

<p>Reference: 21/01061/OUT</p>	<p>Site: Land adjoining Balgownie Farm Lower Dunton Road Bulphan Essex</p>
<p>Ward: Orsett</p>	<p>Proposal: Outline planning application (with matters relating to landscaping reserved) to erect 6 no. dwellings using the vehicle access associated with existing development</p>

Plan Number(s):		
Reference	Name	Received
05	Proposed Plans For Units 2 & 4	28th June 2021
04	Proposed Streetscene	28th June 2021
02 rev J	Proposed Plans For Units 1,3 5 & 6	28th June 2021
01 rev P	Existing / Proposed OS Plans	23rd August 2021

The application is also accompanied by:

- Heritage Statement by Janice Gooch Heritage Consultancy, dated 18 May 2021, job no 21/420, version 1
- Design & Access Statement, by Architectural Design & Plan, dated June 2021;
- Transport Statement by Redwood Partnership Transport Limited (ref PMcL/3408d1/Jun 2021)

<p>Applicant: Mr TJ & Julian Macalle</p>	<p>Validated: 25 June 2021 Date of expiry: 30 September 2021 (Extension of time agreed)</p>
<p>Recommendation: Refuse planning permission</p>	

This planning application is scheduled for determination by the Council's Planning Committee because it has been called in by Councillors G Byrne, F Massey, S Muldowney, L Watson and Georgette Polley to consider the need for 'top-end' houses, provision of electric charging points and "the developer giving a large sum of 106 money to local causes" (in accordance with Part 3 (b) Section 2 2.1 (a) of the Council's constitution).

1.0 BRIEF SUMMARY

1.1 This application is a resubmission of a similar application (ref 20/01172/OUT) for outline permission (with matters relating to appearance, layout, scale and landscaping reserved) for the erection of 7 dwellings, which was refused in January 2021. The current application seeks to address the previous three reasons for refusal, principally by reducing the scheme by one residential unit and reducing the site area to approximately 0.9 hectares such that the proposal which no longer constitutes a ‘major’ application. Only landscaping is a reserved matter in the current application and consequently access, appearance, layout and scale can be considered at this stage.

2.0 DESCRIPTION OF PROPOSAL

2.1 The table below summarises some of the main points of detail contained within the development proposal:

Site Area (Gross)	0.9 ha							
Height	All Two Storey							
Units (All)	Type (ALL)	1-bed	2-bed	3-bed	4-bed	5-bed	TOTAL	
	Houses	-	-	-	6	-	06	
Affordable Units	Applicant refers to a financial contribution to affordable housing							
Car parking	Houses: Total allocated: 3 spaces (including garage) per unit Total: 18							
Amenity Space	Minimum 490 sq.m Maximum 711 sq.m <u>Garden depths</u> Minimum 5.1 m Maximum 41 m							

3.0 SITE DESCRIPTION

3.1 The site lies on the west side of Lower Dunton Road outside any settlement. Horndon on the Hill is located to the south and Bulphan to the west. The site would be served by a single gated secure access from the existing access serving the development to the south and west.

- 3.2 The site comprises an open field with hedgerow along the boundary with Lower Dunton Road and is located within the Metropolitan Green Belt (GB). The site is also located c.60 metres south of a Grade II listed building (Lower Dunton Hall Farm).
- 3.3 Land immediately adjoining the current site located to the south and west is currently being developed for residential purposes via planning permission ref. 18/01079/FUL (Erection of eight executive houses). This adjacent site shares the same access onto Lower Dunton Road. Although the Planning Statement submitted with the applicant states:

“The application site exceeds the 0.5 hectare threshold. The adjacent built site is in separate ownership and is not in any way connected with this development and therefore should not be considered to be a second phase”

However, the applicant has stated on the application forms for both 18/01079/FUL and the current case includes one common party (Julian Macalle). Although since submission of this application in June 2021 a ‘Certificate B’ ownership certificate has been submitted suggested that a different party has an interest in the site.

4.0 RELEVANT PLANNING HISTORY

Land adjoining Balgownie Farm

Application Reference	Description of Proposal	Decision
20/01172/OUT	Outline planning application (with matters relating to appearance, layout, scale and landscaping reserved) to erect 7 no. dwellings using the vehicle access associated with existing development	Refused
97/00288/OUT	Detached bungalow	Refused

Land at Balgownie Farm

Application Reference	Description of Proposal	Decision
20/00652/CV	Variation of condition no 1 (approved plans) of planning permission ref 18/01079/FUL (Erection of eight executive houses) to erect additional garages.	Approved
20/00058/CONDC	Application for the approval of details	Advice Given

	reserved by condition nos. Condition 3 (Materials) Condition 4: (Design Details) Condition 5 (Soft and hard landscaping scheme) Condition 6: (CEMP) Condition 7: (Surface Water Drainage) Condition 8 (Surface water maintenance plan) of planning permission ref: 18/01079/FUL (Erection of eight executive houses.)	
18/01079/FUL	Erection of eight executive houses.	Approved
17/01664/CONDC	Application for the approval of details reserved by condition no. 4 (Highways Management Plan), 5(Construction Management Plan), 7(Access and Emerging Visibility Site Spla) and 9(Drainage Strategy) of planning permission ref. 15/01414/FUL (Erection of six executive houses on previously developed land)	Advice Given
17/01388/NMA	Application for a proposed non-material amendment to amend (size of plot 6 only) of planning permission 17/00162/FUL(Erection of six executive houses on previously developed land)	Refused
17/00162/FUL	Erection of six executive houses on previously developed land [revised application following planning approval 15/01414/FUL for six executive houses on previously developed land. This current application seeks to revise one of the house types.	Approved
15/01414/FUL	Erection of six executive houses on previously developed land.	Approved
07/00294/FUL	Change of use of redundant farm buildings to light industrial uses.	Refused

5.0 CONSULTATIONS AND REPRESENTATIONS

5.1 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

5.2 PUBLICITY:

This application has been advertised by way of individual neighbour notification letters, press advert and public site notice which has been displayed nearby.

A total of one representation has been received raising the following concerns;

- The land in question is in fact Green Belt and not available to build houses on.

The following consultation responses have been received:

5.3 EMERGENCY PLANNING:

No objection

5.4 ENVIRONMENTAL HEALTH OFFICER:

No objection, subject to conditions requiring a CEMP

5.5 ENVIRONMENT AGENCY:

No comment.

5.6 FLOOD RISK MANAGER:

No objection, conditions suggested regarding sustainable drainage systems.

5.7. HIGHWAYS:

Further information required and concerns raised regarding intensification of the access and the unsustainable location.

5.8 LANDSCAPE & ECOLOGY:

No comment received, but RAMS payment is to be expected given the location.

6.0 POLICY CONTEXT

National Planning Guidance

National Planning Policy Framework (NPPF)

6.1 The revised NPPF was published on 24th July 2021. The NPPF sets out the Government's planning policies. Paragraph 11 of the Framework expresses a

presumption in favour of sustainable development. This paragraph goes on to state that for decision taking this means:

- 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.*

6.2 As the proposal comprises a residential development, paragraph 11(d) is relevant to a degree in respect of the five-year supply of deliverable housing. The Council's most recently published figure for housing land supply (July 2016) refers to a supply of between 2.5 to 2.7 years and it is to be expected that this figure has reduced as completions on large development sites has progressed. Accordingly, as residential development is proposed, the 'tilted balance' in favour of granting permission would normally engage. However, as this is a site located in the GB the presumption in favour does not apply.

6.3 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:

- 5. Delivering a sufficient supply of homes
- 12. Achieving well-designed places
- 13. Protecting Green Belt land
- 16. Conserving and enhancing the historic environment
- 14. Meeting the challenge of climate change, flooding and coastal change;

National Planning Practice Guidance (NPPG)

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

- Design: process and tools
- Determining a planning application
- Effective use of land
- Green Belt
- Housing supply and delivery

Local Planning Policy

Thurrock Local Development Framework (as amended) 2015

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

Spatial Policies:

- CSSP1 (Sustainable Housing and Locations)
- CSSP4 (Sustainable Green Belt)

Thematic Policies:

- CSTP1 (Strategic Housing Provision)
- CSTP2 (The Provision of Affordable Housing)
- CSTP22 (Thurrock Design)
- CSTP23 (Thurrock Character and Distinctiveness)
- CSTP24 (Heritage Assets and Historic Environment)
- CSTP27 (Management and Reduction of Flood Risk)

Policies for the Management of Development

- PMD1 (Minimising Pollution and Impacts on Amenity)
- PMD2 (Design and Layout)

- PMD4 (Historic Environment)
- PMD6 (Development in the Green Belt)
- PMD8 (Parking Standards)
- PMD9 (Road Network Hierarchy)
- PMD10 (Transport Assessments and Travel Plans)
- PMD12 (Sustainable Buildings)
- PMD15 (Flood Risk Assessment)
- PMD16 (Developer Contributions)

6.6 Thurrock Local Plan

In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an Issues and Options [Stage 1] document and simultaneously undertook a 'Call for Sites' exercise. In December 2018 the Council 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.

6.7 Thurrock Design Strategy

In March 2017 the Council launched the Thurrock Design Strategy. The Design Strategy sets out the main design principles to be used by applicants for all new development in Thurrock. The Design Strategy is a supplementary planning document (SPD) which supports policies in the adopted Core Strategy.

7.0 **ASSESSMENT**

7.1 Procedure:

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, 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 any referral as a departure relates to the GB and therefore the application will need to be referred under paragraph 4 of the Direction. The Direction allows the Secretary of State a period of 21 days within

which to 'call-in' the application for determination via a public inquiry. In reaching a decision as to whether to call-in an application, the Secretary of State will be guided by the published policy for calling-in planning applications and relevant planning policies.

7.2 The assessment below covers the following areas:

- I. Principle of Development
- II. Design, Layout and Historic Environment
- III. Effect on Neighbouring Properties
- IV. Living Standards and Private Amenity Space
- V. Impact on Landscape, Ecology and Biodiversity
- VI. Site Drainage and Flood Risk
- VII. Traffic, Access and Car Parking
- VIII. Planning Obligations
- IX. Other Matters

I. PRINCIPLE OF THE DEVELOPMENT

7.3 As all of the site is located within the GB, adopted Core Strategy policies CSSP4 and PMD6 apply to the proposals alongside part 13 of the NPPF (Protecting GB land). Under the heading of GB considerations it is necessary to refer to the following key questions:

- i. whether the proposals constitute inappropriate development in the GB;
- ii. the effect of the proposals on the open nature of the GB and the purposes of including land within it; and
- iii. whether the harm to the GB is clearly outweighed by other considerations so as to amount to the very special circumstances (VSC) necessary to justify inappropriate development.

i. Whether the proposals constitute inappropriate development in Green Belt

7.4 The first reason for refusal on the previous application (ref 20/01172/OUT) states the following;

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.'

- 7.5 The site is identified on the Core Strategy Proposals Map as being within the GB where policies CSSP4 and PMD6 apply. Policies CSSP4 and PMD6 state that the Council will maintain, protect and enhance the open character of the GB in Thurrock. These policies aim to prevent urban sprawl and maintain the essential characteristics of the openness and permanence of the GB to accord with the requirements of the NPPF.
- 7.6 Paragraph 137 within Chapter 13 of the NPPF states that the Government attaches great importance to GBs 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 147 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”*. Paragraph 148 goes on to state that local planning authorities should ensure that “substantial weight” is given to any harm to the GB and that VSC will not exist unless the potential harm to the GB by way of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 7.7 With reference to proposed new buildings in the GB, paragraph 149 confirms that a local planning authority should regard their construction as inappropriate, with the following exceptions:
- a) buildings for agriculture and forestry;
 - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the GB and do not conflict with the purposes of including land within it;
 - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
 - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - e) limited infilling in villages;
 - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
- not have a greater impact on the openness of the GB than the existing development; or
 - not cause substantial harm to the openness of the GB, 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.

7.8 The applicants Planning Statement maintains that paragraph 145 of the NPPF (now 149 of the revised version) is appropriate to justify inappropriate development;

'The Paragraph does permit infilling as an exception to this. This would normally be within a village or on brownfield land. Although the site is not within the village it is a site which is immediately adjacent to a built up area of the Green Belt. In the immediate vicinity there are now 11 large detached houses....three of the sides of the site is completely enclosed by housing and associated buildings within their curtilages' (see paragraph 5.6 of planning statement).

7.9 The applicant acknowledges that the site is inappropriate development but seeks to use sub-paragraphs 145(e) and (g) as exceptions to inappropriate development in the Green Belt. The applicant has tried to suggest that the site constitutes limited infilling, primarily because the site is enclosed by buildings on three sides, although the site does not constitute previously developed land, as defined in the glossary of the NPPF and/or fit within the definition of a village settlement. Therefore, as established in the report for the previous refused application at the site (ref 20/01172/OUT), the proposals do not fall within the NPPF exceptions to inappropriate development as defined in paragraph 149. Furthermore, the applicant's Planning Statement, at paragraph 1.2 confirms that the site is an open field which the family, at Balgownie Farm and a local football club (un-named) have used for football and recreational purposes.

7.10 Consequently, as the application seeks outline permission for 6 residential units on open green space the proposal comprises inappropriate development in the GB, which is harmful by definition, with reference to the NPPF and Policy PMD6 and CSSP4. In accordance with the NPPF (para. 148), Policies PMD6 and CSSP4, substantial weight should be given to this harm.

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

- 7.11 The analysis in the paragraphs above concludes that the residential development is inappropriate development which is, by definition, harmful to the GB (NPPF para. 147). However, it is also necessary to consider whether there is any other harm (NPPF para. 148).
- 7.12 As noted above paragraph 137 of the NPPF states that the fundamental aim of GB policy is to prevent urban sprawl by keeping land permanently open: the essential characteristics of GBs being described as their openness and their permanence.
- 7.13 Although this is an application for outline planning permission with only landscaping as a reserved matter, it is evident that the built development and accompanying curtilages etc. would be spread across the majority of the application site. The proposals would comprise a substantial amount of new built development in an area which is currently open. Advice published in NPPG (Jul 2019) addresses the role of the GB in the planning system and, with reference to openness, cites the following matters to be taken into account when assessing impact:
- Openness is capable of having both spatial and visual aspects;
 - The duration of the development, and its remediability; and
 - The degree of activity likely to be generated, such as traffic generation
- 7.14 It is considered that the proposed development would have a detrimental impact on both the spatial and visual aspects of openness, i.e. an impact as a result of the footprint of development and building volumes. The applicant has not sought a temporary planning permission and it must be assumed that the design-life of the development would be a number of decades. The intended permanency of the development would therefore impact upon openness. Finally the development would generate traffic movements associated with the residential scheme and it is considered this activity would also impact negatively on the openness of the GB. Therefore, it is considered that the amount and scale of the development proposed would significantly reduce the openness of the site. As a consequence the loss of openness, which is contrary to the NPPF, should be accorded substantial weight in the consideration of this application.
- 7.15 With regard to the visual impact on the GB assessment of openness, the quantum of development proposed would undoubtedly harm the open visual character of the site. It is noted a landscape buffer is referenced in the planning statement and reflected on the plans to limit the visual impact to the adjacent highway. The planning statement submitted (at para 3.1/3.2) maintains;

'The raison d'être of the proposals is to create a landscape dominant pattern and form of development, that is similar to that found in the more Arcadian, low density developments of the villages and suburban areas of Essex. The proposal also seeks to reflect the character and appearance of the historic and recently erected dwellings which immediately about the application site...Strategic landscape buffer planting is proposed between the heritage asset buildings and their historic curtilages and the proposed plot 1...'

7.16 Notwithstanding this, Officers take the view that limited weight can be afforded to the landscape buffer, since landscaping is a reserved matter. As the site has no built form, built development on the site as proposed would clearly harm the visual component of openness.

7.17 The current proposal would therefore reduce openness as both a spatial and visual concept. Despite this, the applicant's Planning Statement maintains the following;

'Policy guidance seeks that the aims and purposes of the "Green Belt" are considered. Redevelopment of the site would not lead to encroachment into the countryside as the site is wholly distinct as a non-agricultural area, defined as a 'Residential Use' due to its use as garden to the existing Balgownie Farm House.'

7.18 Regardless of the applicant's position above, paragraph 138 of the NPPF sets out the five purposes which the GB 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.

In response to each of these five purposes:

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

7.19 The site is situated within the GB, but outside of large built up areas. The application site is directly adjacent to Lower Dunton Road which has a rural character with large open fields and few buildings sporadically scattered throughout the length of the road. The proposal would extend built form into the open parcel of land where there is currently no development. Although compared to the earlier refusal this scheme seeks to reduce the quantum of residential units, reduce the site area to 0.9 ha and increase the landscape buffer to the northern part of the site. However, for the

purposes of the NPPF, the proposal is considered outside a large built up area and, therefore, it is not directly contrary to the first purpose of the GB.

b. to prevent neighbouring towns from merging into one another

7.20 The site is situated north of Horndon on the Hill and further north of the site is Langdon Hills / Basildon. Given the location of the application site, the development would not result in the confluence of any towns.

c. to assist in safeguarding the countryside from encroachment

7.21 The Planning Statement submitted maintains that the proposal constitutes a 'small encroachment into the countryside' and 'only a very modest level of harm to the purposes of the Green Belt'. Officers do not agree with the applicant's assessment of impact on this purpose of the GB, as there is no definitive guidance on the 'degrees of harm' to the GB or what constitutes 'a small level of harm by encroachment'.

7.22 Therefore, with regard to the third GB purpose, the proposal would involve built development on a site which is currently open and undeveloped. The proposed development would spread across the majority of the site and it is important to note that the proposed dwellings would inevitably require parking spaces, hardstandings, associated roads and residential curtilages. It is therefore considered that the proposal would constitute an encroachment of built development into the countryside in this location and would constitute material harm to with this purpose.

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

7.23 The site is near to a Grade II listed building. Nonetheless, as there are no historic towns in the immediate vicinity of the site, in terms of the criteria of the NPPF, the proposals do not conflict with this defined purpose of the GB.

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

7.24 In general terms, the development could occur in the urban area and, in principle; there is no spatial imperative why GB land is required to accommodate the proposals. The erection of 6 units with associated hardstanding/vehicle accesses, fencing etc. is inconsistent with the fifth purpose of the GB.

7.25 In conclusion under the headings (i) and (ii) it is considered that the current proposals would lead to harm to the GB by way of inappropriate development (i.e. definitional harm), would be harmful by way of loss of openness and would be harmful as a result

of conflict with GB purposes (c) and (e). In accordance with 144 of the NPPF substantial weight should be afforded to this harm.

iii. Whether the harm to the GB is clearly outweighed by other considerations so as to amount to the very special circumstances (VSC) necessary to justify inappropriate development

7.26 Paragraph 148 of the NPPF states that, when considering any planning application, local planning authorities -

“should ensure that substantial weight is given to any harm to the GB. VSC will not exist unless the potential harm to the GB by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”

7.27 Neither the NPPF nor the adopted Core Strategy provide guidance as to what can comprise VSC, either singly or in combination. However, some interpretation of 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 VSC (.i.e. ‘very special’ is not necessarily to be interpreted as the converse of ‘commonplace’). However, the demonstration of VSC is a ‘high’ test and the circumstances which are relied upon must be genuinely ‘very special’.

7.28 In considering whether VSC exist, factors put forward by an applicant which are generic or capable of being replicated on other sites, could be used on different cases leading to a decrease in openness of the GB. The provisions of VSC which are specific and not easily replicable may help to reduce the risk of a precedent being created. Mitigation measures designed to reduce the impact of a proposal are generally not capable of being a VSC. Ultimately, whether any particular combination of factors amounts to VSC will be a matter of planning judgement for the decision-taker.

7.29 The Planning Statement submitted to accompany the application has not advanced formal factors which would amount to VSC that could overcome the harm that would result by way of inappropriateness other harm identified in the assessment. However, the Planning Statement and Design and Access Statements provides justifications for inappropriate development in the GB, these will be addressed under the following headings.

- a. Council's Lack of Housing Land Supply
- b. Financial Contribution to Affordable Housing
- c. Presumption in Favour of Sustainable Development

These matters are assessed in the paragraphs below.

a. Council's Lack of Housing Land Supply

Consideration

- 7.30 The issue of housing land supply (including affordable housing) has been considered by the Committee regularly with regard to proposals for residential development in the GB and it is acknowledged that there is currently a lack of 5 year housing supply. The most recently 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 accepted that supply is less than the five year (+20%) requirement.
- 7.31 The current proposals would, with only 6 units, be of minimal benefit in contributing towards addressing the large shortfall in the supply of new housing as set out in the Core Strategy policy delivery targets and as required by the NPPF. The matter of housing delivery is a benefit which contributes towards VSC and should be accorded significant positive weight in the consideration of this application. In 2013 a written ministerial statement confirmed that the single issue of unmet housing demand was unlikely to outweigh GB harm to constitute the VSC justifying inappropriate development. This position was confirmed in a further ministerial statement in 2015 and was referred to in previous iterations of NPPG. However, the latest revision of the NPPF (2021) does not include this provision and the corresponding guidance in NPPG has also been removed. Nevertheless, an appeal decision from February 2020 (ref. APP/Q4625/W/19/3237026) referred specifically to this point and considered that "... unmet need on its own, is highly unlikely to amount to vsc...". Accordingly the very significant benefit of the contribution towards housing land supply would need to combine with other demonstrable benefits to comprise the VSC necessary to justify inappropriate development.

b. Financial Contribution to Affordable Housing

Consideration

- 7.32 The third reason for refusal on the previous refused application stated;
3. *The proposed development, by reason of the lack of a legal agreement towards the provision of affordable housing has failed to demonstrate that it would contribute towards meeting affordable housing need in the Borough. The proposal is therefore contrary to policy CSTP2 the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) the National Planning Policy Framework 2019.*
- 7.33 Policy CSTP2 seeks the minimum provision of 35% affordable housing. While the applicant's willingness to seek a legal agreement to secure an affordable housing financial contribution is noted, no legal agreement has been forthcoming. The threshold for affordable housing provision is also 10 residential units. The applicant has recently received approval of a section 73 application for an extant permission (18/01079/FUL) to build 8 detached properties south and west of the current application site. The s73 application (20/00652/CV) sought to add additional garages for 7 of the plots. In the previous refused application it was concluded that the scheme was effectively a second phase of development within the applicant's ownership of land, and officers took the view that the applicant should comply with the 35% policy requirements. Therefore, it was considered that if the scheme were consented, there would be a total 15 units within the whole site at Balgownie Farm and a provision 5 affordable housing units should be supplied on-site or a financial equivalent (as per the 7 units proposed within the previous application 20/01172/OUT).
- 7.34 In response to the previous reason for refusal, the applicant indicates that they would be willing to make a financial contribution of £200,000 presumably to off-site affordable housing provision, but simultaneously maintains they no longer own the entire site at Balgownie Farm where the 8 dwellings have been erected. This is not entirely clear from the location plan supplied with the application as the two dwellings closest to Lower Dunton Road (plots 7 & 8), are the only two plots outlined within the applications ownership. Furthermore, during the course of the current application the applicant has exchanged the certificate A for certificate B; confirming that another party, apart from the applicant, has an interest in the land and provided the notice letter to the appropriate persons. At this stage, it is not known the extent of the interest in the land, but officers are left to conclude the quantum of development within the applicant's ownership, resulting from the existing and proposed development, is unlikely to exceed the 10 units' threshold for provision of affordable housing.

- 7.35 In light of the above conclusion, in terms of the proposed £200,000 contribution to off-site affordable housing, Officers consider that contributions cannot be accepted from the applicant if the totality of residential units on the adjoining approved scheme and the proposed units do not exceed 10 units which are under the applicant's ownership. Furthermore, it is unclear how the applicant has arrived at the figure of £200,000 and/or whether this figure is viability tested this figure could fluctuate subject to the viability of the scheme.
- 7.36 Therefore, although the third reason for refusal from the previous refused application can be removed, the proposed £200,000 contribution towards affordable housing is afforded no weight as a VSC necessary to justify inappropriate development in the Green Belt. This is because if (as claimed in the Planning Statement) there is limited connection between the implemented permission and the current proposal, the requirement for the provision of affordable housing does not engage and therefore any financial contribution would clearly not meet the legal tests set out at paragraph 57 of the NPPF, namely:

Planning obligations must only be sought where they meet all of the following tests:

- (a) necessary to make the development acceptable in planning terms;*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the development.*

c. Presumption in Favour of Sustainable Development

- 7.37 The applicant considers that the proposed development would be economically sustainable due to the number of jobs generated during the construction phase and would also have environmental and social benefits. Also, it is held that future residents would increase the number of people using the facilities and services of the more urban areas of the borough.

Consideration

- 7.38 The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development (para. 7). At para. 11 the NPPF states that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking para. 11 (c) and (d) confirm the application of the presumption in favour of sustainable development as:

- (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, 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; 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.*

7.39 Footnote (7) from the above extract includes the GB as an area or asset of particular importance. Succinctly put, land designated as GB provides a strong reason for refusing the erection of 6 units as proposed and the current proposal could not be viewed as achieving sustainable development since this would directly contravene the NPPF's policies on 'Protecting Green Belt land' (Chapter 13).

7.40 In summary, under this heading, the proposal would result in new dwellings which would result in local expenditure, create jobs in the short term during construction but the creation of 6 dwellings are likely to have limited social benefit. Furthermore, the site is within an isolated location in the GB, with no public transport links and not within walking distance to any local amenities. Lower Dunton Road has no pedestrian accessibility and the site is not within a sustainable location and there would be a total reliance on personal car use. Therefore the temporary economic benefit of construction jobs and economic benefits from 6 new households is afforded only very limited weight.

Green Belt Conclusions

7.41 Under the heading considerations, it is concluded that the proposals comprise inappropriate development. Consequently, the development would be harmful in principle and reduce the openness of the GB. Furthermore it is considered that the proposals would harm the openness of the GB in terms of both the spatial and visual aspects of openness and would cause some harm to the role which the site plays in fulfilling the purposes for including land within the Green Belt. In accordance with policy, substantial weight should be attached to this harm. With reference to the applicant's case for very special circumstances, an assessment of the factors promoted is provided in the analysis above.

7.42 However, for convenience, a summary of the weight which should be placed on various GB considerations is provided in the table below;

Simplified Summary of GB Harm and applicant’s case for Very Special Circumstances			
<u>Harm</u>	<u>Weight</u>	<u>Factors Promoted as Very Special Circumstances</u>	<u>Weight</u>
Inappropriate development	Substantial	Lack of Housing Land Supply	Significant
Reduction in the openness of the Green Belt		Financial Contribution to Affordable Housing	No Weight
Conflict (to varying degrees) with a number of the purposes of including land in the Green Belt		Presumption in Favour of Sustainable Development	Limited Weight

7.43 Within the table above, the factors promoted by the applicant can be assessed as attracting varying degrees of ‘positive’ weight in the balanced of considerations. As ever, in reaching a conclusion on the GB issues, a judgement as to balance between the harm and whether the harm is clearly outweighed must be reached. In this case there is harm to the Green Belt with reference to inappropriate development, loss of openness and conflict with a number of Green Belt purposes. Limited factors have been promoted by the applicant as comprising the ‘very special circumstances’ required to justify inappropriate development and it is for the Committee to judge:

- i. The weight to be attributed to these factors;
- ii. Whether the factors are genuinely ‘very special’ (i.e. site specific) or whether the accumulation of generic factors combine at this location to comprise ‘very special circumstances’.

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

II. DESIGN, LAYOUT AND HISTORIC ENVIRONMENT

7.45 The NPPF states at paragraph 207 that; ‘*Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.*’

7.46 CSTP24 of the Core Strategy states the following;

'All development proposals will be required to consider and appraise development options and demonstrate that the final proposal is the most appropriate for the heritage asset and its setting, in accordance with i. the objectives in part 1..., ii. The requirements of PMD4 Historic Environment, iii. Conservation Area Character Appraisals and Management Proposals...and iv. Relevant national and regional guidance.'

7.47 PMD4 of the Core Strategy also states the following;

'The Council will ensure that the fabric and setting of heritage assets, including Listed Buildings, Conservation Areas, Scheduled Monuments and other important archaeological sites, and historic landscape features are appropriately protected and enhanced in accordance with their significance.'

7.48 The current proposal is an outline planning application with matters relating to landscaping reserved. Notwithstanding this, the applicant has submitted plans to illustrate the potential landscaping arrangements around the boundary of site. This application differs to the previous refused application at the site (ref 20/01172/OUT), in that details relating to appearance, layout and scale were previously reserved matters and were not for consideration within the parameters of the application.

7.49 The second reason for refusal on the previous application (ref 20/01172/OUT) states;

'The proposed development would, by reason of its increased built form, urbanised layout and associated vehicle surfacing/hardstanding, appear out of context in a rural setting given the surrounding pattern and nature of buildings and would appear out of character within the immediate locality failing to respond to the sensitivity of the site, its surroundings or mitigate the negative impacts of the development. Furthermore, the application is not supported by a statement to describe the significance of the adjacent listed building and therefore the local planning authority cannot understand the potential impact of the proposals on this designated heritage asset. The proposal is therefore contrary to Policies PMD2, PMD4 CSTP22 and CSPT23 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) and paragraph 189 of the National Planning Policy Framework 2019.'

7.50 In the current application, the Planning Statement maintains that the applicant's Heritage Advisor recommended that the application be revised to omit one of the dwellings, reducing the scheme to six dwellings in order to provide considerable separation to the adjacent listed building, which includes a landscape buffer to the

northern boundary of plot 1. It is acknowledged the size of the application site has reduced from the refused application which, in turn, reduces the distance of the site boundary from Lower Dunton Road by approximately 1.3 metres.

- 7.51 Notwithstanding this amendment, the dwellings would be two storey and of substantial scale with roof ridge heights up to c.9m. In terms of appearance and layout, erecting a further 6 dwellings would clearly harm the open character of the site.
- 7.52 Furthermore, the site is in relatively close proximity to a Grade II listed building (Lower Dunton Hall - List Entry ID: 1111583), which is an eighteenth-century red brick farmhouse, consisting of two-storeys with attics. The Council's Heritage Advisor has been consulted in relation to the current outline application. In the previous application the Advisor maintained that the applicant should have provided a Heritage Statement to support the application. Officers agreed with this position, and the Advisor noted that the surrounding area is predominantly rural and characterised by farmsteads set within open fields. It was said that:

'Historic maps illustrate that this area of land has historically remained open and undeveloped. As such, the proposed development would fundamentally alter the rural, undeveloped character of this parcel of land located in close proximity to the listed building, which forms part of the historic agrarian landscape context of the heritage asset. It is therefore considered that the proposals would cause harm to the significance of the listed building.'

- 7.53 Overall the previous advice from the Advisor asserted that there would be harm to the significance of the Grade II listed building and directed the LPA to paragraph 196 of the NPPF (now para. 202), which states;

'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'

- 7.54 The Advisor suggested the proposal would amount to less than substantial harm to the designated heritage asset, although other than the contribution to the housing land supply, the public benefit of the scheme was and is limited. While less than substantial harm has been attributed to the proposed development, it is acknowledged this is not the same as 'no harm' to the designated heritage asset. It is acknowledged that the applicant has tried to address the impact to the designated heritage asset, by removing one unit of housing from the previous proposal and increasing the landscape buffer to the north of the site, closest to the boundary shared with the listed building.

- 7.55 There are two key positions the applicant's Heritage Statement makes, the first being that the erection of the 8 dwellings at Balgownie Farm, the site, subject of the current application, has limited function as farmland or other potential uses. Therefore, the Heritage Statement suggests that the residential development proposed is a solution to the site in redundant use. Secondly, it is maintained that it was previously held by the Council's Heritage advisor that there would be less than substantial harm in line with NPPF (para 202).
- 7.56 In response to the former, the allocation of the site within GB is a spatial designation and as stated previously, paragraph 137 of the NPPF says 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."* and that *"Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances"*. Therefore, in relation to the applicant's assertion that the site is 'redundant', there is no requirement of the site to fulfil a function other than being 'permanently open' which is in accordance with the NPPF.
- 7.57 In relation to the second position in the applicant's Heritage Statement, the reduction in both site area and the number of units to 6 and landscape buffer are noted. However, given the comments from the Heritage Advisor in the refused application and the wording of the reason for the refusal, Officers consider the revisions to the proposals are insufficient to remove the heritage reason for refusal. Furthermore, the comments from the Heritage Advisor suggest that the Heritage Statement submitted is inadequate and fails to meet Historic England's guidance criteria. As a result, the supplied Heritage Statement fails to describe the significance of any heritage assets affected, including any contribution made by their setting and the impact of the proposals upon that significance.
- 7.58 Therefore, and as noted above, the proposed development would fundamentally alter the rural, undeveloped character of the surrounding area, which forms part of the historic agrarian landscape context of the heritage asset.
- 7.59 While the adjacent site has recently gained planning permission for the erection of 8 dwellings, the context is different as a proportion of the land concerned was deemed previously development land and ultimately, involved the demolition of a number of buildings on the site. Therefore, officers consider there is no direct comparison with the consented schemes (ref 20/00652/CV and 18/01079/FUL) and the current application.
- 7.60 On a similar note, the applicant maintains in the Planning Statement that within the 2018 application at Balgownie Farm (ref 18/01079/FUL), the site was classed in the

delegated report as residential use. However, references to residential use concerned the application site at Balgownie Farm, rather than the current site.

- 7.61 In light of the above, Officers consider that the proposal would also harm the open, rural setting of the site which also harms the historic agrarian landscape of the area, which also has further implications for the heritage asset. The proposal is clearly contrary to Policies CSSP4, PMD2, PMD4 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.

III. EFFECT ON NEIGHBOURING PROPERTIES

- 7.62 Notwithstanding the principal GB objection, the development would comprise 6 large dwellings which would be situated directly adjacent to the recently built development at Balgownie Farm. Given the generous garden depths of the of the proposed units, being over 35 metres, plots 1-5 at Balgownie Farm are not considered to experience any negative impact in terms overlooking or loss of privacy.

- 7.63 The southern boundary of plot 6 of the current application would be opposite plots 5-8 at Balgownie Farm. However, the distance from these properties at Balgownie Farm would be over 28 metres and would not create an overbearing impact.

IV. LIVING STANDARDS AND PRIVATE AMENITY SPACE

- 7.64 Each dwelling would be of a generous size to provide a suitable living environment for future occupiers. There would also be suitable levels of privacy for future occupiers.

- 7.65 As stated above, the proposed garden sizes are generous and it is considered the private amenity spaces are therefore acceptable. The proposal complies with PMD1 and PMD2 of the Core Strategy.

V. IMPACT ON LANDSCAPE, ECOLOGY AND BIODIVERSITY

- 7.66 As noted above, the application site is open land, in a rural setting within an historic agrarian landscape. Therefore, officers consider that the proposed introduction of significant built form associated with residential development would result in an urbanised character fronting the adjacent highway, Lower Dunton Road.

The Council's Landscape & Ecology Advisor has been consulted, but in his previous response stated;

'The character of development along Lower Dunton Road is typified by single or small groups of buildings. This proposed development together with the already permitted scheme to the west would form a relatively large grouping of housing that is considered to be out of character with this area.'

- 7.67 Therefore, proposal is clearly contrary to Policies CSSP4, PMD2, PMD4 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 2021.

IV. SITE DRAINAGE AND FLOOD RISK

- 7.68 The application site is within the lowest Flood Risk Zone Area (Zone 1). No adverse comments have been received from the Environment Agency. The Flood Risk Manager has also been consulted and raises no objection but mentioned that SuDs practices, including raingarden and swales could be included within the development before the water hits a soakaway, will provide a better water quality.
- 7.69 A lack of drainage details were also noted in the drainage comment made in the previous refused application although Officers consider that this could be managed within a reserved matters application which effectively removes any objection on the grounds of drainage grounds.

V. TRAFFIC, ACCESS AND CAR PARKING

- 7.70 The primary concerns from the Highways Officer regarding this application are the intensification of the existing access at the site and isolated location. However, the current proposal seeks to use the current access to the wider site at Balgownie Farm, which serves the approved 8 residential units. This vehicle access would be extended to the plot to also facilitate the further 6 units proposed.
- 7.71 The comments from the Highways Officer are appreciated, however, the principle of intensification of the existing access onto a Level 1 Rural Road, has already been established on the previous applications on the wider site for the erection of 6 units (refs 15/01414/FUL and 17/00162/FUL) and no further objections were raised on the recent 8 units scheme (ref 18/01079/FUL).
- 7.72 It is appreciated there could be an intensification of the vehicle access to the site, given that the access previously only served a single dwelling and previous agricultural buildings in the past. However, given the in-principle objection on GB grounds and that the same approach to the intensification of the access in the refused application (ref 21/01061/OUT) was adopted, it is considered that an objection to the intensification of the access could not be substantiated.

VI. PLANNING OBLIGATIONS

- 7.73 The site is within the Essex Coast RAMS zone of influence and therefore it would be necessary to secure a financial contribution towards mitigation of the effects of recreational disturbance on Thames Estuary and Marshes SPA. In the event that the application were being recommended favourably such a contribution could be secured via an appropriate legal agreement. The applicant has confirmed they would be willing draft a s106 to address the RAMS mitigation measures.

VII. OTHER MATTERS

- 7.74 Although, not raised in the Planning Statement, one of the reasons this application was called-in to Committee was due to the need for 'top end' houses. Although the need for this type of housing, in this location, has not been substantiated. Moreover, although due to the number of units proposed there is no requirement to consult with the Council's Housing Department, previous advice is that there is a need for 1-2 bed units within the Borough. Core Strategy CSTP1 (Strategic Housing Provision) simply states (under the heading of 'Dwelling Mix'):

The Council will require new residential developments to provide a range of dwelling types and sizes to reflect the Borough's housing need, in accordance with the findings of the Strategic Housing Market Assessment, any relevant development briefs, the local context, amenity and car parking standards.

This factor does not form a benefit of overriding importance which would clearly outweigh the GB and other harm.

8.0 RECOMMENDATION

To refuse for the following reason(s):

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 138 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 2021.

2. The proposed development would, by reason of its increased built form, urbanised layout and associated vehicle surfacing/hardstanding, appear out of context in a rural setting given the surrounding pattern and nature of buildings and would appear out of character within the immediate locality failing to respond to the sensitivity of the site, its surroundings or mitigate the negative impacts of the development. Furthermore, the application is not supported by a sufficient statement to describe the significance of the adjacent listed building and therefore the local planning authority cannot appropriately assess the potential impact of the proposals on this designated heritage asset. The proposal is therefore contrary to Policies PMD2, PMD4 CSTP22 and CSPT23 of the adopted Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended 2015) and paragraph 189 of the National Planning Policy Framework 2021.

Positive and Proactive Statement

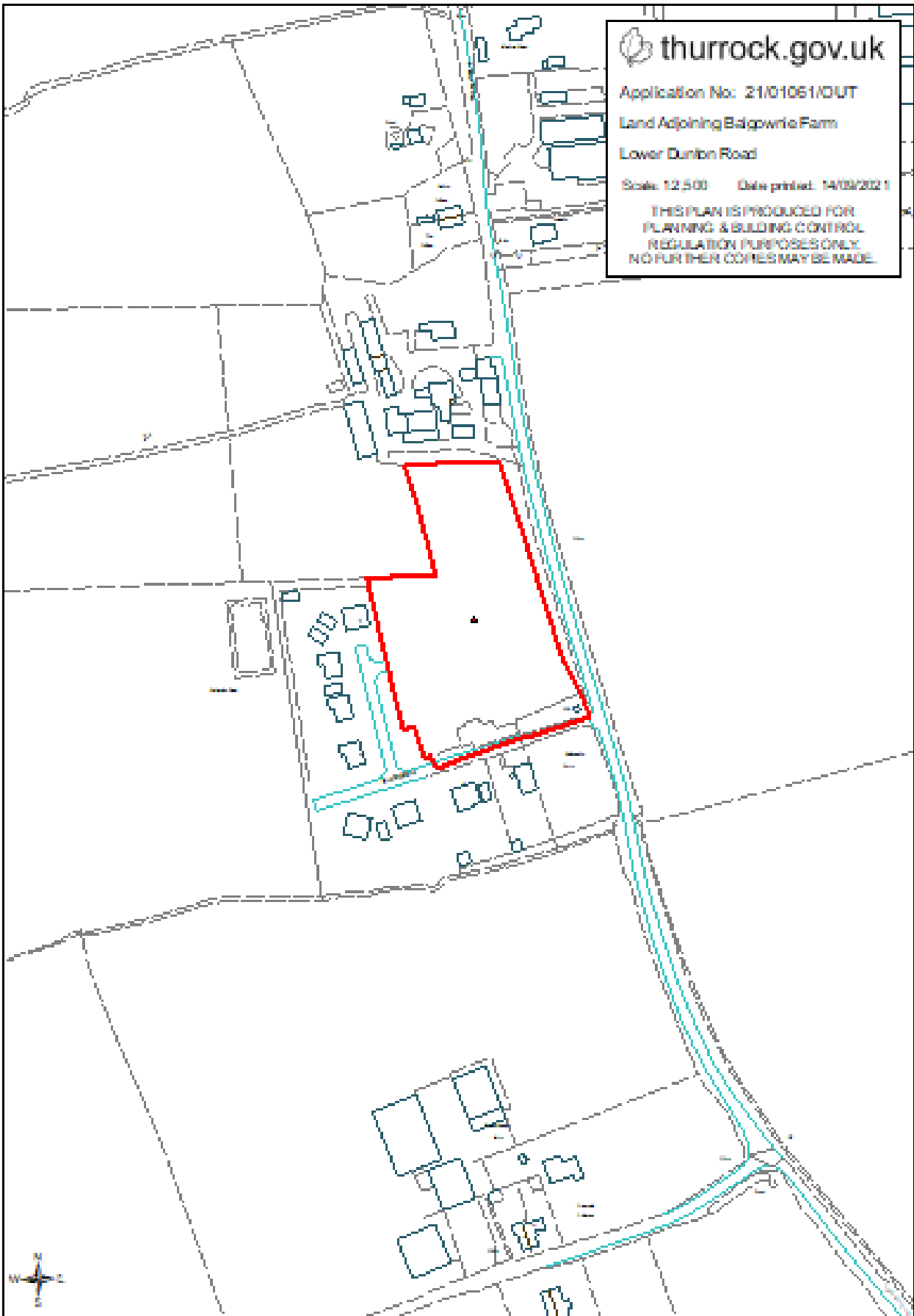
Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) - Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing with the Applicant/Agent. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Documents:

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

www.thurrock.gov.uk/planning



 **thurrock.gov.uk**
Application No: 21/01061/OUT
Land Adjoining Balgowrie Farm
Lower Dunbrn Road
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