

<p><b>Reference:</b> 20/00957/FUL</p>	<p><b>Site:</b> Barmoor House Farm Road Chadwell St Mary Essex RM16 3AH</p>
<p><b>Ward:</b> Chadwell St Mary</p>	<p><b>Proposal:</b> Erection of four detached two bed bungalows</p>

Plan Number(s):		
Reference	Name	Received
20010_A1-01	Proposed Elevation Plans	29th July 2020
20010_A2-01	Proposed Site Layout	29th July 2020
20102_A4-02	Existing Site Layout	29th July 2020
19.5957-M001	Location Plan	29th July 2020
19.5957-M002A	Location Plan	29th July 2020
19.5957-M003	Wider Settlement pattern	29th July 2020
19.5957-M004	Settlement Limits of Orsett Heath	29th July 2020
[1] IT2184_SK-ATR001	Swept Path Analysis	15th September 2020

The application is also accompanied by:

- Cover Letter
- Planning Support Statement (Ref. 19.5957)

<p><b>Applicant:</b> Messrs J and M Gatrell JP &amp; MD Properties Ltd</p>	<p><b>Validated:</b> 28 July 2020 <b>Date of expiry:</b> 15 February 2021 <b>(Extension of Time as agreed)</b></p>
<p><b>Recommendation:</b> Refuse</p>	

This application is scheduled for determination by the Council's Planning Committee because the application was called in by Cllr G Rice, Cllr L Worrall, Cllr V Holloway, Cllr S Shinnick and Cllr M Kerin in accordance with Part 3 (b) 2.1 (d)(ii) of the Council's constitution to examine Green Belt issues and as the proposal has been advertised as a departure from the Development Plan.

## 1.0 Background

1.1 Consideration of this application was deferred at the 26 November 2020 Planning Committee meeting to enable a site visit to take place.

1.2 Following this site visit, at the meeting of the Planning Committee held on 7 January 2021 Members considered a report assessing the above proposal. The report recommended that planning permission be refused because:

- 1 *The application site is located within the Green Belt, as identified on the Policies Map accompanying the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015). National and local planning policies for the Green Belt set out within the NPPF and Core Strategy set out a presumption against inappropriate development in the Green Belt. The proposals are considered to constitute inappropriate development with reference to policy and would by definition be harmful to the Green Belt. It is also considered that the proposals would harm the openness of the Green Belt and would be contrary Green Belt purposes (c) and (e) as described by paragraph 134 of the NPPF. The identified harm to the Green Belt is not clearly outweighed by other considerations so as to amount to the very special circumstances required to justify inappropriate development. The proposal is therefore contrary to Policies CSSP4, and PMD6 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (as amended 2015) and chapter 13 of the National Planning Policy Framework 2019.*
- 2 *The proposed vehicular access would, by reason of its siting, width and lack of visibility site splays, be likely to result in awkward access and manoeuvring of refuse and delivery vehicles and thereby adversely impact on pedestrian and highway safety. The proposal is therefore contrary to Policies PMD2 and PMD9 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) and the National Planning Policy Framework 2019.*

1.3 A copy of the reports presented to the November and January Committee meetings are attached.

1.4 At the January Committee meeting Members were minded to resolve to grant planning permission for the proposed development. Whilst it was acknowledged that there was significant harm to the Green Belt Members suggested that the following grounds amounted to Very Special Circumstances to outweigh this harm:

1. *Lack of 5 year housing supply, lack of 20% buffer of housing supply and the Council is failing Government housing supply targets year on year;*

2. *Employment generated through the construction which the Prime Minister has encouraged;*
3. *The location benefits from local amenities;*
4. *Lack of provision for older people's accommodation in the Borough;*
5. *The dwellings are a really good build with driveways and a nice layout for the elderly occupants;*
6. *The site is on a bus route.*

1.5 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. This report also assesses the reasons formulated by the Committee.

## **2.0 FACTUAL UPDATES**

- 2.1 Since the January Committee meeting the agent has submitted a copy of the correspondence sent to Committee Members by the applicant.
- 2.2 Discussions have also been undertaken seeking to address the highways recommended reason for refusal.

## **3.0 CONSULTATIONS AND REPRESENTATIONS**

- 3.1 Since the previous report was published additional representations have been received and are detailed below. The additional information submitted by the applicant has also been subject to a further consultation process.
- 3.2 Detailed below is a summary of the consultation responses received since the previous report was published on the committee agenda for the January Planning Committee meeting. 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](http://www.thurrock.gov.uk/planning)

### **HIGHWAYS:**

- 3.3 In light of the new information provided by the applicant in relation to the swept path analysis, it is considered that the access can be suitably designed and configured in order to overcome the concerns relating to highway safety. Modifications will be required with respect to the visibility splays, however, these can be agreed via appropriate planning conditions.

## 4.0 PLANNING ASSESSMENT & IMPLICATIONS

4.1 As required by the Council's Constitution, an outline of the implications of making a decision contrary to the Officer recommendations is provided below. The recommendation reasons for refusal from the November Committee report is set out in italics below, with the implications considered subsequently.

### 4.2 REASON 1: PRINCIPLE OF THE DEVELOPMENT AND HARM TO THE GB

1 *The application site is located within the Green Belt, as identified on the Policies Map accompanying the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015). National and local planning policies for the Green Belt set out within the NPPF and Core Strategy set out a presumption against inappropriate development in the Green Belt. The proposals are considered to constitute inappropriate development with reference to policy and would by definition be harmful to the Green Belt. It is also considered that the proposals would harm the openness of the Green Belt and would be contrary Green Belt purposes (c) and (e) as described by paragraph 134 of the NPPF. The identified harm to the Green Belt is not clearly outweighed by other considerations so as to amount to the very special circumstances required to justify inappropriate development. The proposal is therefore contrary to Policies CSSP4, and PMD6 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (as amended 2015) and chapter 13 of the National Planning Policy Framework 2019.*

4.3 The following list was raised by Members as reasons to approve the application and these are considered more in detail below to assess whether these comprise the Very Special Circumstances necessary for approving inappropriate development in the Green Belt. The reasons are:

1. *Lack of 5 year housing supply, lack of 20% buffer of housing supply and the Council is failing Government housing supply targets year on year;*
2. *Employment generated through the construction which the Prime Minister has encouraged;*
3. *The location benefits from local amenities;*
4. *Lack of provision for older people's accommodation in the Borough;*
5. *The dwellings are a really good build with driveways and a nice layout for the elderly occupants;*
6. *The site is on a bus route.*

4.4 The reasons put forward by Members are assessed individually below to establish

whether they amount collectively, or individually, to very special circumstances which clearly outweigh the harm caused to the Green Belt.

1. *Lack of 5 year housing supply, lack of 20% buffer of housing supply and the Council is failing Government housing supply targets year on year;*

4.5 In recent appeal decisions, the Planning Inspectorate has indicated that the lack of a 5 year housing supply can be considered as a very special circumstance which can be given significant weight; however, the Inspectorate has also advised that this reason on its own cannot amount to very special circumstances to justify inappropriate development. Significant weight can therefore be given to this matter.

2. *Employment generated through the construction which the Prime Minister has encouraged;*

4.6 Owing to the scale of the development proposed it would be unlikely to generate any meaningful or significant employment, by way of construction associated jobs, which could clearly outweigh the harm to the Green Belt.

4.7 Indeed, the current application provides no detail as to any employment which might be generated specifically by this current proposal and given the lack of any evidence that significant employment would be generated if the proposal was approved, the resulting harmful impact of the inappropriate development upon the Green Belt would be significant in comparison. Consequently, it is considered that *no weight* can be given to this reason in the balance of assessing the very special circumstances.

3. *The location benefits from local amenities;*

4.8 The applicant's Supporting Planning Statement indicates that the closest amenities for the occupiers of the application site are as follows:

The closest facilities are:

'Peafs on the Heath' Convenience Store – Located 0.2km away

'The Fox' Public House – Located 0.2km away

Thurrock Play Network – Located 0.3ms away

A broader range of local amenities can be found on River View in Chadwell St Mary:

Community Church and other local shops including Post Office, Launderette, Hairdressers, Take Aways and other shops – located 1.4km away on River View, Chadwell St Mary

Elsewhere in Chadwell St Mary and other areas:

Herringham Primary School – located 1.5km away

Tesco Express and Petrol Filling Station – located 2km away

Medical centre, library and nursery school – located 2km away

Woodside Academy – located 2km away

USP College – located 2.4km away

- 4.9 As can be seen from the information submitted, other than a single convenience store and public house, the closest local amenities are located in shopping parade in River View, Chadwell St Mary located 1.4km away from the application site. It is not considered that this separation distance demonstrates that the site is particularly close to local amenities. The separation distance would be likely to result in occupiers of the site using a car, to travel to the nearest amenities in Chadwell St Mary. As a consequence, this reason cannot be given more than very limited weight in the balance.

*4. Lack of provision for older people's accommodation in the Borough;*

- 4.10 The application has not been submitted as older person's accommodation and the dwellings have not been designed for older people. This matter therefore is irrelevant and cannot be considered as a very special circumstance and cannot be taken into account as part of the decision.
- 4.11 Fundamentally, the use of the dwellings is not proposed to be for anything other than residential occupation by persons of any age. Following Member's comments at the last Planning Committee in relation to the age of the future occupiers of the site the applicant has been asked whether they would be interested in changing the proposal in order to restrict occupancy to the over 55s. The applicant has provided no response to this enquiry.
- 4.12 Given the proposal does not seek to provide specifically older person's accommodation then this consideration is irrelevant and it cannot even be considered as a very special circumstance (regardless of weight).

*5. The dwellings are a really good build with driveways and a nice layout for the elderly occupants;*

- 4.13 There is nothing particularly innovative, special or of a particularly high quality with respect to the layout, design or materials proposed for the properties. As previously indicated, there is no part of the proposal that appears to be specifically designed for the benefit or use of elderly persons. For these reasons the design and quality of the build proposal is not considered to be especially good or high quality to justify inappropriate development in the Green Belt. No weight is therefore given to this reason and is not considered justification for granting planning permission for this inappropriate development in the Green Belt in this location.

*6. The site is on a bus route.*

- 4.14 The closest bus stops are located 0.8km away to the north of the site on the A1013 close to the junction with Heath Road. A further bus stop is also located 0.8km away to the south on Heath Road close by the junction with Loewen Road. Given the separation distance from the site to either closest bus stop it is not considered that the proposal is conveniently located for access to public transport. As a result this reason is not considered to give no weight in any justification in the balancing exercise for granting planning permission for this inappropriate development in the Green Belt in this location.

#### Conclusion to this section

- 4.15 As detailed above the matters put forward by Members in support of the proposal are very general, lack empirical evidence and do not come close to providing very special circumstances case to overcome the in principle harm to the Green Belt. Most of these issues had already been considered by officers in making the original recommendation. At that time none were found to be enough to tip the balance to approving the principle of development. Following further consideration of each, as detailed above, it is shown that individually and collectively none of these matters constitute the very special circumstances that would be required to allow a departure from policy to be made. The proposal remains unacceptable in principle.
- 4.16 The matters put forward by Members relate solely to reason 1 of the refusal and do not address the other reason for refusal set out in the original Committee report. This second reason is considered below.

#### 4.17 REASON 2: VEHICLE ACCESS AND HIGHWAY SAFETY

2 *The proposed vehicular access would, by reason of its siting, width and lack of visibility site splays, be likely to result in awkward access and manoeuvring of refuse and delivery vehicles and thereby adversely impact on pedestrian and highway safety. The proposal is therefore contrary to Policies PMD2 and PMD9 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) and the National Planning Policy Framework 2019.*

- 4.18 Further discussions have been undertaken and information has been provided and the Council's Highways Officer is now satisfied that relevant amendments and visibility splays could be achieved through appropriate planning conditions. Following the withdrawal of the objection from the highways officer, this second reason for refusal is removed.

## **5.0 LEGAL IMPLICATIONS OF DECISION**

- 5.1 Members are reminded that in making their decision, they are required to comply with the general law, national and local policies and the Council's Constitution. Only material considerations can be taken into account and reasons given must be cogent,

clear and convincing. In addition, considerations and reasons must be evidence based.

- 5.2 It is important to note that deviation from the above would potentially be unlawful and challengeable in the courts.
- 5.3 If Members are mindful of departing from the contents and recommendations of the officer reports, they are required strictly to adhere to the legal rules and principles of decision making.
- 5.4 As a matter of law, under s. 38(6) Town and Country Planning Act, planning applications should be determined in accordance with the development plan, unless there are material considerations which indicate otherwise.
- 5.5 The policies contained in the “Core Strategy and Policies for the Management of Development Plan Document” (as amended) in 2015 are current and carry the legal status of the development plan.
- 5.6 Accordingly, to permit a departure from the Core Strategy, considerations are required to be ‘material’. This is an imperative and a legal requirement.
- 5.7 This application is contrary to the development plan.
- 5.8 In addition, unless underpinned by clear and cogent evidence, opinions and anecdotes are not material considerations and cannot legally be taken into account when making a decision or to support a reason. Further, reasons supporting a motion to approve the application against officer recommendation are required to be material planning considerations, with cogent supporting evidence. Disagreement with officer recommendation should be supported by clear and material reasoning, with evidence, and should importantly avoid involving a point of law.
- 5.9 The site is located within the Green Belt and decisions concerning Green Belt applications must be made strictly in accordance with:
1. Green Belt Policy and
  2. Current Green Belt boundaries
- This means speculation as to the outcome of a future Green Belt review as part of the Local Plan process cannot be taken into account when considering the planning application and/or could not be afforded weight.
- 5.10 In addition to being contrary to the development plan the development proposes inappropriate development in the Green Belt, which is ‘by definition, harmful to the Green Belt’ (NPPF paragraph 143).

As a matter of national policy the NPPF paragraph 144 states:

*‘When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of*

*inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations.'*

This paragraph is required to be followed in its entirety.

- 5.11 Planning permission for development in the Green Belt should only be granted if the benefits are shown clearly to outweigh the potential harm to:

1. The Green Belt and
2. Any other harm resulting from the proposal

and the planning balance gives rise to very special circumstances.

- 5.12 A recent appeal case clarifies the meaning of the term 'clearly' in paragraph 144 NPPF to mean 'not just marginally, but decisively'.

Accordingly, very special circumstances will not exist unless the benefits are shown to outweigh the harm clearly and decisively.

- 5.13 If the outcome of this planning balance is not clear (i.e. decisive), then, according to NPPF 144, very special circumstances will not exist, and planning permission should be refused.

- 5.14 NPPF paragraph 144 expressly requires harm to the Green Belt to be given substantial weight. The summary in the November officer report advises that in itself, the harm to the Green Belt clearly outweighs the benefits in this case, and officers recommend planning permission should be refused.

#### Summary of Legal Advice

- 5.15 From a legal (as well as a planning perspective), in addition to being contrary to the development plan, the application also proposes inappropriate development in the Green Belt. The assessment of the planning balance of all the benefits and all the harms weighs clearly, heavily and decisively to harm, indicating the proposals are positively harmful to the Green Belt. Accordingly, officers advise that no very special circumstances exist in this case and recommend planning permission should be refused.

- 5.16 Failure to follow the legal process would be unlawful and could result in a High Court Challenge.

## 6.0 OVERALL CONCLUSIONS

As required by the Constitution the implications of the Committee approving this application, which is a departure from national and local planning policies, are set out above. This report goes on to analyse the 6 reasons for approving the application contrary to recommendation provided by the Committee. These reasons to a large degree are considered to be generic, easily replicated and not necessarily site specific. It is not considered that these reasons clearly outweigh the identified harm

to the Green Belt, and other harm. Therefore the reasons for refusal have not been addressed sufficiently for the development to be considered acceptable and the reasons for refusal remain relevant.

## 7.0 RECOMMENDATION

The Committee is recommended to refuse planning permission for the following reason:

- 1 *The application site is located within the Green Belt, as identified on the Policies Map accompanying the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015). National and local planning policies for the Green Belt set out within the NPPF and Core Strategy set out a presumption against inappropriate development in the Green Belt. The proposals are considered to constitute inappropriate development with reference to policy and would by definition be harmful to the Green Belt. It is also considered that the proposals would harm the openness of the Green Belt and would be contrary Green Belt purposes (c) and (e) as described by paragraph 134 of the NPPF. The identified harm to the Green Belt is not clearly outweighed by other material considerations; therefore, there are no Very Special Circumstances. The proposal is therefore contrary to Policies CSSP4, and PMD6 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (as amended 2015) and chapter 13 of the National Planning Policy Framework 2019.*

### **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](http://www.thurrock.gov.uk/planning)

