

## Planning Committee 09 July 2024

### ADDENDUM

#### Item Number 7: 16/01232/OUT East Tilbury

<b>Reference:</b> 16/01232/OUT	<b>Site:</b> Land For Development Muckingford Road Linford Essex
<b>Ward:</b> East Tilbury	<b>Proposal:</b> Application for outline planning permission with some matters (appearance, landscaping, layout and scale) reserved for the proposed development of up to 830 dwellings (Use Class C3) if the Lower Thames Crossing is constructed (scenario 1) OR up to 1,000 dwellings (Use Class C3) if the Lower Thames Crossing does not proceed (scenario 2), a new local road network including a vehicular / pedestrian railway crossing, a primary school, local centre and new areas of open space, including formal recreation.

<b>Applicant:</b> Mulberry Strategic Land	<b>Validated:</b> 12 September 2016 <b>Date of expiry:</b> 31 January 2024 (Time Extended)
<b>Recommendation:</b> Refuse planning permission	

## 1.0 INTRODUCTION

1.1 Following publication of the agenda for the Planning Committee on 09 July 2024, further consultation responses have been received from residents, consultees, and the Applicant's agent. This Addendum summarises the representations and assesses the Applicant's agent's response to the reasons of refusal.

## 2.0 CONSULTATION AND REPRESENTATIONS

### PUBLICITY

2.1 2 consultation responses received, 1 in objection for the following reasons:

- access to site
- additional traffic as the three main roads into Linford appear to be unclassified lanes

- environmental pollution
- out of character
- loss of amenity by building on the green belt
- road bridge needs providing first

1 in support of the application from DP World summarised as follows:

- contribute to the residential needs of growing their workforce
- the need for balanced growth in the Thurrock
- the number of freights trains is likely to increase over the coming years so the need for the bridge for access to East Tilbury is recognised.

## 2.2 HEALTH AND SAFETY EXECUTIVE (HSE)

On 5 July 2024 the HSE sent an updated representation (attached) that superseded its previous advice of 20 October 2016. The representation advises against granting planning permission on safety grounds. The representation suggests conditions to control land use and layout which if imposed would remove their objection, and it draws attention to advice requiring the HSE to be notified in the event that the planning authority is minded to grant permission, so that the HSE has the option of asking the for the application to be called in. The timing of the latest representation and the fact that the appellant has appealed against non-determination means that the Council has not had the opportunity to consider the position more fully and discuss with the applicant how it might be addressed. For these reasons the HSE's advice is noted as an informative on this refusal and as a matter that will need to be addressed on appeal.

## 2.3 NATIONAL GAS

Provide an updated consultation to advise that buildings or structure within the easement of the high-pressure gas pipelines will not be permitted and any building proximity distances must comply with the HSE's Land Use Planning Methodology.

## 3.0 ASSESSMENT

3.1 On 05 July 2024 the Agent wrote to the Council to make representations on the published committee report.

### Reason for Refusal 2

3.2 In summary the Applicant's agent disagrees with paragraph 6.63 of the published committee report, saying the reference to the site score as "very good" on the provisional ALC map is irrelevant and misleading. The applicant

then refers to the Predictive BMV Land Assessment map by DEFRA contained within the ES, saying this provides both the information and assessment necessary for the settlement of East Tilbury.

- 3.3 The Predictive BMV Land Assessment Map was reviewed as a part of the assessment, yet this is not an investigation of alternative sites (including those beyond East Tilbury), or their impacts, which is what policy CSTP21 requires. As stated in paragraph 6.55 of the report the site scores a 'very good' rating on the Natural England's Agricultural Land Classification map for the Eastern Region. As such no changes are required to reason of refusal 2.

### Reason for Refusal 3

- 3.4 In summary the Applicant's agent disagrees with the Reason for Refusal and references within the report to the bridge, saying that:
- The Council advised of the need for further clarity around the road in a Position Statement letter dated 21 December 2023 and that the Applicant's position was covered in their response to the Council.
  - Information relation to the proposed bridge has been provided in the form of wirelines, detailed plans and a cross section. "Road markings, signage, landscaping, drainage, lighting and crash barrier details etc, are not required at this stage. These will be addressed in detailed design via Section 278/38 and related conditions."
  - Network Rail "supports the new road bridge for its potential to enhance rail network safety."
  - Delivery of the bridge will be secured by condition(s) and is addressed within the Financial Viability Appraisal.
- 3.5 Officers and the Applicant are not in agreement regarding the impacts upon highways, hence the recommended Reason for Refusal. Whether there is any scope to reduce the scope of the Highway objection will be a matter for the appeal process.
- 3.6 The consultation response from Network Rail is noted however the detailed design pack that informed their response has not been made publicly available and therefore cannot be assessed as part of the application documents. Officers wrote to Network Rail on 05 June 2024 to request their commentary on design proposed by the applicant and confirmation as to which GRIP Governance for Railway Investment Projects (GRIP) stage it had achieved, no response was received. It is noted that Network Rail now uses the Project Acceleration in a Controlled Environment (PACE) programme – no advice has been provided by Network Rail to confirm how the proposed

bridge would meet either GRIP or PACE requirements. Therefore, reason 3 remains.

#### Reason for Refusal 8

- 3.7 The Applicant's agent's EIA team provided a table responding principally to sections 6.332 and 6.333 of the published committee report. In summary points have been made to the EIA considerations:
- Transport (construction and operational phase),
  - Ecology & Biodiversity (operational phase, on the basis insufficient contributions or obligations have been offered to mitigate the effects)
  - Built Heritage (construction & operational phase)
  - Noise & Vibration (operational phase)
  - Flood Risk & Drainage (operational phase if mitigation measures are not secured including for emergency refuge)
  - Alternatives
- 3.8 Having reviewed the information Officers maintain that for the reasons explained within the published committee report, and particularly those at paragraph 6.337 of the committee report, the ES is not considered to meet the requirements of Schedule 4, Part 1 and therefore does not contain the full extent of "information reasonably required to assess the environmental effects of the development". The Applicant's request to address these matters in a supplementary report is not considered an appropriate resolution, as Officers can only make a recommendation based on the information made available to them. The Applicant can make a representation to the Planning Inspector for them to consider a supplementary report as a part of the planning appeal.

#### HSE Consultation Response

- 3.9 Officers have received legal advice with regard to the HSE's consultation response and that an updated informative is needed as the matter regarding shall need to be discussed in more detail with the Applicant's agent during the appeal process.

#### **4.0 Recommendation**

- 4.1 To Refuse Planning Permission for the reasons stated in the main report but with amendments to the informative to read as follows:

Updated Informative:

On 5 July 2024 the HSE sent an updated representation which advised against granting planning permission on safety grounds. The representation

suggests conditions to control land use and layout which if imposed would remove their objection, and it draws attention to advice requiring the HSE to be notified in the event that the planning authority is minded to grant permission, so that the HSE has the option of asking the for the application to be called in. The timing of the latest representation and the fact that the appellant has appealed against non-determination means that the Council has not had the opportunity to consider the position more fully and discuss with the applicant how it might be addressed. For these reasons the HSE's advice is noted as an informative on this refusal and as a matter that will need to be addressed on appeal.

## Planning Committee 09 July 2024

### ADDENDUM

#### Item Number 8:

<b>Reference:</b> 19/01556/OUT	<b>Site:</b> Kings Farm / Thurrock Airfield Parkers Farm Road Orsett RM16 3HX
<b>Ward:</b> Orsett	<b>Proposal:</b> Application for outline planning permission with all matters reserved apart from access: Proposed mixed use development comprising up to 750 no. residential dwellings, medical facility, retail and commercial units.
<b>Applicant:</b> Grasslands Ltd	<b>Validated:</b> 19 July 2021 <b>Date of expiry:</b> 12 July 2024 (Time extension agreed with agent)
<b>Recommendation:</b> Refuse planning permission	

#### 1.0 Introduction

- 1.1 The Applicant has written to the Council requesting a deferral of the planning application to resolve outstanding highway issues. The Applicant has stated that they will submit an appeal if the Application is refused and that they will seek to recover costs from the Council for work needed where the Council refused to allow additional time to address the latest issues raised.
- 1.2 The Applicant also submitted an email on 04 July 2024 detailing the latest progress on highway matters and reiterate their proposed solutions regarding the lack of connectivity to the site. The email is summarised as follows:
- The Applicant's Highway consultants are still liaising with National Highways and their view is that the holding objection can be resolved.
  - More detail and analysis is being provided on future bus provision to service the proposed development.
  - The Site access arrangements for vehicles and the traffic associated with the development has been accepted by Thurrock Highways (subject to National Highways agreement).

- Their view is that the only outstanding points with Thurrock Highways relate to pedestrian and cycle access.
- They reiterate their recommendation for a section of Parkers Farm Road to become a 'Quiet Lane' and this does not require third party land.
- They summarise the proposed pedestrian and cycle links to Bulphan and Orsett.

## **2.0 Consultation Response**

### **2.1 HIGHWAYS OFFICER:**

Maintain their objection. National Highways have indicated that the application should not be determined, other than a refusal, until they have received and reviewed relevant information to allow them to make an informed decision. The Thurrock Road Network is closely linked to the A13 National Highways Network at the North Stifford Interchange. Without a full understanding of the impact upon the Strategic Road Network there is the potential for impact on the Thurrock Network, such as at the Treacle Mine roundabout.

The proposed bus improvements to serve the Site are not guaranteed or agreed, but would need to run from first occupation, run frequently and to appropriate locations. They would also need to be funded by the developer. Without the level of service being agreed and costed they cannot be relied upon at this time.

Accept the traffic impact of the development at the point of access onto A128 but still have concerns regarding the wider network in regard to the North Stifford Interchange.

The Quiet Lane requires changes to Parkers Farm Road and is not agreed.

The other option to improve the Site's connectivity is a proposed footway on Parkers Farm Lane, also leading to Bulphan. It would utilise highway land but there would be points where it could not meet the recommended minimum width. Third-party land would be required to meet the recommended width and to date the Applicant has failed to secure agreement from other land owners to do so. Consent from the Council would be required to provide the footpath on highway land. The footpath would need to be a reasonable width as it would constitute the main pedestrian route from the development to Bulphan.

Not supportive of either option and do not consider the proposals get over the remoteness of this site and the sustainable transport aspect of this site is very limited.

## **3.0 Assessment**

- 3.1 The Application has run significantly beyond the statutory determination date to allow the Applicant to progress outstanding highways matters, and yet has still not reached an agreed position.
- 3.2 The Applicant's request for another extension of time does not guarantee that the above matters would be resolved within a reasonable timeframe. This is within the context of several (substantial) extensions of time.
- 3.3 The Council has been very reasonable in allowing additional time for outstanding matters to be resolved and engaged with the Applicant's team over this period, which can be demonstrated should the Applicant proceed to appeal. The Applicant also has the option to continue liaising with National Highways and the Highway Officer prior to an appeal in order to resolve the relevant refusal reason.
- 3.4 In terms of the Site's location the proposed solutions to improve its connectivity by way of footpath/Quiet Lane or bus service would still not resolve what is considered to be a remote and unsustainable location, contrary to policies C SSP1, C SSP2, C STP15 and C STP16.

#### **4.0 Recommendation**

- 4.1 To Refuse Planning Permission for the reasons stated in the main report.