning conditions addressing a surface water drainage scheme.

4.8 ESSEX COUNTY COUNCIL (ARCHAEOLOGY):

No archaeological issues raised.

4.9 HIGHWAYS:

No objections, subject to conditions.

4.10 LANDSCAPE & ECOLOGY:

No objections – the proposals would not have a significant visual impact. Although a number of existing trees of low quality would be removed, new planting will mitigate the loss.

4.11 SPORT ENGLAND:

No objections or recommendations regarding planning conditions.

4.12 NATURAL ENGLAND:

No comments offered.

5.0 POLICY CONTEXT

National Planning Guidance

National Planning Policy Framework (NPPF)

5.1 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.*

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:

8. Promoting healthy and safe communities;
9. Promoting sustainable transport;
12. Achieving well-designed places;
13. Protecting Green Belt land; and
14. Meeting the challenge of climate change, flooding and coastal change.

5.2 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 subtopics. Those of particular relevance to the determination of this planning application comprise:

- Air quality;
- Climate change;
- Design;
- Determining a planning application;
- Flood risk and coastal change;
- Green Belt;
- Healthy and safe communities;
- Noise;
- Renewable and low carbon energy;
- Travel Plans, Transport Assessments and Statements; and
- Use of planning conditions.

The Government's 'Policy statement – planning for schools development' (2011) is also relevant to this case.

Local Planning Policy

5.3 Thurrock Local Development Framework

The Council adopted the "Core Strategy and Policies for the Management of Development Plan Document" (as amended) in 2015. The following Core Strategy

policies apply to the proposals:

Spatial Policies:

- CSSP3: Sustainable Infrastructure);
- CSSP4: Sustainable Green Belt; and
- OSDP1 (Promotion of Sustainable Growth and Regeneration in Thurrock)

Thematic Policies:

- CSTP12 (Education and Learning);
- CSTP15 (Transport in Greater Thurrock);
- CSTP22 (Thurrock Design);
- CSTP25 (Addressing Climate Change);
- CSTP26 (Renewable or Low-Carbon Energy Generation); and
- CSTP27 (Management and Reduction of Flood Risk)

Policies for the Management of Development:

- PMD1 (Minimising Pollution and Impacts on Amenity);
- PMD2 (Design and Layout);
- PMD6 (Development in the Green Belt);
- PMD8 (Parking Standards);
- PMD9 (Road Network Hierarchy);
- PMD10 (Transport Assessments and Travel Plans);
- PMD12 (Sustainable Buildings);
- PMD13 (Decentralised, Renewable and Low Carbon Energy Generation); and
- PMD15 (Flood Risk Assessment)

5.4 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 consulted on an 'Issues and Options (Stage 2 Spatial Options and Sites)' document.

5.5 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.

6.0 ASSESSMENT

6.1 Procedure:

With reference to procedure, this application has been advertised (inter-alia) 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 the referral as a departure relates to 'Green Belt development', that is, the provision of a building of 1,000sq.m. floorspace or more and therefore the application will need to be referred under paragraph 4 (a) 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.

6.1.1 The planning issues to be considered in this case are:

- I. Development Plan designation & principle of development;
- II. Site layout and design issues;
- III. Impact on amenity;
- IV. Highways & transportation; and
- V. Energy & sustainability.

6.2 I. DEVELOPMENT PLAN DESIGNATION & PRINCIPLE OF DEVELOPMENT:

As noted at paragraph 2.3 above, the site is located within the Metropolitan Green Belt. It is therefore necessary to consider the following key questions:

- i. whether the proposals constitute inappropriate development in the Green Belt;
- ii. the effect of the proposals on the open nature of the Green Belt and the purposes of including land within it; and
- iii. 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.

6.3 *i. Whether the proposals constitute inappropriate development in the Green Belt*

Chapter 13 (Protecting Green Belt land) of the NPPF sets out national planning policies for the Green Belt. Paragraph 133 within Chapter 13 states that the "Government attaches great importance to Green Belts" and that the "fundamental

aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence.” Paragraph 145 states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Paragraph 145 sets out a limited number of exceptions to this, comprising:

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

6.4 The exceptions to inappropriate development set out at (a) to (f) above do not apply to the proposals. With regard to exception (g), the proposed school building would be partly located on the footprint of the former Torrells County Secondary School which was demolished in the mid-late 2000s. The definition of ‘previously developed land’ (PDL) set out at Annex 2 of the NPPF defines PDL as:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

- 6.5 In this case, although vegetation has partly obscured the footprint of the former school buildings, the ground floor slabs are visible and would fall within the definition of PDL. However, it is considered that the proposals would have a greater impact on the openness of the Green Belt than the existing development (i.e. the floor slabs) and therefore exception (g) would not apply. Consequently, the proposals comprise inappropriate development with reference to paragraph 145 of the NPPF.
- 6.6 Paragraph 143 of the NPPF makes it clear 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, when considering any planning application, local planning authorities “*should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations*”.
- 6.7 Development plan policy, as expressed in the adopted Thurrock Core Strategy and Policies for the Management of Development (2015) is consistent with national policy on Green Belt matters. Core Strategy policy CSSP4 sets out the objective of maintaining the purpose, function and open character of the Green Belt. In order to implement this policy, the Council will:
- maintain the permanence of the boundaries of the Green Belt;
 - resist development where there would be any danger of coalescence; and
 - maximise opportunities for increased public access, leisure and biodiversity.
- 6.8 In addition, Core Strategy policy PMD6 states that, inter-alia, planning permission will only be granted for new development in the Green Belt provided it meets as appropriate the requirements of the NPPF.
- 6.9 Consequently, it can be concluded that the proposals constitute inappropriate development in the Green Belt.
- ii. The effect of the proposals on the open nature of the Green Belt and the purposes of including land within it*
- 6.10 Having established that the proposals are inappropriate development, it is necessary to consider the matter of harm. Inappropriate development is, by definition, harmful to the Green Belt, but it is also necessary to consider whether there is any other harm to the Green Belt and the purposes of including land therein.
- 6.11 As noted above paragraph 133 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the

essential characteristics of Green Belts being described as their openness and their permanence. Although the new school building would be partly located on the footprint of former Torrells County Secondary School buildings, these structures were demolished to ground level approximately 10-12 years ago and this part of the site has been essentially open since this time. The proposals would comprise a substantial amount of new built development (c.3, 521 sq.m) in an area which is open. Therefore, it is considered that 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.

6.12 Paragraph 133 of the NPPF sets out the five purposes which the Green Belt 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.

6.13 In response to each of these five Green Belt purposes:

6.14 *(a) to check the unrestricted sprawl of large built-up areas*

The NPPF does not provide a definition of the term “*large built-up areas*”. However, at a wide geographical scale, the site is located at the eastern edge of the Grays / Little Thurrock built-up area. The school site and open land on the eastern side of the A1089 Dock Approach Road form a corridor of Green Belt land separating Little Thurrock from Chadwell St. Mary. Although the development would comprise a new building in the Green Belt, the historical context up until c.10 years ago was that the site was occupied by an extensive range of school buildings. In these circumstances the proposals would arguably have only limited impact upon the purpose of the Green Belt in checking the unrestricted sprawl of large built-up areas.

6.15 *(b) to prevent neighbouring towns from merging into one another*

The NPPF does not provide a definition of the term “*towns*”. However, adopting a precautionary approach, the conurbations of Grays / Little Thurrock and Chadwell St. Mary could reasonably be considered as separate towns. The corridor of Green Belt (including the application site) serves a function in preventing Grays / Little Thurrock and Chadwell St. Mary from merging. Therefore, the proposals would impact on the

purpose of the Green Belt in preventing neighbouring towns from merging into on another.

6.16 *(c) to assist in safeguarding the countryside from encroachment*

With regard to the third Green Belt purpose, the proposal would involve built development on what is currently open land. The term “countryside” can conceivably include different landscape characteristics (e.g. farmland, woodland, marshland etc.) and adopting a cautious approach the site comprises “countryside” for the purposes of applying the NPPF policy test. It is considered that the proposals would constitute an encroachment of built development into the countryside at this location, causing some harm to the third purpose for including land in the Green Belt.

6.17 *(d) to preserve the setting and special character of historic towns*

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

6.18 *(e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land*

In general terms, the development of a new school could occur in the urban area and in principle, there is no spatial imperative why Green Belt land is required to accommodate the proposals. However, it is notable that the proposed new school would be located adjacent to the current Treetops School and it could be expected that synergies would result from the shared location. As there may be valid reasons for co-locating the school it is considered that the harm to this purpose of the Green Belt is limited.

6.19 In light of the above analysis, it is considered that the proposals would, to a degree, be contrary to some of the purposes of including land in the Green Belt. As noted above, there would be in-principle harm by reason of inappropriate development and harm by reason of loss of openness. Substantial weight should be afforded to these factors.

6.20 *iii. 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*

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'. 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, could be used on different sites leading to a decrease in the openness of the Green Belt. 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.

6.21 The Planning Statement submitted by the applicant to accompany the application sets out the applicant's 'Planning Assessment' and a case for very special circumstances under the following headings:

1. Support for the proposals within Core Strategy policy CSTP12;
2. Planning history for the site;
3. Demand and need for the facility; and
4. Collaboration with the existing Treetops Academy.

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

6.22 **The applicant's case for very special circumstances:**

1. *Core Strategy policy support for educational facilities at the site (Policy CSTP12).*

6.23 Consideration

Adopted Core Strategy Thematic Policy CSTP12 (Education and Learning) sets out the Council's general objective to enhance educational achievement and skills in the Borough, including (inter-alia) the provision of special education facilities to meet current and future needs (part 1. (I.) of the policy). CSTP12 also refers, at part 5., to special education and states that:

"The Council and partners will support children with special educational needs through further development of specialist bases and resource bases at mainstream schools, as follows:

- ii. *Completion of the special education campus at Buxton Road, Grays by relocating Beacon Hill School there from South Ockendon."*

Although the written justification to this policy does not expand to provide further details on this “special education campus”, it can be reasonably assumed that the policy refers to the 2006 and 2007 planning permissions for redevelopment of the site and the fact that elements of the permission remain unimplemented. Although the current proposal would provide a new Treetops School, rather than the relocation of Beacon Hill School (now Academy), the policy clearly refers to a campus providing facilities for pupils with special education needs at the Buxton Road site. Therefore, in a broad sense, the current proposal can be considered to accord with the ‘spirit’ of Policy CSTP12.

- 6.24 It is also relevant to refer to the Government’s planning policies, as expressed in the NPPF, with regard to new educational facilities. Under the chapter heading of ‘Promoting healthy and safe communities’, paragraph 94 states that:

“It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications.”

- 6.25 The Government’s policy statement from 2011 ‘Planning for schools development: statement’, although not forming part of the NPPF or NPPG, is also relevant to this proposal. This statement includes the following principles for the planning system:

- there should be a presumption in favour of the development of state-funded schools, as expressed in the National Planning Policy Framework;
- local authorities should give full and thorough consideration to the importance of enabling the development of state-funded schools in their planning decisions;
- local authorities should make full use of their planning powers to support state-funded schools applications;
- local authorities should only impose conditions that clearly and demonstrably meet the tests set out in Circular 11/95;
- a refusal of any application for a state-funded school, or the imposition of conditions, will have to be clearly justified by the local planning authority.

- 6.26 As the site is located in the Green Belt it is not considered that that positive approach encouraged by national policy (above) would supersede the protection afforded to the Green Belt elsewhere within national planning policies. Therefore it is still necessary to consider both the harm and benefits of the proposal and undertake a balancing exercise. Nevertheless, it is considered that local and national planning

policies supporting the delivery of new school can be afforded moderate weight in the balance of Green Belt considerations.

6.27 *2. Planning history for the site.*

Under this heading the applicant refers to the 2006 permission (amended in 2007) for the redevelopment of the site and the fact that the permitted scheme was implemented but not completed. The applicant notes that the overall built footprint of the extant and part-implemented planning permission is greater than what is now proposed, such that, in comparison, the current scheme would benefit the openness of the Green Belt.

6.28 Consideration

Planning permission was granted in May 2006 (ref. 06/00170/TTGFUL) for:

“Demolition of existing school building and the construction of replacement and Treetops and Beacon Hill special schools plus respite / post 16 building, garage block and related works.”

This permission was subsequently amended in May 2007 (ref. 07/00148/FUL) and it is assumed that this more up-to-date permission was implemented.

6.29 This permission comprised 5 built elements as described in the table below:

Building	Description	Approximate floorspace	Status
1	Mini-bus garages	c.250 sq.m.	completed
2	Beacon Hill further education block	c.900 sq.m	completed
3	Treetops School	c.4,600 sq.m	completed
4	Shared facilities building	c.2,400 sq.m	part built – not complete
5	Beacon Hill school	c.4,000 sq.m	not implemented
Total permitted floorspace		c.12,200 sq.m	

The 2007 planning permission granted consent for the development of c.12,200 sq.m of built floorspace and, although the permission has been implemented, building no. 4 has not been fully built-out and building no. 5 remains unbuilt. It is estimated that c.2,000 sq.m. floorspace of the approved shared facilities building remains unbuilt alongside c.4,000 sq.m. floorspace for the unbuilt Beacon Hill school. Therefore, a little over 50% of the floorspace approved in 2007 has been delivered on-site.

- 6.30 As permission ref. 07/00148/TTGFUL has been implemented, the unbuilt elements could be completed without the need for further planning permission, that is, the total consented floorspace of c.12,200 sq.m could be lawfully completed. However, as the footprint of the current proposal partly occupies the position of the approved but unbuilt shared facilities building and Beacon Hill school building, the unimplemented elements of permission ref. 07/00148/TTGFUL could not be completed if the current application were to be approved and implemented.
- 6.31 The current proposal comprises a building of c.3,500 sq.m floorspace which, if approved and completed, would represent a clear reduction in built floorspace on the site compared to the extant planning permission (ref. 07/00148/TTGFUL). With reference to the effect of the consented and proposed developments on the openness of the Green Belt, it is clearly the case that, as a result of the reduction in floorspace, the current proposal would have a lesser effect on openness than the situation that would occur if the unimplemented elements of the extant permission were completed. Although it has not been possible to undertake comparative analysis of built volume, it is likely that the current proposal would result in less building mass and bulk compared to the unimplemented elements of the extant permission.
- 6.32 The existing planning permission (ref. 07/00148/TTGFUL) can be considered as a 'fall-back' and is therefore capable of being a material consideration in the decision making process. However, the weight which can be afforded to the fall-back position will vary and the Courts have held that greater weight can be attached to the fall-back position where is a 'real prospect' of the fall back development coming forward. A Court of Appeal Judgement ((Mansell v. Tonbridge & Malling Borough Council [2017] EWCA Civ 1314) confirmed the legal considerations in determining the materiality of the 'fall back' position as a planning judgement and the basic principle is that for a prospect to be a 'real prospect' it does not have to be probable or likely, a possibility will suffice. Clearly a period of time has elapsed since the 2007 permission and it can be assumed that budgets for new school delivery have become more constrained (e.g. the former Building Schools for the Future programme was scrapped in 2010). Accordingly the prospects of the extant permission being delivered are considered to be slim. Nevertheless, as the current proposals represent a reduction in built development it is considered that moderate weight can be attached to the recent planning history for the site in the balance of Green Belt considerations.
- 6.33 *3. Demand and need for the facility*

Under this heading the applicant refers to:

- a significant increase in applications for SEN pupil places in Thurrock;
- lack of capacity at both Beacon Hill and Treetops;

- a waiting list for places at Treetops;
- a 'Statement of Educational Need' produced by the Department for Education (the applicant);

6.34 Consideration

A consultation response has been received from the Council's Children's Services department expressing full support for the application which "*will provide much needed specialist school places, which in turn will prevent the Department locating pupils in high cost out of Borough placements*". Clearly there is an existing unmet demand for specialist school places which would be addressed by the proposals. Although the Children's Services department refer to the financial benefits of providing more school places within the Borough, Members of the Committee are advised to give no weight to this financial aspect. Nevertheless, this does not detract from the demonstrable need for additional school places. In light of the positive and proactive approach encouraged by national planning policies, it is considered that significant weight can be attached to this factor in the balance of Green Belt considerations.

6.35 *4. Collaboration with the existing Treetops Academy*

The applicant considers that the proximity of the application site to the existing Treetops Academy allowing for the sharing of staffing and facilities. There is some value to this, and it is considered moderate weight should be given to this consideration .

6.36 Consideration

A Green Belt designation, and its essential characteristics of openness and permanence, is inherently a spatial designation although openness is also capable of having a visual aspect (NPPG: Paragraph: 001 Reference ID: 64-001-20190722). Although there could well be operational advantages in locating the proposed Treetops Free School adjacent to the existing Treetops Academy, this is not considered to be a compelling or very special factor which on its own would justify inappropriate development. Indeed, this argument could be replicated at other existing locations in the Green Belt and therefore no weight should be given to this factor in the Green Belt balance.

6.37 **Green Belt conclusions**

Under the heading of Green Belt considerations, it is concluded that the proposals comprise inappropriate development. Consequently, the development would be harmful in principle and would reduce the openness of the Green Belt. Furthermore

it is considered that the proposals would cause some harm to role which the site plays in fulfilling the purposes for including land in the Green Belt. In accordance with policy, substantial weight should be attached to this harm. With reference to the applicant’s case for very special circumstances, an assessment of the factors promoted is provided in the analysis above. However, for convenience, a summary of the weight which should be placed on the various Green Belt considerations is provided in the table below:

Simplified Summary of Green Harm and applicant’s case for Very Special Circumstances			
<u>Harm</u>	<u>Weight</u>	<u>Factors Promoted as Very Special Circumstances</u>	<u>Weight</u>
Inappropriate development	Substantial	Local / National policy support for educational facilities	Moderate
Reduction in the openness of the Green Belt		Planning history for the site	Moderate
Conflict (to varying degrees) with a number of the purposes of including land in the Green Belt		Demand and need for the facility	Significant
		Collaboration with the existing Treetops Academy	Moderate weight

6.38 Within the table above, 3 of the 4 factors promoted by the applicant can be assessed as attracting varying degrees of ‘positive’ weight in the balance of considerations. As ever, in reaching a conclusion on Green Belt issues, a judgement as to the balance between harm and whether the harm is clearly outweighed must be reached. In this case there is harm to the Green Belt with reference to inappropriate development, loss of openness and conflict with a number of Green Belt purposes. A number of factors have been promoted by the applicant as comprising the ‘very special circumstances’ required to justify inappropriate development 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 combine at this location to comprise ‘very special circumstances’.

6.39 Taking into account all Green Belt considerations, Officers are of the opinion that in this case the identified harm to the Green Belt is clearly outweighed by the accumulation of factors described above, so as to amount to the very special circumstances justifying inappropriate development.

II. SITE LAYOUT & DESIGN ISSUES:

- 6.40 In general terms the proposed position of the new school building would be similar to that of the approved, but not implemented, Beacon Hill School building. As noted above, the building would also largely occupy the footprint of now demolished former school buildings and would not encroach onto the existing playing field to the south. School entrances would be located on the northern elevation of the building facing car parking and drop-off areas. Staff-related floorspace and kitchen areas would be grouped at the north-western corner facing onto the noisier and more active parking areas. In contrast, teaching areas would be arranged to face or open onto the internal courtyard, play areas or the playing field. No classrooms are proposed on the north-facing elevation of the building.
- 6.41 No detailed comments are made regarding the proposed internal layout of the building. As was the case for the Harris Riverside Academy Purfleet, the architect for this case is operating within specifications set out within a Generic Design Brief and associated technical appendices produced by the Department for Education. These documents set out required standards for new school buildings and associated school grounds. The report presented to Committee in 2017 considering the Purfleet school proposal referred to a potential tension between the NPPF which states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve (para. 124) and the more 'standardised' approach to new school design stipulated by the Department for Education. A similar tension between design quality and budget constraints, delivery timescales and standardisation exists in this proposal.
- 6.42 The majority of the proposed building is a relatively simple single-storey block, comprising a dark grey coloured brick plinth with a buff-coloured brick above and dark-grey brickwork as a soldier-course above door and window openings. As a contrast to this expanse of brickwork, the upper element of the main hall would be clad with blue and grey-coloured vertical cladding. This cladding would be repeated in the entrance canopy and a section of the northern elevation. The appearance of the new school can be described as adequate and although the Department for Education's design guidelines arguably run contrary to elements of the NPPF, on balance it is not considered that an objection to the proposals could be sustained to the layout or design of the development.

III. IMPACT ON AMENITY

- 6.43 Residential properties located in Buxton Road and Carlton Road adjoin the site's western boundary. With reference to the position of the proposed new school building, the structure would be a minimum of 39m from the boundary with no. 30

Buxton Road and 48 from the boundary with no. 76 Carlton Road. In light of these distances, the proposed building would not result in loss of light, privacy or outlook for these residential receptors.

- 6.44 A new 'Primary School Hard Court' (playground) area is proposed at the south-western of the new building and this court would be located 6m from the boundary with the rear gardens of nos. 72-76 (evens) Carlton Road. The applicant's Planning Statement states that it is unlikely that there would be more than 40 children outside at any one time, given the low total number of pupils and their specialist needs. A planning condition could not be used to restrict the number of children using the court and the national policy test of enforceability would not be met. A level of noise would be generated by children using this area. However, this is commonplace for residential properties adjacent to school locations.
- 6.45 A car park providing 30 no. parking spaces would be located on the western side of the new school building at a distance of 1.5m from the flanks boundary of no. 30 Buxton Road. A succession of aerial photographs showing the former Torrells County Secondary School confirm that a car park, albeit smaller in area, has been located on this part of the school site. Consequently, no objections on the basis of impact on amenity can be raised to this element of the proposals.

IV. HIGHWAYS & TRANSPORTATION

- 6.46 With regard to access and car parking, the existing Treetops Academy and Beacon Hill post-16 facility on the site are accessed via Buxton Road, with car parking and drop-off / pick-up areas arranged to the south and west of existing school buildings. The draft 'Thurrock Parking Standards and Good Practice' (2012) document suggests a generic car parking requirement of one space per 15 pupils for primary or secondary schools. On the basis of the proposed capacity of 140 pupils, the draft standard would suggest the provision of 10 new spaces to serve the new school. However, with regard to special schools, the draft standards document notes that cases will be looked at on their merits and parking and drop-off arrangements must consider that extra staff are required and more pupils will arrive by private transport.
- 6.47 As noted earlier in this report, the application site area has been extended to include a large part of the existing car park and this area would be re-configured and extended to provide an additional 111 car parking spaces. Within the red-line of the application site there are currently 121 car parking spaces, along with drop off / pick up areas. Finally there are a further 25 car parking spaces at the north-western corner of the school 'estate' which are not within the application site and would not be affected by the proposals. Therefore, a total of 146 car parking spaces currently serve the existing schools on-site.

- 6.48 As noted above, the proposals would add a further 111 car parking spaces, increasing total parking within the application site to 232 spaces and the total spaces within the school 'estate' to 257 spaces. The proposals would also provide a further 12 drop-off / pick-up spaces in addition to the existing drop-off / pick-up spaces located outside the existing Treetops Academy entrance.
- 6.49 With reference to existing parking provision, the total of 146 spaces within the school estate provides car parking facilities for the demands of Treetops School (capacity 290 pupils – source DfE website) and Beacon Hill School post-16 aged pupils. The capacity of the Beacon Hill post-16 facility is unknown. However, the whole school capacity is 75 pupils (source DfE website) so it is assumed that the capacity of the post-16 facility is no more than 20 pupils. Therefore, as an indicative 'baseline', the existing parking provision of 146 spaces serves the needs of 310 pupils existing pupils on-site at a ratio of 0.47 spaces per pupil. On the basis of an increase in parking on the school estate to 257 spaces and an increase in total pupils to 450, the parking ratio would increase to 0.57 spaces per pupil. In light of the increase in the parking ratio per pupil no objections are raised to this aspect of the proposals.
- 6.50 When the application was first submitted the Council's Highways Officer raised a query regarding the potential for vehicles to queue onto Buxton Road at the start and end of the school day. The proposed site layout and parking arrangements have been revised in response in order to increase the internal roadspace and thereby the capacity for vehicles to queue on-site. The site layout is now considered acceptable from a highways perspective, although a planning condition is suggested to finalise details of pedestrian routes and crossing points within the parking areas.
- 6.51 The applicant's Transport Statement confirms that the vast majority of existing Treetops pupils (98%) travel to the site by a dedicated minibus service or car. The majority of existing staff (89%) also travel to the site by car. It would be expected that a high proportion of pupils at the proposed new school would also travel via minibus or car. The Transport Statement promotes a School Travel Plan which can be secured via a planning condition.
- 6.52 During the construction phase of the existing Treetops and Beacon Hill schools temporary access was taken from Stanford Road (A1013) using a left-in / left-out arrangement. It is recommended that a similar arrangement is used during the construction phase in order to avoid HGV movement on residential roads. However, during the operation of the proposed school, access via Buxton Road is considered satisfactory and there are no highways grounds to object to continued use of this existing access.

The objections raised by local residents in relation to potential traffic impacts arising from the new school are noted. As can be seen from the above assessment, the

proposal is considered to be acceptable from a technical perspective and there are no reasons to refuse the application on this basis. Nevertheless, Members are advised that as part of a separate piece of work the Council is examining options for traffic mitigation measures to alleviate traffic pressures in the location. The outcome of this work has no bearing upon the current application but indicates that highway improvement works may be forthcoming in this location in the future.

6.53 V. ENERGY & SUSTAINABILITY:

Adopted Core Strategy Policy PMD12 (Sustainable Buildings) applies to non-residential development over 1,000 sq.m. floorspace and requires the following BREEAM standards:

- 'Very Good' up to 2016;
- 'Excellent' from 2016; and
- 'Outstanding' from 2019

However, the policy notes that these requirements "*may be relaxed where the developer is able to prove that these requirements will be economically unviable, rendering development of the site undeliverable*".

6.54 The application is accompanied by a 'BREEAM New Construction 2018 Pre-Assessment Planning Report (May 2019)'. This report concludes that the new building is likely to achieve a target score of 54.5%, equating to a 'Good' score under the BREEAM New Construction 2018 assessment method. The report also identifies 7.4% of potential additional credits which could 'uplift' the BREEAM rating to a point within the 'Very Good' range. Nevertheless, based on the known credits, the new school building will be within the 'Good' range.

6.55 The applicant's assessment of a 'Good' BREEAM rating does not comply with the adopted Core Strategy policy target of 'Outstanding'. This matter is separately referred to within the applicant's Planning Statement where, at paragraph 6.53, the applicant states:

"The applicant has worked hard with the architect and Waterman to try to achieve the highest level of BREEAM possible within the budget constraints of the project ... As outlined in the assessment, a 'good' level has been achieved. Whilst Policy PMD12 requires an outstanding level of BREEAM, it is noted within the supporting text of the policy that the requirements of the BREEAM standards may be relaxed where the developer is able to prove that these requirements will be economically unviable, rendering development of the site undeliverable. The DfE have a fixed budget to deliver this school and whilst every effort has been made to try to meet the requirements, it is not possible on this occasion to achieve a higher standard".

- 6.56 Members of the Committee note that the wording of Policy PMD12 refers to a relaxation of compliance with BREEAM standards where a developer is able to *“prove that these requirements will be economically unviable”*. Such proof would be expected in the form of a financial viability assessment. No such viability assessment has been provided by the applicant, with the Planning Statement only referring generically to *“budget constraints”* and a *“fixed budget”*.
- 6.57 Officers have requested that further information was provided justifying the proposed ‘Good’ BREEAM rating and in response the applicant has stated that no or reduced BREEAM credits are available to the scheme under the headings of reduction of energy use & carbon emissions, environmental impacts from construction products, local air quality and surface water run-off. Furthermore, the applicant reiterates the limited budget for delivery of the school and the costs associated with accommodating pupils with special needs. However, no precise financial or budget information has been provided to substantiate the applicant’s position and respond to the detailed requirements of policy PMD12.
- 6.58 The applicant’s proposals to achieve a ‘Good’ BREEAM rating is significantly below the standard set by Core Strategy policy is disappointing, especially in light of current concerns regarding the rate of climate change and its possible effects. The proposed ‘Good’ rating is also disappointing given the ‘Very Good’ BREEAM rating which applied to the existing school buildings approved in 2006.
- 6.59 As a point of reference, the Harris Riverside Academy Purfleet new school which was considered by Committee in November 2017 achieved a ‘Very Good’ rating which was one ‘step’ below the ‘Excellent’ BREEAM applicable at this time. The ‘Good’ level currently proposed would be three ‘steps’ below the policy PMD12 requirement. Similar to the current case, the applicant for Harris Riverside Academy Purfleet did not offer any evidence or a justification for the ‘Very Good’ rating and simply stated that it was economically unviable to achieve a higher rating. In considering this point, the report presented to Planning Committee in 2017 referred to the strong national policy support for new school provision and the fixed budget and timetable within which the applicant is working. The 2017 report considered that it would be difficult to object to the development on the basis of a one ‘step’ shortfall in BREEAM rating.
- 6.60 The clear difference between the current case and the new school at Purfleet is in the degree of shortfall when assessed against the requirements of PMD12. Clearly the national and local policy support for the principle of new schools remains relevant, but this needs to be balanced against the material shortfall in the required BREEAM rating.

6.61 Core Strategy PMD13 is also applicable to this application and requires that 15% of the energy demand of the building is met from decentralised, renewable or low-carbon sources. The application is accompanied by an 'Energy Statement' which assesses the potential for renewable technologies on-site and concludes that a gas absorption heat pump is the most suitable method for providing heating and hot water in compliance with PMD13.

6.62 OTHER MATTERS:

No part of the site is within any area designated for ecological importance. Although SSSI impact zones apply, a consultation response from Natural England confirms no objections to the proposals. The applicant has submitted an Ecological Impact Assessment which confirms that there are no habitats or species of importance present on-site. A number of trees would be lost as a result of the proposals. However, no objections are raised subject to new landscaping and habitat creation.

6.63 Although the site is within the low risk flood zone, due to the size of the site a Flood Risk Assessment considers the issue of surface water drainage. Subject to a planning condition requiring submission of a surface water drainage scheme, no flood risk objections are raised.

7.0 CONCLUSIONS AND REASONS FOR RECOMMENDATION

7.1 This application proposes a new school providing facilities for pupils with special educational needs located adjacent to existing similar schools. The site is located within the Green Belt and proposals comprise inappropriate development. Consequently, there would be definitional harm to the Green belt, as well as harm by way of loss of openness and harm to a number of purposes which the Green Belt serves. Substantial weight should be attached to this harm. The applicant has set out a number of factors which they consider to constitute the very special circumstances needs to clearly outweigh the identified harm and justify the inappropriate development. Consideration of these factors is set out above and it is concluded that a case for very special circumstances exists.

7.2 The design and appearance of the new school would be, to a degree, standardised and perhaps short of the very high standard sought by national and local planning policies. However, as local planning authorities are advised to take a positive and proactive response to new schools development, it would be difficult to substantiate an objection especially in light of the time and budget constraints. Similarly, although the scheme falls well short of the BREEAM standard required by Development Plan policy, it would be difficult to refuse permission on this basis. Although these shortfalls of the scheme are disappointing, in light of national policies they would not outweigh the benefits of delivering new school places.

8.0 RECOMMENDATION

8.1 Approve the application for the reasons given in this report and delegate authority to the Assistant Director – Planning, Transport and Public Protection to grant planning permission subject to all of the following:

a. Referral to the Secretary of State (Planning Casework Unit) under the Town and Country Planning (Consultation) (England) Direction 2009 in particular:

i. under paragraph 4 (a)

and the application not being ‘called-in’ for determination.

b. the following planning conditions:

Time Limit:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of The Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Accordance with plans:

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Ref.	Name	Received
FS0720-BBA-ZZ-ZZ-DR-L-1001 Rev. P02	Location Plan	27.09.19
FS0720-BBA-00-XX-DR-L-1.1 Rev. P03	Site Master Plan	02.10.19
FS0720-BBA-00-XX-DR-L-1.2 Rev. P01	Site Sections	10.05.19
FS0720-BBA-00-GF-DR-A-2.1-1 Rev. P02	Ground Floor GA Plan	10.05.19
FS0720-BBA-00-RF-DR-A-2.1-2 Rev. P02	Roof GA Plan	10.05.19
FS0720-BBA-00-ZZ-DR-A-2.2-1 Rev. P02	Building Sections	10.05.19

FS0720-BBA-00-ZZ-DR-A-2.3 Rev. P02	Elevations	10.05.19
FS0720-BBA-ZZ-ZZ-DR-L-2.5-1 Rev. P02	Existing Site Plan	02.10.19
FS0720-BBA-ZZ-ZZ-DR-L-2.5-2 Rev. P02	External Works	02.10.19
FS0720-BBA-ZZ-ZZ-DR-L-2.5-3 Rev. P01	External Works	02.10.19

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the details as approved with regard to policies PMD1 and PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015).

Details of materials:

- Notwithstanding the information on the approved plans, no development shall commence above ground levels until written details or samples of all materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The written details or samples shall include specifications for bricks, render, cladding and window / door frames. The development shall be carried out using the materials and details as approved.

Reason: In the interests of visual amenity and to ensure that the proposed development is integrated with its surroundings in accordance with policy PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015).

Boundary treatments:

- Prior to the first use or operation of the development, details of the design, materials and colour of the fences and other boundary treatments shown on drawing nos. FS0720-BBA-ZZ-ZZ-DR-L-2.5-2 Rev. P02 and FS0720-BBA-ZZ-ZZ-DR-L-2.5-3 Rev. P01 shall be submitted to and approved in writing by the local planning authority. The fences and other boundary treatments as approved shall be completed prior to the first use or operation of the development and shall be retained and maintained as such thereafter.

Reason: In order to safeguard the amenities of neighbouring occupiers and in the interests of the visual amenity of the area in accordance with policies PMD1 and PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015).

External lighting:

5. Prior to the first use or operation of the development, details of the means of any external lighting on the site, including any illumination of the outdoor play facilities, shall be submitted to and agreed in writing with the local planning authority. The details shall include the siting and design of lighting together with details of the spread and intensity of the light sources and the level of luminance. The lighting shall be installed in accordance with the agreed details prior to first use or operation of the development and retained and maintained thereafter in the agreed form, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of highway safety and residential amenity and to ensure that the development can be integrated within its immediate surroundings in accordance with Policies PMD1 and PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015).

Soft landscaping:

6. Within the first available planting season (October to March inclusive) following the commencement of the development the soft landscaping works as shown on drawing nos. FS0720-BBA-ZZ-ZZ-DR-L-2.5-2 Rev. P02 and FS0720-BBA-ZZ-ZZ-DR-L-2.5-3 Rev. P01 shall be implemented. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

Reason: To secure appropriate landscaping of the site in the interests of ecology, visual amenity and the character of the area in accordance with policies CSTP18, PMD2 and PMD7 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015).

Ecological management:

7. Prior to the first use or operation of the development an Ecological Management Plan (EMP) detailing arrangements for the long-term management and maintenance of areas of retained and newly created habitats on-site shall be submitted to and agreed in writing with the local planning authority. The habitats shall thereafter be managed and maintained in accordance with the agreed EMP unless otherwise agreed in writing by the local planning authority.

Reason: In order to retain and enhance the on-site ecological interests in accordance

with policy PMD7 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015) and in accordance with the recommendations of the submitted Ecological Impact Assessment.

Car parking provision:

8. The development hereby permitted shall not be used or operated until such time as the vehicle parking, turning and drop-off areas shown on drawing number FS0720-BBA-00-XX-DR-L-1.1 Rev. P03 including any parking spaces for the mobility impaired, have been hard surfaced, sealed and marked out as shown on this drawing. The vehicle parking area, turning and drop-off areas shall be retained in this form at all times thereafter and shall not be used for any purpose other than the parking and manoeuvring of vehicles that are related to the use of the approved development.

Reason: In the interests of highway safety and to ensure that adequate car parking provision is available in accordance with policies PMD8 and PMD9 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015).

Cycle parking:

9. Prior to the first use or operation of the development hereby approved details of the number, size, design and materials of secure and weather protected cycle parking facilities to serve the school shall be submitted to and agreed in writing with the local planning authority. The agreed facilities shall be installed on-site prior to the first use or operation of the secondary school and shall thereafter be permanently retained for sole use as cycle parking for the pupils, students and staff of the secondary school.

Reason: To reduce reliance on the use of private cars, in the interests of sustainability, highway safety and amenity in accordance with Policies PMD2 and PMD8 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015).

Surface water drainage:

10. No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
 - verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been

undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753. This testing should be undertaken in all locations where infiltration is proposed and should as much as possible mimic the way the development intends to infiltrate.

- provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- final modelling and calculations for all areas of the drainage system.
- the appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. If the subbase is to be replaced with a Geocellular crate system then further appropriate treatment should be provided as without the subbase the permeable paving does not provide much treatment at all.
- detailed engineering drawings of each component of the drainage scheme.
- a final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- a written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

Reason: To ensure that adequate flood protection measures are installed for the safety of the building and for the safety of all users of the development in accordance with policy PMD15 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015).

Maintenance Plan (Drainage)

11. Prior to occupation of the development a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the local planning authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

Yearly Log (Relating to Maintenance Plan)

- 12. The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the local planning authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

Construction methodology:

- 13. The construction phase of the development shall proceed in accordance with the measures within the submitted Construction Environmental Management Plan (CEMP) (dated May 2019) accompanying the planning application, unless otherwise agreed in writing by the local planning authority. In particular, all vehicular traffic associated with the construction of the development shall access and egress the site via Stanford Road, as detailed at part 3 of the CEMP. No demolition or construction works in connection with the development shall take place on the site at any time on any Sunday or Bank / Public Holiday, nor on any other day except between the following times:

Monday to Friday	0800 – 1800 hours
Saturdays	0800 – 1300 hours

unless in association with an emergency or the prior written approval of the local planning authority has been obtained.

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).

BREEAM:

- 14. Unless otherwise agreed in writing by the local planning authority, the development hereby permitted shall be built as a minimum to the “Good” Building Research Establishment Environmental Assessment Method (BREEAM) rating. Within three months of the first use or operation of the development a copy of the Post Construction Completion Certificate for the building verifying that the “Good” BREEAM rating has been achieved shall be submitted to the local planning authority.

Reason: In order to reduce carbon dioxide emissions in the interests of sustainable

development, as required by policy PMD12 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015).

Renewable energy:

15. Unless otherwise agreed in writing by the local planning authority, prior to the construction above ground level of any of the buildings, details of measures to demonstrate that the development will achieve the generation of at least 15% of its energy needs through the use of decentralised, renewable or low carbon technologies shall be submitted to and approved in writing by the local planning authority. The approved measures shall be implemented and operational upon the first use or operation of the development and shall thereafter be retained in the agreed form.

Reason: To ensure that development takes place in an environmentally sensitive way in accordance with policy PMD13 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015).

Travel Plan:

16. Prior to the first operation or occupation of the office building hereby permitted, a Travel Plan shall be submitted to and agreed in writing with the local planning authority. The Travel Plan shall follow the 'Modeshift STARS' Travel Plan system (or similar approved local authority system) and shall include detailed and specific measures to reduce the number of journeys made by car to the building hereby permitted and shall include specific details of the operation and management of the proposed measures. The approved measures shall be implemented upon the first operational use or occupation of the building hereby permitted and shall be permanently kept in place unless otherwise agreed in writing with the local planning authority. Upon written request, the operator of the school / academy shall provide the local planning authority with written details of how the agreed measures contained in the Travel Plan are being undertaken at any given time.

Reason: To reduce reliance on the use of private cars, in the interests of sustainability, highway safety and amenity in accordance with Policy PMD10 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015].

Pedestrian routes / crossing points:

17. Notwithstanding the details shown on the approved plans, prior to the first operation or occupation of the development a drawing showing routes and crossing points for pedestrians within the car parking areas on-site shall be submitted to and agreed in

writing by the local planning authority. The approved details shall be implemented prior to the first operation or occupation of the development and retained thereafter unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of pedestrian safety and in accordance with policies PMD2, PMD8 and PMD9 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015).

INFORMATIVES:

Nesting birds

- 1 The applicant is reminded that under the Wildlife and Countryside Act 1981 (section 1) it is an offence to take, damage or destroy the nest of any wild bird while the nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1 March and 31 July. Any trees and scrub present on the application site should be assumed to contain nesting birds between the above dates unless survey has shown it is absolutely certain that nesting birds are not present. Both the RSPB booklet "Wild Birds and the Law" and the Guidance Notes relating to Local Planning and Wildlife Law produced by Natural England are useful.

Anglian Water

- 2 Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team on 0345 606 6087.

Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for

developers, as supplemented by Anglian Water's requirements.

Cadent Gas

- 3 Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

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

- 4 The local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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



thurrock.gov.uk

Application No: 19/00725/FUL

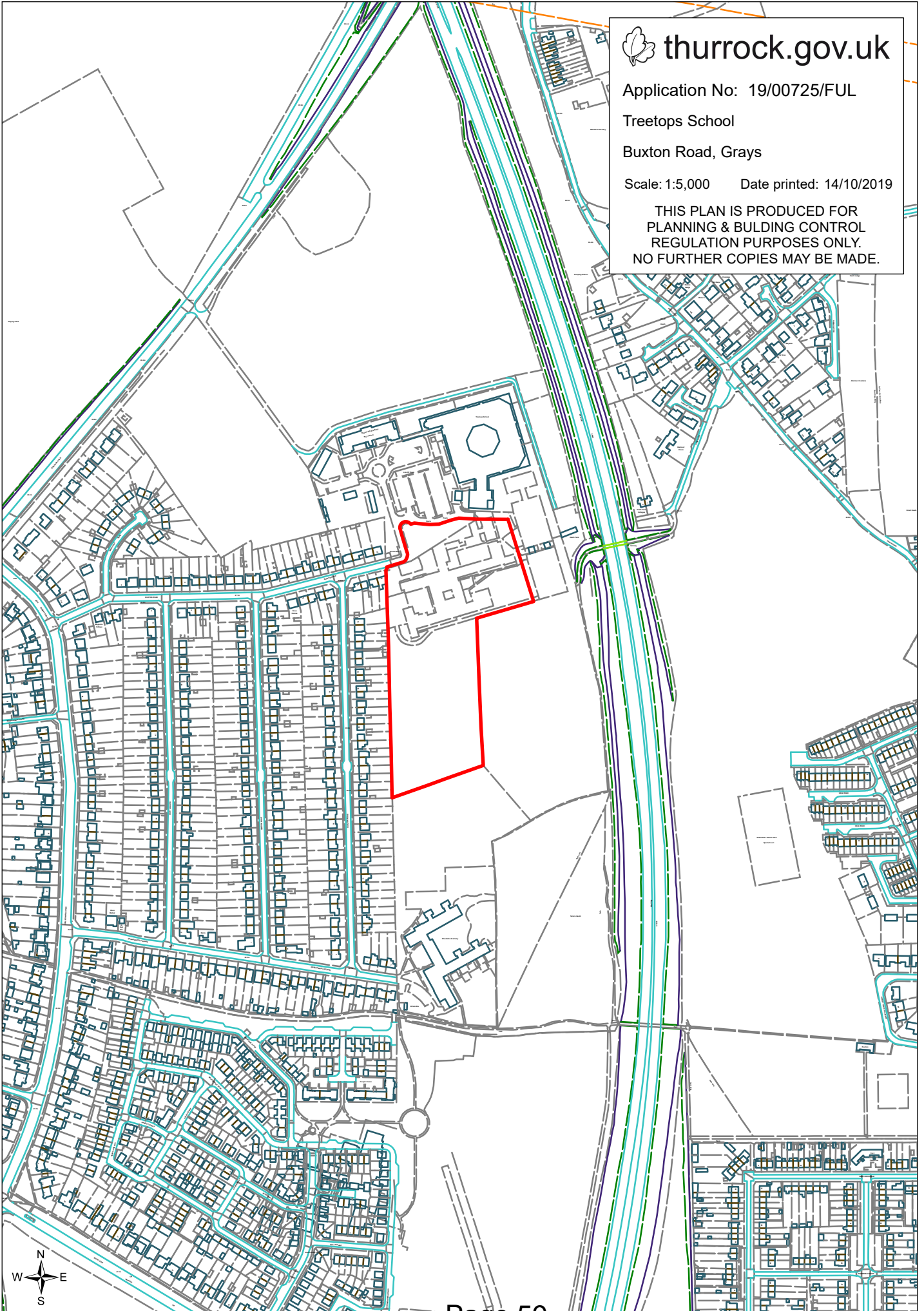
Treetops School

Buxton Road, Grays

Scale: 1:5,000

Date printed: 14/10/2019

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Reference: 19/01206/FUL	Site: Green House Robinson Road Horndon On The Hill Essex SS17 8PU
Ward: Orsett	Proposal: Construction of two detached 3 bedroom bungalows

Plan Number(s):		
Reference	Name	Received
Un-numbered Plan	Proposed Plans	6th August 2019
Un-numbered Plan	Proposed Plans	6th August 2019
Un-numbered Plan	Location Plan	6th August 2019
Un-numbered Plan	Site Layout	6th August 2019

The application is also accompanied by: <ul style="list-style-type: none"> - Supporting Planning Information (Aug 2019) - Village Survey 	
Applicant: Mr Martin Leyland	Validated: 6 August 2019 Date of expiry: 6 November 2019 (Extension of Time as Agreed with Applicant)
Recommendation: To Refuse	

This application is scheduled for determination by the Council’s Planning Committee because the application was called in by Cllrs Van Day, Halden, Hebb, Jefferies and Johnson to consider issues relating to the current use of Green Belt planning policy relating to “Village Infill” in accordance with Part 3 (b) 2.1 (c) of the Council’s consultation.

1.0 DESCRIPTION OF PROPOSAL

1.1 Planning permission is sought for the construction of two detached 3-bedroom bungalows; each would measure approximately 230 sq.m. The proposal includes separate vehicular access and both dwellings would be well set back from the street frontage.

2.0 SITE DESCRIPTION

2.1 The application site is approximately 30m wide and fronts onto Robinson Road. The site is generally flat and is within an area that includes buildings of sporadic spacing with varied design, scale and appearance. The site is located in the Green Belt.

3.0 RELEVANT HISTORY

Application Reference	Description of Proposal	Decision
18/01131/PIP	Two Detached Bungalow	Refused: Appeal Dismissed
90/00872/OUT	Detached Bungalow	Refused

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, press advert and public site notice which has been displayed nearby. The period for consultation in relation to the site notice advertising the application as a Departure from the Development Plan expires on 12th November 2019. A verbal update will be given to Members should any further comments be received.

Two letters have been received, one letter objecting to the proposal and one letter in support.

The reasons for objection are as follows:

- Planning permission should not be considered again following refusal and dismissal at appeal;
- Additional traffic;
- There are no kerbs as the lanes are un-adopted;
- Environmental pollution;
- Out of character;
- Harmful to the Green Belt;
- There are no Very Special Circumstances;
- Conflict with policies CSSP4 and PMD6
- There should be written assurance that future occupiers will not have the right to complain about the stables or any water drainage matters from the neighbouring property “The Meadows”
- The existing residents must be allowed to continue their existing lifestyles
- Planning permission was refused for two detached dwellings at 8 Robinson Road reference 16/00382/FUL a similar infill situation

Reasons for supporting the application:

- Tidying up the site

- More single storey dwellings are required for the increasing numbers retiring
- Other developments in Oxford and Robinson Road have made no difference in the amount of traffic using the road.

The following consultation responses have been received:

4.3 HIGHWAYS:

No objections subject to conditions.

4.4 LANDSCAPE AND ECOLOGY ADVISOR:

No objections subject to conditions.

5.0 POLICY CONTEXT

National Planning Guidance

National Planning Policy Framework (NPPF)

5.1 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.*

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

4. Decision-making
5. Delivering a sufficient supply of homes
12. Achieving well-designed places
13. Protecting Green Belt land

5.2 Planning Policy Guidance

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 a range of subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:

- Design
- Determining a planning application
- Green Belt;

Local Planning Policy

5.3 Thurrock Local Development Framework

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

Spatial Policies:

- CSSP4: (Sustainable Green Belt)

Thematic Policies

- CSTP19: (Biodiversity)
- CSTP22: (Thurrock Design)

Policies for the Management of Development:

- PMD1: (Minimising Pollution and Impacts on Amenity)
- PMD2: (Design and Layout)²
- PMD6: (Development in the Green Belt)
- PMD8: (Parking Standards)
- PMD9: (Road Network Hierarchy)

5.4 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 consulted on an 'Issues and Options (Stage 2 Spatial Options and Sites)' document

5.5 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.

6.0 ASSESSMENT

6.1 The assessment below covers the following areas:

- I. Development Plan designation & principle of development
- II. Design and Appearance
- III. Impact on Amenity
- IV. Traffic Impact, Access and Car Parking
- V. Impact Upon Ecology and Biodiversity

Background

6.2 In 2018 a Permission in Principle application (ref. 18/01131/PIP) was submitted for the construction of two detached 3 to 4-bedroom bungalows on the front part of the site, located on the south side of Robinson Road. This application was refused for the following reason:

"The proposed development constitutes inappropriate development with reference to paragraph 143 of the NPPF and would therefore be by definition harmful to the Green Belt. It is also considered that the proposed development would harm the openness of the Green Belt. The identified harm to the Green Belt is not clearly outweighed by other considerations or any Very Special Circumstances. The proposals are therefore contrary to Chapter 13 of the NPPF and Policies CSSP4 and PMD6 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development DPD (as amended) 2015."

6.3 The subsequent appeal was dismissed, with the Inspector concluding that:

"The proposed development would, by definition, be harmful to the Green Belt, harm which the Framework indicates should be given substantial weight."

6.4 The Inspector in considering the appeal stated that:

"there are not the very special circumstances necessary to justify inappropriate development in the Green Belt and the proposed development would conflict with Policies CSSP4 and PMD5 of the LDF and the advice in the Framework as the proposal would not maintain and/or protect the Green Belt. Therefore, for the reasons given I conclude that the appeal should fail."

6.5 I. DEVELOPMENT PLAN DESIGNATION AND PRINCIPLE OF DEVELOPMENT

The site is identified on the Core Strategy Proposals Map as being within the Green Belt where policies CSSP4 and PMD6 apply. Policy CSSP4 identifies that the Council will 'maintain the purpose function and open character of the Green Belt in Thurrock', and Policy PMD6 states that the Council will 'maintain, protect and enhance the open character of the Green Belt in Thurrock'. These policies aim to prevent urban sprawl and maintain the essential characteristics of the openness and permanence of the Green Belt.

6.6 In considering the principle of the development within the Green Belt the following assessment needs to be made.

- i. Whether the proposals constitute inappropriate development in the Green Belt;
- ii. The effect of the proposals on the open nature of the Green Belt
- iii. 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.

i. Whether the proposals constitute inappropriate development in the Green Belt

6.7 Chapter 13 (Protecting Green Belt land) of the NPPF sets out national planning policies for the Green Belt. Paragraph 133 within Chapter 13 states that the "Government attaches great importance to Green Belts" and that the "fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence." Paragraph 145 states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Paragraph 145 sets out a limited number of exceptions to this.

6.8 The proposals do not meet any of the exceptions set out in the NPPF.

6.9 The applicant considers the proposal represents limited infilling in a village and as such it represents an exception to Green Belt policy.

6.10 However, in the recent appeal decision the Inspector stated that:

*"Whilst there is existing residential development along Robinson Road, I do not consider this location to have the characteristics of a village, therefore **I do not consider the site would constitute infilling within a village.** As such the proposal would not fall within the exception criteria and therefore the proposal, by definition, would be inappropriate development." (para 8)*

6.11 Paragraph 143 of the NPPF makes it clear 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, when considering any planning application, local planning authorities "should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist

unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.

6.12 Development plan policy, as expressed in the adopted Thurrock Core Strategy and Policies for the Management of Development (2015) is consistent with national policy on Green Belt matters. Core Strategy policy CSSP4 sets out the objective of maintaining the purpose, function and open character of the Green Belt. In order to implement this policy, the Council will:

- maintain the permanence of the boundaries of the Green Belt;
- resist development where there would be any danger of coalescence; and
- maximise opportunities for increased public access, leisure and biodiversity.

6.13 In addition, Core Strategy policy PMD6 states that, inter-alia, planning permission will only be granted for new development in the Green Belt provided it meets as appropriate the requirements of the NPPF.

6.14 In light of the above it is not considered that the proposal represents a “village infill” as set out in the NPPF and the proposal is required to comply with the relevant policies relating to the Green Belt and other policies of the Core Strategy. In this respect the proposal is considered to be inappropriate development in the Green Belt, which would adversely affect the openness of the Green Belt. Consequently, it can be concluded that the proposals constitute inappropriate development in the Green Belt.

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

6.15 Having established that the proposals are inappropriate development, it is necessary to consider the matter of harm. Inappropriate development is, by definition, harmful to the Green Belt, but it is also necessary to consider whether there is any other harm to the Green Belt and the purposes of including land therein.

6.16 As noted above paragraph 133 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being described as their openness and their permanence. Although there are some buildings on the site these are stables and buildings that would be expected to be found in the countryside. The proposals would comprise a substantial amount of new built development closer to the road area which is open. Therefore, it is considered that 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.

6.17 Paragraph 133 of the NPPF sets out the five purposes which the Green Belt 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.

6.18 In response to each of these five Green Belt purposes:

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

The NPPF does not provide a definition of the term “*large built-up areas*”. However, at a wide geographical scale, the site is located outside of any of the major settlements in the Borough and in these circumstances the proposals would arguably have no impact upon the purpose of the Green Belt in checking the unrestricted sprawl of large built-up areas.

6.19 *(b) to prevent neighbouring towns from merging into one another*

The NPPF does not provide a definition of the term “*towns*”. Horndon on the Hill could not be considered to be a town due to its size and the settlement is distant from any other. Therefore, the proposals would impact on this purpose of the Green Belt in preventing neighbouring towns from merging into one another.

6.20 *(c) to assist in safeguarding the countryside from encroachment*

With regard to the third Green Belt purpose, the proposal would involve built development on what is currently open land. The term “*countryside*” can conceivably include different landscape characteristics (e.g. farmland, woodland, marshland etc.) and the site clearly comprises “*countryside*” for the purposes of applying the NPPF policy test. It is considered that the proposals would constitute an encroachment of built development into the countryside at this location, causing harm to the third purpose for including land in the Green Belt.

6.21 *(d) to preserve the setting and special character of historic towns*

The proposal is of limited enough scale such that the proposals do not conflict with this defined purpose of the Green Belt.

6.22 *(e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land*

In general terms, the development of two new dwellings could occur in the urban area and in principle, there is no spatial imperative why Green Belt land is required to accommodate the proposals. With no detailed case put forward it is considered that the harm to this purpose of the Green Belt is significant.

6.23 In light of the above analysis, it is considered that the proposals would, be contrary to some of the purposes of including land in the Green Belt. As noted above, there would be in-principle harm by reason of inappropriate development and harm by reason of loss of openness. Substantial weight should be afforded to these factors.

iii. 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

- 6.24 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').
- 6.25 However, the demonstration of very special circumstances is a 'high' test and the circumstances which are relied upon must be genuinely 'very special'. In considering whether 'very special circumstances' exist, factors put forward by an applicant which are generic or capable of being easily replicated on other sites, could be used on different sites leading to a decrease in the openness of the Green Belt. 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.
- 6.26 The details submitted by the applicant to accompany the application sets out the applicant's case for the proposals on the following basis:
1. The proposal represents limited infilling in a village; and
 2. Self-build and Custom Housebuilding Act, 2015

The applicant's case:

1. *The proposal represents limited infilling in a village.*

6.27 Consideration

The applicant states the development represents limited infilling in a village and as such the proposal qualifies for an exemption to Green Belt policy. In support of this assertion the applicant undertook a survey of homes in Oxford and Robinson Road which was signed by 9 people stating that they feel that where they live is part of Horndon on the Hill.

- 6.28 It is not considered that a village is defined by whether or not people feel part of a settlement. There must be actual physical characteristics to a location which define it as such. In this case it is clear that this site is not located within a village. In addition, the site is not part of an Established Residential Frontage as defined in the Core Strategy. Indeed, in the Inspector's recent decision letter he clearly states at paragraph 8 that:

"Oxford Road that then becomes Robinson Road leads from the settlement of

*Horndon on the Hill. The appeal site relates to a parcel of land at the south of Robinson Road. Unlike the compact development at Horndon on the Hill that is set around a formalised street pattern, the development along Robinson Road is relatively sporadic and Robinson Road itself is narrowed and hosts attributes of a country lane. Whilst there is existing residential development along Robinson Road, I do not consider this location to have the characteristics of a village, **therefore I do not consider the site would constitute infilling within a village.** As such the proposal would not fall within the exception criteria and therefore the proposal, by definition, would be inappropriate development.”*

6.29 Accordingly, on this basis of the Inspector’s clearly drawn position this matter is afforded no weight in the consideration of the application.

2. Self-build and Custom Housebuilding Act, 2015

6.30 Consideration

The applicant has also referred to the Self-build and Custom Housebuilding Act, 2015 in support of the proposals which expresses the government’s desire to encourage self-builders and the aim to free up small parcels of land.

6.31 This act does not provide an exemption from Green Belt Policy. The provision of custom-build homes is a specific market area which government guidance seeks to develop and it is acknowledged that the Core Strategy does not presently provide any sites specifically for this purpose.

6.32 The Council is currently preparing a new Local Plan which will take into account this type of housing as part of the allocations. It is not clear whether the developer has considered any other sites prior to putting this one forward and it appears the proposal is purely an opportune case, being within his ownership.

6.33 Despite the government drive to encourage varied forms of housing it is considered that this matter can be attributed little weight in the determination of the application given the apparent lack of detailed consideration by the applicant and the limited contribution it would make towards housing supply.

6.34 **Green Belt conclusions**

Under the heading of Green Belt considerations, it is concluded that the proposals comprise inappropriate development. Consequently, the development would be harmful in principle and would reduce the openness of the Green Belt. Furthermore, it is considered that the proposals would cause some harm to the role which the site plays in fulfilling the purposes for including land in the Green Belt. In accordance with policy, substantial weight should be attached to this harm. With reference to the applicant’s case for very special circumstances, an assessment of the factors promoted is provided in the analysis above. However, for convenience, a summary of the weight which should be placed on the various Green Belt considerations is provided in the table below:

Simplified Summary of Green Harm and applicant’s case for Very Special Circumstances			
<u>Harm</u>	<u>Weight</u>	<u>Factors Promoted as Very Special Circumstances</u>	<u>Weight</u>
Inappropriate development	Substantial	The site represents an In-fill in a Village	No weight
Reduction in the openness of the Green Belt		Provision of custom-building housing	Little weight
Conflict (to varying degrees) with a number of the purposes of including land in the Green Belt			

6.35 Within the table above, neither of the 2 factors promoted by the applicant can be assessed as attracting any degree of ‘positive’ weight in the balance of considerations. As ever, in reaching a conclusion on Green Belt issues, a judgement as to the balance between harm and whether the harm is clearly outweighed must be reached. In this case there is harm to the Green Belt with reference to inappropriate development, loss of openness and conflict with a number of Green Belt purposes. A number of factors have been promoted by the applicant as comprising the ‘very special circumstances’ required to justify inappropriate development 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 combine at this location to comprise ‘very special circumstances’.

6.36 Taking into account all Green Belt considerations, Officers are of the opinion that in this case the identified harm to the Green Belt is not clearly outweighed by the accumulation of factors described above, so as to amount to the very special circumstances justifying inappropriate development.

II. DESIGN AND APPEARANCE

6.37 Section 12 of the NPPF “achieving well designed places” states that good design is a key aspect of sustainable development; creating better places in which to live and work and helping make development acceptable to communities. Policies CSTP22 and CSTP23 respectively state that development proposals must demonstrate high quality design founded on a thorough understanding of, and positive response, to the local context and that the Council will protect, manage and enhance the character of Thurrock to ensure quality and sense of place. This emphasis on character is echoed in policy PMD2 which requires that proposals respond to the sensitivity of the site and its surroundings.

6.38 The proposed bungalows would be detached with a staggered frontage and would be set well back from the front edge of the site. The buildings would be rectangular in shape with a double gable style roofing to the front section with a rectangular box

shaped roofing section immediately behind the front gabled section.

- 6.39 The design and appearance of the proposed bungalows would appear unduly bulky with a roof design which is poorly articulated.
- 6.40 It is considered that the design and appearance of the proposed bungalows would be out of keeping with the character of the area which is made up of detached buildings of varied design. Notwithstanding the varied nature of buildings along Robinson Road and its surroundings, the proposed design of the two bungalows with their rectangular and bulky roofing are not considered to be of good design and would not contribute to local distinctiveness or respond satisfactorily to the sensitivity of the site and its surroundings. Thus, the proposal would fail to comply with the requirements of Policies CSTP22, CSTP23 and PMD2.

III. IMPACT ON AMENITY

- 6.41 Policy PMD1 states that development will not be permitted where it would cause or is likely to cause unacceptable effects on considerations that include requires that include an invasion of privacy, visual intrusion or a loss of light.
- 6.42 The proposed dwellings would be well separated from the nearest residential dwelling to the west of the site by some 30m. It is not considered that the proposed development would have any significant impact on the amenities of neighbouring occupiers. The proposal would not result in any loss of privacy, visual intrusion or loss of privacy. Thus, in this respect the proposal would comply with the requirements of policy PMD1 of the Core Strategy.

IV. TRAFFIC IMPACT, ACCESS AND CAR PARKING

- 6.43 Policy PMD8 and PMD9 require that all development complies with the Council's car parking standards which require 2 parking spaces per dwelling that include up to 3 bedrooms.
- 6.44 A car parking layout has not been provided as part of this proposal, however, the site has the capacity to accommodate the required car parking provision. On the basis of this the Highway Officer has raised no objections subject to relevant conditions.
- 6.45 Concerns raised about additional traffic generation are not considered to be of sufficient weight on which to oppose the application on traffic grounds as the proposals would not give rise to significant traffic movements from to and from the two new dwellings.

V. IMPACT ON ECOLOGY AND BIODIVERSITY

- 6.46 Policies CSTP19 and PMD7 encourages development proposals to include measures to contribute positively to the overall biodiversity in the Borough and to retain any biodiversity habitat or geological interests.
- 6.47 No proposals have been presented that would contribute to the achievement of biodiversity at the site, or indicating which trees are proposed for retention or

removal. However, if the proposal were acceptable appropriate details and measures could be secured by condition requiring details of retained trees and hard and soft landscaping which would assist in addressing the issues raised by the by the landscape and ecology advisor.

- 6.48 The Landscape and Ecology advisor has commented on the ecological impacts of the proposed development. The application site falls within the Zone of Influence (Zoi) of the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), as relevant development. Without mitigation the proposed development is likely to have a significant effect on the Thames Estuary and Marshes Special Protection Area. It is therefore considered that a proportionate financial contribution in line with Essex Coast RAMS should be made to contribute towards the funding of mitigation measures detailed in the Essex Coast RAMS Strategy if permission were to be granted.
- 6.49 The mitigation strategy involves a tariff for each residential unit which is approximately £122.30 per unit to mitigate the in-combination effects of recreational disturbance on the Special Protection Area. As the application is being recommended for refusal, in principle and for matters of detail, is it not considered to be appropriate to require the applicant to go to the expense of completing a legal agreement to secure the contributions at this time.

7.0 CONCLUSIONS AND REASON FOR REFUSAL

- 7.1 The proposed development represents an inappropriate form of development within the Green Belt which would be harmful by definition. The development would have an urbanising effect on this rural location resulting in harm from the proposed buildings and associated hard surfacing which would add to the inappropriate nature of the proposal. The principle of the development has been considered previously by the Planning Inspectorate at appeal and has been found to be unacceptable. The applicant has not presented any factors that would amount to the very special circumstances required to clearly overcome or outweigh the in principle harm and other harm to the openness that would result from the proposed development as identified in this assessment and as such the development is contrary to section 13 of the NPPF and policies CSS4 and PMD6 of the LDF Core Strategy.

8.0 RECOMMENDATION

- 8.1 Refuse the application for the reasons given in this report and delegate authority to the Assistant Director – Planning, Transport and Public Protection to refuse planning permission subject to the following:

Refusal for the following reasons:

- 1 The proposed development constitutes inappropriate development with reference to paragraph 145 of the NPPF and would therefore be by definition harmful to the Green Belt. It is also considered that the proposed development would harm the openness of the Green Belt. The identified harm to the Green Belt is not clearly outweighed by other considerations or any very special circumstances. The proposals are therefore contrary to Chapter 13 of the NPPF and Policies CSSP4 and PMD6 of the adopted

Thurrock Local Development Framework Core Strategy and Policies for the Management of Development DPD (as amended) 2015.

- 2 The proposed design with its uncharacteristic roofing would appear unduly bulky, and as such the proposal would fail to comply with section 12 of the NPPF “achieving well designed places” and Policies CSTP22, CSTP23 and PMD2 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development DPD (as amended) 2015.

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 supporting documentation relating to this application can be viewed online:

www.thurrock.gov.uk/planning

Application No: 19/01206/FUL

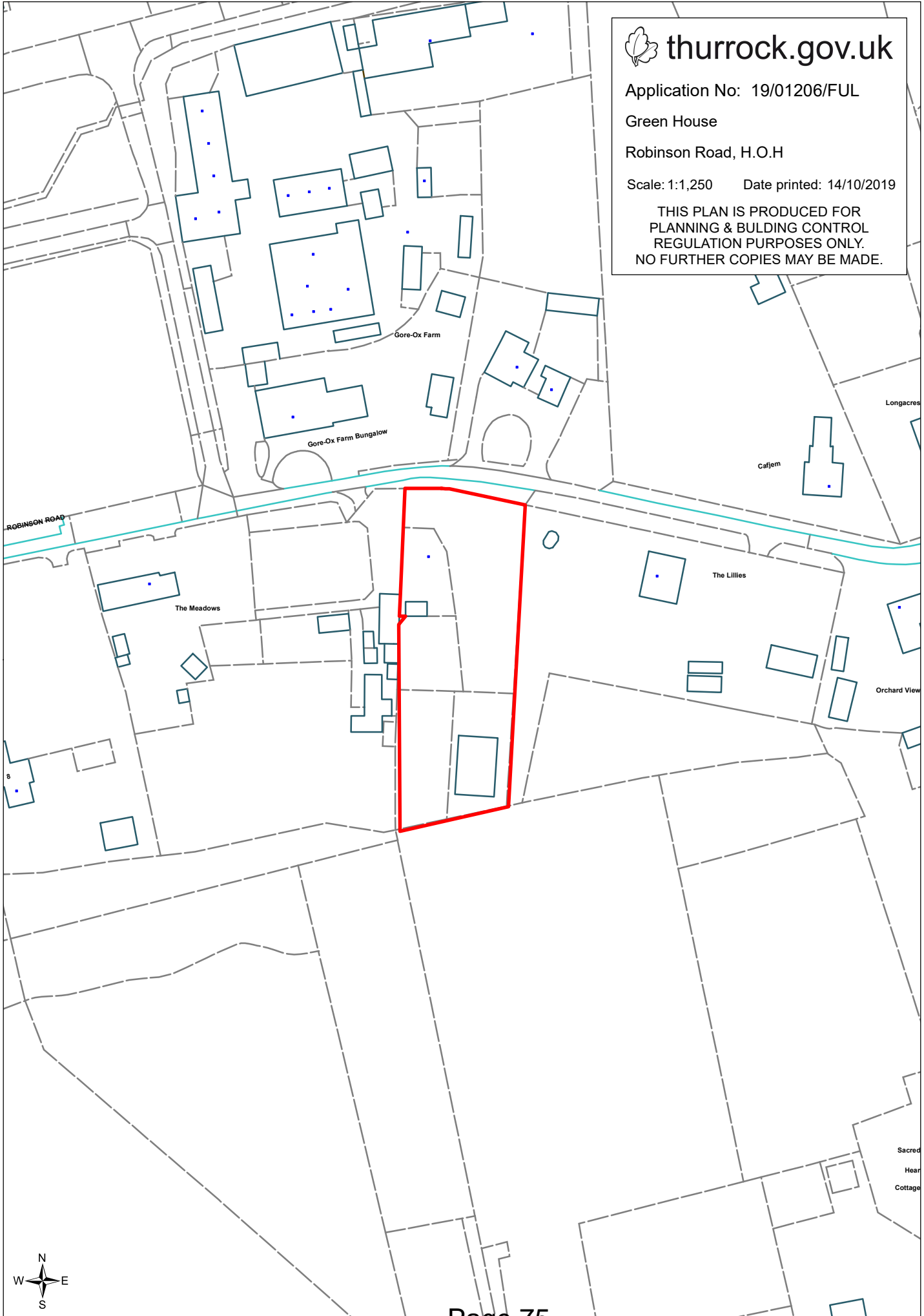
Green House

Robinson Road, H.O.H

Scale: 1:1,250

Date printed: 14/10/2019

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Reference: 19/00563/FUL	Site: 5 King George Vi Avenue East Tilbury Essex RM18 8SL
Ward: East Tilbury	Proposal: Side and rear extension and change of use from C3 Residential to D1 Children's Day Care Nursery

Plan Number(s):		
Reference	Name	Received
001C	Existing Plans	14th June 2019
002C	Proposed Elevations	14th June 2019
003C	Proposed Floor Plans	14th June 2019
004C	Proposed Plans	14th June 2019

The application is also accompanied by: - Planning Statement	
Applicant: Mr & Mrs Faley	Validated: 12 April 2019 Date of expiry: 28 October 2019 (Extension of time agreed with applicant)
Recommendation: Refuse	

This application is scheduled for determination by the Council's Planning Committee because the application was called in by Cllr T Kelly, Cllr F Massey and Cllr S Sammons in accordance with Part 3 (b) 2.1 (d)(i) of the Council's constitution to consider the proposal on the grounds of the impact upon the East Tilbury Conservation Area, parking, noise and suitability within a residential area.

1.0 DESCRIPTION OF PROPOSAL

1.1 The application seeks permission for the erection of a two storey side extension, single storey rear extension and the change of use from a residential property (use class C3) to a children's day-care nursery (use class D1).

2.0 SITE DESCRIPTION

- 2.1 The application site is a semi-detached residence on the western side of King George VI Avenue. The site is located within East Tilbury Conservation Area.

3.0 RELEVANT HISTORY

None.

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, press advert and public site notice which has been displayed nearby. Twenty nine comments have been received, objecting to the proposal on the following grounds:

- Access to site;
- Additional traffic / parking;
- Impact upon Conservation Area;
- Lack of need;
- Litter/smells;
- Loss of amenity;
- Loss of residential unit;
- Out of character;
- Overlooking property;
- Possible excessive noise.

4.3 EDUCATION

No objections.

4.4 ENVIRONMENTAL PROTECTION:

No objections.

4.5 CONSERVATION ADVISOR

The proposed scheme would cause less than substantial harm to the significance of the designated heritage asset.

4.6 HIGHWAYS:

Objection, recommend refusal.

5.0 POLICY CONTEXT

National Planning Guidance

National Planning Policy Framework (NPPF)

5.1 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.*

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

- 4. Decision-making
- 5. Delivering a sufficient supply of homes
- 12. Achieving well-designed places
- 16. Conserving and enhancing the historic environment

5.2 Planning Policy Guidance

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 a range of subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:

- Conserving and enhancing the historic environment
- Design
- Determining a planning application
- Use of Planning Conditions

5.3 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 apply to the proposals:

Thematic Policies:

- CSTP1 (Strategic Housing Provision)
- CSTP10 (Community Facilities)
- CSTP12 (Education and Learning)
- CSTP22 (Thurrock Design)
- CSTP23 (Thurrock Character and Distinctiveness)
- CSTP24 (Heritage Assets and the Historic Environment)

Policies for the Management of Development:

- PMD1 (Minimising Pollution and Impacts on Amenity)
- PMD2 (Design and Layout)²
- PMD4 (Historic Environment)²
- PMD8 (Parking Standards)
- PMD9 (Road Network Hierarchy)

5.4 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 consulted on an ‘Issues and Options (Stage 2 Spatial Options and Sites)’ document

5.5 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.

6.0 ASSESSMENT

6.1 The principal issues to be considered in the determination of this application are:

- I. Principle of the Development
- II. Design and impact on the historic environment
- III. Traffic Impact, Access and Car Parking
- IV. Impact on Neighbouring Amenity
- V. Other Matters

I. PRINCIPLE OF THE DEVELOPMENT

- 6.2 In relation to the proposed change of use element of the proposals, the following section is relevant. The application site is a semi-detached dwellinghouse within a residential area. Policy CSTP1 relates to strategic housing provision and states that *“For the period 1 April 2009 to 31 March 2021, an additional 13,550 dwellings are required to meet this policy aim”*. The proposed change of use would result in the loss of a residential unit. The loss of the residential unit would therefore need to be balanced against any public benefit arising from the proposals.
- 6.3 Policy CSTP12 dictates that the Council will work with relevant partners to ensure “the provision of pre-school, primary school, high school, further education and special education facilities meets current and future needs”.
- 6.4 The Council’s Education department has raised no objection to the scheme. Consultation responses suggest that, due to the existence of only two childminders in East Tilbury, it could be argued that parental choice is limited within the area.
- 6.5 However, no information has been provided demonstrating that there is a specific need for pre-school facilities within the area, to outweigh the loss of a residential unit. Furthermore, even if there were a need for this type of institution, no evidence has been submitted which demonstrates that it could not be provided in another location. The proposed change of use element of the proposals therefore fails to comply with policy CSTP1 of the Core Strategy and is unacceptable in principle.

II. DESIGN AND IMPACT ON THE HISTORIC ENVIRONMENT

- 6.6 The application site lies within the East Tilbury Conservation Area, which has been identified as being in ‘Very Bad’ condition by Historic England and is included in their ‘Heritage at Risk’ register. The extension component of the proposal must therefore be carefully considered.
- 6.7 The Council’s Conservation Advisor has highlighted that the cumulative effect of extensions and alterations within the Conservation Area, as a whole, is having a pronounced negative impact upon the character of the heritage asset. He considers that the proposed scheme would cause ‘less than substantial harm’ to its significance. Paragraph 196 of the National Planning Policy Framework requires that this harm be weighed against the public benefits of the proposal.
- 6.8 A number of other properties along King George VI Avenue have undertaken similar extensions. The impact of these various extensions is such that the character of the Conservation Area has changed over time. The design of the extensions are acceptable in terms of the visual appearance and in relation to the dwelling itself. Appropriate conditions could be applied to ensure materials and details are of the

highest quality. Given that the built development would be acceptable within the streetscene it is not considered the proposal would be objectionable in terms of the overall design of the proposals or the character of the Conservation Area.

III. TRAFFIC IMPACT, ACCESS AND CAR PARKING

- 6.9 Policy PMD2 of the Core Strategy relates to the design and layout of all components of a development and indicates that all development should allow safe and easy access while meeting appropriate standards.

Policy PMD8 of the Core Strategy concerns parking standards for new development proposals. The policy requires all development to provide a sufficient level of parking and to ensure that parking is accessible.

Policy PMD9 of the Core Strategy aims to ensure access to all sites is suitable. In relation to the current proposal the policy requires that development ensures that road safety is not compromised.

- 6.10 The change of use from a residential property to a commercial day nursery would intensify the use of the site and as such an assessment needs to be made in relation to traffic, parking and access.
- 6.11 The proposed parking layout indicates that there would be four spaces located to the front of the site perpendicular to the road. These would be accessed by a centrally located drop kerb. Given the layout of the parking spaces in relation to the access the two outer spaces would be inaccessible which would lead to awkward manoeuvring on the highway, resulting in pedestrian and highway safety concerns. This is further exacerbated by the fact that plans demonstrate a vehicular crossover which is excessively wide with insufficient site splays within the property boundary. Therefore the parking layout is unacceptable and contrary to the requirements of Policy PMD2.
- 6.12 The Council's Draft Parking Standards require that for the proposed D1 use, full time staff should be provided with an off-street parking space. The information provided indicates there will be 3 full time members of staff, however only 2 spaces have been allocated to staff. This would lead to parking migrating to the highway, contrary to policy PMD8.
- 6.13 The standards also require that a day crèche provides at least 1 disabled parking space. This has not been demonstrated on the plans submitted and would require additional space on the frontage, which does not appear to be possible.
- 6.14 In addition to the concerns regarding insufficient staff and disabled parking provision, the proposed change of use would result in increased vehicle movements to the site, as parents drop off and collect their children. The lack of parking provision would result in parking on the highway which is contrary to policy and would result in an adverse impact upon highway and pedestrian safety in the vicinity of the site further suggesting a failure to comply with Policies PMD2 and PMD9 resulting in harm to the wider area.

- 6.15 For the reason above the proposal would result in insufficient parking provision, pedestrian and highway safety concerns and would be contrary to policies PMD2, PMD8 and PMD9 of the Core Strategy.

IV. IMPACT ON NEIGHBOURING AMENITY

- 6.16 Policy PMD1 of the Core Strategy states that development will not be permitted where it would have an unacceptable impact on the amenity of neighbouring occupiers or the amenity, health or safety of future occupiers of the site.
- 6.17 The change of use from residential to a day care nursery for up to 16 children and 5 staff will inherently intensify use of the site. Opening hours have been listed as 7:00am to 6:45pm Monday to Friday throughout the year, with no operation at weekends or bank holidays. Whilst the limit on weekend and bank holiday opening limits the use to a degree, the intensified use of the site for the vast majority of the year would result in disruption and disturbance to neighbours
- 6.18 This intensification has implications in terms of amenity of neighbouring residential properties. Children would be dropped off and picked up in the morning, potentially during the day and in the evening.
- 6.19 The planning statement submitted with the applications indicates that use of the outdoor space will be staggered across the morning and afternoon to minimise the impact of noise upon neighbouring properties. The reality of this is that noise impact will be constant throughout the day and therefore harmful to neighbouring residential properties, particularly in summer months.
- 6.20 It is proposed that internal noise would be mitigated by triple glazed windows; however this has not formed part of the application submission and has been suggested by the applicant as a potential planning condition.
- 6.21 Whilst triple glazed windows would limit disturbance from internal noise this would only be effective during winter months. In warmer weather it is not possible to ensure these windows remain closed and therefore they would not prevent the outbreak of noise which would impact immediate neighbours who would be affected by the increased noise levels in comparison with residential use.
- 6.22 The proposal would therefore result in unacceptable impacts upon neighbouring properties within this residential area due to an intensification of activity during pick off and drop off times, due to the use of the outdoor space and the internal space for a number of children and adults not normally associated with a residential property, contrary to policy PMD1 of the adopted Core Strategy.

V. OTHER MATTERS

- 6.23 The comments from neighbours in relation to potential increased noise and disturbance, intensification of use of the site, associated vehicle movement and parking pressures and uncharacteristic nature of the proposed use, combined with concerns regarding a lack of need are noted. These matters have been considered in the report and it is considered that the proposed change of use would lead to an

unacceptable increase in noise and traffic and loss of amenity for other properties in this area. Furthermore, the proposal would be uncharacteristic within a residential area and therefore the site is unsuitable for the proposed use.

7.0 CONCLUSIONS AND REASON(S) FOR REFUSAL

- 7.1 The proposed development represents the change of use from a residential property to a commercial premises, to be used as a day care nursery. The proposed use would result in a loss of a residential unit contrary to policy CSTP1. Whilst there would be some benefit of childcare provision there is a lack of justification to demonstrate that this benefit would outweigh the loss of the residential unit.
- 7.2 The level of parking and parking layout is unacceptable and creates concerns in terms of pedestrian and highway safety, as well as access and egress from the premises. The proposal is therefore contrary to policies PMD2, PMD8 and PMD9 of the Core Strategy.
- 7.3 The proposed change of use would result in increased noise and disturbance and an unacceptable impact upon amenity of neighbouring properties, contrary to policy PMD1 of the Core Strategy.

8.0 RECOMMENDATION

8.1 Refuse, for the following reasons.

1. The proposed development would, by reason of the loss of a residential unit without justification of a required wider public benefit, fail to adhere to the Council's target in relation to housing provision. The proposal is therefore contrary to Policy CSTP1 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015).
2. The proposed development by reason of vehicle movements at the start, during and at the end of the day; through use of external areas over a prolonged period, particularly in the summer, and general disturbance resulting from an intensified use of the building compared to a residential use would result in an unacceptable impact upon the amenity of the neighbouring properties due to noise and disturbance contrary to policy PMD1 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015).
3. The proposed development would, by reason of its unacceptable level of parking provision and layout, result in migration of parking to the highway and concerns regarding pedestrian and highway safety when spaces are accessed, as well as safety of users and visitors to the premises. The proposal is therefore contrary to Policies PMD2, PMD8 and PMD9 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015).

Informative:

- 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:

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Application No: 19/00563/FUL

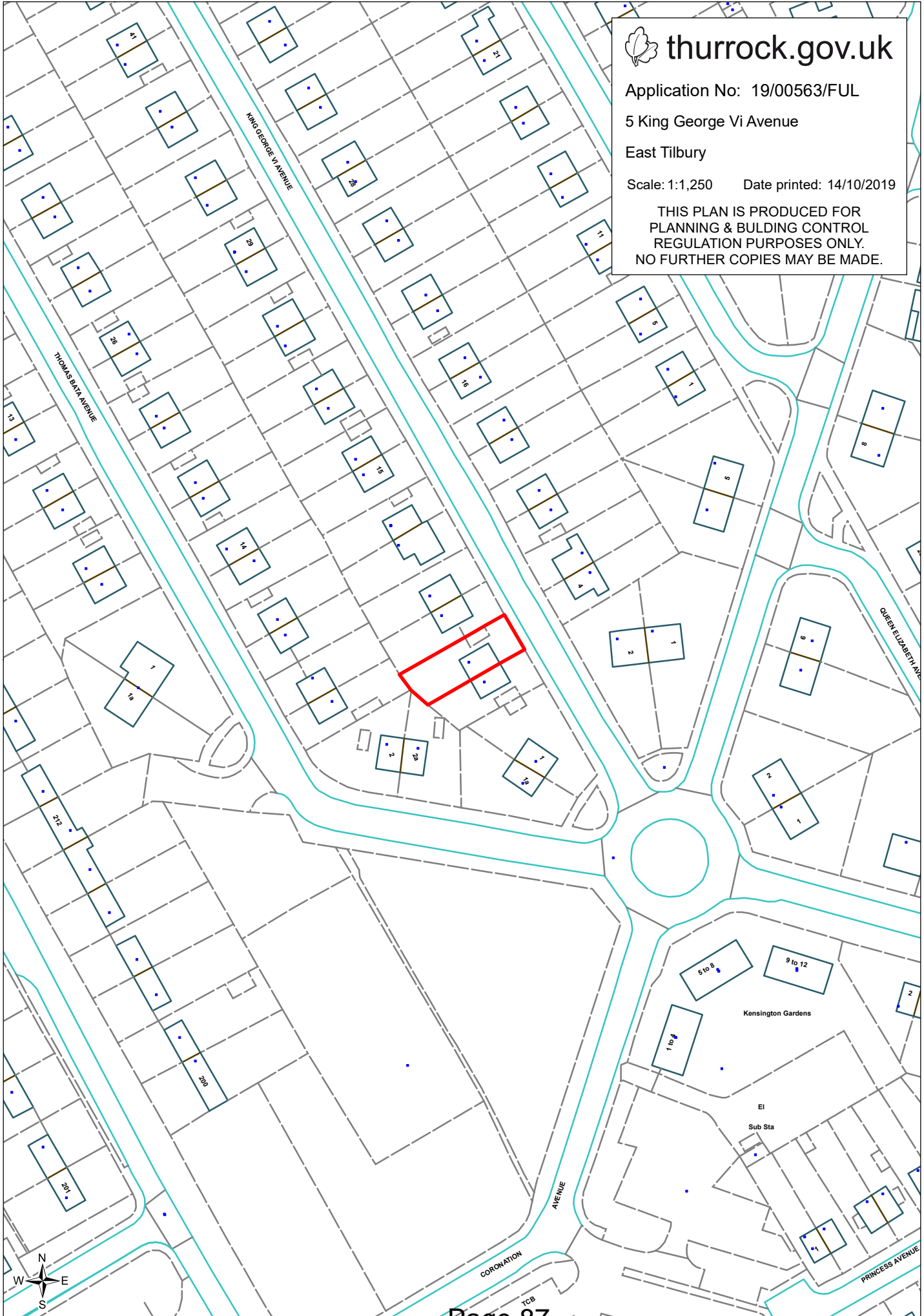
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East Tilbury

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