

Reference: 19/01058/OUT	Site: Land part of Little Thurrock Marshes Thurrock Park Way Tilbury
Ward: Tilbury Riverside and Thurrock Park	Proposal: Application for outline planning permission with some matters reserved (appearance, landscaping, layout and scale): Proposed construction of up to 161 new dwellings (C3) with vehicular access from Churchill Road; construction of 7,650 sq.m (GEA) of flexible employment floorspace (Use Class B1c / B2 / B8) with vehicular access from Thurrock Park Way; provision of open space including landscaping and drainage measures; new pedestrian / cycle links; and associated parking and access.

Plan Number(s):		
Reference	Name	Received
110D	Master Plan / Site Plan	07.11.19
111A	Site Location Plan	10.07.19
112A	Master Plan / Site Plan	07.11.19
113	Master Plan / Site Plan: Building Parameters: Indicative Heights	10.07.19
114E	Master Plan / Site Plan	07.11.19
A232-LA04A	Landscape Strategy Plan	10.07.19
CC1442-CAM-22-00-DR- C-90-1103 Rev. P01	Flood Compensation Storage	17.09.19
CC1442-130 Rev. P3	Access Roads Layout Overall Plan	07.11.19
CC1442-131 Rev. P3	Access Roads Layout Sheet 1 of 6	07.11.19
CC1442-132 Rev. P3	Access Roads Layout Sheet 2 of 6	07.11.19
CC1442-133 Rev. P3	Access Roads Layout Sheet 3 of 6	07.11.19
CC1442-134 Rev. P3	Access Roads Layout Sheet 4 of 6	07.11.19
CC1442-135 Rev. P3	Access Roads Layout Sheet 5 of 6	07.11.19
CC1442-136 Rev .P3	Access Roads Layout Sheet 6 of 6	07.11.19
CC1442-141 Rev. P3	Access Roads Vehicle Tracking Sheet 1 of 6	07.11.19
CC1442-142 Rev. P3	Access Roads Vehicle Tracking Sheet 2 of 6	07.11.19
CC1442-143 Rev. P3	Access Roads Vehicle Tracking Sheet 3 of 6	07.11.19
CC1442-144 Rev. P3	Access Roads Vehicle Tracking Sheet 4 of 6	07.11.19
CC1442-145 Rev. P3	Access Roads Vehicle Tracking Sheet 5 of 6	07.11.19
CC1442-146 Rev. P3	Access Roads Vehicle Tracking Sheet 6 of 6	07.11.19

- Archaeological desk based assessment;
- Breeding bird survey report;
- Commercial market report;
- Design and access statement;
- Energy and sustainability statement;
- Environmental noise assessment;
- Essex recorders datasearch report;
- Flood risk assessment;
- Great Crested Newt surveys;
- Landscape and visual impact appraisal;
- Phase 1 habitat assessment;
- Planning statement;
- Reptile survey report;
- Statement of consultation;
- Travel plan;
- Water Vole survey;
- Botanical survey;
- Ecological mitigation strategy and habitat enhancement plan;
- Invertebrate surveys and assessments;
- Surface and foul drainage strategy; and
- Transport assessment

Applicant: Nordor Holdings Ltd	Validated: 11 July 2019 Date of expiry: 30 November 2020 (Extension of time agreed)
Recommendation: Refuse planning permission	

1.0 BACKGROUND

- 1.1 At the meeting of the Planning Committee held on 19th March 2020 Members considered a report assessing the above proposal. The report recommended that planning permission be refused because:

The site is located in the Metropolitan Green Belt (GB) and the benefits of the scheme do not clearly outweigh the harm to the GB and thus constitute the very special circumstances to justify a departure from local and national planning policies.

- 1.2 A copy of the report presented to the March Committee meeting is attached.
- 1.3 At the March Committee meeting Members were minded to resolve to grant planning permission for the proposed development based upon the following reasons:
1. *the opening of Tilbury 2 port expansion would create new jobs which would attract out of Borough workers that would result in a demand in local housing that the proposal could provide for;*
 2. *there was no flooding issue and that the Environment Agency had funds for flood defence in Tilbury;*
 3. *Thurrock needed social housing;*
 4. *the applicant had worked to address previous objections and the proposals included more open space; and*
 5. *connectivity improvements within the proposals.*
- 1.4 In accordance with Part 3(b) – Planning Committee Procedures and in particular Paragraphs 7.2 and 7.3 of the Constitution, the Committee agreed that the item should be deferred to enable a further report outlining the implications of making a decision contrary to the Planning Officer's recommendation. A further report was presented to the Committee at its meeting on 8th June where consideration was deferred to enable a site visit to take place. Site visits were undertaken on 3rd and 13th July.
- 1.5 The report was then included on the agenda of the Planning Committee meeting of 16th July. However, the item was deferred at the applicant's request before that meeting.
- 1.6 The application remains recommended for refusal for the reason set out in the attached report. A copy of the original report presented at the March meeting, together with the update report presented to the June meeting are attached.

2.0 FACTUAL UPDATES

2.1 Shortly before the meeting of 8th June, Members received a late representation from the Essex Field Club. In summary, this representation raised the following matters:

- Local Wildlife Site (LoWS) – the site was identified as a LWS in a 2016 review. There is apparent confusion within the Council as to the site's ecological status, but it is considered that the site is a LoWS and the 'designation' is therefore a material planning consideration;
- Invertebrate survey – concerns are raised about the effectiveness of the applicant's surveys, which may undervalue the site. Nevertheless, the surveys show that the site is of County-level value and the proposals would impact on invertebrates through loss of habitat. Essex Field Club remind the local authority of its duty to conserve biodiversity through the Natural Environment and Rural Communities (NERC) Act 2006;
- NPPF – reference is made to para. 175 (Habitats and Biodiversity) which states (inter-alia)-

When determining planning applications, local planning authorities should apply the following principles:

- a) *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- c) *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists*

2.2 Shortly after the June meeting a representation was received from Buglife, which raised the following matters:

- the site is a biodiversity asset and was considered as a LoWS in the 2016 review. The site should be treated as a LoWS and this matter is a material consideration;
- the site is of importance for invertebrates and the proposed mitigation is considered to be insufficient. Furthermore the applicant's surveys fail to correctly assess impacts;
- although the site may look overgrown, it contains a variety of habitats which are of interest and importance for invertebrates.

- 2.3 These two late representations were not reported to the June meeting and are therefore summarised for the benefit of the Committee in reaching a decision based on all representations received. The applicant's ecological consultant provided a response to these two late representations in June.
- 2.4 In response to all of these representations, the following comments have been offered by the Council's landscape and ecology advisor:
- the site was identified as a potential LoWS in 2017;
 - the applicant's Ecology Report (June 2019) identifies that the site has been proposed as a LoWS;
 - the LoWS designation is non-statutory, but is a material planning consideration;
 - the applicant's Ecology Report identifies remnant coastal grazing marsh, open mosaic habitat on previously developed land, reedbed and semi-natural woodland within or adjacent to the site. These are all habitats of principal importance included in the England Biodiversity List published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006 (NERC Act). These are also a material planning consideration in and should be used to guide decision-makers in implementing their duty under section 40 of the NERC Act to have regard to the conservation of biodiversity when carrying out their normal functions;
 - detailed invertebrate surveys have been undertaken which conclude that the site is of at least County level value as it supports an assemblage of species of conservation concern. It is recognised that not all species that could be present on site will be recorded, however there have been several previous invertebrate surveys relating to previous proposed development relating to this site and the overall assessments remain consistent;
 - the site also contains water vole and reptiles which are protected under the Wildlife and Countryside Act. There is a legal duty to ensure that animals are not killed or injured as a result of the development. It is likely that the majority of these animals will require removal to an off-site location;
 - the applicant's Ecology Report and Ecological Mitigation Strategy (EMS) recognise that the development will significantly reduce the extent of the Habitats of Principal Importance within the site. Retained habitat areas require protection and enhancement and the EMS recognises that off-site compensation may be required for water voles and reptiles;
 - approximately one-third of the site will be retained and used for ecological mitigation. The applicant's Design and Access Statement proposes public

access to this area. Recreational uses can result in adverse effects on ecological interest due to disturbance and compromises in management;

- the EMS details measures to retain existing habitat features where possible and to create and enhance habitat within the eastern part of the site. While it is possible to create certain habitat features, grazing marsh is dependent on its location, geology and hydrology. The scheme would result in a permanent loss of this habitat feature;
- the site currently contains components of habitats of principal importance which will be lost permanently as a result of the proposed development. This is a material consideration that should be addressed. It is considered that off-site compensation as proposed in the EMS would be required to ensure that adequate mitigation is provided. What is required would be determined in part by the extent and nature of the proposed public access to the eastern area.

- 2.5 The ecological interest of the site, as recognised by its potential to be designated as a LoWS, together with the habitats and protected species present on-site are material planning considerations. Paragraph no. 170 of the NPPF requires that planning decisions contribute to and enhance the natural and local environment by (inter-alia) minimising impacts on and providing net gains for biodiversity. Paragraph no. 175 goes on to state that when determining planning applications, local planning authorities should apply a number of principles, including:
- (a) if significant harm to biodiversity resulting from development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 2.6 In this case a mitigation strategy is required and the applicant has submitted an EMS. Although there is some uncertainty as to the balance between ecological mitigation and on-site recreational provision, it is considered that planning conditions and / or obligations could address this matter
- 2.7 Nevertheless, the Green Belt issues identified in the previous reports remain of paramount importance in the consideration of this case.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online: <http://regs.thurrock.gov.uk/online-applications>

