

<p><b>Reference:</b> 20/01662/OUT</p>	<p><b>Site:</b> Greenwise Nurseries Vange Park Road Vange SS16 5LA</p>
<p><b>Ward:</b> Corringham And Fobbing</p>	<p><b>Proposal:</b> Outline planning application for demolition of the existing structures and the construction of up to 60 houses (18 to be custom-build and 21 to be affordable homes). To include determination of the matter of access (matters relating to appearance, landscaping, layout and scale reserved)</p>

<b>Plan Number(s):</b>		
Reference	Name	Received
D-01	Site Location Plan and Block Plan as Existing	30 November 2020
D-14	Design Development	30 November 2020
D-15	Topographical Survey	30 November 2020
D-16 Rev D	Block Plan - Illustrative	30 November 2020
D-17	Contours & Levels as Proposed	30 November 2020
D-18	Parameters (Indicative)	30 November 2020
D-19	Infrastructure (Indicative)	30 November 2020
D-20	Open Space (Indicative)	30 November 2020
D-21	Dwelling Mix (Indicative)	30 November 2020
D-22	Aspect (Indicative)	30 November 2020
D-23	Boundary Treatments (Indicative)	30 November 2020
D-24	Sections (Indicative)	30 November 2020

The application is also accompanied by:

- Acoustic Report
- Contamination Report
- Design and Access Statement
- Ecology Report
- Landscape and Visual Effects Appraisal with Appendices
- Planning Support Statement with Appendices
- Remediation Method Statement

- Transport Statement	
<b>Applicant:</b> JP & MD Properties Ltd	<b>Validated:</b> 30 November 2020  <b>Date of expiry:</b> 19 July 2021 (Extension of time agreed with applicant)
<b>Recommendation:</b> Refuse planning permission	

This application is scheduled for determination by the Council’s Planning Committee because the application was called in by Cllr G Rice, Cllr S Shinnick, Cllr V Holloway, Cllr D Chuwku and Cllr M Kerin (in accordance with the Constitution Chapter 5, Part 3 (b), 2.1 (d) (ii)) to examine Green belt issues and the density of the site.

**1.0 DESCRIPTION OF PROPOSAL**

1.1 This application seeks outline planning permission (with all matters reserved with the exception of access) for the development of the site for up to 60 houses. The table below summarises the main points of detail contained within the development proposal:

Site Area	2.33 Ha
Residential Development	Market Housing (Traditional) – 21 Market Housing (Custom Build) – 18 Affordable Housing - 21  TOTAL 60 units  Sizes of units: 18 x 2 bedroom 34 x 3 bedroom 8 x 4 bedroom

1.2 This is an application for outline planning permission with only the matter of access for detailed consideration at this stage. Details of the appearance, landscaping, layout and scale of the proposed development are reserved for future approval if outline planning permission were to be granted. Permission is sought for “up to 60 new dwellings” and this figure should therefore be viewed as a maximum. The mix of residential units shown in the table above should be interpreted as indicative.

### 1.3 Access

This is a matter for detailed consideration at this stage and is defined as the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network. The application proposes that the sole vehicular access to the residential uses on-site would be from Vange Park Road fairly centrally along the frontage.

### 1.4 Appearance

Appearance is reserved for future approval if outline planning permission is granted.

### 1.5 Landscaping

Although details of landscaping are reserved for future approval, an open space strategy plan has been submitted indicating a green 'spine' through the site with an open area to the rear (north) of the site incorporating a 15m buffer between buildings and the adjacent Site of Special Scientific Interest (SSSI).

1.6 Although landscaping is a matter of details reserved for future approval if outline planning permission is granted, flood mitigation / alleviation works are proposed which would include the re-profiling of ground levels. Flood compensation storage would be increased in the form of three swales and an attenuation area.

### 1.7 Layout

An indication of the way the site could be developed is shown on the submitted masterplan drawings. Residential development could potentially comprise detached, semi-detached and terrace houses. As stated above, there would be open space through the site and to the rear of the site, with the main area of open space.

### 1.8 Scale

An indication of the scale of the development is provided on the submitted masterplan drawings which show two, three and four bedroom houses arranged as detached, semi-detached and terraces.

## **2.0 SITE DESCRIPTION**

2.1 The application site is a roughly rectangular area of land on the north-west side of Vange Park Road, north of the A13 and close to the boundary of Thurrock and

Basildon. The site lies within the Green Belt and there is a Site of Special Scientific Interest (SSSI) to the northern boundary of the site.

- 2.2 The site measures 2.3 hectares and is presently used for the storage of building materials including skips, vehicles, and containers. Access to the site is via Vange Park Road.
- 2.3 The site has a lawful development certificate for growing plants and retail sales of plants, the importation of plants and retail sale of plants, the use of land for storage and display for sale of garden material and garden equipment and for the display and sale of building materials and other materials in the open.

**3.0 RELEVANT HISTORY**

Application Reference	Description of Proposal	Decision
18/00450/OUT	The erection of up to 31 custom-build homes (Use Class C3). All matters reserved, with the exception of access from Vange Park Road.	Approved
10/00470/LDC	The use of the land for growing plants and retail sale thereof together with importation of plants and retail sale of plants. The use of land for storage and display for sale of garden material and garden equipment predominantly in the open. Use of land for storage and display for sale of building materials and other general materials unrelated to garden, predominantly in the open. Use of land for general storage of building and other materials predominantly in the open together with all associated buildings.	Deemed Lawful
07/01198/FUL	Stationing of a mobile home for residential purposes and associated hard standing for a temporary period of three years.	Refused
07/00318/TTGFUL	Stationing of a mobile home for residential purposes and associated hard standing for a temporary period of three years.	Refused
05/00495/LDC	Existing use of building for manufacturing process (B1).	Refused
04/01251/LDC	Existing use of the building hatched on the	Approved

	attached plan dated 29 Nov 2004 for sale of books, video, music tapes and compact discs between the business hours of 8am - 5pm Mon-Fri, 8am - 4pm Sat and 10am - 4pm Sun.	
94/00439/FUL	Four greenhouses	Approved
91/00086/FUL	Change of use from Nursery to Garden Centre.	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](http://www.thurrock.gov.uk/planning)

#### 4.2 PUBLICITY:

This application has been advertised by way of individual neighbour notification letters, press advert and public site notice which has been displayed nearby. There were five comments received, four were objections and one neither supported nor objected to the proposal. The matters raised are:

- Access to the site
- Highways safety
- Effect to schools and healthcare
- Site 'cut off'
- Loss of amenity

#### 4.3 ANGLIAN WATER:

No objections, subject to condition regarding on-site foul water drainage works.

#### 4.4 BASILDON COUNCIL:

No comments received.

#### 4.5 EDUCATION:

No objection, subject to a S106 contribution towards nursery and primary provision.

4.6 EMERGENCY PLANNING:

No objection.

4.7 ENVIRONMENT AGENCY:

No objection.

4.8 ENVIRONMENTAL HEALTH:

No objection, subject to conditions for a Construction Environment Management Plan (CEMP), contaminated land, noise and sound insulation.

4.9 FLOOD RISK MANAGER:

No objection, subject to a condition regarding surface water drainage.

4.10 HIGHWAYS (ESSEX COUNTY COUNCIL):

No objection.

4.11 HIGHWAYS (THURROCK):

No objection.

4.12 LANDSCAPE & ECOLOGY:

No objection, subject to RAMS payment.

4.13 NATURAL ENGLAND:

No objection as 15m buffer between development and SSSI retained.

4.14 NHS:

No objection, subject to contribution towards healthcare.

4.15 POLICE:

No objection, subject to condition requiring Secured by Design (SBD).

## 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 date<sup>1</sup>, 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 proposed<sup>2</sup>; 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.

<sup>1</sup> 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 ...

<sup>2</sup> 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
- 5. Delivering a sufficient supply of homes
- 8. Promoting healthy and safe communities
- 9. Promoting sustainable transport
- 11. Making effective use of land
- 12. Achieving well-designed places
- 13. Protecting Green Belt land

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

- Climate change
- Design: process and tools
- Determining a planning application
- Effective use of land
- Fees for planning applications
- Flood Risk and Coastal Change
- Green Belt
- Healthy and safe communities
- Housing and economic land availability assessment
- Housing and economic needs assessment
- Housing needs of different groups
- Housing: optional technical standards
- Land affected by contamination
- Lawful development certificates
- Natural Environment
- Noise
- Open space, sports and recreation facilities, public rights of way and local green space
- Planning obligations
- Renewable and low carbon energy
- Self-build and custom housebuilding
- Transport evidence bases in plan making and decision taking
- Travel plans, transport assessments and statements in decision-taking
- Use of Planning Conditions

### **Local Planning Policy**

#### Thurrock Local Development Framework (as amended) 2015

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

Strategy policies apply to the proposals:

**OVERARCHING SUSTAINABLE DEVELOPMENT POLICY:**

- OSDP1: Promotion of Sustainable Growth and Regeneration in Thurrock

**SPATIAL POLICIES:**

- CSSP1: Sustainable Housing and Locations
- CSSP4: Sustainable Green Belt

**THEMATIC POLICIES:**

- CSTP1: Strategic Housing Provision
- CSTP2: The Provision Of Affordable Housing
- CSTP19: Biodiversity
- CSTP22: Thurrock Design
- 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
- PMD9: Road Network Hierarchy
- PMD15: Flood Risk Assessment
- 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**

### Procedure:

- 6.1 With reference to procedure, this application has been advertised as being a departure from the Development Plan. Should the Planning Committee resolve to grant planning permission (contrary to recommendation), 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 the provision of buildings where the floorspace to be created exceeds 1000 sqm and the scale and nature of the development would have a significant impact on the openness of the Green Belt. Therefore, the application will need to be referred under paragraph 4 of the Direction (i.e. Green Belt development). 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.

- 6.2 The application is assessed under the following headings:

- I. Principle and the impact upon the Green Belt
- II. Design and layout
- III. Landscape and ecology
- IV. Access, traffic impact and parking
- V. Flood risk and site drainage
- VI. Affordable housing and contributions

### **I. PRINCIPLE AND THE IMPACT UPON THE GREEN BELT**

- 6.3 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

- 6.4 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.
- 6.5 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."* Paragraph 145 states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt unless they fall within a limited number of exceptions to this which include:
  - 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.
- 6.6 The site, due to its planning history, which includes the lawful development certificate for the use as a garden nursery, is considered to fall within the NPPF definition of Previously Developed Land (PDL). However, the proposed development of 60 houses would result in an increased built form which would also be spread across a wider area than the current sporadic use of the site. Whilst this is an outline application with all detail except access reserved, the applicant has stated the footprint of the current proposal is less than the parameters of the previous outline approval for 31 custom build units. The previous scheme would have provided large, custom build units within larger plots. The current scheme would almost double the number of dwellings, but on smaller plots. Notwithstanding the footprint and volume across the site, a development of 60 units when compared to a development of 31

units would have a much greater impact in terms of actual built form: further houses, more plots, more hardstandings and cars and more residential paraphernalia such as sheds and other outbuildings. Consequently, 60 smaller units is considerably more harmful than up to 31 larger units.

- 6.7 In terms of the second part of g) the proposal would contribute to affordable housing need, albeit not in an ideal location as it is not an accessible location without a car. This contribution to affordable housing does not counter the harm to the Green Belt in this location. As a matter of judgement, the proposal would create substantial harm to the openness of the Green Belt. Consequently, the proposals comprise inappropriate development with reference to the NPPF and policy PMD6.

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

- 6.8 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.

- 6.9 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.

- 6.10 In response to each of these five purposes:

*a. to check the unrestricted sprawl of large built-up areas*

- 6.11 The site is located in a relatively isolated location, to the south of the town of Basildon, (just within Thurrock's borough boundary) close to sporadic established properties, some of a 'Plot Land' style nature. For the purposes of the NPPF, the site is considered to be outside of any 'large built up areas'. It would not therefore result in the sprawling of an existing built up area, but it would nonetheless represent the addition of new urban form on the site.

*b. to prevent neighbouring towns from merging into one another*

6.12 The development would not conflict with this Green Belt purpose.

*c. to assist in safeguarding the countryside from encroachment*

6.13 The site constitutes PDL, nonetheless the proposal would result in encroachment in the countryside with the development of 60 units and would therefore conflict with this Green Belt purpose.

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

6.14 As there are no historic towns in the immediate vicinity of the site, 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*

6.15 The development could occur in an urban area and so the development does not assist in urban regeneration. It is recognised that the site constitutes PDL, the current use and previous approval were deemed acceptable, nonetheless the increase to 60 units and not being 100% custom build is unacceptable as these should be constructed within the urban area. On balance, it is considered that the proposal would conflict with this purpose.

6.16 In light of the above analysis, it is considered that the proposals would clearly be harmful to openness and would be contrary to purposes (c) and (e) of the above listed purposes of including land in the Green Belt. Substantial weight should be afforded to these factors.

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

6.17 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 (VSC) 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.

6.18 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*".

6.19 The Planning Support Statement (paragraph 4.46) sets out the applicant's very special circumstances which are assessed below:

a. *Tangible contribution of 60 dwellings in the context of the five year housing supply deficit of a mix in accordance with identified housing need.*

6.20 The applicant states that the Council has consistently failed to provide a five year supply of deliverable housing land. The adoption of the new Local Plan has been delayed and there will be a long wait until a remedy to the persistent shortfall in the supply of deliverable housing land is available to the Local Planning Authority.

#### 6.21 Consideration

The issue of housing land supply has been considered by the Committee regularly for planning applications within the Green Belt.

6.22 National planning policy as expressed at paragraph 59 of the NPPF states that in order to support the Government's objective of significant boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed. Paragraph 73 goes on to state that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should include a buffer of 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply.

- 6.23 The most recent published analysis of the Borough's housing land supply is provided in the Thurrock Local Plan Five Year Housing Land Supply Position Statement (July 2016). This statement notes that "*the dwelling requirement set out in the Core Strategy is now considered to be out of date*". Instead, the South Essex Strategic Housing Market Assessment identifies a range of objectively assessed need for Thurrock of between 919 and 973 dwellings per annum (2014 base date). The Statement also assesses the supply of deliverable housing in the five year period from 2016/17 to 2020/21 and concludes that there is a supply of between 2.5 and 2.7 years in relation to the identified objectively assessed need. This figure of between 2.5 and 2.7 years supply was produced some time ago (2016) and it is to be expected that the figure has reduced as completions on a number of larger sites with planning permission has progressed (Bata Fields, Arisdale Avenue etc.). Although the current supply figure is in the process of being updated, it is common ground with the applicant that supply is less than the five year (+20%) requirement.
- 6.24 The Housing Delivery Test for 2020 has been published. The 2020 Test suggests a requirement for 3,088 new homes in the Borough between 2017-18 and 2019/20, of which 1,823 or 59% have been delivered. Given this undersupply, the test confirms that the 'consequence' for Thurrock is that the presumption in favour of sustainable development, as set out by paragraph no. 11 of the NPPF applies.
- 6.25 However, the presumption in favour of sustainable development is only engaged for sites or locations with a Green Belt designation after they have been shown to satisfy Green Belt tests (either of being appropriate development or demonstrating VSC). If Green Belt policy provides a clear reason for refusing permission, there is no scope for the presumption to apply. It is clear from the NPPF (para. 133) that the permanence of the Green Belt is one of its essential characteristics, and this is inevitably eroded if Green Belt land is released to meet a shortfall in the five year housing supply or affordable housing needs. In that context it is considered that the contribution of the proposals towards five year housing land supply, although attracting significant weight, is not a sufficiently strong factor to justify a departure from normal planning policies.
- b) The existing lawful open storage use of the site as specified under the Certificate of Lawfulness 10/00470/LDC. The site constitutes previously developed land. With associated fall-back position*
- 6.26 The applicant considers that the lawful use of land for growing plants and retail sales of plants, the importation of plants and retail sale of plants, the use of land for storage and display for sale of garden material and garden equipment and for the display and sale of building materials and other materials in the open should be afforded significant weight in the determination of the application. They note that there are no restrictions on vehicle movements entering or leaving the site, or relating to the

quantum of material being stored on site.

### Consideration

- 6.27 It is accepted the site can be lawfully used for the activities described above. The site has been active for a number of years but the scale of the use is relatively low key. There are few buildings on the site and materials are largely stored in the open. Whilst it is clearly not preferable to have open storage on a site in the Green Belt it is accepted that the use is lawful and that the use could be carried on. The Certificate of Lawfulness (10/00470/LDC, issued in 2010) certifies the legality of the existing uses on the site, for a mixed composite use which includes the storage of general materials, as well as a garden nursery use. The certificate relates to specifically identified uses and does not allow free, uncontrolled use of the land, although the certificate does not limit the extent of the various component uses, for example the amount or extent of any building materials, provided the use of the site remains in a composite use as expressed in the wording of the certificate.
- 6.28 The present use of the land appear to be minimal however this does not mean that the site could not increase in terms of scale and activity. The consideration in this case is to compare the fall-back position (i.e. what the applicant can do without any fresh planning permission) with what would happen as a result of the permission.
- 6.29 In terms of weighing the fall-back in the planning balance, the consideration must be firstly, whether there is a fall-back use, secondly whether there is a likelihood or real prospect of it occurring and thirdly if the answer to the second question is “yes” a comparison must be made between the two positions.
- 6.30 It has already been established that the use has not ceased and there is the lawful ability to carry it on. In relation to the prospect of it continuing, there has not been any evidence provided to show that the use would increase in scale, if the use were to continue, but under the certificate of lawfulness description and parameters, it could. In its present form there is relatively little impact on the Green Belt and surrounding area however the owner could legitimately establish additional stock piles of ‘other materials’ on the site and allow vehicles to run in and out of the site unrestricted. This could lead to significant harm to the amenity of neighbours and harm to the Green Belt.
- 6.31 The very nature of open storage and retail sales means that the impact on openness at any one time would vary. However the LDC does allow for significant expansion, continuous activities and disturbance to local residents. It is against the basis of the LDC that the applicant considers the proposed development to have less than substantial harm on the Green Belt.

- 6.32 In conclusion under this heading, it is considered that this factor should be given significant weight in the determination of the application as a very special circumstance.

*c) Extant Outline Permission for 31 Dwellings*

- 6.33 The applicant considers the extant permission for 31 custom build dwellings is a material consideration that should be given significant weight in the determination of the application. They state the proposed development will result in a reduction of 214 sq.m of total floorspace across the site will not result in substantial harm to the Green Belt and will have less impact than the extant permission.

Consideration

- 6.34 The NPPF states that LPAs should plan for people who want to build their own homes. The previous application was the first, and only one of two, custom build housing schemes within the Borough with planning permission, albeit outline permission. This factor was afforded significant weight and was the factor which tipped the balance of harm versus benefits to demonstrate the VSCs previously. The current proposal is a mix of housing and takes the proposal away from the previous extant permission as there is 70% non-custom build now proposed at the site. Therefore, the current proposal is very different and can only carry limited weight towards VSCs.

*d) The Provision of Affordable Housing*

- 6.35 The applicant considers that as 35% of the proposed units will be affordable homes, directly in accordance with the LPA's affordable housing policy CSTP2, this should be afforded significant weight towards very special circumstances.

Consideration

- 6.36 A number of recent appeal decisions in the Borough, including land at Little Thurrock Marshes and land adjacent Bulphan by-pass have confirmed that the contribution towards the delivery of affordable housing, against a backdrop of an historic under-supply is a benefit that attracts significant positive weight in the planning balance. Nevertheless, Members of the Committee are reminded that the provision of affordable housing is a component of the overall supply of new homes (NPPF para. no. 61 refers). The Committee is therefore advised against 'double-counting' the delivery of new homes and affordable housing. Instead it is the delivery of new homes, including policy-compliant affordable housing, which is the relevant factor attracting positive weight.

*e) The Provision of Custom Build Housing*

- 6.37 The applicant considers the provision of custom build housing is a matter which contributes to VSCs. This is due to a lack of other sites within the borough with planning permission and should be afforded significant weight towards VSCs.
- 6.38 The applicant cites an appeal decision Great Dunmow (appeal ref: APP/C1570/A/14/2223280), with the Inspector in allowing the appeal noted there had been “little opportunity for self-builders in recent years” and that demand existed for self-build evidenced by the self-build register maintained by the Council. And further, accordingly, “the provision of custom/self – build housing [should be afforded] significant weight”.

Consideration

- 6.39 As set out above, the previous application was the first custom build housing development within the Borough with planning permission, albeit outline permission. This factor was afforded significant weight and was the factor which tipped the balance of harm versus benefits to demonstrate the VSCs necessarily to allow for a departure from normal Green Belt planning policy.
- 6.40 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.
- 6.41 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.
- 6.42 However, the current proposal offers 18 custom build units, which is 30% of the overall units to be provided on the site. Therefore, it is considered that this changes the weight able to be attributed to the provision of custom build, as it now constitutes a minor element of the proposal. The approved application was 100% custom build. It is considered that the change to the proposal in terms of being entirely custom build to a mix of tenures has altered the potential benefits and thereby the planning balance in terms of VSCs which made the previous application acceptable. Therefore, the provision of 30% custom-build at the site is afforded limited weight.

*f) Increased ecological value of the site which is currently of low ecological value.*

- 6.43 The applicant considers the development would lead to an increase in the ecological value of the site.

Consideration

6.44 The site itself comprises large areas of hardstanding and the ecological appraisal considers the site to be of generally low ecological value. The Council’s Landscape and Ecology Advisor agrees with this assessment. It is considered that, if appropriately designed, the play area, swales and other landscape elements could provide biodiversity gains. Therefore, the increased ecological value can be afforded limited weight towards the proposals.

Summary of Very Special Circumstances

6.45 With reference to the applicant’s case for other considerations, an assessment of the factors promoted is provided in the analysis above. However, for convenience, the weight which can be attached to the factors promoted by the applicant can be briefly summarised as:

<b>Summary of Green Belt Harm and Very Special Circumstances</b>			
<b>Harm</b>	<b>Weight</b>	<b>Factors Promoted as Very Special Circumstances</b>	<b>Weight</b>
Inappropriate Development	Substantial	Lack of Five Year Supply of Deliverable Housing Land/Unmet housing need including the provision of affordable housing	Significant weight
Conflict (to varying degrees) with a number of the purposes of including land in the Green Belt – purposes c and e.	Substantial	Previously Developed Land with Open Storage Use (with fall-back position.	Significant weight
		Extant Outline Permission for 31 Dwellings	Limited weight
		Provision of Custom Build Housing	Limited weight
		Increased ecological value of the site	Limited weight

6.46 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 by other considerations, including the benefits of the development, must be reached. In this case there is harm

to the Green Belt with reference to inappropriate development and loss of openness. Several factors have been promoted by the applicant as comprising benefits which could clearly outweigh the harm to the Green Belt (and any other harm) so as to comprise the VSC necessary to approve inappropriate development. 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 VSC.

6.47 Members of the Planning Committee are reminded of the content of NPPF paragraph 144 which states:

*“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 (emphasis added) outweighed by other considerations.”*

6.48 Therefore, and although every case falls to be determined on its own merits, the benefits of the proposals must clearly outweigh the harm for VSC to exist. If the balancing exercise is finely balanced, then VSC will not exist. In this case it is considered that the contribution towards housing land supply and associated affordable housing are material considerations which weigh strongly in favour of the proposals. However, these benefits must be weighed against the harm to the Green Belt set out above. It is concluded that the Green Belt arguments are finely balanced. However, the policy 'test' at para. 144 is that harm must be clearly outweighed. For this application it is considered that the benefits of the proposals, although laudable, do not clearly outweigh the Green Belt harm and as a consequence VSC do not apply.

## II. DESIGN AND LAYOUT

6.49 The application has been submitted in outline form, with details of the access point only for consideration. If approved, the custom build element of the proposal would be subject to a 'Design Code' which would govern the main parameters of the buildings and the specific materials to be used on each plot.

6.50 Although not a matter for full consideration under this outline application, it is considered that an appropriate site layout could be achieved. As a discrete topic (aside from the Green Belt and wider landscape issues) it is considered that the design and layout of the site could be acceptable. The Design Code would ensure the custom build properties would be of an appropriate scale and use materials which would not have a detrimental impact on the local area. The market and affordable houses would be considered under a reserved matters application. In design terms

the proposals would be in accordance with Policies PMD2 and CSPT22 of the Core Strategy.

### III. LANDSCAPE AND ECOLOGY

- 6.51 Policy PMD7 indicates that proposals will be required to demonstrate that any significant biodiversity habitat or geological interest of recognised local value is retained and enhanced on-site and recognises that the Council is committed to ensuring that all designated biodiversity sites such as Sites of Special Scientific Interest (SSSI), Local Wildlife Site and Local Nature Reserves are protected.
- 6.52 The site is immediately adjacent to part of the Langdon Ridge SSSI. Part of the woods forming the northern and part of the western boundary are designated as a Local Wildlife Site. The plans show a 15m buffer to the northern end of the site between the proposed built development and the SSSI which complies with the recommendations of Natural England and the Council's Landscape and Ecology Advisor.
- 6.53 The application site slopes down from the northern part of the site toward Vange Park Road. Although not raising any specific issues in terms of landscape impact, the Landscape Advisor notes that the layout is quite formal compared to the existing pattern of development in the area and suggests it is important that the final layout responds appropriately to the location.
- 6.54 The site is within the Essex Coast RAMS Zone of Influence and therefore it would be necessary for the LPA to secure a contribution towards mitigation of the effects of recreational disturbance on Thames Estuary and Marshes SPA. In the event that the application is approved such a contribution could be secured via an appropriate Legal Agreement. The applicant indicated their willingness to make such a contribution and would draft a Legal Agreement if the application is determined favourably.

### VI. ACCESS, TRAFFIC IMPACT AND PARKING

- 6.55 The Council's Highways Officer and Essex County Council Highways raise no objection to the principle of the development on this site subject to conditions. The application is within an area of low accessibility and parking needs to be in line with the Council's draft parking standards. The residents of this residential development would depend virtually exclusively on the private car. The potential for the implementation of electric vehicle spaces in communal parking areas such as those associated with flats and parking squares should be evidenced. Additionally, each dwelling is also required to provide one covered, secure cycle parking space per dwelling. Accordingly, subject to conditions, the proposal is considered to comply with Policies PMD8, PMD9, and PMD10.

## V. FLOOD RISK AND SITE DRAINAGE

- 6.56 The site is outside of Flood Risk Zone 3, but is in excess of 1ha. A Flood Risk Assessment (FRA) has accordingly been provided with the application. The Council's Flood Risk Manager has reviewed this document and is satisfied with it subject to conditions relating to the provision of a drainage strategy. Accordingly the proposal complies with Policy PMD15.

## VI. AFFORDABLE HOUSING AND CONTRIBUTIONS

- 6.57 Policy CSTP2 seeks the provision of 35% affordable housing and policy PMD16 seeks planning obligations through S106 agreement (as appropriate) to mitigate the impact of development. The applicant has committed to 35% affordable housing on site.
- 6.58 The Council's Education Team advise a financial contribution is required to mitigate the impact of the development on primary and secondary school provision in the locality. The Council's Infrastructure Requirement List identifies extensions to nursery and primary school and secondary schools in Corringham and Stanford le Hope. The applicant has agreed to a contribution towards local education facilities.
- 6.59 NHS have advised a contribution is required towards local healthcare facilities. The applicant has agreed to this contribution.
- 6.60 In light of the above, the proposal would comply with Policy PMD16 and CSTP2.

## 7.0 CONCLUSIONS AND REASONS 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 very special circumstances which outweigh harm such that a departure from normal policy can be justified. The proposals are 'inappropriate development' in the Green Belt and would lead to a loss of openness. Substantial weight should be attached to this harm in the balance of considerations.
- 7.2 The applicant has cited factors to suggest there are very special circumstances to justify the proposed development within the Green Belt. It is a finely balanced case as the site is PDL and a fully custom build proposal for half the number now proposed was considered acceptable. Doubling the number of units at the site would urbanise the site and have a far greater impact on openness compared to the previous scheme. On balance, given the combination of factors and weight identified above and it is concluded that the case for very special circumstances does not outweigh

the harm to the Green Belt described above.

## **8.0 RECOMMENDATION**

### **8.1 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 Local Development Framework 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 Thurrock Local Development Framework 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. It is considered that 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 proposals are therefore contrary to Part 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 (2015).

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

