

Reference: 16/00232/FUL	Site: Malgraves Meadow Lower Dunton Road Horndon On The Hill Essex SS17 8QD
Ward: Orsett	Proposal: Retrospective planning application for the retention of a biomass building containing biomass boiler with external flue and associated wood storage

Plan Number(s):		
Reference	Name	Received
001 Rev 01	Location Plan	18 th March 2016
0000	Proposed Floorplans and Elevations	18 th March 2016

<p>The application is also accompanied by:</p> <ul style="list-style-type: none"> – Supporting Planning Statement 	
Applicant: Mr Adam Cheale	Validated: 7 March 2016 Date of expiry: 2 May 2016 (Extension of Time until 30 th May 2016)
Recommendation: Refuse	

The application has been brought to Planning Committee following a call-in by Cllrs J Kent, T Hipsey, S Liddiard, L Worrall and B Little for determination to allow the consideration of the proposal against Green Belt policies.

1.0 DESCRIPTION OF PROPOSAL

- 1.1 The application seeks retrospective planning permission for the retention of a biomass building containing a biomass boiler with external flue and associated wood storage.
- 1.2 The timber biomass building has a monopitch roof and measures 9.8m x 4.8m with a maximum height of 3.5m reducing down to 3m. The wood store houses a biomass boiler and includes an external flue measuring an additional 2m in height.
- 1.3 The biomass building is sited approximately 80 metres away from Lower Dunton

Road and approximately 20 metres North West of the main dwelling, Malgraves Meadow. The building is located outside the residential curtilage of the dwelling. Access to the site leads off in a westerly direction towards Lower Dunton Road.

2.0 SITE DESCRIPTION

- 2.1 The site is bordered by open agricultural land to the immediate south, north and west with the land to the immediate east being part of the residential curtilage of Malgraves Meadow. The entire site is within in the Green Belt.
- 2.2 Vehicular and pedestrian access to the site is via Lower Dunton Road to the east via a metalled access road.

3.0 RELEVANT HISTORY

Reference	Description	Decision
15/00368/CWKS	Erected barn with a large chimney without planning permission.	Under investigation, planning application received (i.e. the application subject if this report)

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/16/00232/FUL

PUBLICITY:

- 4.2 Neighbours were notified directly by letter. A site notice has also been displayed. One email response has been received. The objections relate to the following:
- Appearance of the structure
 - Inappropriate development within the Green Belt
 - Concerns regarding the fumes and the monitoring of the fumes
 - Noise and health and safety concerns

4.3 HIGHWAYS:

No objection.

4.4 ENVIRONMENTAL HEALTH:

No objection in principle, but further information required regarding the biomass boiler.

4.5 LANDSCAPE ADVISOR:

Recommends refusal on the basis of the impact of the building to the landscape character to the West of Lower Dunton Road

5.0 POLICY CONTEXT

National Planning Policy Framework

5.1 The NPPF was published on 27th March 2012. Paragraph 13 of the Framework sets out a presumption in favour of sustainable development. Paragraph 196 of the Framework 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. Paragraph 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

5.2 The following headings and content of the NPPF are relevant to the consideration of the current proposals.

1. Building a strong, competitive economy
9. Protecting Green Belt land
10. Meeting the Challenge of Climate Change, Flooding and Coastal Change
11. Conserving and Enhancing the Natural Environment

Planning Practice Guidance (PPG)

5.3 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 42 subject areas, with each area containing several sub-topics. Those of particular relevance to the determination of this planning application comprise:

- Design and;
- The use of planning conditions.

Local Planning Policy

Thurrock Local Development Framework

5.4 The Council adopted the "Core Strategy and Policies for the Management of Development Plan Document" in December 2011. The following Core Strategy

policies apply to the proposals:

Thematic Policies:

CSTP22 (Thurrock Design)
CSTP23 (Thurrock Character and Distinctiveness)²

Policies for the Management of Development:

PMD1 (Minimising Pollution and Impacts on Amenity)²
PMD2 (Design and Layout)²
PMD6 (Development in the Green Belt)
PMD8 (Parking Standards)³
PMD12 (Sustainable Buildings)²
PMD13 (Decentralised, Renewable and Low Carbon Energy Generation)
PMD16 (Developer Contributions)²

The Core Strategy has been subject to a focused review for consistency with the (NPPF). The focused review document was submitted to the Secretary of State for independent examination on 1 August 2013, and examination hearings took place on 8 April 2014. The inspector's report was received in October 2014. Minor changes have been made to some policies within the Core Strategy; the policies affected by the changes are indicated above.

¹: New Policy inserted by the Focused Review of the LDF Core Strategy. ²: Wording of LDF-CS Policy and forward amended either in part or in full by the Focused Review of the LDF Core Strategy. ³: Wording of forward to LDF-CS Policy amended either in part or in full by the Focused Review of the LDF Core Strategy.

Focused Review of the LDF Core Strategy

- 5.5 This Review was commenced in late 2012 with the purpose to ensure that the Core Strategy and the process by which it was arrived at are not fundamentally at odds with the NPPF. There are instances where policies and supporting text are recommended for revision to ensure consistency with the NPPF. The Review was submitted to the Planning Inspectorate for independent examination in August 2013. An Examination in Public took place in April 2014 and the Inspectorate found the review sound subject to revisions.

Draft Site Specific Allocations and Policies DPD

- 5.6 This Consultation Draft "Issues and Options" DPD was subject to consultation commencing during 2012. The Draft Site Specific Allocations DPD 'Further Issues and Options' was the subject of a further round of consultation during 2013. The application site has no allocation within either of these draft documents. The Planning Inspectorate is advising local authorities not to continue to progress their Site Allocation Plans towards examination where their previously adopted Core Strategy is no longer in compliance with the NPPF. This is the situation in Thurrock. The report to the 12th February 2014 Cabinet sets out a number of options for

taking forward development plan making in Thurrock. Work has commenced on the production on a new integrated Local Plan which is timetabled for adoption in 2018. In light of this, there will be a fresh call for sites and the draft SSADPD will not be advanced. The draft SSADPD can therefore be afforded little weight.

Thurrock Core Strategy Position Statement and Approval for the Preparation of a New Local Plan for Thurrock

- 5.7 The above report was considered at the February meeting 2014 of the Cabinet. The report highlighted issues arising from growth targets, contextual changes, impacts of recent economic change on the delivery of new housing to meet the Borough's Housing Needs and ensuring consistency with Government Policy. The report questioned the ability of the Core Strategy Focused Review and the Core Strategy 'Broad Locations & Strategic Sites' to ensure that the Core Strategy is up-to-date and consistent with Government Policy and recommended the 'parking' of these processes in favour of a more wholesale review. Members resolved that the Council undertake a full review of Core Strategy and prepare a new Local Plan. It is anticipated that a new Local Plan for Thurrock could be adopted by early 2018.

6.0 ASSESSMENT

- 6.1 The principal issues to be considered in this case are:

- I. Plan designation and principle of development
- II. Design and appearance
- III. Highways and access
- IV. Landscaping
- V. Residential Amenity

I. PLAN DESIGNATION AND PRINCIPLE OF DEVELOPMENT

- 6.2 The application site is located within the Green Belt as defined within the Thurrock Local Development Framework, Core Strategy (2011). Policy PMD6 applies and states that permission will not be given, except in very special circumstances, for the construction of new buildings, or for the change of use of land or the re-use of buildings unless it meets the requirements and objectives of National Government Guidance.

- 6.3 Paragraph 80 of the NPPF sets out five purposes which the Green Belt serves:

- i. to check the unrestricted sprawl of large built-up areas;
- ii. to prevent neighbouring towns from merging into one another;
- iii. to assist in safeguarding the countryside from encroachment;
- iv. to preserve the setting and special character of historic towns; and
- v. to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The development is likely to conflict with purpose three in particular.

- 6.4 The NPPF (at paragraph 89) sets out the categories of development, which may be acceptable in the Green Belt. The construction of a building providing housing for a bio mass facility is not listed as appropriate in either the NPPF or Policy PMD6. The application proposal therefore represents inappropriate development in the Green Belt and is therefore a departure from Development Plan policy.
- 6.5 Paragraph 87 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 88 goes on to state; *'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'*.
- 6.6 Notwithstanding the NPPF's presumption in favour of sustainable development (para 14), policies in the NPPF clearly indicate that development in the Green Belt should be restricted and sets out the test by which inappropriate development should be judged. The NPPF does not seek to define further what 'other considerations' might outweigh the damage to the Green Belt.
- 6.7 Case Law (R (Cherkley Campaign Limited) v Mole Valley DC [2013]) states that Local Planning Authorities must ask three separate sequential questions when applying Green Belt policy:
1. Is *"inappropriate development"* proposed?
 2. Do *"very special circumstances"* exist?
 3. Do such circumstances *"clearly outweigh"* the potential harm caused by the inappropriateness of the development and any other harm?
- 6.8 Having established that the proposal constitutes inappropriate development in the Green Belt, 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. It is considered that the scale and location of the development is overly prominent and visually incongruous within the otherwise open site.
- 6.9 Local Planning Authorities are also required to give substantial weight to any harm which might be caused to the Green Belt by the inappropriate development. It is only if a local planning authority has conscientiously considered each of these three questions and answered each "yes" and given substantial weight to any harm caused, can it be said properly to have applied Green Belt policy as laid down in the NPPF.
- 6.10 The application site forms part of an agricultural field, outside of the residential curtilage for the dwelling. The structure appears visually prominent in its current location to the detriment of the openness of the Green Belt. Furthermore, the

proposed structure does nothing to maintain or enhance the open character of the immediate area. Therefore, this bio mass building does not constitute a very special circumstance and is considered inappropriate development within the Green Belt.

- 6.11 The applicant states that the structure has been 'sensitively positioned to ensure it minimises its impact on the Green Belt and local landscape'. This statement is contested. The structure could have been located to the rear of the host dwelling, appearing more in keeping with the original built form in this very open exposed plot. Instead the structure is located approximately 20 metres away from the host dwelling. The immediate area does not benefit from any mature trees thus its position appears overly prominent and out of character within the landscape, detached and unconnected to the main dwelling house.
- 6.12 With regards to landscaping, the applicant notes that the hedgerow to the rear of the site would provide a 'good level of screening when viewed from greater distances'. This opinion is also contested. There would be some limited screening when viewed from the West, however, there would be no screening of the structure when viewed from the North, East or southerly directions. The size of the structure and associated flue, when viewed in comparison with the host dwelling, exacerbates this view point. The eaves height of 3.0 metres with an overall height of 3.5 metres results in this structure presenting a not insignificant mass and bulk when considering its 10 metres width.
- 6.13 The applicant states that the use of the structure demonstrates a 'Carbon Neutral Development'. This concept of the development is welcomed and would in some way contribute towards the structure having very special circumstances and therefore a right to exist. However, there is no evidence that the wood is harvested within the immediate farm and it appears likely due to the size of the logs being used that they brought in from an external source therefore possibly mitigating against the 'Carbon Neutral' argument.

Conclusion on very special circumstances

- 6.14 In conclusion under this heading, the bio mass building constitutes inappropriate Green Belt development. The development is therefore harmful by definition and significant weight should be attributed in this regard. The matters put forward by the applicant do not represent very special circumstances. As such, it is considered that the proposal is contrary to PMD6 of the Core Strategy and guidance contained in the NPPF and PPG.
- 6.15 In addition to the in-principle objection the building would represent an urbanising feature which would be visually damaging to the countryside and undermining to the openness of this part of the Green Belt. The proposal is therefore also contrary to Policy PMD6 of the Core Strategy and guidance contained in the NPPF on these grounds.

II. DESIGN AND APPEARANCE

- 6.16 The plans highlight the bio mass building is wooden built with a lean to roof. The structure benefits from traditional windows and a door less opening with a green metal roof. The overall design of the structure is acceptable although a darker stained wooden finish would be advisable if the application were to be recommended for approval. Overall the proposal would comply with LDF CS Policies PMD2, CSTP22 and CSTP23. However, this would not overcome the in principle objection identified above.

III. HIGHWAYS AND ACCESS

- 6.17 LDF CS Policy PMD2 indicates that all development should allow safe and easy access while meeting appropriate standards. The Council's Highway Officer has not objected to the proposal and it is considered that there would be no impact upon highway safety.

IV. LANDSCAPING

- 6.18 The site is located towards the top of a low hill. The biomass boiler is to the North of the residential property on higher ground. There does not appear to have been any attempt to site the building to minimise its visual impact. Although it is adjacent to a hedge to the west there has been no other attempt to tree to screen the building. The Council's Landscape Advisor has commented that the new building is considered to be out of character in relation to the surrounding landscape to the west of Lower Dunton Road. This area is dominated by extensive arable farmland and the golf course with few buildings being present. Those buildings that are present are arranged in tight clusters of farm buildings whereas the house and biomass building do not relate. While the existing hedge beside Lower Dunton Road helps to screen the building from the East, the Council's Landscape Advisor considers that it is not in keeping with the local landscape character and should be refused.

- 6.19 Furthermore, the openness of this location was identified previously under planning application ref. 98/00332/FUL for the creation of a new access way and where additional landscaping was considered to be necessary and controlled via planning condition. This open characteristic of this rural location has not altered and this development is out of character with this rural Green Belt location and harmful to the open appearance of this rural site. The loss of the open character has been considered earlier in this report.

V. RESIDENTIAL AMENITY

- 6.20 The bio mass building would be set suitably distant from the existing property and would not cause any negative impacts in relation to neighbour amenity.

7.0 CONCLUSIONS AND REASON(S) FOR REFUSAL

- 7.1 The proposed development represents an inappropriate form of development within the Green Belt. The applicant has not advanced anything that amounts to very

special circumstances that could overcome the strong presumption against this type of proposal. The development is therefore contrary to Policy PMD6 of the Core Strategy and guidance contained in the NPPF and is therefore harmful by definition. In addition the development represents an urbanising feature in the countryside contrary to Policy PMD6 of the Core Strategy and guidance in the NPPF.

- 7.2 Refusal is therefore recommended and given the development has already been carried out, follow up enforcement action is recommended in order to remove the building from the site and reinstate the ground to its former condition.

8.0 RECOMMENDATION

- (a) To Refuse for the following reasons:

Reason(s):

- 1 The application site is located within the Green Belt as defined within the Thurrock Local Development Framework, Core Strategy (2011). Policy PMD6 applies and states that permission will not be given, except in very special circumstances, for the construction of new buildings, or for the change of use of land or the re-use of buildings unless it meets the requirements and objectives of National Government Guidance.

The NPPF (at paragraph 89) sets out the forms of development, which may be acceptable in the Green Belt. The proposed development of the site for residential purposes does not fall within any of the appropriate uses for new buildings set out by the NPPF and Policy PMD6. Consequently, the proposals represent “inappropriate development” in the Green Belt and are a departure from development plan policy. Paragraph 87 of the NPPF sets out a general presumption against inappropriate development within the Green Belt and states that such development should not be approved, except in very special circumstances. Paragraph 87 also states that inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

i) The information put forward by the applicant has been considered. However, these matters, neither individually nor taken together, are considered to constitute the very special circumstances necessary to allow a departure from policy being made in this instance. The proposals are therefore contrary to Policy PMD6 of the Core Strategy and guidance in the NPPF in principle.

ii) Notwithstanding the in-principle harm identified above, by reason of the mass, bulk and serious incursion into the open land, the proposals are also harmful to the landscape, character and openness of the Green Belt at this point, contrary to Policy PMD6 of the Core Strategy and criteria within the NPPF.

(b) To take Enforcement Action to:

Remove the biomass building containing the biomass boiler and external flue and associated wood storage from the site in their entirety and make good the site with grass seeding and landscaping as considered necessary to reinstate the site to its previous condition prior to the erection of the development.

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/16/00232/FUL

Alternatively, hard copies are also available to view at Planning, Thurrock Council, Civic Offices, New Road, Grays, Essex, RM17 6SL.

