

<p>Reference: 21/00156/FUL</p>	<p>Site: Woodlands Koi Farm South Avenue Langdon Hills Essex SS16 6JG</p>
<p>Ward: Orsett</p>	<p>Proposal: Erection of a single storey detached annexe following demolition of existing outbuilding</p>

Plan Number(s):		
Reference	Name	Received
(No Nos.)	Site Location Plan	1 February 2021
OV/DB/JJ/01	Proposed Plans	1 February 2021
OV/DB/JC/01	Existing Plans	1 February 2021

<p>The application is also accompanied by:</p> <ul style="list-style-type: none"> - Planning, Design and Access Statement 	
<p>Applicant: Mr J Cross</p>	<p>Validated: 30 January 2021 Date of expiry: 26 April 2021 (Extension of time agreed with applicant)</p>
<p>Recommendation: Refuse</p>	

This application is scheduled for determination by the Council’s Planning Committee because the application was called in by Cllr Fletcher, Cllr Baker, Cllr Johnson, Cllr Liddiard and Cllr Muldowney in accordance with Part 3 (b) 2.1 (d) (i) of the Council’s constitution to consider the proposal against Green Belt policy and the existing structure on the site.

1.0 DESCRIPTION OF PROPOSAL

1.1 This application seeks planning permission to erect a self-contained annexe in the south eastern corner of the site where there is currently a garage/storage building. The building would be 3.2m to the ridge when measured from the existing ground

level, although it would be built into the ground by 800mm. The style would be of a traditional design with a hipped roof and timber finish. The proposed building would have a rectangular footprint of approximately 70sqm. The purpose of the building, as described by the applicant, is to provide accommodation for family members.

2.0 SITE DESCRIPTION

2.1 The site is broadly rectangular in shape and is 0.67 of a hectare in area. The site is accessed from South Avenue which is a narrow access track leading to Old Hill Avenue, which in-turn leads to South Hill (B1007). The site is located in the Green Belt in an elevated position close to Langdon Hills. The Langdon Ridge Site of Special Scientific Interest (SSSI) which is designated for its nationally important grasslands, meadows, woodlands and invertebrate assemblage is located immediately north and north-east of the site. The site is operated as a koi farm with a number of fish ponds, a residential dwelling, outbuildings and a mobile home.

3.0 RELEVANT HISTORY

Application Reference	Description of Proposal	Decision
20/01688/FUL	Demolition of existing outbuilding and construction of a single storey detached annexe	Withdrawn
20/00141/FUL	Demolition of existing outbuilding and construction of a single storey detached annexe	Withdrawn
19/00317/FUL	Construction of a storage building incorporating ancillary workshop	Approved
18/00681/FUL	Single storey agricultural storage and ancillary workshop for Koi farm (resubmission of 17/00795/FUL Construct a single storey workshop and storage building)	Refused
17/00970/HHA	Demolish existing outbuildings and construct a single storey pitched roof games room	Refused
17/00795/FUL	Construct a single storey workshop and storage building	Refused
16/00686/FUL	Detached granny annexe to rear of the existing property.	Refused
15/00349/HHA	Erection of a residential extension to form annexe	Refusal and Dismissed on appeal
08/00791/FUL	Demolition of existing dwelling and construction of a new two bedroom dwelling.	Approved
05/00119/FUL	Temporary siting of mobile home.	Approved
83/00467/FUL	Lay out ponds for the use of breeding and the sale of Koi Carp fish	Approved

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 and public site notice which has been displayed nearby. The application has been advertised as a departure from the Development Plan. There were four comments received, two objected and two were in support. The objections raised covered the following:

- Loss of amenity;
- Untidy site/unfinished buildings;
- Family have bungalow nearby already;
- Loss openness;
- Inappropriate development in Green Belt;
- Garage/storage building not lawful.

The comments of support did not consider that the proposal would negatively affect the Green Belt or the site.

5.0 POLICY CONTEXT

National Planning Guidance

National Planning Policy Framework (NPPF)

5.1 The revised NPPF was published on 19 February 2019. Paragraph 11 of the Framework sets out 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.

The NPPF sets out the Government's planning policies. 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:

- 2. Achieving sustainable development
- 13. Protecting Green Belt land
- 15. Conserving and enhancing the natural environment

National Planning Practice Guidance (PPG)

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

- Design: process and tools
- Determining a planning application
- Effective use of land
- Enforcement and post-permission matters
- Environmental Impact Assessment
- Fees for planning applications
- Flexible options for planning permissions
- Flood Risk and Coastal Change
- Green Belt
- Natural Environment
- Rural Housing

- Use of Planning Conditions

Local Planning Policy

Thurrock Local Development Framework (as amended) 2015

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

OVERARCHING SUSTAINABLE DEVELOPMENT POLICY:

- OSDP1: Promotion of Sustainable Growth and Regeneration in Thurrock

SPATIAL POLICIES:

- CSSP4: Sustainable Green Belt

THEMATIC POLICIES:

- CSTP23: Thurrock Character and Distinctiveness

POLICIES FOR THE MANAGEMENT OF DEVELOPMENT

- PMD1: Minimising Pollution and Impacts on Amenity
- PMD2: Design and Layout
- PMD6: Development in the Green Belt
- PMD7: Biodiversity, Geological Conservation and Development
- PMD8: Parking Standards
- PMD16: Developer Contributions

Thurrock Local Plan

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

Thurrock Design Strategy

- 5.5 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 development and impact of the Green Belt
- II. Access, traffic and highways impacts
- III. Design and Layout
- IV. Landscape and ecology
- V. Amenity and neighbours
- VI. Other matters

I. PRINCIPLE OF DEVELOPMENT AND IMPACT UPON THE GREEN BELT

- 6.2 Under this heading, it is necessary to refer to the following key questions:

1. Whether the proposals constitute inappropriate development in the Green Belt;
2. The effect of the proposals on the open nature of the Green Belt and the purposes of including land within it; and
3. Whether the harm to the Green Belt is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify inappropriate development.

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

- 6.3 The site is identified on the Core Strategy Proposals Map as being within the Green Belt where policies CSSP4 and PMD6 apply. Policies CSSP4 and PMD6 state 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 to accord with the requirements of the NPPF.

- 6.4 Paragraph 133 within Chapter 13 of the NPPF 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.”*
- 6.5 Paragraph 143 of the NPPF states that *“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”*.
- 6.6 Paragraph 144 goes on to state that local planning authorities should ensure that *“substantial weight”* is given to any harm to the Green Belt and that very special circumstances (VSC) would not exist unless the potential harm to the Green Belt by way of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 6.7 With reference to proposed new buildings in the Green Belt, paragraph 145 confirms that a local planning authority should regard their construction as inappropriate. The NPPF sets out a limited number of exceptions, similar to policy PMD6, but in regards to the replacement of buildings this exception will only apply where the building(s) to be replaced are lawful
- 6.8 There is no evidence of the lawfulness of the existing garage structure and permitted development rights at the site were removed in 2008 any changes to the outbuilding within the last 10 years would need planning permission and there is none. The applicant’s agent confirms that the outbuilding was not completed until around 4 years ago and it is therefore short of the ten year enforcement timescale. Therefore in policy terms the proposal would not fall into any policy ‘exception’ from the Core Strategy of the NPPF and would therefore be considered as inappropriate development in the Green Belt.
- 6.9 The proposals do not fall within any of the exceptions to inappropriate development as defined in paragraph 145 of the NPPF. Indeed, from the Planning History section above, Members will note that the site has been subject to the maximum amount of development that would be acceptable in compliance with national and local Green Belt policy. The proposal clearly comprises inappropriate development in the Green Belt which is harmful by definition with reference to the NPPF and Core Strategy Policies PMD6 and CSSP4. In accordance with the NPPF (para. 144), substantial weight should be given to this harm.
2. 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. As the building is not lawful the 'replacement' of that building cannot be put forward as being an acceptable form of development in the Green Belt. In addition, whilst the proposed footprint would be reduced by 10sqm from the existing, the height of the proposal would be 3.2m and this is when excavated into the ground by nearly 1m. The present structure has a maximum height of 3.1m above ground level, although most of the structure is less than this. Consequently in addition the proposal would affect the open nature of the Green Belt. Therefore as well as the in-principle objection on the grounds of inappropriateness the amount and scale of development proposed would 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 134 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 purposes:
- a. to check the unrestricted sprawl of large built-up areas*
- 6.14 The site is located within a rural area outside the main large built-up areas of Corringham to the south-east and Laindon / Basildon to the north. For the purposes of the NPPF, the site is considered to be outside of any 'large built up areas'. The proposals would not therefore result in the sprawling of an existing large built up area and there would be only very limited harm to this purpose of the Green Belt.
- b. to prevent neighbouring towns from merging into one another*

6.15 As noted above, the site is located in a relatively isolated position between Corringham and Laindon / Basildon. Although the proposal would result in new build development in-between these towns, the harm to this purpose of the Green Belt would be limited. The development would not conflict to any significant degree with this Green Belt purpose.

c. to assist in safeguarding the countryside from encroachment

6.16 With regard to the third Green Belt purpose, the proposal would involve built development on a part of the site which has a structure on presently, but the lawfulness of this has not been evidenced. The term “countryside” can conceivably include different landscape characteristics (e.g. farmland, woodland, marshland etc.) and there can be no dispute that the site comprises “countryside” for the purposes of applying the NPPF policy test. Therefore, the development proposed would encroach upon the countryside in this location contrary to this Green Belt purpose.

d. to preserve the setting and special character of historic towns

6.17 The proposals do not conflict with this defined purpose of the Green Belt.

e. to assist in urban regeneration, by encouraging the recycling of derelict and other urban land

6.18 In general terms, the development 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, an Annexe to the property could not be located on another site.

6.19 In light of the above analysis, it is considered that the proposals would be contrary to purposes (c) of the above listed purposes of including land in the Green Belt. Substantial weight should be afforded to this factor alongside the definitional harm resulting from inappropriate development and harm to openness.

3. Whether the harm to the Green Belt is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify inappropriate development

6.20 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 With regard to the NPPF, paragraph 143 states 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*".

6.22 The applicant's Planning Design and Access Statement sets out the applicant's case for very special circumstances which are summarised and assessed below:

a) *The removal of an incongruous outbuilding on the site*

6.23 The applicant has stated that the removal of the present structure, which is in their words *unsuitable*, on the site constitutes a factor which would contribute towards very special circumstances.

Consideration

6.24 The present structure is not lawful and therefore its presence at the site is considered to carry no weight. As the building is not lawful, its removal may be secured through other measures and as such it would be contrary to good planning allow the proposed development to secure the removal of this structure. Therefore, the removal of the present incongruous structure is afforded no weight towards very special circumstances. Similarly, whilst there are other structures and buildings on the site, their lawfulness has not been proven. Additionally, a mobile home is on the site which has permission to be retained until the main house is occupied; this house has remained unfinished for a number of years and the unsightly mobile home remains at the site. The presence of those other structures and features is also not considered to represent a matter could contribute towards the identification of very special circumstances.

b) The welfare of our Client’s parents and the need for them to be cared for without putting a burden on currently overstretched NHS resources.

6.25 The applicant states that the need for the building is to be able to look after his ageing parents who have health issues. This would mean they would not put a burden on the NHS.

Consideration

6.26 It is noted that there are details contained within the application in relation to the desire for the applicant to accommodate aging parents in need of additional care and supervision. However, as detailed in the doctors letter the applicant’s parents appear to reside within the immediate vicinity at a property on Old Hill Avenue, which is located approximately 450 metres (via the highway) from the application site boundary. Although there is sympathy with the applicant’s desire to accommodate his parents, it is clear that the applicant’s parents currently live nearby. The application notes the inappropriate entrance to their current dwelling but no information as to why it has not been possible to adapt this property has been provided. Therefore, this matter is not considered to amount to any more than very limited weight towards very special circumstances that would outweigh the harm arising from the development.

6.27 A summary of the weight which has been placed on the various Green Belt considerations is provided below:

Summary of Green Belt Harm and Very Special Circumstances			
Harm	Weight	Factors Promoted as Very Special Circumstances	Weight
Inappropriate development	Substantial	a) The removal of an incongruous outbuilding on the site	No weight
Reduction in the openness of the Green Belt		b) Welfare of parents	Very limited weight
Conflict with a number of the purposes of including land in the Green Belt – purposes (c) and (e)			

6.28 As ever, in reaching a conclusion on Green Belt issues, a judgement as to the balance between harm and whether the harm is clearly (emphasis added)

outweighed must be reached. In this case there is harm to the Green Belt with reference to inappropriate development (i.e. harm by definition), loss of openness and harm to Green Belt purpose (c). Two factors have been promoted by the applicant as considerations amounting to the 'very special circumstances' necessary 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'.

6.29 It is considered that the applicant has not advanced any factors which would cumulatively amount to very special circumstances that could overcome the harm that would result by way of inappropriateness and the other harm identified in the assessment. There are no planning conditions that could be used to make the proposal acceptable in planning terms. The proposal is clearly contrary to Policies CSSP4, PMD2 and PMD6 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.

II. ACCESS, TRAFFIC AND HIGHWAY IMPACTS

6.30 The site is large and there is ample room for parking of vehicles. Access to the site is taken from a private road and there would be no detrimental impact on access or parking issues. Therefore, the proposal complies with Core Strategy policy PMD8.

III. DESIGN AND LAYOUT

6.31 The overall design and appearance of the building is considered to be acceptable given the rural nature of the site. The proposed building would be of a traditional design finished in timber boarding with a natural slate roof and therefore it is considered to be appropriate for the location. Therefore, the proposal complies with Core Strategy policy PMD2 in relation to design.

IV. LANDSCAPE AND ECOLOGY

6.32 The application site is adjacent to a SSSI designated for its woodland interest and the relevant Impact Risk Zones have been triggered. The Council is then required to review a number of matters as to whether the proposed development would affect the ancient woodland. It is considered that the proposal is not located within an area, nor is of sufficient scale, to affect the SSSI.

- 6.33 The proposed site for the building does not contain any habitat features of ecological value such as invertebrates or ancient woodland. There is no objection to the proposed development on landscape or ecology grounds. Accordingly, no objection is raised on landscape and ecology grounds.

V. AMENITY AND NEIGHBOURS

- 6.34 The building would be suitably distant from other premises, other than the parent property at the site, not to impact on the outlook or amenities of any nearby occupiers. Therefore, the proposal complies with Core Strategy policy PMD1.

VI. OTHER MATTERS

- 6.35 The applicant has highlighted the personal circumstances of the intended future occupiers of the proposed annexe. However, if approved, the building is likely to be in place indefinitely and for a longer period than the personal circumstances of the applicant's family are applicable. Consequently, for the reasons set out above, it is not considered that the harm to the Green Belt is outweighed by those personal circumstances. Furthermore, having had due regard to the Public Sector Equality Duty and the need to eliminate unlawful discrimination, harassment and victimisation and advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. It is not considered that the personal circumstances should represent other considerations that outweigh the harm that has been identified and the conflict with the development plan and the NPPF.

7.0 CONCLUSIONS AND REASON(S) FOR REFUSAL

- 7.1 The principal issue for consideration in this case is the assessment of the proposals against planning policies for the Green Belt and whether there are any factors or benefits which clearly outweigh harm such that the VSC necessary for a departure from normal policy to be justified exist.
- 7.2 The proposals are 'inappropriate development' in the Green Belt, would lead to the loss of openness and would cause harm to the purposes of the Green Belt. Substantial weight should be attached to this harm in the balance of considerations. It is concluded that the benefits of the development do not clearly outweigh harm and consequently the application is recommended for refusal. The site is considered to have reached the limit of development that is appropriate for it, by virtue of the planning history and recent planning approval for a storage building for the business at the site.

8.0 RECOMMENDATION

8.1 Refuse for the following reasons:

- 1 The application site is located within the Green Belt, as identified on the Policies Map accompanying the adopted Thurrock 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 purpose (c) 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.

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 for the refusal, approval has not been possible.

Documents:

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

www.thurrock.gov.uk/planning

