

Planning Committee

3 March 2021



Application No.	20/01544/FUL		
Site Address	58 Thames Meadow, Shepperton, TW17 8LT		
Applicant	Mr and Mrs Noble		
Proposal	Erection of a dwelling house (use class C3) with associated car parking and landscaping following removal of existing 'summer accommodation'		
Officers	Kelly Walker		
Ward	Shepperton Town		
Call in details	The applicant is a Spelthorne Borough Councillor		
Application Dates	Valid: 17.12.2020	Expiry: 11.02.2021	Target: Extension of Time agreed
Executive Summary	<p>This planning application seeks the erection of a dwelling following the removal of existing 'summer accommodation' consisting of a number of wooden outbuildings, and the removal of the caravan. The site does not benefit from a permanent residential use and has been used for recreational purposes.</p> <p>The proposal is considered contrary to both Green Belt and flooding policies, in particular given the site's existing use and would put more people at risk during a flood event. The proposed building is considered to be acceptable in regard to the Council's Plotland policy and design. It is considered to have an acceptable impact on the amenity of neighbouring properties.</p> <p>The application is considered contrary to Green Belt and flooding policies and is recommended for refusal.</p>		
Recommended Decision	The application is recommended for refusal.		

MAIN REPORT

1. Development Plan

1.1 The following policies in the Council's Core Strategy and Policies DPD 2009 are considered relevant to this proposal:

- SP1 (Location of Development)
- LO1 (Flooding)
- SP2 (Housing Provision)
- HO1 (Providing for New Housing Development)
- SP6 (Maintaining and Improving the Environment)
- EN1 (Design of New Development)
- EN2 (Replacement and Extension of Dwellings in the Green Belt including Plotland Areas).
- EN9 (River Thames and its tributary)
- EN15 (Development on Land Affected by Contamination)
- SP7 (Climate Change and Transport)
- CC1 (Renewable Energy, Energy Conservation and Sustainable Construction)
- CC3 (Parking Provision)

1.2 In addition, Saved Local Plan Policy

- GB1 (Green Belt)

1.3 Also relevant are the following Supplementary Planning Documents/Guidance:

- SPD on Design of Residential Extensions and New Residential Development 2011
- SPG on Parking Standards Updated 2011
- SPD on Flooding (2012)

1.4 The advice contained within the National Planning Policy Framework (NPPF) 2019 is also relevant.

2. Relevant Planning History

05/00985/CPD	Application for a Certificate of Lawfulness for the existing use of a mobile home as a year round permanent residence.	Refused 29.11.2005
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02/00203/FUL	Use of land for siting 1 static caravan for recreational use	Refused 18.07.2002
99/00010/CLD	Use of the land for the siting of one touring caravan for occasional recreational use, not including the permanent residential use of the caravan.	Grant CLD 03.11.1999
SP/FUL/90/708	Erection of detached bungalow of 88 sq m (288 sq ft) gross floor space with attached car port	Refused 06.03.1991
SPE/FUL/85/312	Erection of a detached bungalow.	Refused 03.07.1985
SPE/FUL/84/605	Construction of leisure and amenity building for recreational and study use.	Withdrawn 19.09.1984
PLAN S/FUL/77/663	Erection of two detached bungalows each with car parking spaces.	Refused 23.11.1977
PLAN S/FUL/75/833	Erection of a detached bungalow with parking facilities.	Refused 26.01.1976
PLAN S/FUL/75/823	Erection of a detached bungalow with parking facilities.	Refused 26.01.1976

As listed above, many planning applications for new dwellings at the site in the past (going back to 1976) have been refused for both Green Belt and flooding reasons. Permission for a Certificate of Lawfulness for a touring caravan for occasional recreational use was approved in 1999 (99/00010/CLD). Later a larger static caravan was refused planning permission (02/00203/FUL) given it would be of a more permanent nature and could not be removed from the land as readily as a touring caravan, and most recently (05/00985/CPD) permission was refused for a permanent residence in the caravan.

3. Description of Current Proposal

- 3.1 The site is located on the southern side of Thames Meadow, at the very end of the cul du sac, where there is a large turning circle for vehicles. The site is located on the banks of the River Thames, to the south west of the plot. To the south east is a detached single storey dwelling with a low pitched roof (no. 57), and there are several other dwellings along Thames Meadow with gardens adjacent to the River Thames. To the north west are fields and a dwelling, 'The Banks' at Dunally Park. This dwelling is low level and set well away from the boundary with the application site. Thames Meadow itself is located to the north east and is an open grassland. The road is characterised by detached dwellings with a river frontage. Most were originally built for

recreational purposes and in the past, most have gained residential status, unlike the application site. Many have been extended or replaced, often with the properties being raised above ground level, for flooding purposes. As such the character is mixed but most buildings are single storey in nature with some accommodation within the roof space.

- 3.2 The subject plot has a caravan located central to the site, but closer to the south eastern boundary with no. 57, perpendicular to the river. The caravan has wheels and a tow bar. It is 2.2m from ground level, approx. 8.8m in length and 2.3m in width, with an element that can retract in and out providing a further 4m x 1m of internal space, on the side of the caravan. In addition, there is a raised terrace area adjacent to the caravan, and a number of outbuildings located close to the north eastern boundary with the road. These structures are small in footprint, overall size and height and made of wood, appearing very much like garden sheds. The largest of the three is an ancillary structure of some 13 sq. m in footprint and contains a kitchen and bathroom. The 2 other stores are less than 10 sq m each, and all three structures do not exceed 3m in height. The plot is mostly laid to lawn with shrubs/trees on the western boundary. The site has been used for recreational purposes for a number of years. As noted before, there is no permanent residential use at the site.
- 3.3 The site is located within the Green Belt and within the functional, (1 in 20 year) flood zone, otherwise known as flood zone 3b.
- 3.4 The proposal is for the removal of the caravan and demolition of the existing structures on site and the erection of a dwelling. The dwelling will be approx. 12m in length and 5m in width, located across the plot, in line with neighbouring properties along Thames Meadow. It will be raised above ground level for flooding purposes, with a large decked area facing towards the river. It will consist of single storey accommodation, providing a bedroom and living space, with doors opening up onto the decked area. The dwelling is designed with 2 parts to the building, both at a slightly different angle to each other, in order to maximise the river view. It will be raised approx. 1.2m from ground level and have a height of 4.2m to the eaves and a maximum height of 6.2m to the ridge. It will have a large, relatively steep pitched roof and be made from natural materials including timber cladding on the walls and roof. A number of sustainable technologies are proposed to be incorporated within the building including structural insulated panels, rainwater harvesting, photovoltaic solar panels and triple glazing.
- 3.5 The proposed indicative site layout is provided as an Appendix.

4 Consultations

- 4.1 The following table shows those bodies consulted and their response.

Consultee	Comment
County Highway Authority	No objection, Thames Meadow is a private road.
Environment Agency	Object to the introduction of a dwelling into

	the flood zone putting more people at risk during a flood event
Sustainability Officer	No objection. Recommends a condition
Environmental Health Officer (Contamination)	No objection. Recommends conditions
Elmbridge BC (Neighbouring Authority)	No objection

5. Public Consultation

- 5.1 A total of 3 properties were notified of the planning application. Only one letter of representation was received from SCAN, noting that although a platform lift is shown to provide access to the ground floor of the property a condition should be imposed to require the dwelling to satisfy Category 3 of Part M of the Building Regulations to ensure that the lift is installed. (Officer note: The PPG on the use of planning conditions advises that they should not be imposed where requesting compliance with other regulatory requirements e.g., Building Regulations).

6. Planning Issues

- Principle of the development
- Green Belt
- Flooding
- Design and appearance.
- Residential amenity
- Highway issues

7. Planning Considerations

Housing Land supply

- 7.1 When considering planning applications for housing, local planning authorities should have regard to the government's requirement that they significantly boost the supply of housing and meet the full objectively assessed need for market and affordable housing in their housing area so far as is consistent policies set out in the National Planning Policy Framework (NPPF) 2019.
- 7.2 The Council has embarked on a review of its Local Plan and acknowledges that the housing target in its Core Strategy and Policies DPD February 2009 of 166 dwellings per annum is more than five years old and therefore the five year housing land supply should be measured against the area's local housing need calculated using the Government's standard method¹. The standard method for calculating housing need is based on the 2014 household growth projections and local affordability. This equates to a need of 606 dwellings per annum in Spelthorne. This figure forms the basis for calculating the five-year supply of deliverable sites.

¹ Planning Practice Guidance Reference ID: 68-005-20190722

- 7.3 The NPPF requires a local authority to demonstrate a full five year supply of deliverable sites at all times. For this reason, the base date for this assessment is the start of the current year 1 April 2020, but the full five year time period runs from the end of the current year, that is, 1 April 2021 to 31 March 2026. The 20% buffer will therefore be applied to this full period. National guidance sets out that the buffer should comprise sites moved forward from later in the plan period. A 20% buffer applied to 606 results in a figure of 727 dwellings per annum, or 3636 over five years.
- 7.4 In using the objectively assessed need figure of 727 as the starting point for the calculation of a five year supply it must be borne in mind that this does not represent a target as it is based on unconstrained need. Through the Local Plan review, the Borough's housing supply will be assessed in light of the Borough's constraints, which will be used to consider options for meeting need. The Council has now published its Strategic Land Availability Assessment (SLAA) which identifies potential sites for future housing development over the plan period.
- 7.5 The sites identified in the SLAA as being deliverable within the first five years have been used as the basis for a revised five year housing land supply figure. Spelthorne has identified sites to deliver approximately 3518 dwellings in the five year period.
- 7.6 The effect of this increased requirement with the application of a 20% buffer is that the identified sites only represent a 4.8 year supply and accordingly the Council cannot at present demonstrate a five year supply of deliverable housing sites. There is, therefore, a presumption in favour of sustainable development.
- 7.7 Government guidance (NPPF para 73) requires the application of a 20% buffer "where there has been significant under delivery of housing over the previous three years". In addition, guidance on the Housing Delivery Test indicates that where housing delivery falls below 85%, a buffer of 20% should be applied to the local authority's five year land supply and a presumption in favour of sustainable development if the figure is below 75%. The Housing Delivery Test result for Spelthorne Borough Council was published by the Secretary of State in January 2021, with a score of 50%. This means that less housing has been delivered when compared to need over the previous three years. As a consequence, there is a presumption in favour of sustainable development because the test score of 50% is less than the 75% specified in the regulations. The figure of 50% compares with 60% last year and 63% in 2019. The Council's Housing Delivery Test Action Plan will be updated to reflect this. The current action plan positively responds to the challenge of increasing its housing delivery and sets out actions to improve delivery within the Borough.
- 7.8 Usually as a result of the above position in Spelthorne relating to the 5 year housing land supply and the recent Housing Delivery Test, current decisions on planning applications for housing development need to be based on the 'tilted balance' approach set out in paragraph 11 of the NPPF (2019). This requires that planning permission should be granted unless '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'. However, the NPPF at para 11d) i) makes clear that the presumption in favour of development does not apply where, '*...: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed...*'

In footnote 6 to this section of the NPPF, areas which are excluded from the presumption in favour of development include "land designated as Green Belt" and also "areas at risk of flooding". The application site falls within both of these designations.

Principle of the development

- 7.9 As noted above, Policy HO1 of the Local Plan is concerned with new housing development in the Borough. HO1 (c) encourages housing development on all sustainable sites, taking into account policy objectives and HO1 (g) states that this should be done by:

"Ensuring effective use is made of urban land for housing by applying Policy HO5 on density of development and opposing proposals that would impede development of suitable sites for housing."

- 7.10 This is also reflected in the NPPF paragraph 117 which emphasises the need for the effective use of land in meeting the need for homes, whilst safeguarding the environment
- 7.11 However, the site is not located within the urban area and is located in the Green Belt. Currently, there is not an existing permanent residential use on the site, the existing structures are used for recreational use only and is not the permanent residence of the owners. The submitted Planning Statement states that the applicants have lived at the site during the summer months for at least the last five years. In addition, the site is also located within a high risk flood area. Therefore, the presumption in favour of development does not apply for this proposal as set out in para 7.8 above which refers to para 11 (d) (i) of the NPPF and the principle of the development is, therefore, unacceptable. These matters are discussed further below.

Green Belt

- 7.12 The site is located within the Green Belt. Section 13 of the NPPF sets out the Government's policy with regard to protecting Green Belt Land. It states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The policy is similarly reflected in the Council's Saved Local Plan Policy GB1.
- 7.13 Paragraph 134 of the NPPF sets out the five purposes of the Green Belt. These are:
- *To check the unrestricted sprawl of large built-up areas;*
 - *To prevent neighbouring towns merging into one another;*

- *To assist in safeguarding the countryside from encroachment;*
- *To preserve the setting and special character of historic towns; and*
- *To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

7.14 The Council's Saved Local Plan Policy GB1 is similar to the Green Belt policy set out in the NPPF, but it should be noted that Policy GB1 was saved from the 2001 Local Plan and therefore pre-dates the current NPPF. Although there is a degree of consistency with the NPPF, Policy GB1 does not allow for any development unless it is one of a number of acceptable uses set out in the policy and also maintains the openness of the Green Belt. This differs from the more recent and more up to date national policy which allows exceptions to this when the identified harm to the Green Belt is clearly outweighed by other considerations that constitute very special circumstances. Because of this inconsistency with the NPPF, the impact of the development on the Green Belt should be considered primarily against the policies of the NPPF.

Inappropriate Development

7.15 The proposal is considered to constitute inappropriate development in the Green Belt. The development does not fit into any of the 'exceptions' (i.e., not inappropriate development) stipulated in Paragraphs 145 and 146 of the NPPF. With regard to Paragraph 145 (d), this does state that the replacement of a building is not inappropriate provided the new building is in the same use and not materially larger than the one it replaces. However, the proposed dwelling is not in the same use as the existing recreational use, and in any case, it is materially larger. With regard to Paragraph 145 (g), this allows for *'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development'*. However, the proposal would not fit into this particular 'exception' as the site is not *previously developed land* (PDL), and moreover the proposal would have a greater impact on the openness of the Green Belt (see section below).

7.16 A definition of PDL is provided in the NPPF:

'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'

7.17 With regard to the current site, it is important to note that the main structure on the site (the caravan) is not a permanent structure, whilst the vast majority of the remaining site is free of development and laid to lawn serving as a garden

to the recreational use. As mentioned above, the site is not considered to constitute PDL.

7.18 Paragraph 143 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."

7.19 Paragraph 144 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 Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations."

Harm

7.20 The proposal will result in a substantial loss of openness of the Green Belt. Most of the site is not occupied by structures and replacing the existing small outbuildings and mobile caravan with a much larger scale permanent building, results in a loss of openness, both spatially and visually. It is considered that the loss of openness within the site is harmful and contrary to Green Belt policy, weighing heavily against the merits of the development.

7.21 Below is a table setting out the existing structures to be demolished and caravan to be removed, along with the proposed floor area, height and volume. (The volume does not include the raised section of the proposed dwelling).

		Footprint	Max Height	Volume (cu m)
Existing	Structure 1 caravan Structure 2 ancillary Structure 3 store Structure 4 summer Total	25 sq m 13 sq m 7.2 sq m 8.64 sq m 53.84sq m	2.2m 2.3m 2.6m 3m	55 28.6 18.72 24.2 126.5
Proposed	Proposed dwelling	64 sq m	6.2m (eaves 4.2m)	256
Percentage Increase on existing		18.5%	106%	102%

7.22 The existing site is largely free of development and laid to lawn whilst there are some outbuildings located on the north eastern boundary these are small in scale. The existing caravan is also limited in size and a mobile structure of a temporary nature. The proposed dwelling will be larger in scale and appear considerably bigger than the existing structures. It will measure approx. 12m in length and 5m in width and will be positioned across the width of the plot, although set in from the side boundaries. This is a different alignment to the

existing caravan at the site, which is positioned from north east to south west, perpendicular to the river, rather than across the plot. The above figures demonstrate that there will be a substantial increase in built development on the site. The proposed dwelling will be raised up from the ground level (for flooding purposes) by approx. 1.2m. It will also have a tall, pitched roof with a height of 6.2m to the ridge (3m is the maximum height of any existing structures) and will appear much more substantial, dominating the plot compared to the existing structures. Consequently, the proposal will result in a loss of openness in the Green Belt at the site. The harm caused by the loss of openness will weigh heavily against the merits of the scheme, this is in addition to the harm to the Green Belt due to inappropriateness.

- 7.23 The proposal is considered to harm the visual amenities of the Green Belt, which will further diminish openness. It will result in the site having a much more built-up appearance compared to the existing site, not only in terms of the increase in the scale and height of the buildings (i.e., volumetric approach) but also from a visual dimension. The new house will be highly visible when viewed from across the river and when travelling to the end of Thames Meadow as well as from some neighbouring plots and will appear significantly more built up and greater in scale compared to the existing. The proposed development will also be seen from Thames Meadow itself.
- 7.24 Under the Green Belt Review as part of the work for the New Local Plan this site is identified as strongly performing Green Belt. The proposed development is considered to conflict, with two of the purposes of Green Belts in Paragraph 134 of the NPPF. This includes to check the unrestricted sprawl of large built-up areas and in addition to prevent neighbouring towns merging into one another.

Flooding

- 7.25 Policy LO1 states that the Council will seek to reduce flood risk and its adverse effects on people and property within Spelthorne, by not permitting residential development or change of use to other more vulnerable uses within Zone 3a (between 1 in 20 year and 1 in 100 year chance of flooding) where flood risks cannot be overcome. The policy also states that the Council will maintain the effectiveness of the more frequently flooded area (Zone 3b) of the flood plain to both store water and allow the movement of fast flowing water by not permitting any additional development including extensions.
- 7.26 The proposed dwelling would be located within Zone 3b which has an even greater risk of flooding than Zone 3a. The principle of introducing an additional household (i.e., more vulnerable use) into the flood plain would be unacceptable and would fail to comply with the requirement of Policy LO1. The proposal cannot provide a dry means of escape and future residence would not be able to escape from the site to an area wholly outside of the flood zone, during a flood event. It would place more people at risk from flooding and increase pressure on the emergency services, during a flood event. The site is currently used for recreational purposes, there is no planning permission for a permanent dwelling and as such the occupants will have alternative accommodation during a flood event. Therefore, if the application was approved for a new dwelling at the site, it would put more people at risk from flooding.

7.27 In addition, although the proposal will be raised from ground level, in accordance with flooding requirement, the existing outbuildings on site are relatively small and built of natural materials and in effect could allow flood water to penetrate them, as such they would have only limited impact on the flood water flows. The caravan is a mobile structure and could be removed from the site if a flood event was imminent. As such it is not considered that the proposal would have a better situation during a flood event than the current site.

7.28 The Environment Agency (EA) has been consulted and notes the following:-

'We understand this proposal is for a new, permanent residential dwelling. The site is adjacent to a main river, the River Thames. According to our Flood Map for Planning the site is located in Flood Zone 3 and Flood Zone 2. Flood Zones 3 and 2 are defined by the Planning Practice Guidance (PPG) as having a high and medium probability of flooding respectively. According to our detailed modelling (Thames 2019) the site lies entirely within the 5% annual exceedance probability (AEP) flood extent.'

7.29 The EA states further that, *'...We object in principle to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the NPPF and its associated Planning Practice Guidance (PPG). We recommend that planning permission is refused on this basis.'*

7.30 The EA also notes that the reason for the objection is because the PPG classifies development types according to their vulnerability to flood risk and provides guidance on which developments are appropriate within each flood zone. This site lies within Flood Zone 3b - Functional Floodplain, which is land defined by the PPG as having a high probability of flooding. The development is classed as more vulnerable in accordance with Table 2 of the Flood Zones and flood risk tables of the PPG. Tables 1 and 3 make it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted

7.31 As such the proposal is contrary to Policy LO1 and is unacceptable on flooding grounds.

Design and appearance, and Plotland Areas

7.32 Policy EN1a of the CS & P DPD states that *"the Council will require a high standard in the design and layout of new development. Proposals for new development should demonstrate that they will: create buildings and places that are attractive with their own distinct identity; they should respect and make a positive contribution to the street scene and the character of the area in which they are situated, paying due regard to the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining buildings and land."*

7.33 Policy EN2 refers to Plotland Areas and states that within Plotland Areas the rebuilding and extension of structures are required to be compatible in size

with traditional plotland dwellings and with the scale of adjoining properties. It is noted that this proposal is not in fact for an extension or replacement dwelling due to the existing use of the site. Nevertheless, regard would need to be given to the Plotland Areas requirements. The policy states that the properties should be set in from the flank boundaries to maintain existing gaps in the river frontage, single storey with a low profile roof and not project towards the river further than the existing building or adjoining properties.

- 7.34 The proposed building will be set back from the river frontage a similar distance to the adjoining properties to the south east and indeed maintains gaps from the side boundaries. However, the proposed dwelling has a relatively steep angled roof. Nevertheless, taking into account the dwellings nearby, it will not appear unduly out of keeping with plotland style dwellings and those located adjacent to the site for reasons relating to policy EN2. As such and on balance, the proposal is not considered to be contrary to the requirement of the plotland policy and complies with Policies EN1 in respect of design and appearance and EN2. In addition, the proposal is considered to comply with Policy EN8 which aims to ensure that the setting of the river and its tributaries is protected and where possible enhanced.

Impact on neighbouring residential properties

- 7.35 Policy EN1b of the CS & P DPD states that:

“New development should achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy, daylight or sunlight, or overbearing effect due to bulk and proximity or outlook.”

- 7.36 Consideration needs to be given to ensure that there is an acceptable relationship and that existing residential properties will not be significantly adversely affected by the proposal. The Council's Supplementary Planning Document on the Design of Residential Extensions and New Residential Development 2011 (SPD) sets out policies requirements in order to ensure this is the case.
- 7.37 The SPD in para 3.6 acknowledges that ‘most *developments will have some impact on neighbours, the aim should be to ensure that the amenity of adjoining occupiers is not significantly harmed.*’ It sets out minimum separation distances for development to ensure that proposals do not create unacceptable levels of loss of light, be overbearing or cause loss of privacy or outlook.
- 7.38 The proposed built form will be raised from ground level which does make the building much larger in overall scale, than the neighbouring properties. However, the proposal will be set in from the side boundaries. In addition, neighbouring properties are located on either side of the site only with the river to the south west and Thames Meadow to the north east. The dwelling to the north west at The Banks, Dunally Park is set well away from the boundary as is the subject proposed dwelling, as such the proposal will have an acceptable impact on the amenity of the occupants of this dwelling. The adjacent dwelling to the south east along Thames Meadow is much closer to the boundary. The proposed dwelling will be located further away from the

side boundary than the existing caravan on the site, however it will be raised up, with a height of 4.2m the eaves and 6.2 m in total height. It will be set back some 4.5m from the eastern side boundary at its closest point. The dwelling will be raised 1.2m from ground level. The decked area protrudes in front and will be closer to the side boundary at some 3.4m at its closest point. However, it will not protrude past the rear building line of the adjacent property. As such it is considered that the proposal will have an acceptable relationship and therefore impact on the amenity of the adjacent dwelling at 57 Thames Meadow in terms of not causing a significant overbearing or loss or light impact.

- 7.39 The raising up of the property above ground level for flooding purposes also increase the prospect of overlooking, in particularly from a raised deck. However, it is considered that screening could be provided in order to ensure the proposal did not result in a significant overlooking impact. It is acknowledged that river frontage properties do often have more of a sense of being overlooked, due to the open frontage nature with terraces, balconies and decked areas to benefit from the river location and views of it. In addition, the set in and relationship is likely to ensure this is minimal. As such a screening condition could be attached to any consent to ensure there is no overlooking or loss of privacy to neighbouring properties. Therefore, the proposal is considered to have an acceptable impact on the amenity of existing neighbouring residential properties, conforming to the Design SPD and Policy EN1.

Other matters

- 7.40 Policy CC3 (Parking Provision) of the CS & P DPD states that the Council will require appropriate provision to be made for off-street parking in development proposals in accordance with its maximum parking standards. The existing site has space for parking a number of vehicles and this would also but the case for the proposed dwelling, which shows parking for at least two cars to the front of the property, adjacent to the road. The County Highway Authority (CHA) was consulted on the planning application and has raised no objection to the proposed parking provision. As such it is considered that the scheme is acceptable in terms of policy CC3 on highway and parking issues.
- 7.41 Policy CC1 of the CS & P DPD states that the Council will require residential development of one or more dwellings and other development involving new building or extensions exceeding 100 sq. m to include measures to provide at least 10% of the development's energy demand from on-site renewable energy sources unless it can be shown that it would seriously threaten the viability of the development. The applicant is proposing to use photovoltaic solar panels on the roof. A condition would be attached to any consent approved to require this.
- 7.42 The Council's Pollution Control Officer has raised no objection but requested standard conditions to be imposed requiring a further investigation to be carried out to refine risks and remediation measures given the proposal is for a new dwelling. Subject to these conditions, the proposal is considered acceptable in accordance with Policy EN15. In addition, an EV charging point would be required for a new dwelling and could be subject to a condition.

Equality Act 2010

- 7.43 This planning application has been considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:
- 7.44 The elimination of discrimination, harassment and victimisation;
The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;
The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it, which applies to people from the protected equality groups.
- 7.45 The applicants provide a lift to allow people with disabilities to access the property despite it being raised for flood purposes. Any approval would have a plan number condition requiring the proposal to be built in accordance with the approved plan. However, the site is located within the functional flood plain and would put people at risk during a flood event, which could be even more of an issue for people with disabilities, in particular in terms of being rescued. As such the application has been considered in light of the Equality Act and the scheme is considered to have due regard to this.

Human Rights Act 1998

- 7.46 This planning application has been considered against the provisions of the Human Rights Act 1998. and the following articles were found to be particularly relevant:-
- 7.47 Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.
- 7.48 Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, i.e., peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.
- 7.49 In taking account of the Council policy as set out in the Spelthorne Local Plan and the NPPF and all material planning considerations, Officers have concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by the refusal of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

Financial Considerations

- 7.50 Under S155 of the Housing and Planning Act 2016, Local Planning Authorities are now required to ensure that potential financial benefits of certain development proposals are made public when a Local Planning Authority is

considering whether or not to grant planning permission for planning applications which are being determined by the Council's Planning Committee. A financial benefit must be recorded regardless of whether it is material to the Local Planning Authority's decision on a planning application, but planning officers are required to indicate their opinion as to whether the benefit is material to the application or not. In consideration of S155 of the Housing and Planning Act 2016, the proposal is a CIL chargeable development and will generate a CIL payment based on a rate of £140 per sq. metre of net additional gross floor space (although the scheme may be eligible for a self-build exemption). This is a material consideration in the determination of this planning application. The proposal will also generate a New Homes Bonus and Council Tax payments which are not material considerations in the determination of this proposal.

Other considerations

- 7.51 The applicants have not identified material considerations in their Planning Statement to justify the proposed development on this site as very special circumstances. However, they have put forward that the proposal should be regarded as an appropriate form of development in principle, specifically in relation to paragraph 145 set out below:-
- 7.52 Paragraphs 145 and 146 of the NPPF allow for some exceptions to inappropriate development, one of which is 145(g):
- “Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*
- not have a greater impact on the openness of the Green Belt than the existing development;*
- 7.53 The applicants note that the proposed new dwelling will replace the existing structures on the site which have been in existence for at least 15 years and is (PDL). They say that the proposed dwelling will have a similar footprint and has no greater impact on the openness and therefore should be regarded as an appropriate form of development (i.e., not inappropriate) in principle as the site is already in this use, in an existing built up area.

Response:-

- 7.54 Previously developed land (PDL) is defined as the following in the NPPF:
- “Land which is or was occupied by a **permanent structure** {Officer emphasis}, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.”*
- The council do not consider that the site is PDL and consequently it does not fit into the exception noted above in para 145(g)
- 7.55 It is considered that the existing outbuildings located to the north east of the application site are only shed type structures. In addition, the caravan is not a

permanent structure. It is of a temporary nature and a moveable structure, as it has wheels and a tow bar, and can be moved from the site. Moreover, even if the out buildings and/or the caravan were considered to be a permanent structure, the proposed dwelling is significantly greater in scale than the existing structures on site and has a greater impact on the openness of the Green Belt site, as described in more detail in the Green Belt section above.

- 7.56 Consequently, the proposal does not meet the exceptions test referred to above and it is considered inappropriate development.

Conclusion

- 7.57 The development constitutes inappropriate development in the Green Belt and this, in itself, weighs heavily against the merits of the scheme. Indeed, the NPPF advises that “*substantial weight should be given to any harm to the Green Belt*”. The development will result in a reduction in the openness of the Green Belt and this adds substantial weight against the proposal, in addition to the harm from inappropriateness.
- 7.58 There will be a large increase in the amount of development on the site, compared to the existing development. It will harm the visual amenities of the Green Belt, which adds substantial weight against the merits of the scheme.
- 7.59 The site is also located in the functional flood zone and the proposal would result in putting more people at risk during a time of flood, this also weighs heavily against the scheme.
- 7.60 It is recognised that the current application site includes some existing structures, however, it is not considered that it would comply with any of the exceptions to inappropriate development in the Green Belt and it is not considered that there are any very special circumstances to justify the inappropriate development in the Green Belt. The proposal is therefore contrary to the Section 13 of the NPPF and Saved Local Plan Policy GB1.
- 7.61 Accordingly, the application recommended for refusal.

8. Recommendation

- 8.1 REFUSE the planning application for the following reasons:

1. The proposed development represents inappropriate development in the Green Belt for which no very special circumstances have been demonstrated. It will result in the site having a more urban character, will diminish the openness of the Green Belt and conflict with the purpose of including land within it. The proposal is therefore contrary to Section 13 (Protecting Green Belt Land) of the Government's National Planning Policy Framework 2019, and Saved Local Plan Policy GB1.
2. The development will introduce an additional household into the high risk Flood Zone 3b and will put more people at risk during a flood event. This will also put more pressure on the emergency services during a flood event. As such the proposal is considered contrary to Policy LO1 of the Core Strategy

and Policies DPD 2009, the Supplementary Planning Document on Flooding 2012, and the National Planning Policy Framework 2019.