

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

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:	
<ul style="list-style-type: none"> <li>- Heritage Statement by Janice Gooch Heritage Consultancy, dated 18 May 2021, job no 21/420, version 1</li> <li>- Design &amp; Access Statement, by Architectural Design &amp; Plan, dated June 2021;</li> <li>- Transport Statement by Redwood Partnership Transport Limited (ref PMcL/3408d1/Jun 2021)</li> </ul>	
<b>Applicant:</b> Mr TJ & Julian Macalle	<b>Validated:</b> 25 June 2021 <b>Date of expiry:</b> 1 November 2021 (Extension of time agreed)
<b>Recommendation:</b> Refuse planning permission	

## 1.0 BACKGROUND

1.1 At the meeting of the Planning Committee held on 23<sup>rd</sup> September 2021 Members deferred consideration of this item due to time constraints. For clarity, Officers did not present their report to the Committee and statement(s) were not heard.

1.2 A copy of the report to the September Committee is attached at Appendix 1.

## 2.0 PLANNING UPDATES, ASSESSMENT & IMPLICATIONS

- 2.1 The recommendation set out in the report at Appendix 1 is to refuse planning permission for two reasons relating to:
- i. harm to the Green Belt (GB) and the lack of considerations which would clearly outweigh that harm such that very special circumstances exist to justify inappropriate development; and
  - ii. unacceptable impact on local character and the lack of a suitable heritage statement.
- 2.2 However, since the September meeting Officers have further considered the case and taken into account a similar planning application which was refused planning permission at the September meeting (ref. 21/00698/FUL – land part of Greenacre and Oakdene, High Road, Fobbing), which also involved residential development in the GB. The recommendation for application ref. 21/00698/FUL included a reason for refusal based on the lack of affordable housing provision which was agreed by the Planning Committee.
- 2.3 By way of background, application ref. 21/00698/FUL proposed a development of 8 dwellings on a site immediate adjacent to a previously approved development of 5 no. dwellings (ref. 20/01051/FUL). Both applications had a common applicant, design parameters and the same access road. The two applications were considered to be linked phases of a single development. As the combined total of new dwellings exceeded ten, adopted planning policies requiring the provision of affordable housing were engaged. Therefore at the September Committee meeting a reason for refusal based on the lack of affordable housing, as well as harm to both the GB and local character was agreed by Members.
- 2.4 There is planning case law and appeal examples of the issue of “threshold manipulation”, that is, tactical devices which can be used by landowners and developers to avoid their schemes exceeding the thresholds where the requirements for the provision of affordable housing applies. The relevant case law is found in R (Westminster City Council) v First Secretary of State and Brandlord Limited (2003) which sets out a ‘tripartite test’ for considering whether two (or more) development proposals could be aggregated or considered to form part of a larger whole. The ‘tripartite test’ relates to:
- ownership;
  - whether the site is a single planning unit; and

- whether the development should be treated as a single development.

2.5 In this case, land at Balgownie Farm (located immediately to the south and west) of the current application site has been recently developed with a scheme of 8 detached residential dwellings via planning permission ref. 18/00709/FUL (as amended by 20/00652/CV). This permission followed a succession of similar planning permissions for the redevelopment of previously developed land as follows:

<u>Reference</u>	<u>Description</u>
15/01414/FUL	Erection of six executive houses on previously developed land
18/01079/FUL	Erection of eight executive houses
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.
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

2.6 The applications received in 2015, 2017 and 2018 were submitted by the current applicant who, at the time of submission, owned the land, although it is understood that a separate development company implemented the most recent planning permission (ref. 20/00652/CV). In terms of the current application, the applicant completed ‘Ownership Certificate A’ (confirming that they had complete ownership of the application site) in June 2021. Although ‘Ownership Certificate B’ was subsequently submitted in August 2021, this only confirms that another party has an interest in the application site, which could involve only a part of the site. The completion of ‘Certificate B’ on any residential site is a relatively simple process and sets a low ‘test’ at which the requirement to provide affordable housing would rest. If replicated, this device could be easily employed to sub-divide larger sites to avoid the cumulative trigger to provide affordable housing provision. It is clear that until last year the current applicant controlled ‘Land at Balgownie Farm’ and at the time when the current application was submitted (June 2021) controlled the application site. It is considered that these factors are relevant to this part of the ‘tripartite test’.

2.7 The concept of a ‘planning unit’ normally arises in cases involving Enforcement Notices, or applications for Lawful Development Certificates. In summary, a

planning unit is the area of land which is to be looked at in order to assess what planning rights apply to all or part of that area. As the existing and proposed developments involve dwellinghouses these can be considered as separate 'planning units' which would ordinarily enjoy permitted development rights (although these have been removed in this case). Consequently, the planning unit part of the 'tripartite test' is not relevant to this case.

- 2.8 The final limb of the test is whether the existing and proposed development should be treated as a single development. The development permitted by 18/01079/FUL (as amended by 20/00652/CV) is substantially completed and part-occupied. This development comprises 8 detached, two-storey, four-bedroom properties, with three different house-types. The current proposal would also involve detached, two-storey, four-bedroom properties comprising two different house-types. Although different architects are involved, the typology and general appearance of the existing and proposed dwellings is similar. More importantly, the two developments share a single access road onto Lower Dunton Road and it is very likely that foul water drainage would need to connect via to this road via the existing connection serving the eight dwellings. The proposed new dwellings would be accessed via a spur taken from the north side of the existing access road. Indeed the existing finished access road includes a turning head, with associated kerb, at the junction where the new access would connect. This detail is not shown on the approved plans for the existing development and could be interpreted as an intention to extend the approved development with a further phase. Furthermore, the existing access road has been constructed to a point on the western boundary of the adjacent site. Land to the west of the existing development is also within the control of the applicant.
- 2.9 Taking all these factors into account and applying the tripartite test it is concluded that it would be entirely reasonable to treat the two sites as a single development. Adopted Core Strategy policy (CSTP2) seeks the minimum provision of 35% affordable housing on qualifying sites of 10 or more dwellings. Whilst this application is for 6 dwellings, it would aggregate with the existing development to form a development of 14 units and it is appropriate and necessary for affordable housing to be provided. Although CSTP2 accepts that the capacity of a site to deliver affordable housing will be subject to financial viability, no financial viability assessment has been provided in this case. The proposal is therefore contrary to Policy CSTP2 and paragraph no. 65 of the NPPF

### 3.0 CONCLUSION

The recommendation remains one of refusal for the reasons stated in section 8.0 of the September Planning Committee report, with a third reason for refusal based on the lack of affordable housing provision added.

### 4.0 RECOMMENDATION

Refuse planning permission for the following reasons:

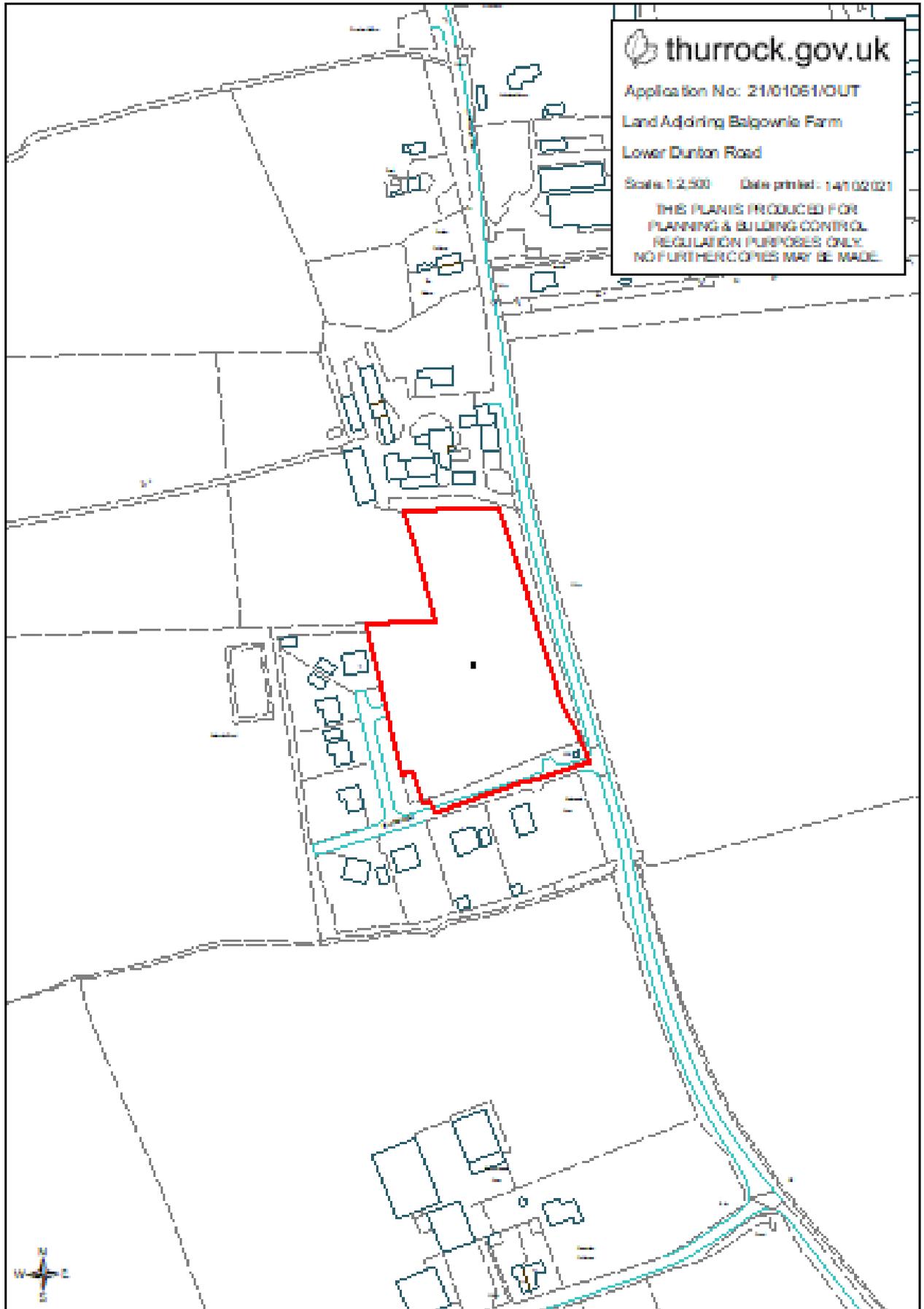
1. The application site is located within the Green Belt, as identified on the Policies Map accompanying the adopted Thurrock LDF Core Strategy and Policies for the Management of Development (2015). National and local planning policies for the Green Belt set out within the NPPF and Core Strategy set 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.
3. The proposed development, by reason of the lack of on-site affordable housing provision has failed to demonstrate that it would contribute towards meeting affordable housing needs 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) and paragraph no.65 of the National Planning Policy Framework 2019.

**Documents:**

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

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



 [thurrock.gov.uk](http://thurrock.gov.uk)

Application No: 21/01061/OUT

Land Adjoining Belgownie Farm

Lower Dunton Road

Scale: 1:2,500 Date printed: 14/10/2021

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