



# **Planning and Development Control Committee**

## **Agenda**

### **Part One**

Council Chamber - Town Hall

Tuesday, 4 November 2014 at 7.00 pm

**Membership (Quorum – 3)**

#### **Councillors**

Cllrs Baker (Chair), Mynott (Vice-Chair), Carter, Cloke, Mrs Cohen, Mrs Henwood, Mrs Hones, Hossack, McCheyne, Morrissey and Mrs Squirrell

**Committee Co-ordinator:** Claire Hayden (01277 312741)

#### **Additional Information:**

##### **Substitutes**

Where a Member cannot attend a meeting, he or she will contact the Committee Administrator by 5.00pm on the day before the meeting to let them know this and to confirm who will be coming in their place.

The names of substitutes shall be announced at the start of the meeting by the Chair and the substitution shall cease at the end of the meeting.

Substitutes for quasi judicial Committees must be drawn from members who have received training in quasi-judicial decision making. If a casual vacancy occurs on a quasi judicial Committee it will not be filled until the nominated member has been trained.

**Rights to attend and speak**

Any Member may attend any body to which these Procedure Rules apply.

A Member who is not a member of the committee may speak at the meeting if they have given prior notification by no later than one working day before the meeting to the Chair and advised them of the substance of their proposed contribution.

The member may speak at the Chair's discretion, it being the expectation that a member will be allowed to speak on a ward matter.

## **Point of Order/Personal explanation/Point of Information**

### **8.3.14 Point of order**

A member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Procedure Rules or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the point of order will be final.

### **8.3.15 Personal explanation**

A member may make a personal explanation at any time. A personal explanation must relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate, or outside of the meeting. The ruling of the Chair on the admissibility of a personal explanation will be final.

### **8.3.16 Point of Information or clarification**

A point of information or clarification must relate to the matter being debated. If a Member wishes to raise a point of information, he/she must first seek the permission of the Chair. The Member must specify the nature of the information he/she wishes to provide and its importance to the current debate. If the Chair gives his/her permission, the Member will give the additional information succinctly. Points of Information or clarification should be used in exceptional circumstances and should not be used to interrupt other speakers or to make a further speech when he/she has already spoken during the debate. The ruling of the Chair on the admissibility of a point of information or clarification will be final.





## **Information for Members of the Public**

### **Access to Information and Meetings**

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Where members of the public use a laptop, tablet device, smart phone or similar devices to make recordings these devices must be set to 'silent' mode to avoid interrupting proceedings of the council or committee.

If you wish to record the proceedings of a meeting and have any special requirements or are intending to bring in large equipment then please contact the Communications Team before the meeting.

The use of flash photography or additional lighting may be allowed provided it has been discussed prior to the meeting and agreement reached to ensure that it will not disrupt proceedings.

The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of these activities, in their opinion, are disrupting proceedings at the meeting.

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### **Evacuation Procedures**

Evacuate the building using the nearest available exit and congregate at the assembly point in the North Front Car Park.

## **Material Planning Considerations**

The following are among the most common issues which the Planning Committee can take into consideration in reaching a decision:-

- Planning policy such as adopted Brentwood Replacement Local Plan, Government guidance, case law, previous decisions of the Council;
- Design, appearance and layout;
- Impact on visual or residential amenity including potential loss of daylight or sunlight or overshadowing, loss of privacy, noise disturbance, smell or nuisance;
- Impact on trees, listed buildings or a conservation area;
- Highway safety and traffic;
- Health and safety;
- Crime and fear of crime;
- Economic impact – job creation, employment market and prosperity.

The following are among the most common issues that are **not** relevant planning issues and the Planning Committee cannot take these issues into account in reaching a decision:-

- Land ownership issues including private property rights, boundary or access disputes;
- Effects on property values;
- Restrictive covenants;
- Loss of a private view;
- Identity of the applicant, their personality or previous history, or a developer's motives;
- Competition;
- The possibility of a "better" site or "better" use;
- Anything covered by other legislation.

## Part I

(During consideration of these items the meeting is likely to be open to the press and public)

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**PROPOSED GOLF  
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Acting Chief Executive

Town Hall  
Brentwood, Essex  
27.10.2014

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## Minutes

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### Planning and Development Control Committee Tuesday, 14th October, 2014

#### Attendance

Cllr Baker (Chair)	Cllr Hossack
Cllr Mynott (Vice-Chair)	Cllr McCheyne
Cllr Carter	Cllr Morrissey
Cllr Cloke	Cllr Mrs Squirrell
Cllr Mrs Henwood	
Cllr Mrs Hones	

#### Apologies

Cllr Mrs Cohen

#### Substitute Present

#### Also Present

Cllr Tee	
Cllr Barrett	
Cllr Lloyd	
Cllr Quirk	
Cllr Foan	West Horndon Parish Council

#### Officers Present

Tony Pierce	Interim Head of Planning
Philip Cunliffe-Jones	Planning Solicitor
Kathryn Mathews	Senior Planning Officer
Caroline McCaffrey	Development Management Team Leader
Charlotte Allen	Senior Planning Officer
David Carter	Senior EHO (Team Leader)
Sukhvinder Dhadwar	Planning Officer
Gordon Glenday	Head of Planning
Claire Hayden	Governance and Member Support Officer
Paulette McAllister	Design & Conservation Officer
Hilary Gore	Strategic Development Manager, Essex County Council

**167. Apologies for absence**

Apologies for absence were received by Cllr Mrs Cohen.

The Chair welcomed Gordon Glenday as the new Head of Planning and thanked Tony Pierce for his work as Interim Head of Planning. The Chair welcomed Hilary Gore from Essex County Council Highways.

**168. Minutes of previous meeting**

The minutes of the meeting were approved and signed by the Chair as a correct record.

**169. LAND ADJACENT TO 42 IRIS CLOSE PILGRIMS HATCH ESSEX**

**CONSTRUCTION OF A THREE BEDROOM DETACHED HOUSE WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING**

**APPLICATION NO: 14/00934/FUL**

This item was not discussed at the meeting due to queries being raised regarding ownership, rights and status of the land.

This application will be referred to a future meeting of which members will be notified of in due course.

**170. LAND ADJACENT TO 61 IRIS CLOSE PILGRIMS HATCH ESSEX**

**CONSTRUCTION OF A THREE BEDROOM DETACHED HOUSE WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING**

**APPLICATION NO: 14/00935/FUL**

This item was not discussed at the meeting due to queries being raised regarding ownership, rights and status of the land.

This application will be referred to a future meeting of which members will be notified of in due course.

**171. LAND AT 141 TO 147 HIGH STREET BRENTWOOD ESSEX**

**CONSTRUCTION OF PART FOUR/PART FIVE STOREY BUILDING  
COMPRISING OF 17 NO. ONE BEDROOM FLATS AND A3 RESTAURANT  
ON GROUND FLOOR.**

**APPLICATION NO: 14/00608/FUL**

Mr Murdoch, the agent, addressed the committee in support of the application.

Mr Reilly, the objector, addressed the Committee setting out his concerns regarding the application.

Mr Bender, Save Brentwood Action Group, addressed the Committee setting out his concerns regarding the application.

Ward Members addressed the Committee raising concerns primarily over the loading and under loading of goods from the slip road outside the site. A Highways audit has been undertaken and a restriction of loading hours will be enforced.

A Motion was **MOVED** by Cllr Chilvers and **SECONDED** by Cllr Carter that the application be deferred.

For: Cllrs Carter, Chilvers, Cloke and Morrissey

Against: Cllrs Baker, Mrs Henwood, Mrs Hones, Hossack and Mrs Squirrell

Abstain: Cllr Mynott

The motion was **LOST**.

A Motion was **MOVED** by Cllr Baker and **SECONDED** by Cllr Mynott to approve the application.

For: Cllrs Baker, Mrs Henwood, Mrs Hones, Hossack and Mrs Squirrell

Against: Cllrs Carter, Chilvers, Cloke and Morrissey

Abstain: Cllr Mynott

**RESOLVED** that the planning permission be approved, subject to the conditions recommended.

**172. BELMONT VILLA RECTORY CHASE LITTLE WARLEY ESSEX CM13 3EZ**

**TWO STOREY SIDE AND REAR EXTENSIONS AND A FRONT CANOPY PORCH**

**APPLICATION NO: 14/00565/FUL**

Mr Austin, the Applicant, was in attendance and addressed the Committee in support of the application.

Ward Members, all spoke in support of the application.

After a full discussion. A Motion was **MOVED** by Cllr Hossack and **SECONDED** by Cllr McCheyne to approve the application.

For: Cllrs Mrs Henwood, Hossack and McCheyne

Against: Cllrs Baker, Carter, Chilvers, Cloke, Hones, Morrissey and Mynott

Abstain: (0)

The Motion was **LOST**.

A Motion was **MOVED** by Cllr Baker and **SECONDED** by Cllr Mynott to refuse this application.

For: Cllrs Baker, Carter, Chilvers, Cloke, Hones, Morrissey and Mynott

Against: Cllrs Mrs Henwood, Hossack and McCheyne

Abstain: (0)

**RESOLVED** that the planning permission be refused for the following reasons:-

R1 U08564

The site lies outside the areas allocated for development in the Brentwood Replacement Local Plan 2005 and is located within the Metropolitan Green Belt where there is a presumption against inappropriate development. The proposed development constitutes inappropriate development in the Green belt and would result in significant and demonstrable harm to the openness of the Green Belt, in conflict with Chapter 9 of the National Planning Policy Framework and Local Development Plan Policies GB1, GB2 and GB5 of the Brentwood Replacement Local Plan 2005.

R2 U08565

Notwithstanding reason 1 above, the proposed extensions, by reason of their size, siting, and hardstanding required to facilitate the dwelling, would be out of keeping with the existing house and fail to reflect the local distinctiveness and character of the area, resulting in significant and detrimental harm to the character and appearance of this rural location, in conflict with the aims and objectives of the NPPF and Policy CP1 of the Brentwood Replacement Local Plan.

R3 U08588

No 'very special circumstances' or other considerations have been clearly demonstrated to outweigh the significant harm caused by the inappropriate development or the harm to the openness of the Green Belt and the development is in conflict with the National Planning Policy Framework Chapter 9, and Local Development Plan policies GB1 and GB2.

Informative(s)

1 INF23

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. 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.

2 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1, GB1, GB2, C8 the National Planning Policy Framework 2012 and NPPG 2014.

**173. 134 HIGH STREET BRENTWOOD ESSEX CM14 4AT**

**DEMOLITION OF EXISTING DETACHED BUILDING AND CONSTRUCTION OF NEW THREE STOREY BUILDING CONTAINING SIX FLATS.**

**APPLICATION NO: 14/00885/FUL**

Ms Reeves, was in attendance and addressed the Committee setting out her objections to the application.

Mr Barnard, was in attendance as the Applicant's Representative and addressed the Committee in support of the application.

Ward Members raised concerns over potential overbearing and detrimental impact the application may have on the neighbouring property.

Due to the lack of detail on the draws with regards to the land level, not been indicated within the submitted plans.

A Motion for refusal was **MOVED** by Cllr Chilvers and **SECONDED** by Cllr Carter.

However, during the debate the Motion was withdrawn.

A Motion for **MOVED** by Cllr Baker and **SECONDED** by Cllr Mynott that the application be deferred to enable further consultation between the applicant and officers on the effect the sloping land would have on the impact of the proposals and also consideration of removal or redesign of balconies.

A Motion was **MOVED** by Cllr Baker and **SECONDED** by Cllr Mynott to refuse this application.

For: Cllrs Baker, Carter, Chilvers, Cloke, Mrs Henwood, Mrs Hones, McCheyne, Morrissey, Mynott and Mrs Squirrel

Against: (0)

Abstain: (0)

**RESOLVED UNANIMOUSLY.**

(Cllr Hossack, left the Chamber at the beginning of the items and did not return, therefore taking no part in the debate or vote).

**174. 23 HIGH STREET INGATESTONE ESSEX CM4 9DU**

**PARTIAL DEMOLITION OF LISTED BUILDING. CHANGE OF USE FROM OFFICES TO 5 FLATS (1 X 1 BEDROOM, 4 X 2 BEDROOMS), AND ERECTION OF 2 BEDROOM COTTAGE WITH ASSOCIATED CAR PARKING, CYCLE AND BIN STORAGE, AND EXTERNAL ALTERATIONS , INCLUDING NEW DORMERS.**

**APPLICATION NO: 14/00594/LBC**

This application was previously presented to Committee alongside a full application for planning permission for the change of use of the building to residential flats and the construction of a new dwelling (reference 14/00593/FUL).

After a full debate on the merits of the full planning application, the Committee resolved to refuse the applications.

A decision notice has been issued for the planning application. Officers are seeking to establish the Committee's view on the Listed Building Consent application for works to the Listed Building.

The Committee may either refuse the application, based on the advice given by officers on the effect of the works to the Listed Building, or may approve the application for works to the listed building, with conditions where appropriate.

The approval of the Listed Building Consent application would not effect the outcome of the refused planning application.

Ward Members in full support of the application.

A Motion was MOVED by Cllr Cloke and SECONDED by Cllr Mrs Hones that the application be approved.

For: Cllrs Baker, Carter, Chilvers, Cloke, Mrs Henwood, Mrs Hones, Morrissey, Mynott and Mrs Squirrell

Against: (0)

Abstain: (0)

(Cllr McCheyne declared a non pecuniary interest under the Council Code of Conduct by virtue of knowing the applicant of the site and upon declaring the interest, Cllr McCheyne left the Chamber and did not take part in the debate or vote).

#### **175. Urgent business**

There were no items of urgent business.

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**SITE PLAN ATTACHED**

**03. SHENFIELD CRICKET CLUB CHELMSFORD ROAD SHENFIELD ESSEX  
CM15 8RQ**

**CONVERSION OF EXISTING GRASS RUN UP AREA TO HARD SURFACE  
AND REFURBISHMENT OF THE TWO EXISTING CRICKET NETS IN THEIR  
EXISTING POSITION**

**APPLICATION NO: 14/00836/FUL**

<b>WARD</b>	Shenfield	<b>8/13 WEEK DATE</b>	29.08.2014
<b>PARISH</b>		<b>POLICIES</b>	NPPF NPPG GB1 GB2 GB22 CP1 C5 PC4 T2
<b>CASE OFFICER</b>	Charlotte Allen		01277 312536
<b>Drawing no(s) relevant to this decision:</b>	D2002 REV 07; D3001 REV 01; NSSCC002 ; PLANNING STATEMENT ;		

**1. Proposals**

This application is presented to Committee as the Council are the freeholders of The Courage Playing Fields, which were gifted to the Council by two Deeds of Gift in 1950 and 1951 for the purpose of providing public open space, recreation ground and playing fields. The Council is subject to a covenant to allow the Shenfield Cricket Club to have the use of the cricket ground situate upon the Courage Playing Fields for so long as the Club remains in existence and upon such reasonable terms as have been and as may be agreed between the Council and the Club.

Planning permission is sought to alter the existing cricket net facilities, including the conversion of the grass run up area to a hard surface. The proposed nets measure 18.3m in length, 7.32m in width and 4m in height, with the hardsurfaced area having a maximum length of 31.9m and a maximum width of 7.92m. The existing nets have a width of 7.3m and a length of 12.4m with the hardsurfaced area having a length of 14.4m and the grassed run up area to the back on the nets having a total length of 35m. The proposed nets are located in a similar location to the existing nets.

A planning statement has been submitted with the proposal which indicates that, following previous applications for cricket nets, the Club has explored alternative locations and options for the nets but that this proposal is the only realistic option. The statement also indicates that cricket nets provide an essential facility for young cricketers, that there is no increase in the number of nets or a material change in their use. The development is in-keeping with the existing facility which compares to other Clubs of a similar size. The orientation remains the same and that the longer nets will retain more balls and is therefore safer than the existing structure.

## **2. Policy Context**

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and is now a material consideration in planning decisions. The weight to be given to it will be a matter for the decision makers planning judgement in each particular case. This Framework replaces all the national planning guidance documents as stated in the NPPF, including Planning Policy Guidance Notes and Planning Policy Statements. Notwithstanding this, the NPPF granted a one year period of grace for existing adopted Local Plan policies which has now ended, but, the NPPF advises that following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The National Planning Practice Guidance (NPPG) is a material consideration in the determination of this application.

GB1 - New Development in the Green Belt

GB2 - Development Criteria

GB22 - Outdoor Sports Facilities

CP1 - General Development Criteria

PC4 - Noise

C5 - Retention and Provision of Landscaping and Natural Features in Development

T2 - New Development and Highway Considerations

## **3. Relevant History**

- 12/01223/FUL: Replacement cricket nets with 2 lanes to be located in a similar position as the existing cricket nets at the Shenfield Cricket Club. The replacement nets would have a larger playing surface and netting enclosure.  
-Application Withdrawn
- 11/01252/FUL: Relocation of cricket nets for use by Shenfield Cricket Club  
-Application Refused

#### **4. Neighbour Responses**

71 notification letters were sent out and a site notice was displayed. To date 22 letters of support and 11 letters of objection have been received; one letter of objection is said to have the support of 7 properties; the comments received are summarised below:

22 letters of support:

- Improve the facility; nets are vital for sporting and cricket community.
- Enhance the appearance of the area. Blends in with surroundings.
- Will serve and benefit the community; used by all ages and genders.
- Little change from existing. In same location as existing nets.
- If can't improve nets will lose players to other clubs. Important for the future of the Club.
- Shenfield only has 1 Cricket Club.
- Social, community hub; sociable and inclusive.
- Never experienced residents voice concerns over noise/balls in their gardens from using the nets.
- How do balls go into gardens when the opening faces the open field.
- Club results in 220 children participating in cricket.
- Nets are essential part of children's development.
- Existing facilities dilapidated, dangerous, unusable and in need of replacement.
- Will be England Cricket Board (ECB) approved.
- Will resemble grass.
- Is permeable, improving drainage.
- No trees, shrubs or hedges will be removed.
- Asset to the local community.
- Will not impact neighbours.
- Shenfield Cricket Club is our heritage.
- It supports Shenfield High School - providing a resource the school is unable to provide.
- Proposal is minor alterations to an existing facility.
- Will be a safer structure.

13 letters of objection:

- Prevent access to Courage playing Fields from rear garden gates.
- Suggestion that increased length will reduce danger might be valid if properly maintained but poor history of maintenance.
- Regularly return cricket balls throughout the summer.
- Indication that location alongside vet would not be allowed due to noise is flawed - noise from clubhouse, members and supports is more usually - would be a better location and flat is used for a single employee of practice, not a 24 hour family residence. This was a scheme residents were happy with. Proposal nearer to a number of properties than if next to the vets. Scale of intrusion greater than if next to vets.

- More noise and disturbance to residents - nets can be used when unsupervised by the Club late into the evenings; causes antisocial behaviour, littering and noise.
- Traffic/Highways.
- Residential amenity.
- Inaccurate plans, particularly with regard to amount of additional hardstanding.
- Additional hardstanding on Green Belt land.
- Water runoff into nearby properties is an issue and will increase, affecting residents and road users.
- Red line is inaccurate and doesn't reflect covenant.
- Nets never had planning permission in this location.
- Dangerous to residents; will result in more balls near footpath.
- Should restrict weekend afternoon use to give residents some safe access to Courage playing fields.
- Further encroachment out of land allocated to the Cricket Club in covenant, decreasing land available to the rest of the community.
- Intrusive feature aesthetically and unsightly structure.
- At end of Cricket season nets left up which become a hazard.
- 2012 permission refused; 2 reasons still relevant; impact on character and appearance of area, effect on public right of way and unacceptable impact upon other persons enjoyment of the countryside.
- Potential for injury to public and children using the Courage playing fields.
- Harmful affect on living conditions of adjoining residential properties; noise and loss of privacy.
- Detrimental impact on openness and natural character of the open space.
- Sited on the established footpath; detrimental impact on public rights of way.
- Restrict public use and enjoyment of the Courage Playing Fields and breach the covenant.
- If approved concerned Club may try to extend their footprint into the Courage fields further.
- Is longer and wider than the current structure.
- Danger from balls struck past the bowler and concern children could use the nets as a play area and fall onto the hardstanding.
- Closer to Chelmsford Road residents gardens.
- Increased noise and litter and antisocial behaviour.
- Increase parking congestion and may cause increased parking in neighbouring roads/Chelmsford Road.
- Covenant is a constraint.
- Unless rejection/restriction on hours would face continual intrusion into family garden usage throughout the summer.
- Inaccuracies and inconsistencies

## 5. Consultation Responses

- **Sport England:**

No objection is made by Sport England as a statutory consultee and the principle of the development is supported as a non-statutory consultee.

- **Building Control:**

We would not have any comments under the Building Regulations.

- **Environmental Health & Enforcement Manager:**

As this proposal does not differ significantly from the current situation, this Service has no objections to the application.

- **Arboriculturalist:**

No objections

- **Highway Authority:**

No objections.

## 6. Summary of Issues

The application site constitutes the Courage Playing Fields which is Council owned land. The location of the proposed nets is in a similar location to the current nets; to the rear dwellings in Chelmsford Road. The site is located within the Green Belt and as such the main considerations in this case are Green Belt considerations, design and visual amenity, residential amenity, landscaping and highway considerations:

### Site History

In terms of planning applications for cricket nets, there have been two recent applications to replace the cricket nets on the Courage Planning Fields:

- 12/01252/FUL - (the proposed nets were located in a similar location to this proposal) - Withdrawn but recommended for approval by Officers
- 11/01252/FUL (the proposed nets were located in a different location to this proposal) - Refused for three reasons:

1. The proposed location of the cricket nets would have an unacceptable detrimental impact upon the character and appearance of the surrounding area and landscape and would have a detrimental effect on public rights of way through the Courage Playing Fields, contrary to policies CP1(i) and CP (viii) and GB2(i) and GB2 (iii) of the Brentwood Replacement Local Plan.

2. The removal of the semi-mature sycamore tree, which provides amenity value, would not preserve or enhance the existing landscape features of the site, contrary to policy GB2(ii) of the Brentwood Replacement Local Plan.

3. The siting of the proposed cricket nets, in a location that is frequented by local residents, would have an unacceptable detrimental impact upon other persons enjoyment of the countryside, contrary to policy GB22 of the Brentwood Replacement Local Plan.

#### Green Belt

Paragraph 79 of the NPPF 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.

Is the proposal inappropriate development in the Green Belt:

Paragraph 89 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt with some exceptions including:

- Provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

The planning statement submitted indicates that the Club has a thriving youth section comprising over 200 local boys and girls aged 5-16 and that the nets provide an essential facility for bringing on these young cricketers.

Sport England have been consulted on this application and have commented that 'I have consulted the England and Wales Cricket Board (ECB), the sports governing body, who have advised that Shenfield Cricket Club are a successful developing club which needs up to date practice facilities to help them develop and retain players. The proposal would therefore help facilitate the club's development by providing modern fit for purpose practice facilities.' Sport England also comment that it 'is supportive in principle of the proposed development as a non-statutory consultee due to the sport related benefit offered by the modernisation of the Club's cricket practice facilities.

As such the proposed development is an appropriate facility for outdoor sport and will not constitute inappropriate development in the Green Belt provided it preserved openness and does not conflict with the purposes of including land within the Green Belt:

Openness and Purposes of Including Land in the Green Belt:

Whilst the proposed nets and hardsurfaced area are larger than the existing facility, given the nature of the nets which are relatively open and the location of the proposal, it would not result in material harm to the openness of the Green Belt and would not

materially conflict with the purposes of including land in the Green Belt, especially considering that there are already nets in a similar location to that proposed.

#### Other Green Belt considerations

Local Plan Policy GB22 states that proposals for the use of land for outdoor participatory sport and recreation will only be allowed in the Green Belt where the following criteria are met;

- The proposal would not have an unacceptable detrimental impact on other people's enjoyment of the countryside.

A number of neighbours have raised concerns in this regard. The Courage Playing Fields are open to the public and are used by the local community; however, given that the location of the nets is in a similar location to the existing facility and is parallel to the rear gardens of dwellings in Chelmsford Road the proposal would not materially impact other people's enjoyment of the countryside/playing fields.

- It would result in the permanent loss of the best or most versatile agricultural land.

The site does not constitute the best or most versatile agricultural land.

- It would not have an unacceptable detrimental impact on a site of special scientific interest, a county wildlife site or an area of special landscape.

The site is not located within a SSSI, county wildlife site or an area of special landscape.

- It would not require unacceptable prominent ancillary features e.g. fences, floodlighting, car parking, etc.

The site is already used by the Cricket Club and ancillary features such as parking are already in situ which this proposal does not alter. No floodlighting is proposed.

Policy GB22 also requires applications to be considered against the criteria set out in Policy GB2:

Policy GB2 states that the local planning authority needs to be satisfied that a proposal in the Green Belt does not conflict with the purposes of including land in the Green Belt and does not harm the openness of the Green Belt. Account will also be taken of the following

- The effect of the proposal on public rights of way

A number of neighbours have raised concerns in this regard. In terms of comments received relating to the proposal blocking a public right of way, as already discussed the proposal would not materially harm other peoples enjoyment of the countryside. However, the Public Rights of Way Inspector at Essex County Council has also been contacted in this regard, who confirms that there are no public rights of way shown as being located in the area the planning application concerns. The Courage Playing fields are for community use; however, given the location and extent of the existing cricket nets, the proposal would not result in any undue harm to other people's use of the playing fields and will not adversely impact public rights of way.

- The need to preserve and enhance existing landscape features

The proposal would not result in any loss of trees and would not therefore adversely impact the landscape of the area.

- Any building must be satisfactory located in respect of the surrounding landscape and any adjoining buildings.

The location of the nets is in a similar location to the existing nets which is close to the rear gardens of dwellings in Chelmsford Road and is considered to be a satisfactory location in respect of the surrounding landscape and buildings.

It should also be noted that paragraph 81 of the NPPF states that local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access and to provide opportunities for outdoor sport and recreation.

The proposal therefore complies with Chapter 9 of the NPPF and Policies GB1, GB2 and GB22 of the Local Plan.

#### Design and Visual Amenity

There are already cricket nets in a similar location to that proposed and the cricket nets are not prominently located and as such would not result in any harm to the visual amenity or the character or appearance of the area. The proposal therefore complies with Chapter 7 of the NPPF and Policies CP1(i) and CP1(iii) of the Local Plan.

#### Residential Amenity

The nearby properties in Chelmsford Road have long rear gardens with the houses set back from the cricket nets, there is also some dense vegetation on the boundary between the dwellings and the nets. The proposal would not therefore result in any harm to the adjoining residents in terms of dominance or an overbearing impact.



Given the nature of the proposal it would not result in any harm in terms of overlooking or loss of privacy.

Due to the orientation of the proposed cricket nets and the proposed enlargement to the length of the netting area, it is considered that it would be very unlikely for a cricket ball to enter any of the adjacent properties and furthermore that the proposed enlargement to the netting area would help to reduce the risk of this occurring in comparison to the existing nets. Given that there are already cricket nets in this location and the proposal seeks to replace two lanes with two lanes, the proposal would not result in significant or demonstrable harm in terms of noise and disturbance compared to the existing situation. The Environmental Health Officer has also commented that given that the proposal does not differ significantly from the current situation, Environmental Health would have no objections to the proposal.

#### Landscaping Considerations

The Council's Tree Officer has raised no objection to the proposed development. The proposal will not affect any trees within the Courage Planning Fields in accordance with Policy C5 of the Local Plan which seeks to retain natural features such as trees in new developments. Given the existing character of the Courage Playing Fields no additional landscaping is required.

#### Highway Considerations

The Highway Authority has commented that there are no highway issues associated with this proposal. Officers consider that the replacement of the nets would not necessarily result in an increase of activity to the Shenfield Cricket Club and as such no objection is raised on this basis.

#### Other Matters

Sport England raises no objection to the proposal as a statutory consultee and supports the principle of the development as a non-statutory consultee. And the proposal will achieve the requirements of the England Cricket Board (ECB) standards.

The letters of support are noted and the positives that result from this proposal including an improved facility for the community, the appearance of the area, safety, the similarities to the existing nets and its importance to the future of the club are all noted.

In terms of the concerns raised by neighbours, many of these have already been considered in this report including access and impingement of others' enjoyment of the playing fields, design, danger, noise, disturbance, traffic and highway

implications, Green Belt and residential amenity. The other matters raised will also be considered:

In terms of an alternative location for the nets adjacent to the vets, whilst there were concerns raised about this location by the Environmental Health Officer at pre-application stage, the Planning Statement submitted indicates that there were also other concerns with the relocation of the nets in this position include the slope of the land, the loss of trees, would impact vehicular and pedestrian access, results in the loss of parking and results in young players being close to moving vehicles. In any case, the application has been submitted with the nets in a similar location to the existing nets and this is what must be determined by the Council. The planning department cannot insist that alterations are made to any application submitted.

Comments were received which suggest that the replacement nets will increase antisocial behaviour and littering. However, there is no evidence that the replacement nets would result in any increased harm in this regard.

With regard to water runoff, Building Control were consulted on this application and have indicated that the department would not have any comments on this application. However, Building Regulations did provide comments to the previous, similar application (ref. 12/01233/FUL) and concluded that they would not consider that the works would unduly alter any pre-existing ground water situation.

Reference has also been made to a covenant on this site. However, the Council's Asset and Technical Manager has commented that it is incorrect to say that the site is outside the covenant when no boundary has been set other than the plot edged red. No boundary exists for the club under the terms of the covenant. In any case, in planning terms land ownership and covenants are not material planning considerations.

Objections have been received in terms of the location of the nets, stating that there was never permission for nets in this area. However, the planning statement states that the existing net enclosure has been in its current location for over 20 years and the run-up area for over 10 years. Council aerial photos indicate that there has been a cricket practice net in this location since at least 2007 and as such no enforcement action would now be taken against the nets even if they originally did not have planning permission.

## Conclusion

The proposal does not constitute inappropriate development in the Green Belt, would not materially harm openness or the purposes of including land in the Green Belt and would not adversely impact the character of the area or the residential amenity of adjoining residents. The proposal would not adversely impact landscaping, trees or parking or the highway in the area and as such the proposal is recommended for approval, subject to conditions.

## 7. Recommendation

The Application be APPROVED subject to the following conditions:-

### 1 TIM01 Standard Time - Full

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

### 2 DRA01A Development in accordance with drawings

The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

### 3 U08602

No development shall take place until samples of the materials to be used in the construction of the netting and the playing surface of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The surface materials for the proposed playing surface should be permeable in accordance with DCLG guidance. Development shall be carried out in accordance with the approved details.

Reason: In Order to safeguard the character and appearance of the area.

## Informative(s)

### 1 INF04

The permitted development must be carried out in accordance with the approved drawings and specification. If you wish to amend your proposal you will need formal permission from the Council. The method of obtaining permission depends on the nature of the amendment and you are advised to refer to the Council's web site or take professional advice before making your application.

### 2 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: GB1, GB2, GB22, CP1, C5, PC4, T2 the National Planning Policy Framework 2012 and NPPG 2014.

### 3 INF21

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including

planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

*BACKGROUND DOCUMENTS*

**DECIDED:**

Appendix A



Title: Shenfield Cricket Club Chelmsford Road  
14/00836/FUL

Scale 1:1250 at A4

Date 4th November 2014

Brentwood Borough Council  
Town Hall, Ingrave Road  
Brentwood, CM15 8AY  
Tel: (01277) 312500



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<b>SITE PLAN ATTACHED</b>
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**04. BRENTWOOD RUGBY CLUB KING GEORGES PLAYING FIELDS  
BRENTWOOD ESSEX CM13 2AQ**

**SINGLE STOREY RUGBY FOOTBALL REPLACEMENT CLUBHOUSE WITH  
CHANGING FACILITIES AND ADDITIONAL PARKING**

**APPLICATION NO: 14/00745/FUL**

<b>WARD</b>	Warley/adjoining Brentwood South	<b>8/13 WEEK DATE</b>	28.08.2014
<b>PARISH</b>		<b>POLICIES</b>	GB1 GB2 CP1 T2 CP2 GB23 C5 NPPF NPPG
<b>CASE OFFICER</b>	Kathryn Mathews		01277 312616
<b>Drawing no(s) relevant to this decision:</b>	3521:102 A; DESIGN & ACCESS STATEMENT ; SITE PLAN SCALE 1:4000 ; 3521:100 B; 3521:103 ; 3521:104 ;		

**1. Proposals**

Proposed single storey new rugby football club house with changing facilities: 53m in length x 15m in width; 6.4m in height (maximum dimension). The proposed building would consist of three attached elements. One element would accommodate six changing rooms (each accommodating 16-18 persons each), two officials rooms and a first aid/physio room. A second element would accommodate a clubroom with associated bar, kitchen and storage. These two would linked by a flat roofed element which would accommodate an entrance lobby, toilets and an office/meeting room.

The materials to be used to construct the external surfaces of the building would consist of facing bricks for the walls, pvc for the flat roof sections and profiled steel cladding (colour to be agreed) for the sloping roof elements.

The building would overlap the footprint of the existing clubhouse building but would be located 5m from the site boundary. The existing club house is located immediately adjacent to the eastern boundary of the site and is single storey in height (3.6m) with a flat roof.

The total gross internal floorspace of the proposed building is stated as being 750sq.m. The floorspace of the existing building is stated as being 270sq.m. The club room of the existing building (excluding toilets, bar, stores etc.) measures around

130sq.m. The club room within the proposed building (again excluding toilets, bar, kitchen and stores) measures around 160sq.m.

It is understood that the building has been designed to facilitate its construction in phases which would allow construction of the changing rooms etc. while the existing clubhouse remains in use.

There is an existing car park adjacent to the existing clubhouse accommodating 54 parking spaces. The proposal would add six spaces adjacent to the proposed building and six cycle spaces within the proposed building.

There are no proposed changes to the location of the existing rugby and football pitches within King Georges Playing Fields but one rugby pitch would need to be slightly reduced in size (but would still be the minimum recommended size).

In terms of hours of opening, it is proposed that training sessions would be held 7pm-9pm Mondays to Fridays and 10am to 12pm on Sundays and Bank Holidays, fixtures would be held 2pm-6pm on Saturdays and the social club use would be available for use 2pm-11pm on Saturdays and 12pm to 11pm on Sundays and Bank Holidays.

The application is accompanied by a Design and Access Statement and supporting information including:-

- Sports England and the RFU have both recommended the application is approved
- currently the Brentwood Rugby Football Club occupy a small timber clubhouse and play their matches on four rugby pitches
- there is dense hedgerow and significant tree planting for the full length of the site's eastern boundary
- there are currently 7 football pitches and four rugby pitches
- the existing clubhouse has limited changing areas with no shower or bathing facilities and a limited social area - rugby players use the shower facilities next to the golf clubhouse some 175m away - there is no protected changing areas for juniors or ladies teams
- the club has not been able to find an alternative location within the Borough
- the club has been playing from and using their current facilities for the last 70 years
- the club has grown in popularity and use over this time
- other sports users could use the new facilities
- the occupational space of the social element of the proposal would be 8% greater than the existing space which would equate to 13 additional occupants at maximum capacity

The application is accompanied by a report from a highway and traffic planning consultants. This report concludes that there would be ample spare capacity within the car parking areas in the Park to accommodate the proposed new clubhouse and there is likely to be very little difference in the level of activity generated by the



proposals as the main change is the provision of changing/shower facilities within the clubhouse. Any increase in social usage would be outside the peak car parking usage when matches etc are being played.

The application is also accompanied by an Arboricultural Report relating to a group of Oak trees adjacent to the site which could potentially be impacted during the works to implement the proposed development. The Report recommends protection measures to be implemented to safeguard the trees from construction pressures. The report concludes that the proposal does not pose a threat to the health, longevity or amenity of the existing trees subject to measures being put into place to protect the trees during the construction period.

Planning permission was refused for a previous proposal for a two storey replacement club house adjacent to the existing overflow car park within the Park approximately 170m to the north-west of the existing clubhouse (reference 13/00841/FUL) for the following reasons:-

1. As a result of its height, bulk and size, the proposed club house would significantly reduce the openness of the Green Belt and would conflict with the purposes of including land within it. On this basis, the proposal would be inappropriate development within the Green Belt and cause significant harm by reason of its inappropriateness and loss of openness to the Green Belt, contrary to the NPPF (in particular section 9) and Policies GB1 and GB2 of the Brentwood Replacement Local Plan.
2. As a result of its height, bulk and size, the proposed club house would be an incongruous and visually intrusive element within the King Georges Playing Fields, to the detriment of the character and appearance of the area, contrary to the NPPF (section 7 and paragraph 17) and Policy CP1 (criteria i and iii) of the Brentwood Replacement Local Plan. Furthermore, as proposed, the level of excavation and hardsurfacing within the root protection zone of the two, mature oak trees would be likely to cause significant harm to their root network resulting in removal or harm to those trees and therefore to the character and appearance of the area, in conflict with the NPPF section 11 and paragraph 17 and local Plan Policy C5.
3. The matters advanced by the applicant in support of the application would not clearly outweigh the harm the development would cause through inappropriateness, reduction in openness of the Green Belt within which the site is located, and harm to the character and appearance of the area. Therefore, no circumstances exist to justify the grant of planning permission for the inappropriate development proposed.

That decision related to a building which would have measured 28.4m in length x 15.5m in width (excluding a covered first floor balcony), 7.6m in height and a total gross internal floorspace of 810sq.m. The main part of the building would have had a curved roof clad with profile metal and the clubroom would have been accommodated at first floor level.

The currently proposed scheme aims to overcome these reasons. The applicant summarises the revised scheme as follows:-

- the proposed building would be located adjacent to the site's boundary and would be single storey in height and so would be less visual than the previous proposal
- the proposal would replace an existing clubhouse and so would be no more inconvenient for neighbours than the existing clubhouse
- noise from the clubhouse would be reduced as there would be no windows on the rear of the buildings, only doors to stores etc
- the building would be set further off the boundary than the existing building giving further protection to the rear gardens of adjoining properties.
- the rear gardens of existing residential properties to the east, which front Ingrave Road, back onto the site but there is dense hedgerow and significant tree planting for the full length of the eastern boundary of the playing fields

## **2. Policy Context**

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and is now a material consideration in planning decisions. The weight to be given to it will be a matter for the decision maker's planning judgment in each particular case. This Framework replaces all the national planning guidance documents as stated in the NPPF, including Planning Policy Guidance Notes and Planning Policy Statements. Notwithstanding this, the NPPF granted a one year period of grace for existing adopted Local Plan policies which has now ended, but, the NPPF advises that, following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). Thus policies in the Brentwood Replacement Local Plan remain material considerations:

CP1 (General Development Criteria) Requires development to satisfy a range of criteria covering the following considerations: Character and appearance of the area; Residential amenities; Access; Highway safety; Environmental protection; and the Natural and Historic Environment.

CP2 (New Development and Sustainable Transport Choices) aims to locate jobs, shopping, leisure facilities and services in locations which are well served by public transport and/or are accessible by walking and cycling.

GB1 (New development) refers to the need for very special circumstances to justify proposals which are inappropriate in the Green Belt.

GB2 (Development Criteria) refers to the need to proposals not to harm the openness of the Green Belt or conflict with the purposes of including land in the Green Belt. The Policy also requires account to be taken to public rights of way, existing landscape

features and the location of any building in respect of the surrounding landscape and adjoining buildings.

GB22 (Outdoor Sports Facilities) requires that proposals for the use of land for outdoor participatory sport and recreation in the Green Belt meet certain criteria.

GB23 (Ancillary Buildings) supports proposals for small scale buildings and facilities required for outdoor participatory sport and recreation where there is a justifiable need for such buildings and facilities. However, any social facilities incidental to the primary use of the site need to be restricted in size and will be solely for use of persons participating in the recreational activity.

T2 (New Development and Highway Considerations) refers to the need for proposals not to have an unacceptable detrimental impact on the transport system.

On 6th March 2014, the government published Planning Policy Guidance (NPPG) which, along with the NPPF, is a material consideration in the determination of planning applications.

### **3. Relevant History**

- 13/00841/FUL: New Rugby football clubhouse with changing facilities, access, car parking and relocation of existing pitches. -Application Refused

### **4. Neighbour Responses**

Two site notices were displayed near to the site and 99 letters of notification were sent out.

12 letters of objection have been received which raise the following concerns:-

- would dramatically change the enjoyment of their existing access from the rear of their garden and the use of the park
- site in Green Belt - understood there was no potential for development on this land
- would affect house prices
- would have negative impact on feel and look of park for all users with such a large building
- understand clubhouse to be used for weddings and parties - noise levels of the existing parties are generally excessive; noise levels would increase with a larger facility
- current dilapidated buildings based in the middle of the park should be considered instead to house all facilities as not close to any residential properties
- not single storey at 6.425m high - first floor could be created within roof space
- as an alternative, existing facilities could be enlarged without an increase in height
- contravenes NPPF on replacement buildings in the Green Belt as would be materially larger than the one it replaces

- would create problems with noise, traffic and lighting, especially at night
- concern that anti-social behaviour would increase and would make easy access for anyone to climb into their property
- would have adverse impact on existing trees - existing trees would need to be cut back to accommodate the new building
- applicant indicates that solar panels may be added to enormous roof
- proposed design is neither innovative or outstanding and fails to raise the standard of design more generally in the park, and fails to integrate the development into this historic environment
- there has been no communication from the club with local residents
- would not agree to any increase or music licensing hours
- inappropriate development in the Green Belt and would reduce openness
- would disturb properties on boundary of park and cut out light
- existing clubhouse and new toilets in park attract vandals - assume new clubhouse will attract more vandalism
- loss of view across the park

10 letters of support have been received on the basis of the following:-

- would be great asset to community of all ages
- orientation is improved with this submission as noise and light goes into park and not towards houses
- single storey makes building less imposing
- would be one of a number of buildings within the park
- no adverse impact on environmental diversity
- would create a rugby club which is fit for purpose
- would not want club to have to relocate
- existing clubhouse an embarrassment to Brentwood
- would enable women's rugby to be offered and provide secure changing facilities

## **5. Consultation Responses**

- **Historic Buildings And Conservation Officer:**

I have reviewed the above application for the 'Single storey rugby football replacement clubhouse with changing facilities and additional parking'. I would not consider the proposed design to be incongruous, there is good proportion in the elevation treatment. I did have concerns over the ridge height but this was not in relation to context more to do with the need for the internal height given the footprint and use as a single storey building. In summary I would not have objections on design grounds to these proposals.

- **Highway Authority:**

The Highway Authority would not wish to raise an objection to the above application, following the additional Parking Surveys demonstrating adequate capacity within the existing car parks to accommodate the proposed new clubhouse of Brentwood

Rugby Club, as the impact of the proposal is acceptable subject to the following conditions:

1. The development shall not commence until a proposed layout drawing maximising the number of parking bays in the proposed vehicle parking area has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the proposed vehicle parking area has been hard surfaced in accordance with Drawing No. 3521:103 and marked out in parking bays in accordance with the approved layout drawing. The vehicle parking area shall be retained in this form at all times. Reason: To provide improved vehicle parking and access in the interest of highway safety and amenity.
2. The development shall not commence until details of the design and layout of secure and weather protected cycle parking facilities have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved facilities have been provided in the location shown on Drawing No. 3521:21 and thereafter retained at all times. Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.
3. The development shall not commence until details of the design and layout of secure motorcycle parking facilities have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved facilities have been provided in the location shown on Drawing No. 3521:21 and thereafter retained at all times. Reason: To ensure appropriate motorcycle parking is provided in the interest of highway safety and amenity.

#### Informative

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO3 - Essex Highways, Childerditch Highways Depot, Hall Drive, Brentwood. CM13 3HD.

- **Environmental Health & Enforcement Manager:**

With regard to the above I confirm the following.

- It is understood that the new build will have limited apertures in the form of windows/doors to the rear flank wall. This may assist to offset any noise breakout that may occur from the clubhouse. This would be dependant on usage of these doors etc.
- Details of all plant and equipment associated with the Kitchen, Clubhouse and the Boiler room areas (especially any air handling equipment) shall be agreed with the Council to ensure noise levels do not adversely affect nearest noise sensitive premises/residents. The rating level of the noise emitted from the unit(s) shall be lower than the existing night time background level (23.00 to 06.00) by at least 5 dB. The noise levels shall be determined at the nearest noise-sensitive premises. The measurements and assessment shall be made according to BS4142:1990. It is

recommended that the services of a qualified acoustics engineer are engaged in order that an inspection/report can be submitted.

- A suitable and sufficient grease trap shall be installed within the foul drainage system.

- No amplified sound shall be produced within the premises unless a scheme of physical management noise attenuation controls agreed with the local planning authority are put into place.

- The opening hours that have been suggested appear to be appropriate for the Social Club use and this Department has no additional comments to make on the matter. In addition, the premises are to be cleared of customers within 30 minutes of closing and staff within one hour of closing.

- Details for the disposal of waste from the premises must be agreed with the local planning authority prior to commencement.

Also with regard to the above I confirm the following.

- It is understood that the new build will have limited apertures in the form of windows/doors to the rear flank wall. This may assist to offset any noise breakout that may occur from the clubhouse. This would be dependant on usage of these doors etc.

- Details of all plant and equipment associated with the Kitchen, Clubhouse and the Boiler room areas (especially any air handling equipment) shall be agreed with the Council to ensure noise levels do not adversely affect nearest noise sensitive premises/residents. The rating level of the noise emitted from the unit(s) shall be lower than the existing night time background level (23.00 to 06.00) by at least 5 dB. The noise levels shall be determined at the nearest noise-sensitive premises. The measurements and assessment shall be made according to BS4142:1990. It is recommended that the services of a qualified acoustics engineer are engaged in order that an inspection/report can be submitted.

- A suitable and sufficient grease trap shall be installed within the foul drainage system.

- No amplified sound shall be produced within the premises unless a scheme of physical management noise attenuation controls agreed with the local planning authority are put into place.

- The opening hours that have been suggested appear to be appropriate for the Social Club use and this Department has no additional comments to make on the matter. In addition, the premises are to be cleared of customers within 30 minutes of closing and staff within one hour of closing.

- Details for the disposal and/or collection of waste/refuse from the premises must be agreed with the local planning authority prior to commencement.
- Any additional Car parking lights for the Car park area must be so positioned so as not to cause any loss of amenity to the nearest light sensitive properties. It is recommended that these additional lights should face away from the said light sensitive properties and be suitably shielded.

Should you have any queries regarding the above, please contact me direct.

- **Environment Agency:**

The above planning application is outside our statutory remit under the DMPO 2010 and therefore we have no comments to make.

- **Arboriculturalist:**

Good arboricultural plan so no objection as long as it is followed.

- **Sport England:**

No objection is made by Sport England as a statutory consultee and the proposal is supported in principle as a non-statutory consultee. Sports England confirms that the RFU supports the proposal and that the clubhouse design and layout is in compliance with the RFU design advice.

- **Open Space Strategy Coordinator:**

Further to your request for comments on the consultation for the above planning application I can confirm that I have reviewed the application and can offer the following for consideration:

The club have been a long established partner at King George's Playing Fields and so there will be little material change to the manner in which the park is managed nor the way in which it is used i.e for recreational sport. The pavilion will compliment the other facilities already available on site in the form of the existing sports pitches and will not affect the overall level of provision for rugby and football although some layout changes will need to be made to accommodate the building.

I do have some concerns about the imposing nature of the building in terms of its stark exterior and its ability to sit within the parks setting without affecting the visual appeal and would have liked to see more effort made in terms of screening with some planting around the lower levels of the building but this is a consideration that can be introduced over time in conjunction with the club.

Whilst I feel this would be a positive and beneficial addition to the park and obviously the rugby club have concerns about the ability of the infrastructure of the park to cope with the potential numbers visiting for games both members and guests, in particular parking. If this application and proposals is ultimately given permission by the Council

consideration may need to be given on improving the capacity of parking facilities as a minimum requirement.

## **6. Summary of Issues**

The site is located within the King Georges Playing Fields (owned by Brentwood Borough Council) and the Metropolitan Green Belt. The application site adjoins the rear boundaries of residential properties which front Ingrave Road to the east (specifically nos.136-142 Ingrave Road).

It is considered that the main issues which require consideration as part of the determination of this application are the impact of the proposal on the Green Belt and the character and appearance of the area, the impact of the proposal on the amenity of the occupiers of neighbouring residential properties and highway matters.

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and is now a material consideration in planning decisions. The weight to be given to it will be a matter for the decision makers planning judgement in each particular case. This Framework replaces all the national planning guidance documents as stated in the NPPF, including Planning Policy Guidance Notes and Planning Policy Statements. Notwithstanding this, the NPPF granted a one year period of grace for existing adopted Local Plan policies which has now ended, but, the NPPF advises that following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

On 6th March 2014, the government published Planning Policy Guidance (NPPG) which, along with the NPPF, is a material consideration in the determination of planning applications. The NPPGs have been taken into account, where relevant, in the following assessment.

### The Green Belt

The NPPF (at paragraph 89) advises that the construction of new buildings is inappropriate development in the Green Belt. Exceptions to this include the provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. A further exception is the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces.

Local Plan Policy GB23 supports proposals for small scale buildings and facilities required for outdoor participatory sport and recreation where there is a justifiable need for such buildings and facilities. The Policy also states that any social facilities incidental to the primary use of the site will be restricted in size and will be solely for use of persons participating in the recreational activity.



Policy GB2 requires that developments should not reduce the openness of the Green Belt. The Policy also requires account to be taken to public rights of way, existing landscape features and the location of any building in respect of the surrounding landscape and adjoining buildings.

The proposed club house would be greater in size, bulk and height than the club house it would replace, but would be located in a similar position to the existing clubhouse close to the edge of the park. As a result of the greater size of the building compared to that which exists, the development would reduce the openness of the Green Belt and would conflict with the purposes of including land within it. However, it is considered that the location of the building would not be unacceptable in respect of the surrounding landscape and the existing buildings within the Park.

On this basis, the proposal would be inappropriate development within the Green Belt, contrary to the NPPF (section 9) and Local Plan Policies GB1, GB2 and GB23, and very special circumstances would need to exist which clearly outweigh the harm the development would cause by reason of inappropriateness, and all other harm to the Green Belt, to justify planning permission being granted in this case.

#### The Green Belt Balance

In support of the proposal, the applicant sets out the limitations of the rugby clubs' existing facilities and the proposal is supported by Sport England and the RFU. It is also considered that the impact of the development on the Green Belt would be materially less than the previous proposal as the building would be a single storey building and replace the existing clubhouse. On the basis of the significant benefits for rugby football at local level, it is considered that very special circumstances do exist in this case which clearly outweigh the harm a building of the height and size currently proposed would cause.

#### Character and Appearance

It is considered that, as a result of the size, height, design and position of the proposed club house, the development would not be an incongruous or visually intrusive element within the Park, and so would not be detrimental to the character and appearance of the area. The Design Officer supports this view.

No visually important trees would require removal as part of the proposal. The Arboriculturalist raises no objection to the proposal subject to the implementation of the recommendations of the Arboricultural Report submitted. On this basis, it is considered that the development is not likely to lead to a materially adverse impact on existing trees and vegetation, in compliance with NPPF (Section 11) and Local Plan Policy C5.

On the basis of the above, it is considered that the proposal complies with the NPPF (paragraph 17 and Section 7) and Local Plan Policy CP1 (criteria i and iii), subject to

the imposition of standard conditions relating to samples of materials, landscaping etc.

#### Residential Amenity

The proposed building would be located a minimum of 5m from the curtilage of the nearest residential property (those which front Ingrave Road to the east of the site) and a number of trees and vegetation exists along the eastern boundary of the site. The rear gardens of these adjoining neighbours also extend to more than 50m in depth. As a result, and taking into account the advice of the Environmental Health Officer, it is considered that the use of the proposed club house would not materially reduce the amenity of the occupiers of any existing residential properties by reason of overlooking, light pollution or disturbance from the use of the club house, compared to the existing clubhouse, subject to the imposition of conditions to include those recommended by the Environmental Health Officer (e.g. to control the hours of use of the club house, the type and location of external lighting and the details of plant and equipment). On this basis, it is considered that the proposal complies with the NPPF (paragraph 17) and Local Plan Policy CP1 (criterion ii).

#### Highways/Parking

On the basis of the comments received from the Highways Authority, it is considered that the proposal complies with the NPPF (paragraph 17) and Local Plan Policies CP1 (criteria iv and v), CP2 and T2, subject to the imposition of conditions.

#### Other matters

As a statutory consultee, Sports England have raised no objection to the proposed development. As a result, it is considered that the proposal would not be contrary to the section 8 of the NPPF which promotes healthy communities.

Most of the matters raised in the representations received have been addressed above. In response to the other matters raised:

- there is no reason to expect that use of the proposed club house would increase anti-social behaviour which, in any event, would be an issue which could be dealt with by the landowner and/or the police as well as through the Premises License the club house would require
- any impact on house prices or view is not a material planning consideration
- a condition could be imposed preventing the use of the roofspace of the proposed building without the need for planning permission
- even if preferable alternatives exist, this would not be a justifiable reason for refusal of the development proposed
- the building would be 5m from the boundary of the Playing Fields which would allow continued access from the rear of adjoining residential properties into the park

## Conclusion

The current proposal follows the refusal of planning permission for a new rugby football clubhouse within King Georges' Playing Fields (reference 13/00841/FUL). The current proposal is also for a new clubhouse building but in a revised location, of reduced size, without a first floor element, of a revised design, with amended external materials and would replace the existing clubhouse. As a result, the proposal would cause less harm to the Green Belt and would not materially harm the character and appearance of the area, unlike the previously proposed scheme. Hence, whilst the matters weighing in favour of the proposal are the same as previously, it is considered that they would now be sufficient to outweigh the lesser harm the current proposal would cause.

## 7. Recommendation

The Application be APPROVED subject to the following conditions:-

### 1 TIM01 Standard Time - Full

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

### 2 MAT01 Samples (details acceptable)

No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In Order to safeguard the character and appearance of the area.

### 3 U08624

No development shall take place until a proposed layout drawing maximising the number of parking bays in the proposed vehicle parking area has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the proposed vehicle parking area has been hard surfaced in accordance with Drawing No. 3521:103 and marked out in parking bays in accordance with the approved layout drawing. The vehicle parking area shall be retained in this form at all times.

Reason: To provide improved vehicle parking and access in the interest of highway safety and amenity.

### 4 U08631

No development shall take place until details of the design and layout of secure and weather protected cycle parking facilities have been submitted to and approved in

writing by the Local Planning Authority. The development shall not be occupied until the approved facilities have been provided in accordance with the approved drawings and thereafter retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

5 U08632

No development shall take place until details of the design and layout of secure motorcycle parking facilities have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved facilities have been provided in accordance with the approved details and thereafter retained at all times.

Reason: To ensure appropriate motorcycle parking is provided in the interest of highway safety and amenity.

6 U08542

No beneficial use of the roofspace of the building hereby permitted shall be made except for ancillary storage.

Reason: In the interests of the amenity of the occupiers of local residents and to protect the Green Belt.

7 U08642

The premises shall not be open for customers outside the following hours:  
19:00-21:00 Mondays to Fridays, 14:00-23:00 Saturdays and 10:00-23:00 Sundays.  
The premises shall be cleared of customers within 30 minutes of closing and staff within one hour of closing.

Reason: To safeguard the living conditions of nearby residents.

8 U08622

No development shall take place until details of the location and acoustic performance of all plant and equipment associated with the Kitchen, Clubhouse and the Boiler room areas (especially any air handling equipment) have been submitted to and approved in writing by the local planning authority. The rating level of the noise emitted from the unit(s) shall be lower than the existing night time background level (23.00 to 06.00) by at least 5 dB. The noise levels shall be determined at the nearest noise-sensitive premises. The measurements and assessment shall be made according to BS4142:1990.

Reason: To ensure noise levels do not adversely affect nearest noise sensitive premises/residents.

9 U08633

No development shall take place until details of a suitable and sufficient grease trap within the foul drainage system have been submitted to and approved in writing by the local planning authority. The approved grease trap shall be provided in accordance with the approved details prior to the commencement of the beneficial use of the kitchen hereby permitted and retained in perpetuity.

Reason: In order to ensure satisfactory drainage from the development.

10 U08634

No amplified sound shall be produced within the premises unless the prior written consent of the local planning authority has been gained to a scheme of physical management noise attenuation controls and the approved scheme has been completed. The approved controls shall be retained in perpetuity.

Reason: In the interests of the amenity of the occupiers of neighbouring residential properties.

11 U08635

The club room hereby permitted shall not be beneficially occupied until details for the disposal of waste from the premises have been submitted to and agreed in writing by the local planning authority. The building shall be used in accordance with the approved details.

Reason: In the interests of local amenity.

12 BUS06 No External Lighting

Notwithstanding the Town and Country Planning Act 1990 or the Town and Country Planning (General Permitted Development) Order 1995 (or any subsequent re-enacting Acts or Orders) no floodlighting or any other form of external lighting shall be provided on the site.

Reason: To safeguard the living conditions of nearby residents.

13 BOU01 Boundary treatment to be agreed (gen)

The development shall not be commenced until details of the treatment of all boundaries including drawings of any gates, fences, walls or other means of enclosure have been submitted to and approved in writing by the local planning authority. The approved boundary treatments shall be completed prior to the first occupation of the development and shall thereafter be permanently retained and maintained.

Reason: In the interests of safeguarding the character and appearance of the area and living conditions of adjacent occupiers.

14 U08636

No development shall take place until details of all hardsurfacing to be carried out have been submitted to and approved in writing by the local planning authority. The details submitted shall include the location and surfacing material to be used. Development shall be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the area.

15 LAN02          landscaping, full, details not submitted

Prior to the commencement of the development hereby permitted a scheme of hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall indicate the existing trees shrubs and hedgerows to be retained, the location, species and size of all new trees, shrubs and hedgerows to be planted or transplanted, those areas to be grassed and/or paved. The landscaping scheme shall include details of all surfacing materials and existing and proposed ground levels. The landscaping scheme shall be completed during the first planting season after the date on which any part of the development is commenced or in accordance with a programme to be agreed in writing by the local planning authority. Any newly planted tree, shrub or hedgerow or any existing tree, shrub or hedgerow to be retained, that dies, or is uprooted, severely damaged or seriously diseased, within five years of the completion of the development, shall be replaced within the next planting season with another of the same species and of a similar size, unless the local planning authority gives prior written consent to any variation.

Reason: In order to safeguard and enhance the character and appearance of the area.

16 DRA01A          Development in accordance with drawings

The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

#### Informative(s)

1 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: GB1, GB2, CP1, T2, CP2, GB23, C5 the National Planning Policy Framework 2012 and NPPG 2014.

2 INF04

The permitted development must be carried out in accordance with the approved drawings and specification. If you wish to amend your proposal you will need formal

permission from the Council. The method of obtaining permission depends on the nature of the amendment and you are advised to refer to the Council's web site or take professional advice before making your application.

### 3 INF21

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### 4 U02110

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO3 - Essex Highways, Childerditch Highways Depot, Hall Drive, Brentwood. CM13 3HD.

### 5 U02111

It is recommended that the services of a qualified acoustics engineer are engaged in order that an inspection/report can be submitted to comply with the requirements of condition 8 above.

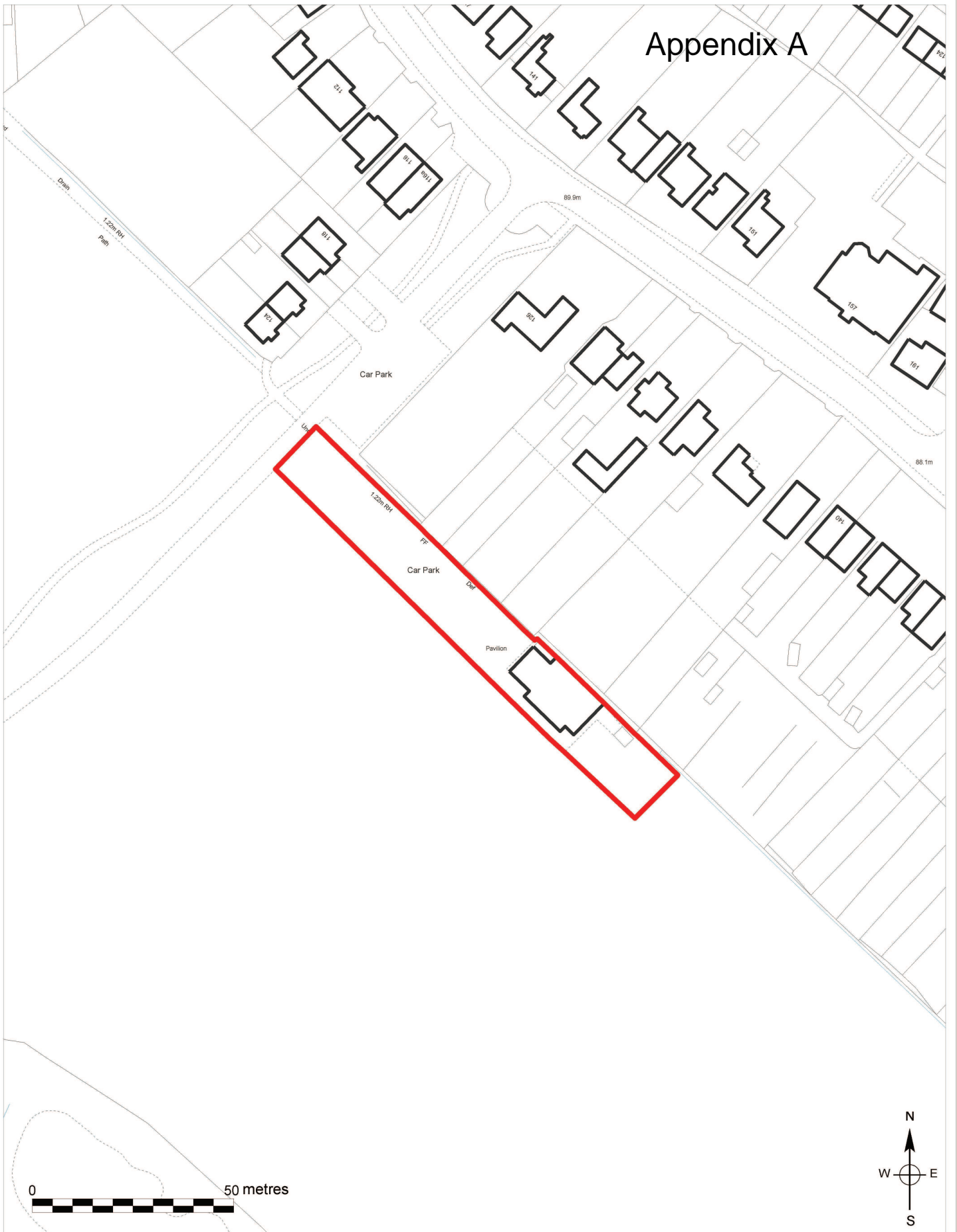
## *BACKGROUND DOCUMENTS*

### **DECIDED:**

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# Appendix A



Title: Brentwood Rugby Club  
14/00745/FUL

Scale 1:1250 at A4

Date 4th November 2014

Brentwood Borough Council  
Town Hall, Ingrave Road  
Brentwood, CM15 8AY  
Tel: (01277) 312500



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**SITE PLAN ATTACHED**

**05. WARLEY PARK GOLF CLUB MAGPIE LANE LITTLE WARLEY ESSEX CM13 3DX**

**PROPOSED GOLF DRIVING RANGE FLOODLIGHTING WITH ATTENDANT PLANT STORE AND GREENKEEPERS STORAGE BUILDING.**

**APPLICATION NO: 14/00892/FUL**

<b>WARD</b>	Warley	<b>8/13 WEEK DATE</b>	12.09.2014
<b>PARISH</b>		<b>POLICIES</b>	NPPF NPPG CP1 GB1 GB2 GB22 GB23 C25
<b>CASE OFFICER</b>	Mr Martyn Earl		01277 312588
<b>Drawing no(s) relevant to this decision:</b>	STATEMENT OF SUPPORT; APPENDICES; PHOTOS; EXTERIOR SCENE LUMINARIES; 1207/1; 1207/2/A; 1207/3; 1207/4; 1207/5; 1207/6;		

This application was referred by Cllr Tee from Weekly Report No 1657 for consideration by the Committee. The reason(s) are as follows:

Almost all of the objections from the previous application were based on many months of heavy vehicle traffic disruption in and out of the village moving earth and other materials for landscaping the new range. There is to be no landscaping and therefore no heavy vehicle traffic. There were some objections to the lighting of the golf range and limiting the lighting to 9.00pm which will satisfy all the village residents.

The range is for the use of members and invited guests and particularly for school groups learning to play golf. Although all golf courses are in the Greenbelt I want the committee to have the chance to uphold and protect the greenbelt but enable the Golf Club to improve their facilities. The equipment building is essential as the expensive machinery needs the very best security and as much of the equipment is kept off site in Bowmer's Skip Yard or an ugly container and I believe it is a necessary improvement.

**Update since publication of Weekly List 1657R**

**None**

## **1. Proposals**

Planning permission is sought for the construction of a driving range with attendant plant store and greenkeepers storage building.

The proposed covered driving range would be up to 36m in width, up to 11.8m in depth and up to (approx) 4.2m in height, providing nine covered bays and plant store and office.

Nine floodlighting lamps are proposed to be attached to the top of the building which would have a combined output of 1875watts.

The proposed greenkeepers storage building would be up to 4.2m in height, 10m in depth and 30m in width.

The information that has been submitted with this application includes, plans, a planning statement, report on floodlight design, schedule of care equipment, a copy of a letter of pre-application advice dated 11th March 2013, a copy of the relevant policies, a copy of six representations supporting the proposal (one of which is from the Essex Golf Partnership), photographs of the current application site and the storage sheds used on a neighbouring site, aerial photographs of the storage areas for other golf courses and a copy of a planning appeal at Stratford on Avon, Gliding Club (APP/J3720/A/13/2190396)

## **2. Policy Context**

National Planning Policy Framework

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and is now a material consideration in planning decisions. The weight to be given to it will be a matter for the decision makers planning judgement in each particular case. This Framework replaces all the national planning guidance documents as stated in the NPPF, including Planning Policy Guidance Notes and Planning Policy Statements. Notwithstanding this, the NPPF granted a one year period of grace for existing adopted Local Plan policies which has now ended, but, the NPPF advises that following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The National Planning Practice Guidance (NPPG) is a material consideration in the determination of this application.

Chapter 9 of NPPF sets out policy relating to Green Belt including the fundamental aim of Green Belts, the five purposes of including land within the Green Belt and how Local Planning Authorities should regard development as inappropriate or otherwise.

Paragraph 88 stipulates 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, is clearly outweighed by other considerations.

Paragraph 89 states that new buildings for the provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries do not constitute inappropriate development. However, the NPPF goes on to advise that such buildings would be inappropriate development if they did not preserve the openness of the Green Belt and if they conflict with the purposes of including land within it.

Local Plan Policies

GB1 New development

GB2 Development Criteria

GB22 Outdoor Sports Facilities

GB23 Ancillary Buildings

C25 Floodlighting and other forms of illumination

CP1 General Development Criteria

### **3. Relevant History**

- 90/00033/FUL: 20 Practice And Instruction Booths For Members And Golf Professional. -Application Permitted
- 03/01003/FUL: Floodlit Golf Driving Range With Associated Booths And Plant Store -Application Refused
- 08/00736/FUL: Erection Of A Greenkeepers Shed/Store/Workshop -Application Refused
- 14/00204/FUL: Proposed golf driving range floodlighting with attendant plant store and Greenkeepers storage building. -Application Withdrawn

### **4. Neighbour Responses**

36 neighbour letters were sent out and the application was advertised on site.

Two representations have been received objecting to the proposal on the following grounds:

- Noise and light pollution

- The works proposed are for a commercial venture and not for the betterment of existing golf club members or teaching the youth
- There is a golf driving range no more than 1 mile from the application site which has all the facilities described in the application lighting at night, lessons for the general public. Therefore creating another commercial range so close would jeopardise the existing this business and all its employees.
- Light pollution to neighbouring properties in addition to many heavy vehicles ruining the already ruined road surfaces down Bird Lane.

The impact of the proposed development in terms of noise and light pollution will be assessed in the neighbour amenities section of this report. The issues that have been raised with regards to the proposed development being used for a commercial venture and its impact on another driving range is not a planning material consideration.

## 5. Consultation Responses

- **Highway Authority:**

The Highway Authority would not wish to raise an objection to the above application, given the proposed use and location of the greenkeepers storage building, the existing driving range, the existing area available for parking within the site, the height of the proposed floodlights above ground level, the distance of the floodlights and alignment of the driving range in relation to Magpie Lane and Little Warley Hall Lane, the existing hedges between the driving range and Magpie Lane and the proposed planting on the site's boundary with Little Warley Hall Lane.

Informative

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

- **Environmental Health & Enforcement Manager:**

The Environmental Health Department have looked at the report submitted for the Light Assessment and are satisfied that it will not cause a statutory nuisance as defined under the Environmental Protection Act 1990. The light spillage onto the residential properties is negligible. The applicant has amended the application to reduce the hours of opening from 22:00 to 21:00. This further affirms this decision. The Environmental Health Department are not in a position to comment on the ecological effect of the light on Thorndon Park and the surrounding woodland.

This Service is satisfied that the noise emanating from the premises will not adversely affect the amenities of the nearby residents.

## 6. Summary of Issues

The main issues in the determination of this application are whether it is appropriate development within the Green Belt; the effect that the proposal would have upon the openness of the Green Belt; whether there are any very special circumstances to overcome inappropriateness or any other harm to the Green Belt; effect on the character and appearance of the area; highway matters, and any other considerations.

The application site is located within the Warley Park Golf Club, which has a total area of 85 hectares. It is dissected by Magpie Lane with the majority of the course to the south of the lane. The golf complex is on former agricultural land, and the large areas of grass, fairways and greens are broken up by mature trees and other mature planting. The land slopes down from the north to the south.

The impact of the proposed development will be assessed as two separate parts; the driving range and the greenkeepers storage building.

Whether the proposal is inappropriate development in the Green Belt:

The National Planning Policy Framework (NPPF) discusses Green Belt in Chapter 9; paragraphs 79 to 92. Paragraph 79 states that 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 permanence.

Driving range

Paragraph 89 of the NPPF states that the construction of new buildings in the Green Belt is considered inappropriate development but gives a list of exceptions whereby development is not considered inappropriate. Included in this list is the provision of appropriate facilities for outdoor sport and outdoor recreation, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. The application site is currently used for outdoor sport/recreation (Golf). The vast majority of the proposed covered driving range would be an appropriate facility for outdoor sport, however it does include a section that would be used as a plant store and an office. It is therefore considered that the building would not solely be used for outdoor sport/recreation and this element is inappropriate development with the Green Belt.

Local Plan Policy GB22 provides criteria that must be met for outdoor participatory sport facilities within the Green Belt including criteria (iv), it would not require unacceptable prominent ancillary facilities e.g fences, floodlighting, car parking etc and the application will be considered against criteria set out in Policy GB22. The proposed lamps in terms of their scale would not be considered prominent ancillary development and therefore would comply with Policy GB22.

### Impact on the openness of the Green Belt

The proposed driving range structure would be more than double that of the existing temporary structure and would result in additional encroachment of built form within the countryside. By virtue of the scale and size the proposed development would cause detrimental harm to the openness of the Green Belt and would therefore result in inappropriate development. The application therefore conflicts with Paragraph 79 of the National Planning Policy Framework 2012 and Policies GB1, GB2 and GB22 of the Brentwood Replacement Local Plan 2005.

### Greenkeepers storage building

The proposed greenkeepers storage building would be considered an inappropriate form of development when assessed against paragraph 89 of the NPPF. The reason for this is that the previous paragraph sets out various exceptions which allow certain development within the Green Belt, one such exception includes outdoor sport/recreation, this element of the proposal would not directly be used by the public in the participation of sport or recreation. The purpose of the building is to provide storage for the vehicles and equipment needed for the maintenance of the golf course, however the course has been open for a number of years and currently operates without this facility. While the agent states there is a need for storage, the greenkeepers storage building is not an appropriate facility required or directly used for outdoor sport/recreation. Therefore this building is considered inappropriate development in the Green Belt

### Impact on openness

There has been a previous planning application (08/00736/FUL) on this site for a storage building which was refused by reason of size, bulk, mass and design which would be an unsympathetic addition. The previous proposal had the development further to the south than its current proposed location and it was only 33sqm greater in footprint than what is proposed. Notwithstanding the inappropriateness of the introduction of this building, the current proposed greenkeepers building by virtue of its scale, mass and bulk would be detrimental to the openness of the Green Belt, which is also considered to be inappropriate development. 'Very special circumstances' would therefore need to be demonstrated to overcome the harm that the development would have in terms of inappropriateness and openness of the Green Belt.

Are there any "Very Special circumstances" that outweigh the harm identified?

As both the driving range and storage buildings would be inappropriate development in the Green Belt, very special circumstances would need to exist which clearly outweighed the harm the development would cause by reason of inappropriateness and all other harm, to justify planning permission being granted.



The matters that have been advanced by the agent in support of the proposal set out that the club needs to keep its facilities up to date and the current fabric covered structure and lack of screening around it means that the current driving range can not be used in inclement weather. The lack of floodlighting further restricts the use of the driving range. The need for all year round facilities in terms of a driving range would not be considered sufficient to overcome the loss of the openness of the Green Belt or the harm by virtue of the inappropriate development identified.

The planning statement states that the driving range facility is and would be used by members and for tuition by club professionals. Part of the work carried out by the golf club is its outreach to local schools. The purpose of the driving range is to maintain and improve members playing skills and also be a place where school children can be taught, thus encouraging young people to take up the sport. In the supporting information provided it also sets out that the Club is an official starter centre within England golf's national "get into golf" programme. This has been confirmed by letter from the Essex Golf Partnership. The desirability of the improvement of the current or future members of the golf club would not be considered a very special circumstance which justifies the harm identified to the openness of the Green Belt or the harm by virtue of inappropriate development especially considering that such aims could be achieved with a smaller driving range which may not result in the same harm to the Green Belt.

The balls that would be used on the driving range would be 15% lighter than normal ones, which means that they gain less momentum and thus do not travel so far; up to 250m. This is in marked contrast to distances on commercial driving ranges typically 350m. The shorter length limits the use of the range to tuition and means that less powerful floodlights are required. Although the agent sets out that the driving range is for not a commercial purpose, the golf club is still a commercial business regardless if it is open to the general public or not. The illumination of the driving range would only mean that it can be used after dark which is to the benefit of the members of the golf club. This benefit to members would not outweigh the harm identified to the openness of the Green Belt by virtue of the inappropriate development.

The agent sets out that the golf course needs to be maintained to a high standard, requiring adequate equipment. The club has a range of machinery and other equipment that is needed for the ground care required. Details of the space required for the equipment has been provided within appendix two of the design and access statement. At present the club has no permanent building to house and maintain all the equipment necessary. There are two shipping containers in which some of the current equipment is kept, there is some stored on land adjacent to Bowmers' yard and near the proposed location of the building. The club also has the use of two buildings within Bowmers' yard, subject to an informal agreement and has no guarantee that this arrangement will continue. The unclear future of storage arrangements on a neighbouring site for the golf club is not considered a 'Very Special Circumstance' which outweighs the harm to the Green Belt in terms of openness and inappropriate development.

The matters that have been raised in support of this application by the agent are not considered to constitute 'Very Special Circumstances' that outweigh the harm by virtue of the inappropriate development and a detrimental impact on the openness of the Green Belt. It has not been demonstrated that 'Very Special Circumstances' exist which would outweigh the harm the inappropriate development would cause to the Green Belt and officers are not aware of any other matters that would constitute 'Very Special Circumstances' that would outweigh the harm identified.

#### Character and appearance

The application site is an established Golf course with both 9 and 18 hole facilities. The existing driving range structure consists of a gazebo type structure fixed to the ground by metal poles. The wider site is set within a 'Special Landscape Area' which is characterised by tree lined open fields. The topography of the site means that the land level slopes down from the north to the south, there are also a number of trees that are located on the northern and north-western boundaries.

The proposed driving range would be a single storey structure with a flat roof, built on a brick plinth and the materials used on the external surface would be stained timber boards and plastic coated steel sheeting on the roof. The footprint of the building would be L-shaped and would be located in the same location as the existing gazebo style temporary driving range. Given the context of the immediate site, i.e. a golf course, the size and the design of the proposed driving range would be incongruous to the surrounding countryside which is a mixture of trees and open fields. In addition, the proposed floodlighting of the driving range would be unacceptably intrusive by reasons of the light source. Therefore the proposed development conflicts with paragraph 17 and Chapter 7 of the National Planning Policy Framework 2012 and with Policies C25, CP1 (i) and (iii) of the Brentwood Replacement Local Plan 2005.

The proposed greenkeepers storage building would be up to 4.2m in height, 10m in depth and 30m in width and the materials that would be used on the external surface would be steel cladding on the walls and cement sheeting on the roof. Given the scale, mass and bulk of the proposed greenkeepers building it would be a significant addition of built form within the rural area. However given its location close to existing buildings and subject to the imposition of a condition requiring landscaping to provide some screening to the Greenkeepers storage building it is not considered that the proposal would result in significant and demonstrable harm to the character of the area.

#### Effect on neighbouring occupiers

Given the nature of the works that are proposed and the siting of neighbouring properties, the proposal would not result in detrimental harm in terms of loss of privacy or an overbearing effect. The Environmental Health team has been consulted and no objection has been raised with regards to the proposed lighting and its impact on neighbours provided it ceases at 9pm. Subject to the imposition of the condition,

the development proposed therefore accords with Policy CP1 (ii) of the Brentwood Replacement Local Plan 2005.

#### Highways

The Highway Authority has not raised an objection due to the nature of development that is already in existence. There is ample space for parking and there is adequate screening/natural features to prevent light spillage from the proposed lighting that would be detrimental to the highway. The proposed development therefore accords with Policy T2 of the Brentwood Replacement Local Plan 2005.

#### Conclusion

The works that are proposed under this application comprise of two forms which are a covered driving range with floodlights and a greenkeepers storage building. The report above sets out the reasoning for why the overall development proposed is acceptable in terms of its impact on neighbouring amenity and highways, however this does not outweigh the harm identified to the Green Belt. The scale, mass and bulk of the proposed covered driving range structure (which includes plant storage and an office) and its illumination would result in a form of development that would constitute inappropriate development in the Green Belt and would be harmful to the openness of the Green Belt and unduly prominent within the surrounding rural area (including a Special Landscape Area). In addition, the proposed storage building would be harmful to the Green Belt by reason of its inappropriateness and loss of openness due to its scale, mass and bulk. The proposed development would therefore be contrary to Chapters 7 and 9 and paragraph 17 of the National Planning Policy Framework 2012 and with Policies CP1, GB1, GB2, GB23, C25 and CP1 (i) and (iii) of the Brentwood Replacement Local Plan 2005.

## **7. Recommendation**

The Application be REFUSED for the following reasons:-

#### R1 U08420

The proposed driving range (which would incorporate a plant store and office) would constitute inappropriate development in the Green Belt and by virtue of its scale, mass, bulk and inclusion of floodlighting would be detrimental to the openness of the Green Belt as well as being unduly prominent within and harmful to the rural character of the surrounding area, which includes a Special Landscape Area. The proposed development conflicts with Chapters 7 & 9 and paragraph 17 of the National Planning Policy Framework 2012 and with Policies CP1, GB1, GB2, C25 and CP1 (i) and (iii) of the Brentwood Replacement Local Plan 2005.

#### R2 U08421

The proposed greenkeepers storage building would be an inappropriate form of development within the Green Belt and by virtue of its scale, mass and bulk would be detrimental to the openness of the Green Belt. The proposed development conflicts

with Chapter 9 of the National Planning Policy Framework 2012 and with Policies CP1, GB1, GB2 and GB23 of the Brentwood Replacement Local Plan 2005.

R3 U08422

The matters that have been advanced by the agent in support of the application would not clearly outweigh the harm the development would cause through inappropriateness, reduction in openness and harm to the rural character and appearance of the Green Belt and Special Landscape Area. Therefore, no circumstances exist to justify the grant of planning permission for inappropriate development proposed. The proposal conflicts with Chapter 9 of the National Planning Policy Framework 2012 and with Policy GB1 of the Brentwood Replacement Local Plan 2005.

#### Informative(s)

1 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1, GB1, GB2, GB22, GB23, C25 the National Planning Policy Framework 2012 and NPPG 2014.

2 INF20

The drawing numbers listed above are relevant to this decision

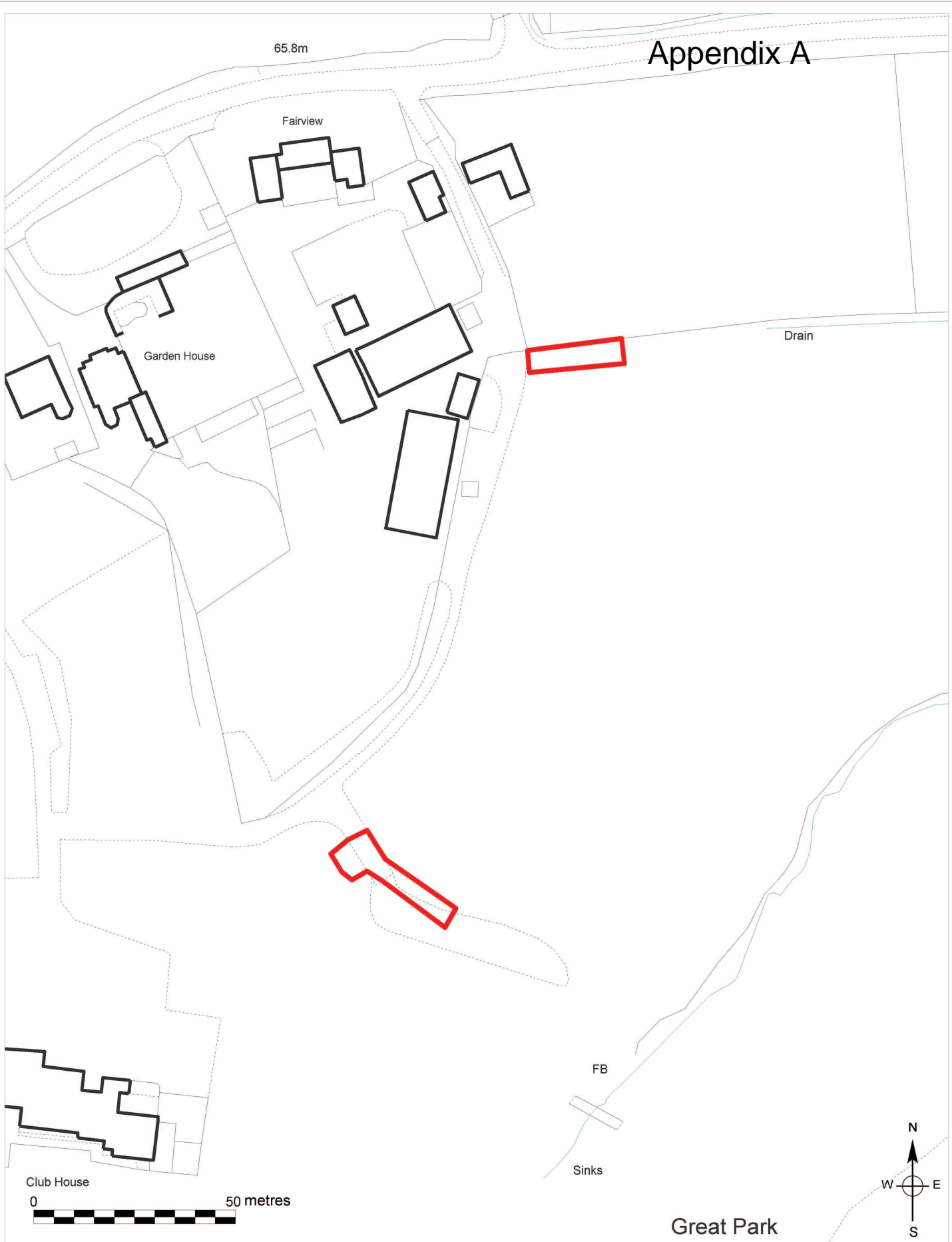
3 INF23

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. 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.

#### *BACKGROUND DOCUMENTS*

#### **DECIDED:**

Appendix A



Title: Warley Park Golf Club Magpie Lane  
14/00892/FUL

Scale 1:1250 at A4

Date 4th November 2014

Brentwood Borough Council  
Town Hall, Ingrave Road  
Brentwood, CM15 8AY  
Tel: (01277) 312500



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**SITE PLAN ATTACHED**

**06. 134 HIGH STREET BRENTWOOD ESSEX CM14 4AT**

**DEMOLITION OF EXISTING DETACHED BUILDING AND CONSTRUCTION OF NEW THREE STOREY BUILDING CONTAINING SIX FLATS.**

**APPLICATION NO: 14/00885/FUL**

<b>WARD</b>	Brentwood West	<b>8/13 WEEK DATE</b>	10.09.2014
<b>PARISH</b>		<b>POLICIES</b>	NPPF NPPG TC5 CP1 H17 T2
<b>CASE OFFICER</b>	Charlotte Allen		01277 312536
<b>Drawing no(s) relevant to this decision:</b>	AERIAL PHOTOS ; 1143 PL06 ; 1143 PL07 ; 1143 03 ; 1143 01 ; 1143 02 ; 1143 PL08 /B; 1143 PL01 /B; 1143 PL02 /B; 1143 PL03 /B; 1143 PL04 /B; 1143 PL05 /B;		

This application was referred by Cllr Russell from Weekly Report No 1657 for consideration by the Committee. The reason(s) are as follows:

Believe it contravenes CP1, size and bulk will cause harm to nearby properties and cause overlooking as well as cause nuisance by way of disturbance.

**Update since publication of Weekly List 1657**

This application was deferred from the previous Planning and Development Control Committee for further information and amendments to the scheme. Following this deferral, the Agent has provided the following additional information:

- Existing plans, including elevations demonstrating changes in site levels.
- Proposed streetscene elevations which show the land levels
- Sight lines have been shown from the proposed rear balconies showing potential oblique overlooking.
- Aerial photos of the existing site have been provided.

The changes proposed compared to the plans previous submitted include:

- Car parking spaces to be reduced in size to 5m x 2.5m to allow a hedge to be provided between the parking spaces proposed and the garden of No.136 to provide some additional screening.
- The distance between the flank wall of the new building and boundary to No.136 has been increased from 1m to a minimum of 1.2m.
- The rear balconies closest to No.136 have been omitted from the plans.
- A fence on the boundary of No.136 has been shown which measures 1.8m in height with a 0.3m high trellis above.

Officers consider the proposed amendments to be satisfactory:

- A level of oblique overlooking is to be expected in urban areas and cannot be wholly mitigated, even by condition. However, the nearest balconies to the rear have been removed and the sight lines shown from the retained rear balconies indicate that there will be only minimal oblique overlooking from the rear balconies to the very end of No.136's rear garden.
- The parking spaces are now located further from the boundary with No.136 and a hedge between the parking spaces and the garden of No.136 is now proposed further reducing any possible noise and disturbance to No.136.
- The Agent has moved the new building a further 0.2m away from the common boundary with No.136 following the concerns raised. Even though design guidance only requires a 1m isolation space, 1.2m is now proposed.
- The proposed fence on the boundary would provide adequate screening from the ground floor windows facing No.136 as the fence would be 1.8m above the finished floor level with the trellis over.
- The proposed fence will provide adequate screening between the proposed car park and No.136.

Officers therefore recommend that the application is approved.

## **1. Proposals**

Planning permission is sought to demolish the existing single dwelling on the site and to construct a new building of 6 residential flats over three floors; with 4x 2-bed flats and 2 x 1-bed flats. 6 parking spaces will be provided to the rear of the site with bin and cycle storage with the ground floor flats benefiting from a private garden area and the other flats having balconies and access to a communal garden at the front of the site.



## **2. Policy Context**

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and is now a material consideration in planning decisions. The weight to be given to it will be a matter for the decision makers planning judgement in each particular case. This Framework replaces all the national planning guidance documents as stated in the NPPF, including Planning Policy Guidance Notes and Planning Policy Statements. Notwithstanding this, the NPPF granted a one year period of grace for existing adopted Local Plan policies which has now ended, but, the NPPF advises that following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The National Planning Practice Guidance (NPPG) is a material consideration in the determination of this application.

Local Plan Policies

CP1 - General Development Criteria

H17 -Dormer Windows

T2 - New Development and Highway Considerations

TC5 - Type of Accommodation

## **3. Relevant History**

- 13/00612/FUL: Proposed change of use from mixed use residential and commercial to D1 non-residential institution (nursery); together with associated works including the demolition of the existing garage, renovation of boundary treatments; and closure of existing cross over and construction of two new cross overs -Application Refused
- 12/00971/FUL: Change of use from existing mixed use residential and commercial use to non-residential institution (Nursery) D1 -Application Refused

## **4. Neighbour Responses**

17 neighbour letters were sent out and a site notice displayed. 4 letters of objection which make the following comments:

- Site is not vacant and tenant unaware of application.
- Detrimental to surrounding area and out of scale and existing house has character.
- Proposal would not create housing for more people than currently.
- Impact on neighbours standards of living.
- More apartments would change the visual impact of the area.
- Loss of view.
- Site is not large enough; replaces a property of substantially smaller footprint with gardens; density too high.
- Insufficient parking; already parking issues in area.

- Why can't the existing building be converted? Should be scaled down.
- Impact health and wellbeing of residents.
- Affect property values.
- Overlooking and loss of privacy; windows (including kitchen windows) and balconies
  - Loss of light
  - Overbearing due to size and scale.
  - Noise and fumes and noise from car park which was previously a garden.
  - Closer to the boundary than the existing dwelling; overbearing.
  - Contravenes planning policy
  - Disturbance with people using the side access.
  - Close to Conservation Area

## 5. Consultation Responses

- **Highway Authority:**

The Highway Authority would not wish to raise an objection to the above application as shown on Drawing No. PL04, subject to the following condition being attached to any approval; given the existing dwelling and its access, the town centre location and the area to be available for parking within the site, which complies with Brentwood Borough Council's adopted parking standards for the proposed dwelling.

1. The development shall not be occupied until the proposed vehicular access has been constructed at right angles to the carriageway in Westbury Road in accordance with Drawing No. PL04 and the terms, conditions and specification of the Highway Authority, Essex County Council.

Reason: To ensure that vehicles can leave the highway in a controlled manner in the interest of highway safety.

2. The development shall not be occupied until the existing vehicular access located to the south of the site has been suitably and permanently closed, incorporating the reinstatement to full height of the kerbs and footway in accordance with the terms, conditions and specification of the Highway Authority, Essex County Council.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety, in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

3. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

4. Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

5. The development shall not be occupied until, with the exception of street furniture, the vehicle access to the site at the centre line, have been provided with clear to ground sight splays of 2 metres x 20 metres in either direction to the compass point, as measured from and along the nearside edge of the carriageway in Westbury Road. These sight splays shall be provided before the access is first used by vehicular traffic from the development and retained free of any obstruction in perpetuity.

Reason: To provide adequate inter-visibility between the vehicles using the access and those in Westbury Road in the interest of highway safety.

6. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator)

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

- **Arboriculturalist:**

14/00885/FUL no trees shown

- **Historic Buildings And Conservation Officer:**

Proposal

Demolition of existing detached building and construction of new three storey building containing six flats.

Discussion

Thank you for consulting on the above application having reviewed the submitted information please find my comments as follows:

The site is located at the junction of Westbury Road and High Street Brentwood. Pre-application advice regarding design has been given to the applicant, my previous concerns were regarding fenestration upon the rear elevation; it is evident amendments have been undertaken prior to this submission which are an improvement to the scheme at this location.

Overall I advise the proposed architectural style to be of good proportion within this urban location at the edge of the Town centre; the material intent would not be overtly incongruous and makes reference to the domestic architecture within the local area. I have no further objections on design grounds

Recommendation

Consequently I recommend approval.

- **Environmental Health & Enforcement Manager:**  
No objection.

## 6. Summary of Issues

The application site is located on the southern side of High Street on the corner with Westbury Road. The site is allocated for residential purposes in the Local Plan and as such the main considerations in this case are the principle of the development, design, residential amenity, living conditions and parking and highway considerations:

Principle

The site is located within an area designated for residential purposes and as such the development of the site for residential purposes is acceptable in principle, subject to other considerations such as design, residential amenity and parking considerations.

Policy TC5 states that all new housing within the Town Centre inset plan area should be in the form of one or two person units and as such the provision of one and two bedroom flats is acceptable in this location. The NPPF also encourages the effective use of land and as such the principle of the proposal is acceptable in terms of National and Local Planning Policy.

Design

The Council's Design and Historic Buildings Consultant has raised no objection or concerns with regard to the impact of the proposal on any heritage assets. Suggestions made during the pre-application discussions have been responded to in the final design. Based on the comments of the Design Office, the overall the architectural style is of good proportions within this urban location at the edge of the Town Centre; the material intent would not be incongruous and makes reference to the domestic architecture within the local area and the design is supported and considered to be acceptable.

As such the overall design, style and materials are considered acceptable. A number of dormers are proposed, however, the dormers maintain roof verges above, below and to the sides and the dormers proposed facing No.136 would not all be visible from

the streetscene. It is not considered that the dormers proposed would dominate the roof space or materially harm the character of the area. No objection is therefore raised in this regard in terms of Policy H17 of the Local Plan.

In terms of the siting of the building, the proposed building has a similar front building line as the existing building on the site. Whilst the proposal seeks to increase the width of the building, with the replacement dwelling located closer to Westbury Road and further forward of the return building line, given the separation between the front elevations of 43-47 Westbury Road and the flank elevation of this proposal and given the relationship between No's 10 - 4 Westbury Road on the opposite side of the road it is not considered that the siting of the new building would result in any significant or demonstrable harm to the character or appearance of the area.

In terms of size and scale, the proposed new building is similar in scale to the existing dwelling on the site; whilst the proposed new building is wider, it has a similar depth to the existing structure and the proposed building would not exceed the height of the adjoining dwelling; No.136 High Street. As such the size and scale of the new building is also considered acceptable.

The bin and cycle store building is fairly prominently located but designed to resemble a residential detached garage, which are common features in residential areas; it would be partly screened by the landscaping shown within the private amenity area to flat 1. The car park to the rear of the site is also not of any particular visual merit, however, conditions can be imposed requiring the hard and soft landscaping to be approved by the local planning authority prior to the commencement of the development in this regard.

Subject to conditions no objection is therefore raised in terms of Chapter 7 of the NPPF or Policies CP1(i), CP1(iii) or H17 of the Local Plan.

#### Residential Amenity

In terms of overlooking, the windows that overlook High Street and Westbury Road would overlook the public realm and as such would not result in any undue overlooking or loss of privacy. The rear windows overlook the car park area and would be located some 17.5m from the rear of the site and as such would also not result in any material overlooking, especially considering that there are already rear windows to the existing dwelling.

To the west, windows are proposed in very close proximity to the adjoining dwelling at No.136 High Street which serve bathrooms, en-suites and kitchen/diners. The ground floor windows in this flank elevation could be significantly screened by standard boundary treatments and the en-suite and bathroom windows could be conditioned to be obscure glazed with limited openings to mitigate any overlooking. However, the kitchen/diners are spaces which could be occupied for more significant lengths of time than a bathroom and could be used for extended periods whilst eating and as

such it is preferable to have these windows clear glazed so as to result in no undue harm to the living conditions on the future occupiers of the flats. To do so would have the potential to result in overlooking to the adjoining resident, especially considering that the adjoining resident has existing windows in the flank elevation facing the application site.

Therefore, a condition for these windows to be obscure glazed with limited openings is considered necessary; such a condition would not result in such significant or demonstrable harm to the living conditions of the occupier. As such subject to conditions requiring suitable boundary treatments to the ground floor side windows facing No.136 and all first and second storey westerly flank windows to be obscure glazed, the proposal complies with relevant Local Plan Policy CP1.

In terms of overlooking, balconies are also proposed. The balconies to the front of the site would overlook the public realm and as such would not result in any undue overlooking. The rear balconies would be located over 16m from the rear of the site and would overlook the car park area and as such would not result in significant loss of privacy. The rear projecting balconies closest to No. 136 High Street have the potential to result in undue overlooking to the adjoining dwelling to the west, however, the submitted plans indicate that the rear balcony would have a 1.8m high visibility screen which would remove any undue overlooking to the adjoining resident. Subject to a condition requiring such a screen to be implemented and retained in perpetuity the proposed balconies would not result in any material overlooking.

In terms of noise and disturbance, the previous rear garden will now be utilised as a car park area which directly adjoins the garden of the neighbouring dwelling at No.136 and therefore has the potential to result in noise and disturbance to this resident. However, the car park is relatively small; providing parking for 6 vehicles and a condition can be imposed requiring a suitable fence to be erected between the car park and the adjoining garden.

It is also noted that the dwellings to the rear of the application site benefit from off-street parking in close proximity to the proposed parking area and that the site is located on the busy High Street and will already experience traffic noise. On balance it is not therefore considered that the proposed parking area would result in significant or demonstrable harm to the living conditions of the adjoining residents.

In terms of an overbearing impact the replacement building would not extend significantly beyond the front or rear of the adjoining dwelling at No.136 and has a similar relationship to the adjoining dwelling as the existing dwelling on this site, although the new building would be located some 0.5m nearer to No.136 with an isolation space of a minimum of 1m retained. The overall height of the new building will not exceed that of the adjoining resident at No.136. The proposed development would not therefore result in a material overbearing impact to No.136 when compared to the existing situation.

## Living Conditions

The information provided indicates that the 2-bedroom flats will have floor area of 80 sq. m with the 1-bedroom flats having floor areas of 65 sq. m which exceeds the minimum size requirements as set out in the Local Plan. In this regard the Environment Health Officer has raised no objection to the proposal.

In terms of amenity areas the Agent indicates that flat 1 has 45 sq. m of private amenity space, flat 2 has 60 sq. m, flats 3 and 4 have 13.5 sq. m and flats 5 and 6 have 8 sq. m, a shared garden of 75 sq. m is also provided. This amount of amenity space is considered acceptable and would provide adequate living conditions to any future occupiers of the flats. The communal area to the front of the site is not ideal and may not be heavily used due to its location, however, each flat will be provided with at least a balcony providing some private amenity space to the occupiers which is positive.

A condition requiring the first and second floor kitchen/diners to be served by obscure windows would mitigate any possible overlooking.

## Parking and Highway Considerations

The Highway Authority has raised no objection to the proposal, subject to conditions given the existing dwelling and its access, the town centre location and the area to be available for parking within the site which complies with the adopted parking standards. Subject to the conditions recommended no objection is therefore raised on this basis.

## Conclusion

There is a requirement for obscure glazed windows within the kitchen/diner rooms however the proposal is considered to be sustainable development and accord with the relevant local development plan policy requirements, and would furthermore provide additional housing close to a sustainable location. Subject to conditions the application is therefore recommended for approval.

## **7. Recommendation**

The Application be APPROVED subject to the following conditions:-

1 TIM01 Standard Time - Full

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 DRA01A Development in accordance with drawings

The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

3 MAT01 Samples (details acceptable)

No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In Order to safeguard the character and appearance of the area.

4 BOU01 Boundary treatment to be agreed (gen)

The development shall not be commenced until details of the treatment of all boundaries including drawings of any gates, fences, walls or other means of enclosure have been submitted to and approved in writing by the local planning authority. The approved boundary treatments shall be completed prior to the first occupation of the development and shall thereafter be permanently retained and maintained.

Reason: In the interests of safeguarding the character and appearance of the area and living conditions of adjacent occupiers.

5 CON1 Construction Method Statement

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works
- viii. hours of working and hours during which deliveries may be taken at the site

Reason: In the interests of highway safety, visual and neighbour amenity.



6 LAN02 landscaping, full, details not submitted

Prior to the commencement of the development hereby permitted a scheme of hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall indicate the existing trees shrubs and hedgerows to be retained, the location, species and size of all new trees, shrubs and hedgerows to be planted or transplanted, those areas to be grassed and/or paved. The landscaping scheme shall include details of all surfacing materials and existing and proposed ground levels. The landscaping scheme shall be completed during the first planting season after the date on which any part of the development is commenced or in accordance with a programme to be agreed in writing by the local planning authority. Any newly planted tree, shrub or hedgerow or any existing tree, shrub or hedgerow to be retained, that dies, or is uprooted, severely damaged or seriously diseased, within five years of the completion of the development, shall be replaced within the next planting season with another of the same species and of a similar size, unless the local planning authority gives prior written consent to any variation.

Reason: In order to safeguard and enhance the character and appearance of the area.

7 REFU02 Prov refuse, recycling and bicycle -det

None of the accommodation hereby permitted shall be occupied until the facilities to be provided for the storage of refuse/recycling materials/bicycles (delete as necessary) have been provided in accordance with the details shown on the approved drawings. Thereafter the accommodation shall not be occupied unless those facilities are retained.

Reason: To ensure that adequate provision is made in order to safeguard the character and appearance of the area.

8 SIT01 Site levels - to be submitted

Details of existing and proposed site levels and the finished floor levels of the proposed buildings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby permitted. Construction shall be in strict accordance with the approved details.

Reason: To safeguard the character and appearance of the area and the living conditions of nearby residents.

9 U08578

The first and second storey western windows shall be:- a) glazed using obscured glass to a minimum of level 3 of the "Pilkington" scale of obscuration and b) non-opening below a height of 1.7m above the floor of the room in which the window is installed. The windows shall be installed prior to the first occupation of the building or use of the room of which the window(s) is installed. Those windows shall remain

so glazed and non-openable. (Note the application of translucent film to clear glazed windows does not satisfy the requirements of this condition)

Reason: In order to prevent an unacceptable degree of overlooking of nearby residential properties.

10 U08579

The 1.8m closed balcony screen adjacent to No.136 High Street as shown on the plans shall be installed prior to the occupation of the development and permanently retained as such thereafter.

Reason: In order to prevent an unacceptable degree of overlooking of nearby residential properties.

11 U08580

The development shall not be occupied until the proposed vehicular access has been constructed at right angles to the carriageway in Westbury Road in accordance with Drawing No. PL04 and the terms, conditions and specification of the Highway Authority, Essex County Council.

Reason: To ensure that vehicles can leave the highway in a controlled manner in the interest of highway safety.

12 U08581

The development shall not be occupied until the existing vehicular access located to the south of the site has been suitably and permanently closed, incorporating the reinstatement to full height of the kerbs and footway in accordance with the terms, conditions and specification of the Highway Authority, Essex County Council.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

13 U08582

The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

14 U08583

Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

15 U08584

The development shall not be occupied until, with the exception of street furniture, the vehicle access to the site at the centre line, have been provided with clear to ground sight splays of 2 metres x 20 metres in either direction to the compass point, as measured from and along the nearside edge of the carriageway in Westbury Road. These sight splays shall be provided before the access is first used by vehicular traffic from the development and retained free of any obstruction in perpetuity.

Reason: To provide adequate inter-visibility between the vehicles using the access and those in Westbury Road in the interest of highway safety.

16 U08585

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator)

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

#### Informative(s)

1 INF04

The permitted development must be carried out in accordance with the approved drawings and specification. If you wish to amend your proposal you will need formal permission from the Council. The method of obtaining permission depends on the nature of the amendment and you are advised to refer to the Council's web site or take professional advice before making your application.

2 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: TC5, CP1, H17, T2 the National Planning Policy Framework 2012 and NPPG 2014.

### 3 INF21

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### *BACKGROUND DOCUMENTS*

#### **DECIDED:**

# Appendix A



Title: 134 High Street  
14/00885/FUL

Scale 1:1250 at A4

Date 4th November 2014

Brentwood Borough Council  
Town Hall, Ingrave Road  
Brentwood, CM15 8AY  
Tel: (01277) 312500



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<b>SITE PLAN ATTACHED</b>
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**07. CARLYNNE CHILDERDITCH LANE LITTLE WARLEY ESSEX CM13 3EE**

**DEMOLITION OF EXISTING DWELLING AND EXISTING CAR PORT AND THE  
ERECTION OF A REPLACEMENT DWELLING AND CAR PORT**

**APPLICATION NO: 14/00718/FUL**

<b>WARD</b>	Warley	<b>8/13 WEEK DATE</b>	20.08.2014
<b>PARISH</b>		<b>POLICIES</b>	NPPF NPPG CP1 GB1 GB2 GB6 T2 C8 C5
<b>CASE OFFICER</b>	Mr Martyn Earl		01277 312588
<b>Drawing no(s) relevant to this decision:</b>	7835 100 00; 7835 300 01; 7835 200 00; 7835 201 00; 7835 402 02; 7835 403 03; 7835 401 02; 7835 400 03; 7835 404 02; 7835 401 03 Including basement;		

This application was referred by Cllr Tee from Weekly Report No 1656 for consideration by the Committee. The reason(s) are as follows:

1. On the Green belt issue I believe that the new build is not harmful to the openness and the character, design and appearance is an improvement on the existing 1930s suburban looking house.
2. This site already has consent to replace the existing house with a HUF House but the exchange rate of the Euro has made that development too expensive. This application is a first choice the second choice being permitted development which is larger and out of character in this rural scene.
3. The applicant has demonstrated that the new build will be better insulated, green, efficient and sustainable.

**Update since publication of Weekly List 1656**

<b>None</b>
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## 1. Proposals

Proposed demolition of existing dwelling and detached car port and erection of a replacement dwelling with three bedrooms and attached garage, and car port. The proposed dwelling would also have a basement area.

The proposed dwelling would have a footprint of around 10.55m x 12m (excluding attached garage) and a height of 8.65m. The main two storey element of the building would be two storey in height with flat roofed single storey elements attached.

The detached car port would measure 6.35m x 7.25m and 4.35m in height with a pitched roof.

The materials to be used to construct the external surfaces of the buildings would consist of render and timber cladding for the walls.

A new vehicular access would be created adjacent to and to replace that which exists which would require the removal of planting along the roadside boundary of the site for a length of around 3m.

The proposed dwelling and car port would be in the same position as the existing dwelling and car port. The proposed dwelling would be of modern design with low energy consumption. A patio would wrap-around the new dwelling to the rear and side. There is reference to a retaining wall in the immediate vicinity of the proposed dwelling around the majority of the dwelling.

The application has been accompanied by a Planning Statement in which reference is made to the Certificate of Lawfulness which exists for extensions to the property (reference 13/00687/S192) which, if constructed, would increase the floor area of the existing dwelling to 238sq.m. It is stated that the permitted scheme 'offers few benefits, only that it provides much needed additional floorspace'. The agent also suggests that the existing dwelling lacks any architectural interest or features, and that the proposed extensions are unsympathetic to the surrounding area. The proposed replacement dwelling would have a total floor area of 204sqm.

The agent considers that the proposal is sustainable development in accordance with the NPPF and that, whilst the proposal does not accord with the Council's policies, there are very special circumstances to overcome those issues.

With reference to the NPPF's requirement for Councils to meet the full and objectively assessed needs for market and affordable housing, it is suggested that the Council's Green Belt policies and the Green Belt boundary is out-of-date and inconsistent with NPPF guidance. The agent considers that the proposal accords with the NPPF and so there is a presumption in favour of the grant of planning permission.



Reference is also made to the NPPF in terms of design (section 7) and it is stated that the proposed design is described as innovative and exemplary.

The agent does not consider that the proposal is inappropriate development in the Green Belt but a number of matters are referred to in support of the proposal in case the Council disagrees:-

1. the 'fallback' position is for extensions which would not be integrated with the existing dwelling particularly given the roof design of the extensions - the proposed dwelling would be a significant improvement
2. the replacement dwelling will emit up to 5.5 times less carbon dioxide than a conventional build during the construction process alone. The new dwelling would include an airtight envelope, would be constructed almost entirely of wood and is likely to include under-floor heating, rainwater and grey water recycling and photovoltaic panels. The applicant wishes to use a German company, Meisterstuck Haus, who build airtight homes that require very little energy to heat and cool them.
3. the applicant will almost undoubtedly be constructed if their current scheme is unsuccessful due to the need for maximum additional floorspace - they have submitted previous applications to extend their property which proves there is a need.

## **2. Policy Context**

### National Planning Policy

National Policy for Green Belts is within Chapter 9 of the NPPF. Paragraph 88 stipulates 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, is clearly outweighed by other considerations.

In paragraph 89 of the NPPF it advises that new buildings in the Green Belt are inappropriate development unless they replace an existing building and the new building is in the same use and not materially larger than the one it replaces.

The National Planning Practice Guidance (NPPG) is a material consideration in the determination of this application.

### Local Plan Policies

GB1 (New development) refers to the need for very special circumstances to justify proposals which are inappropriate in the Green Belt.

GB2 (Development Criteria) refers to the need to proposals not to harm the openness of the Green Belt or conflict with the purposes of including land in the Green Belt . The Policy also requires account to be taken to public rights of way, existing landscape features and the location of any building in respect of the surrounding landscape and adjoining buildings.

Policy GB6 states that the replacement of permanently occupied dwellings in the Green Belt will only be allowed subject to certain criteria being met.

-where the existing dwelling has been extended by less than 37sq.m, the floor area of the replacement dwelling will be no larger than 37sqm above the original habitable floor space.

-the visual mass of the replacement dwelling should be no greater than that of the existing dwelling. Where the existing dwelling is a bungalow it should be replaced with a bungalow

-any replacement dwelling will be expected to be located in the position of the existing dwelling except where the Local Planning Authority consider and an alternative siting to be more appropriate.

-applications will also be considered against the criteria set out in Policy GB2

CP1 (General Development Criteria) Requires development to satisfy a range of criteria covering the following considerations: Character and appearance of the area; Residential amenities; Access; Highway safety; Environmental protection; and the Natural and Historic Environment.

T2 (New Development and Highway Considerations): requires an assessment of the impact of the proposal on the transport system and that a proposal complies with current Country Highway Authority guidance.

### **3. Relevant History**

- 90/00949/FUL: Two Storey Extension At Rear And Alterations To Roof  
-Application Permitted
- 05/01043/FUL: Demolition Of Existing Porch And Erection Of Replacement Porch At The Front, Single Storey Extensions At The Side, Alterations To The Fenestration And Roof Incorporating Two Dormer Windows Together With Detached Double Garage At The Side -Application Permitted
- 07/00520/FUL: Demolition Of Existing Dwelling And Erection Of 3 Bedroom Two Storey Dwellinghouse Incorporating Basement Accommodation -Application Refused
- 07/01031/FUL: Demolition Of Existing Dwelling And Erection Of 4-Bedroom Two Storey Dwellinghouse Incorporating Basement Accommodation -Application Permitted

- 10/00023/EXT: Extension Of Time Application For Planning Application Brw/1031/2007 Approved On 10th December 2007 - Demolition Of Existing Dwelling And Erection Of 4-Bedroom Two Storey Dwellinghouse Incorporating Basement Accommodation. -Application Permitted
- 13/00687/S192: Two storey rear extension, single storey side extension and two storey front extension. -Application Permitted
- 14/00251/FUL: Demolition of existing dwelling and existing car port and the erection of a replacement dwelling and car port. -Application Refused

#### **4. Neighbour Responses**

A site notice was displayed at the site but no letters of notification were sent out as the site has no immediate neighbours. No letters of representation have been received.

#### **5. Consultation Responses**

- **Highway Authority:**

The Highway Authority would not wish to raise an objection to the above application, subject to the following conditions being attached to any approval, given the previous approval, the existing dwelling and its vehicle access and the area to be available for parking within the site, will comply with Brentwood Borough Council's adopted parking standards, for the proposed dwelling.

1. No unbound material shall be used in the surface treatment of the proposed parking area within 6 metres of the highway boundary. Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety.

2. The relocated vehicle access shall be constructed at right angles to the carriageway in Childerditch Lane in accordance with the submitted drawings and the terms, conditions and specification of the Highway Authority, Essex County Council. Reason: To ensure that vehicles can leave the highway in a controlled manner in the interest of highway safety.

3. The development shall not be occupied until the site's redundant vehicle access has been permanently closed in accordance with the terms, conditions and specification of the Highway Authority, Essex County Council. Reason: To ensure the appropriate removal of the access in the interests of highway safety.

#### **6. Summary of Issues**

Background

The previous application was refused on the following grounds

The proposed replacement dwelling would be materially larger than the one it would replace and, therefore, be inappropriate development in the Green Belt. As a result of

the size and bulk of the proposed dwelling, the development would also reduce the openness of the Green Belt, conflict with the purposes of including the land within the Green Belt and harm the character and appearance of the area. The proposal would, therefore, be contrary to the NPPF (section 9) and Policies GB1, GB2 and GB6 of the Brentwood Replacement Local Plan.

None of the matters put forward on behalf of the applicant, either alone or in combination, would amount to very special circumstances which clearly outweigh the harm the development would cause by reason of inappropriateness, loss of openness and harm to the character and appearance of the area

The difference between this application and the last is that the overall floor area created would be smaller by 78sqm and there would not be windows added at basement level. The design of the current proposal when compared with the previous no longer includes a single-storey projection on the south-western elevation.

#### The application site

The application site is located within the Metropolitan Green Belt and within a Special Landscape Area on the western side of Childerditch Lane with no immediate neighbouring properties. There is a roadside hedge which adjoins the application site boundary and extends beyond the application site in both directions. The site accommodates a modest, two storey property. Ground levels vary across the site increasing gradually in south to north and west to east directions. The existing dwelling is of traditional design being of a regular footprint with pitched roofs, projecting bay windows and a chimney. The dwelling is roughly centrally located within the site with the vehicular access and car port located in the south-eastern corner of the site. The northern part of the site is used as a garden.

The main issues which require consideration as part of the determination of the application are the impact of the development on the Green Belt, its impact on the character and appearance of the area, which is part of a Special Landscape Area, and any impact on highway safety. Given the distance to the nearest neighbouring property, it is considered that the proposal would have no impact on the amenity of the occupiers of any other property.

Planning permission was granted for a replacement dwelling at the site (most recently under application reference 10/00023/EXT) but this planning permission has now lapsed.

#### Impact on the Green Belt

Policy GB6 of the Local Plan does not in its entirety comply with the National Planning Policy Framework as it restricts the floor area of replacement dwellings to be no larger than 37sqm above the original habitable floorspace. However, the same Policy does set out that the visual mass of any replacement should be no greater than that of the

existing. Paragraph 89 of the NPPF only considers the replacement of a building within the Green Belt to be appropriate development, provided the new building is in the same use and not materially larger than the one it replaces. As such this Policy is still considered to be relevant in the determination of this application.

The proposed dwelling would be similar to the existing dwelling in that it would be mainly two storey in height with a similar ridge height at 8.65m, and would be in the same position as the existing dwelling. However, the habitable floor space of the proposed dwelling would be around 204sq.m. compared to the habitable floorspace of the existing dwelling being 134sq.m. (which includes around 35sq.m. of habitable floorspace previously added). Unlike with the previous application 14/00251/FUL the basement level is not being included in the floor area calculations as it would be below the ground level and there are no windows that are proposed to serve it. This means it would not be considered habitable floor space and would be used as a cellar and utility room.

The proposed replacement dwelling would be within the same use as the existing dwelling but would be materially larger. As a result, it is considered that the proposed development would be inappropriate development in the Green Belt and cause substantial harm by reason of its inappropriateness, contrary to Policies GB1 and GB6. Given the increase in size and bulk of the dwelling, it is considered that the proposal would also cause harm through a reduction in the openness of the Green Belt and conflict with the purposes of including the land within the Green Belt, contrary to Policy GB2. However, it is considered that the other requirements of Policy GB2 would not be contravened by the proposal (the effect on public rights of way, the need to preserve or enhance existing landscape features (see below) and satisfactory location with respect to surrounding landscape and any adjoining buildings).

#### Character and Appearance

The proposed dwelling would be of a modern design, however, it would be generally two storey in height with a pitched roof and the external materials proposed would be satisfactory.

However, as a result of the increased scale, mass and bulk of the proposed dwelling compared to that which currently exists, it is considered that the proposal would cause some harm to the character and appearance of the area due to there being additional built form within a rural local, contrary to the NPPF (paragraph 17), NPPG and Policy CP1 (criterion i and iii).

With respect to the Special Landscape Area, as the dwelling proposed would replace one which exists in the same location, it is considered that the impact of the proposed development on the Special Landscape Area would not be significant, in compliance with Policy C8.

The proposal would require the removal of a section of roadside vegetation but it is considered that this would cause minimal harm as new planting could be required by condition to replace that lost, in compliance with Policy C5.

### Highway Safety

The Highways Officer has raised no objections to the proposal subject to the imposition of conditions. Based on this advice, it is considered that the proposal would not harm highway safety, in accordance with the NPPF, and Policies CP1 (criteria iv and v) and T2.

### The Green Belt Balance

As the development would be inappropriate development in the Green Belt, very special circumstances would need to exist which clearly outweigh the harm caused through inappropriateness and all other harm (in this case, a reduction in the openness of the Green Belt, conflicting with the purposes of including the land within the Green Belt and harm to the character and appearance of the area).

The property was previously extended in 1990 at two-storey to the rear, but no copy of the plans is available. On the drawings submitted with the planning application in 2005 it was outlined that the extension covered 35sqm over both floors. The proposed replacement dwelling would be 103% bigger than the original (as built). The original property was a modest detached two-storey dwelling and the proposed dwelling would be more than double the size. Therefore the proposed replacement dwelling is disproportionate to the original property and materially larger and as such conflicts with both national and local Green Belt Policies.

Reference has been made on behalf of the applicant to the 'fallback' position of the extensions to the existing building which could be carried out as permitted development.

The habitable floorspace of the existing dwelling is in the region of 134sq.m. (including existing extensions) and the height of the existing dwelling is a maximum of (approx.) 8.6m. It is the view of the agent the extensions the subject of the Certificate of Lawfulness (13/00687/S192), if constructed, would add in the region of 123sq.m. of additional habitable floorspace to the existing dwelling. The agent also states that the footprint of the proposed dwelling would be 48sq.m. greater than that which exists and 18sq.m. smaller than that which would exist if the permitted development rights confirmed under 13/00687/S192 are utilised.

It is considered that a convincing case has not been made that the applicant would carry-out these extensions if their current proposal did not gain planning permission. This is because the agent in their supporting statement sets out that the permitted development offers few benefits only providing much needed additional floor space. Although the works approved under the Certificate of Lawful development could be

considered a 'fall back' position, the likelihood of 13/00687/S192 being implemented would be questioned given that permission was granted under 07/01031/FUL some nine years ago for extensions to the property but which was never implemented. Furthermore, whilst not ideal, it is not considered that the appearance of the extended dwelling would be materially more harmful to the character or appearance of the local area than the replacement dwelling proposed and so this matter does not justify planning permission being granted for the replacement dwelling proposed.

The Council's approach in assessing planning applications within the Green Belt and the application of Policy GB6 of the Local Plan has been supported in a recent appeal decision at Belle Vue, Brook Lane, Doddinghurst 13/00588/FUL (APP/H515/A/13/2207427). This other application was for a replacement dwelling which was to be significantly larger than original. The inspector took the view that the development was to be significantly over the threshold set out in GB6 and as such judged to be "disproportionate as a consequence".

Officers are not convinced that the 'fallback' scheme granted under a Lawful Development Certificate would be implemented. This view is supported in a recent appeal at Belle Vue, Brook Lane, Doddinghurst 13/00588/FUL. In the appeal decision the inspectorate wrote:

"Reference is also made to the erection of a possible extension to the existing bungalow previously approved through a Certificate of Lawful Development. This could increase the dwelling to some 311 square metres. I accept that the scale of this possible extension is considerable, that the form of development shown in that approved scheme is not of a particularly high quality, and that it would not appear to make best use of the site for occupiers by re-positioning the dwelling as currently proposed. Nevertheless, on the basis of the limited evidence before me as to the final practicality of this scheme, I remain unconvinced that there is a significant probability that such an alternative scheme would be implemented under the terms of the Certificate should this appeal fail. This limits the weight to which I attach to this consideration as a fallback position"

The appeal decision at "Belle vue" has been made using the same National and Local Planning Policies as those current in place. There are a number of similarities between the two applications and the approach taken by Officers is the same as that taken by the Inspector. In both cases, what could be achieved under a Certificate of Lawful Development is not of a high quality and would not appear to make the best use of the site for the applicants. As was the case in the recent appeal, it has not been possible to demonstrate significant probability that such an alternative would be implemented and it should be noted that some seven years have passed since permission was given to rebuild the dwelling at Carlynne but this has never been implemented. The Inspector gave limited weight to the fall back position and the Officers have applied the same approach with regards to this application.

Very special circumstances

The submitted planning statement sets out how the NPPF has a presumption in favour of development and amongst others cites paragraphs 14 and 49. Whilst the Council would not dispute the objectives of the NPPF it would question the application of Paragraphs 14 and 49 to this particular case. The reason for this is that in Paragraph 14 it cites that development that accords with development plan policies should be approved. For the reasons as set out in this report the proposed development does not accord with Policy and the current Policies, although dating from 2005, are still relevant and are not out of date. In terms of paragraph 49, whilst the development relates to a new dwelling on site, there is already a unit on site and therefore there would not be a net increase in the number of housing units and therefore it can not be argued that the development would add to the five year land supply requirement.

The NPPF makes reference to great weight being given in determining applications to outstanding or innovative designs which help to raise the standard of design more generally in the area (paragraph 63). The agent suggests that the proposed dwelling would be innovative and exemplary. However, it is not considered that the proposed design would be outstanding or particularly innovative in which case the design of the proposed dwelling should not be afforded great weight in the determination of this application.

The environmental credentials of the scheme would weigh in favour of the development but, it is considered that they do not amount to the very special circumstances required.

The agent states that the fact that the applicant has made previous planning applications for an increased size of dwelling at the site indicates the need for additional accommodation. The lack of implementation has to be viewed in the context of the economic situation at the time. However, over the nine year period there have been a number of design changes to the works proposed and the total floor area created has also increased. As such the immediate need for the size of the property to be increased has not been clearly demonstrated.

On the basis of the above, it is considered that none of these matters, either alone or in combination, amount to very special circumstances required to justify the development proposed.

## **7. Recommendation**

The Application be REFUSED for the following reasons:-

R1 U08430

The proposed replacement dwelling would be materially larger than the one it would replace and, therefore, be inappropriate development in the Green Belt. As a result of the size and bulk of the proposed dwelling, the development would also reduce the



openness of the Green Belt, conflict with the purposes of including the land within the Green Belt and harm the character and appearance of the area. The proposal would, therefore, be contrary to the NPPF (section 9) and Policies GB1, GB2 and GB6 of the Brentwood Replacement Local Plan.

R2 U08431

None of the matters put forward on behalf of the applicant, either alone or in combination, would amount to very special circumstances which clearly outweigh the harm the development would cause by reason of inappropriateness, loss of openness and harm to the character and appearance of the area.

Informative(s)

1 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: GB1, GB2, GB6, CP1, T2, C8, C5 the National Planning Policy Framework 2012 and NPPG 2014.

2 INF20

The drawing numbers listed above are relevant to this decision

3 INF24

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal – which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

*BACKGROUND DOCUMENTS*

**DECIDED:**

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# Appendix A

Roses Farm

CHILDERDITCH LANE

Carlynnne

0 50 metres



Title: Carlynnne Childerditch Lane  
14/00718/FUL

Scale 1:1250 at A4

Date 4th November 2014

Brentwood Borough Council  
Town Hall, Ingrave Road  
Brentwood, CM15 8AY  
Tel: (01277) 312500



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**SITE PLAN ATTACHED**

**08. LAND TO THE FRONT OF 50 TO 72 HUTTON DRIVE HUTTON ESSEX  
CONSTRUCTION OF 14 PARKING BAYS.**

**APPLICATION NO: 14/00873/BBC**

<b>WARD</b>	Hutton Central	<b>8/13 WEEK DATE</b>	10.09.2014
<b>PARISH</b>		<b>POLICIES</b>	NPPG CP1 T2 T5 NPPF NPPF
<b>CASE OFFICER</b>	Yee Cheung		01277 312620
<b>Drawing no(s) relevant to this decision:</b>	T/AJT/4004; T/AJT/3982;		

**1. Proposals**

Planning permission is sought for the construction of 14 car parking spaces on the amenity land to the front of Nos. 50 and 72 Hutton Drive. The site area measures approximately 223.3 square metres. Each space measures approximately 5.5 metres deep x 2.9 metres wide. The car parking area will be surfaced with asphalt and will be individually marked with white lines. The proposal seeks to alleviate the difficulty of on-street parking in the area.

**2. Policy Context**

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and is now a material consideration in planning decisions. The weight to be given to it will be a matter for the decision makers planning judgement in each particular case. This Framework replaces all the national planning guidance documents as stated in the NPPF, including Planning Policy Guidance Notes and Planning Policy Statements. Notwithstanding this, the NPPF granted a one year period of grace for existing adopted Local Plan policies which has now ended, but, the NPPF advises that following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The Government attaches great importance to design of the built environment. The core planning principles as contained in Paragraph 17 of the Framework advises that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Chapter 7 goes on to state that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

In addition to the above, on 6 March 2014, the government published Planning Policy Guidance (NPPG) which, along with the NPPF, is a material consideration in the determination of planning applications.

### Brentwood Replacement Local Plan

CP1 (General Development Criteria) requires development to satisfy a range of criteria covering the following considerations: Character and appearance of the area; Residential amenities; Access; Highway safety; Environmental protection; and the Natural and Historic Environment

T2 (New Development and Highway Considerations) states that planning permission will not be granted for proposals where it will have an unacceptable detrimental impact on the transport system; and it fails to comply with adopted policies and highway requirements.

### **3. Relevant History**

- : - None

### **4. Neighbour Responses**

20 neighbour notification letters were sent out a site notice was displayed at the site. 4 letters of representation have been received concerning the following:-

- Parking spaces will make getting on and off my drive (No, 50) difficult and dangerous
- The parking area is near a bend and the bottom of a slope and is difficult to see on-coming vehicles
- Parking on the amenity land will cause noise, disturbance and pollution
- There are lots of parking spaces on Hutton Drive and there has never been an issue of parking. There is no need for this car park
- This part of the road will become an accident hotspot again with the removal of the double yellow lines
- The removal of the two trees will have an impact on the street scene and the local environment
- Hutton Drive is within walking distance of Shenfield Station. It is likely that these spaces will attract commuters to the area causing additional parking problems for the local residents

- The proposal would be dangerous to all highway users (vehicles and pedestrians)

## **5. Consultation Responses**

- **Arboriculturalist:**

No tree information submitted.

- **Highway Authority:**

The Highway Authority would not wish to raise an objection to the above application, subject to the following condition being attached to any approval;

Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

Note: Whilst Drawing No. T/AJT/3982 proposes two soakaways to the east and west of the large parking area, it will not be clear what drainage solutions will be suitable until ground conditions are uncovered and soakage tests undertaken. Details will need to be examined by the Development Management Team at the Service Management Office. (If during the period of maintenance any soakaway is found to have inadequate capacity or soakaway rate then the developer will have to provide an alternative system of drainage at their own expense.)

## **6. Summary of Issues**

### Introduction

This planning application is presented to the Members of the Planning and Development Control Committee as the application is on Council owned land.

### Principle of Development

The application site is an open amenity space, however it is not protected by Policy LT2 of the adopted local plan where it states that permission will not be given for development of protected urban open space. In this instance, the principle of development on this site would be permissible subject to planning policies.

### Background

The applicant states that in support of the proposal, local residents have been in contact with local Councillors and Officers regarding the difficulty of on-street parking in the area. A survey was carried out in June 2014 by the Strategic Asset Management Department to obtain views from local residents if they would support

the proposal of 14 car parking spaces to be made available by reducing the size of the existing amenity land prior to submitting a formal planning application at Hutton Drive.

The Asset & Technical Manager has confirmed in an email correspondence dated 11 August 2014 that 58 consultation letters were sent out and 28 (48%) were returned. Of those returned, 23 (82%) were in favour of the proposal. For residents who did not respond to the survey, it was assumed by the department that no objections were raised regarding the proposal.

#### Site

The application site relates to a piece of open amenity land owned by the Council. 12 residential properties (Even Nos. 50 and 72) all front onto this amenity land. The site is laid to grass with a two trees which are both set back by about 4 metres from the highway. Wooden posts of approximately 600mm in height are positioned to the southern boundary of the site and are spaced out at equal intervals. Double yellow lines run parallel to the southern boundary of the application site.

#### Main Issues

The main issues to consider when determining this planning application are Residential Amenity; and Highway Issues.

#### Residential Amenity

The site area of the existing amenity land is approximately 700 square metres. It is proposed that two trees and an area of 223.3 square metres of grass would be removed for the construction of 14 car parking spaces which will take up 32% of the amenity land. It is considered that the loss of the two trees and the amenity land by a third would cause material harm to the character and appearance of the area, contrary to Policy CP1 (i) of the adopted local plan and the core planning principles of the NPPF where it states that development should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

It is noted that the closest parking space to No. 50 would be approximately 8 metres away. The same distance also applies to No. 72. It is considered that this distance is considered sufficient not to cause harm to the occupiers of the residential properties by reason of noise and disturbance. Traffic passes through Hutton Drive on a daily basis. As the area of land will be used for the parking of vehicles, there is unlikely to be any material change in the level of air pollution caused by the scheme.

#### Visual Amenity

The existing site provides a pleasant verdant area that helps to soften the surrounding dense built form and provide a small area of amenity close to neighbours properties. The parking area would reduce the size of the amenity land by around a third and replace it with hardstanding and wooden bollards that will invariably be in constant use. This reduction in the area of amenity space and replacement with



parked vehicles would have a detrimental impact on visual amenity and be detrimental to the character and appearance of the immediate area.

Concerns have been raised with regard to the loss of two trees, however the Asset and Technical Manager has confirmed that these two trees will be replaced with similar saplings in suitable location on the remainder of the amenity land.

Overall, it is considered that the benefits of the scheme do not outweigh the harm the development would cause to the visual amenity and character and appearance of the area. The proposal therefore conflicts with Local Plan CP1 (i) and the National Planning Policy Framework, chapters 4 (Promoting sustainable Transport) or 8 (Promoting healthy communities).

#### Highway Issues

The parking spaces proposed are positioned perpendicular to Hutton Drive and are set back from the highway. Each parking space would measure approximately 5.5 metres x 2.9 metres and meet the requirement as contained in the ECC Parking Standards (2009). The double yellow lines would remain and would not cause on-road parking or obstruction.

It is noted that concerns have been raised by local residents regarding the site's dangerous location on a hill with poor visibility and that double yellows were introduced on this side of the road to prevent on-road parking and obstruction to all road users.

In terms of vehicles accessing the spaces and reversing onto the highway, a visibility splay of 43 metres in residential street would be required. The sight splay in this location meets this requirement and therefore the Highway Authority has raised no objection to the proposal.

The Highway Officer has visited the site before submitting their consultation response and the main issue raised from the visit was drainage. The Highway Officer has also checked the accident records and it does not show any reported incidents in this location.

The reversing of vehicles onto Hutton Drive off private residential drives is a common feature along this part of the road. It is therefore considered unreasonable to recommend refusal on the basis that vehicles access and reverse onto the highway in this location, particularly if the Highway Authority has raised no objection to the proposal.

The Highway Authority requires detail showing the means to prevent the discharge of surface water from the development onto the highway should the application be approved. This can be dealt with by imposing a planning condition for this detail to be submitted to prior to the commencement of work should the application be approved.

Having taken into account the above, the proposal would be in accordance with Policy T2 and T5 of the adopted local plan.

#### Other Considerations

The Highway Authority has noted that on Drawing No. T/AJT/3982 proposes two soakaways to the east and west of the large parking area. It is not clear what drainage solutions will be suitable until ground conditions are uncovered and soakage tests undertaken. Details will need to be examined by the Development Management Team at the Service Management Office. It has been advised that if during the period of maintenance any soakaway is found to have inadequate capacity or soakaway rate then the developer will have to provide an alternative system of drainage at their own expense.

The Asset & Technical Manager has advised that the car spaces will be available to all residents on the same way as the two schemes recently provided at Coram Green (planning applications 11/00605/FUL and 12/00979/FUL). There is no evidence to suggest that daily commuters will be using these car parking spaces as such, no permit has been issued to the local residents at present.

#### Conclusion

It is acknowledged that the proposal would provide some off-street parking in an area that suffers from a high level of on-street parking, but there is no evidence to suggest that this has led to any highway safety issues or even that it would make a significant difference to on-street parking, or that cars would not be displaced from other areas into the wider road network. The development would also conflict with guidance from government to promote sustainable transport options. It is considered that the proposal for the 14 car parking spaces on this site would be harmful to the character and appearance and the visual amenity of the area, contrary to Policy CP1 of the adopted local plan and the NPPF.

### **7. Recommendation**

The Application be REFUSED for the following reasons:-

R1 U08836

The proposal to remove two trees and hard surface the open amenity land to provide 14 off-street car parking spaces would cause significant and material harm to the character and appearance and the visual amenity of the area. Furthermore, it would conflict with the National Planning Policy Framework and Local Planning Policy which seeks to promote sustainable public transport choices. No evidence has been submitted to demonstrate that the additional parking is needed or that it would make any significant difference to the level of on-street parking already occurring in the surrounding road network, or that the additional parking would result in significant preventative highway safety. There are no other considerations that would outweigh

the identified harm and the proposal therefore conflicts with the NPPF and Local Plan Policy CP1.

Informative(s)

1 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1 the National Planning Policy Framework 2012 and NPPG 2014.

2 INF20

The drawing numbers listed above are relevant to this decision

3 INF24

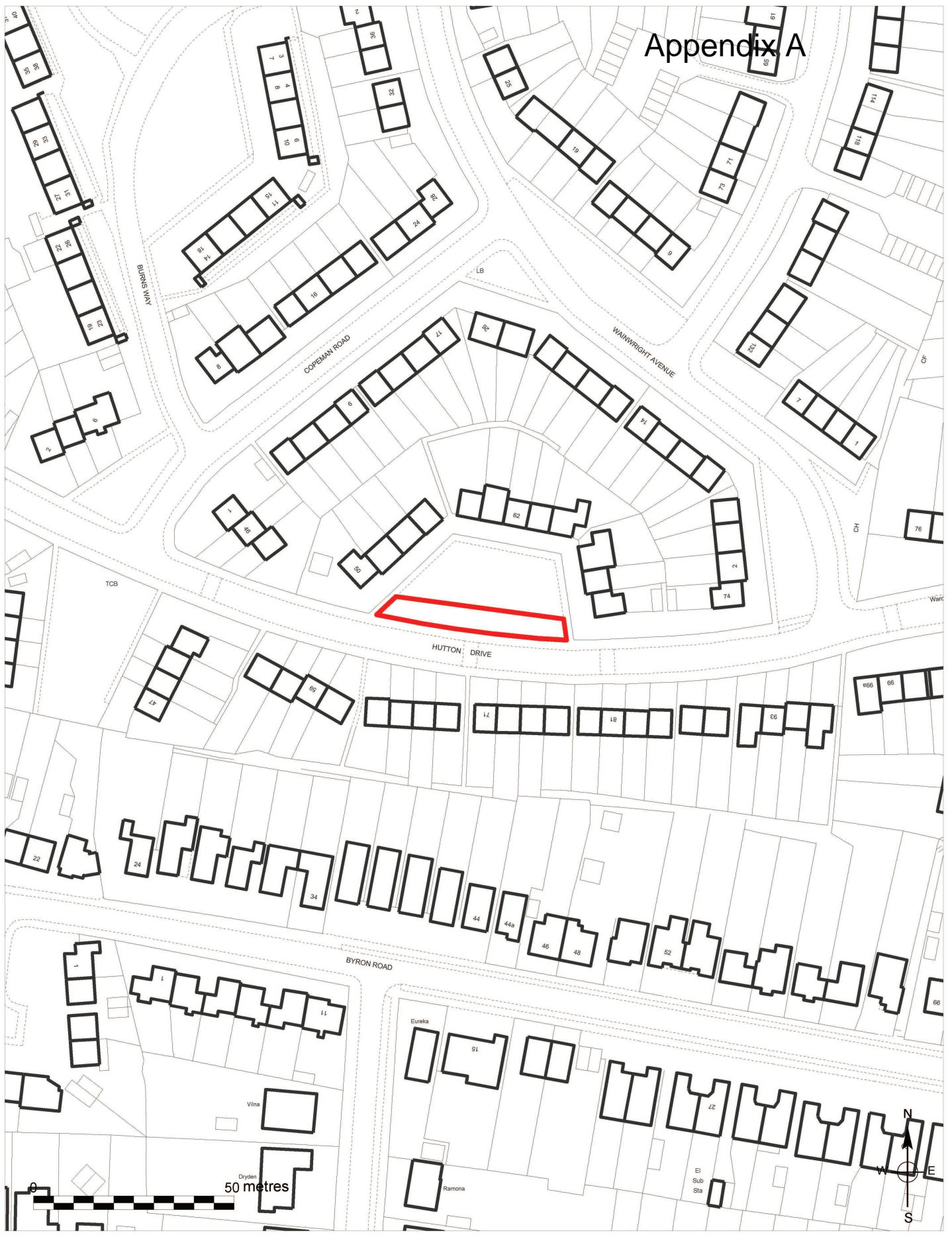
The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal – which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

*BACKGROUND DOCUMENTS*

**DECIDED:**

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Appendix A



Title: Land To The Front Of 50 To 72 Hutton Drive  
14/00873/BBC

Scale 1:1250 at A4

Date 4th November 2014

Brentwood Borough Council  
Town Hall, Ingrave Road  
Brentwood, CM15 8AY  
Tel: (01277) 312500



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**SITE PLAN ATTACHED**

**09. 1-4 9-14 19-22 (INCL) OAKTREE CLOSE 11 AND 13 15 AND 17 39-101(ODD) 90-100 (EVEN) 142-152 (EVEN) 162-172 (EVEN) HAWTHORN AVE 13 AND 14 15-32 (INCL) ROWAN GREEN EAST 5-10 (INCL) 11 AND 22 ROWAN GREEN WEST**

**REPLACEMENT BRICK BUILT BALCONY, WALKWAY WALLS AND STAIRCASE WALLS WITH METAL BALCONY WALKWAY GUARDING RAILS.**

**APPLICATION NO: 14/00920/BBC**

<b>WARD</b>	Brentwood South	<b>8/13 WEEK DATE</b>	19.09.2014
<b>PARISH</b>		<b>POLICIES</b>	CP1 NPPF NPPG
<b>CASE OFFICER</b>	Caroline McCaffrey		01277 312603
<b>Drawing no(s) relevant to this decision:</b>	BCC/HA/01 ; BBC/HA/02 ; BBC/HA/03 ; BBC/HA/04 ; BBC/HA/05 ; BBC/HA/06 ; G-2722-01-01 REV B ; 2772201-01-02 REV B ;		

## 1. Proposals

Planning permission is sought for the replacement of brick built balconies, stairwells and walkway walls with metal railings and panels to 16 blocks of two-storey flats. The proposed works would affect the following blocks of flats:-

- |   |                        |
|---|------------------------|
| - Oaktree Close/Hawthorn Avenue junction    | Flats 1-4, 11 and 13   |
| - Oaktree Close                             | Flats 9-14             |
| - Oaktree Close/ Hawthorn Avenue junction   | Flats 19-22, 15 and 17 |
| - Hawthorn Avenue                           | Flats 39-49            |
| - Hawthorn Avenue                           | Flats 51-61            |
| - Hawthorn Avenue/Rowan Green East junction | Flats 63-69, 13 and 14 |
| - Hawthorn Avenue                           | Flats 90-100           |
| - Hawthorn Avenue/Rowan Green West junction | Flats 71-75, 11 and 12 |
| - Hawthorn Avenue                           | Flats 79-89            |
| - Hawthorn Avenue                           | Flats 91-101           |
| - Hawthorn Avenue                           | Flats 142-152          |
| - Hawthorn Avenue                           | Flats 162-172          |
| - Rowan Green East                          | Flats 15-20            |

- |                    |             |
|--------------------|-------------|
| - Rowan Green East | Flats 21-26 |
| - Rowan Green East | Flats 27-32 |
| - Rowan Green West | Flats 5-10  |

The works relate to Council housing stock and follow agreement by the Housing and Health Committee on 10th September. Although 16 blocks of flats are listed above, only 9 blocks with serious structural defects will be considered in the Major Works Programme 2014/15 for this year. The 7 remaining blocks will be considered in the capital funding programme for the following year.

## **2. Policy Context**

National Planning Policy Framework (March 2012)

In addition to the core planning principles that support Sustainable Development, Chapter 6 - Delivering a wide choice of high quality homes, and Chapter 7 - requiring good design are considered to be the most relevant national policy

National Planning Practice Guidance (NPPG)

Local Planning Policy CP1 - i) and iii) are considered to be relevant to the determination of the application. These criteria expect design to be in keeping with the locality not harm visual amenity or the appearance of the surrounding area.

## **3. Relevant History**

- 14/00625/BBC: Replacement brick built balcony, walkway walls and staircase walls with metal balcony walkway guarding rails, balustrading and panel. -

## **4. Neighbour Responses**

172 neighbour notification letters were sent out and 5 site notices were displayed at the following:-

- 1) On the corner of Hawthorn Avenue and Rowan Green West (on a telegraph pole)
- 2) At Rowan Green East (on a telegraph pole)
- 3) At Oaktree Close (on a lamppost)
- 4) At Hawthorn Avenue (on amenity land between Nos. 14 and 41)
- 5) In front of No. 154 Hawthorn Avenue (on a telegraph pole)

1 email has been received stating it is not necessary to replace the entire balcony as repairs would suffice; no details of cost have been provided or how it will effect the tenants.



## **5. Consultation Responses**

- :None

## **6. Summary of Issues**

### Background

Prior to the submission of this planning application, a report was submitted to the Housing and Health Committee on 10 September 2014 titled the 'Major Works Programme 2014/2015' outlining that there were serious structural defects to the balconies, walkways, stairwells and railings to the flats mentioned above. A consultant structural engineer was appointed by the Council and advised that some of the existing balconies were imminently unsafe whilst others were becoming unsafe and requires urgent attention.

This report was approved by the Housing and Health Committee which sets out the proposed works for 2014/2015 to ensure the Council's housing stock are in good condition. The proposed works will be funded through the capital programme.

### Site

The application relates to 16 blocks of two-storey flats located on the south side of Hawthorn Avenue; on the corner of Hawthorn Avenue and Rowan Green West; on the corner of Rowan Green East and Hawthorn Avenue; and on Oaktree Close. The blocks of flats are similar in terms of design, layout and appearance. Access to the flats at first floor level on each block is via an existing stairwell, walkway and balcony to the rear.

### Assessment of Proposal

Planning permission is sought to replace the existing brick built and concrete balconies, stairwells and railings with metal railings and panels.

### Main Issues

The main issues to consider when determining this planning application are: Design of Development and Residential Amenity

### Design of Development

The spalling brickwork and loose concrete on the balconies, stairwells and railings on the 16 blocks of flats will be replaced by metal railings and panels. The proposal would not be visually intrusive or harmful to the character or appearance of the existing flats. As such, the proposal would be in accordance with Policy CP1 (i) (iii) of the adopted local plan.

### Residential Amenity

The existing brick and concrete balconies would be replaced by modern metal railings and panels. It is not considered that the residential amenity would be adversely affected by the proposal as there will be no changes to the width or depth of the balconies, just the design and appearance. Any overlooking or loss of privacy would be no worse than the existing balconies. As such, the proposal would be in accordance with Policy CP1 (ii) of the adopted local plan.

### Other issues:

One representation has been received however it does not raise material planning concerns and has been forwarded to the officer who submitted the application for response on behalf of the Council.

### Conclusion

Having taken into account the above, the proposal would be in accordance with Policy CP1 of the adopted local plan; the NPPF; and the NPPG. Further, the proposed works will ensure that the Council's housing stock is maintained in good condition and that the existing occupiers of these flats receive a quality home and service in accordance with the Council's Corporate Plan.

## **7. Recommendation**

The Application be APPROVED subject to the following conditions:-

### 1 TIM01 Standard Time - Full

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

### 2 DRA01A Development in accordance with drawings

The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

### 3 U08654

The external surfaces of the development hereby approved shall be constructed of materials and finish as detailed within the application

Reason: To safeguard the character and appearance of the area

### Informative(s)

#### 1 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1 the National Planning Policy Framework 2012 and NPPG 2014.

#### 2 INF04

The permitted development must be carried out in accordance with the approved drawings and specification. If you wish to amend your proposal you will need formal permission from the Council. The method of obtaining permission depends on the nature of the amendment and you are advised to refer to the Council's web site or take professional advice before making your application.

#### 3 INF21

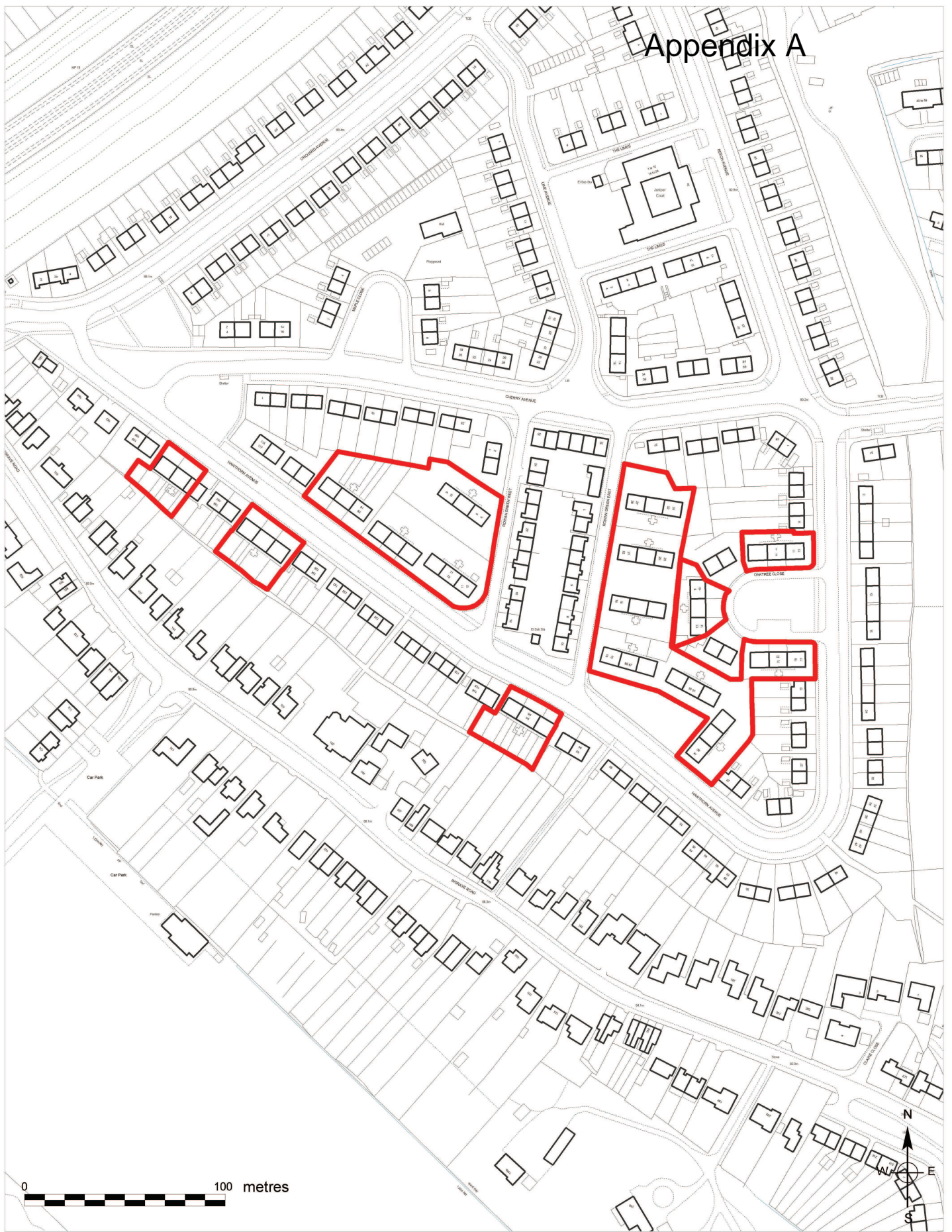
The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### *BACKGROUND DOCUMENTS*

### **DECIDED:**

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# Appendix A



Title: Flats at Oaktree Close, Hawthorn Ave, Rowan Green East, Rowan Green West  
14/00920/BBC

Scale 1:2500 at A4

Date 4th November 2014

Brentwood Borough Council  
Town Hall, Ingrave Road  
Brentwood, CM15 8AY  
Tel: (01277) 312500



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**4<sup>th</sup> November 2014**

## **Planning and Development Committee**

### **Changes to the Planning System**

**Report of:** *Tony Pierce, Interim Planning Executive*

**Wards Affected:** *All*

**This report is:** *Public*

#### **1. Executive Summary**

- 1.1 Appended to the report are a summary of recently proposed technical changes to the planning system, as part of a raft of reforms to planning decisions, and a letter from Sefton Borough Council expressing some of the frustrations and confusions caused by them. Members are asked to consider whether, or not, they would wish to support the sentiments of Sefton councillors.

#### **2. Recommendation(s)**

- 2.1 That Members consider the nature and extent of recent changes to the planning system and consider whether, or not, to support the letter from Sefton Borough Council.**

#### **3. Introduction and Background**

- 3.1 On 31<sup>st</sup> July 2014, at the start of the holiday period, Mr Steve Quartermain, the Government's chief planner, wrote a letter to all Council Chief Planning Officers, setting out a range of proposed reforms and changes to the planning system, as part of a 'Technical Consultation'. The proposals covered the following regulatory processes:

- New measures to make neighbourhood planning easier and quicker
- Further changes to permitted development
- Changes to use classes
- Improving the use of planning conditions

- Reducing the numbers of homes and other urban developments that would be screened for an environmental impact assessment; and
- Improving the way major infrastructure projects are planned.

3.2 Appendix A to this report is a useful summary of all the provisions and proposals, which extend to 98 pages. When enacted, they will form part of much more extensive package of reforms, in a series of national regulations and guidance. The consultation is in the form of a lengthy, limited choice questionnaire. Most authorities now no longer respond to such consultations, as they are regarded as rather cynical attempts by government departments at limited 'engagement', rather than openly seeking views and differences of opinion. The Essex Planning Officers Association discussed the issue and all agreed that the considerable time it would take to respond to the technical consultation was not worthwhile.

3.3 Sefton Borough Council considered the consultation and resolved on a motion in an attempt to open up a wider debate on changes to the planning system, which is in Appendix B. The motion expresses strong concern at the number and complexity of changes, under the banner of deregulation, and questions their value.

#### **4. Issue, Options and Analysis of Options**

4.1 As the report is for member consideration of Government proposals, there are no options or analysis provided.

#### **5. Reasons for Recommendation**

5.1 The Sefton Borough Council motion articulates views expressed by individual members of the Committee in past months. Consideration of the motion by Committee may assist in clarifying a Council viewpoint on the planning reforms and changes in recent years.

#### **6. Consultation**

6.1 No specific consultation is appropriate at this stage.

#### **7. References to Corporate Plan**

7.1 An efficient planning system is vital to future prosperity both nationally and locally, which is a key component of the Corporate Plan.

#### **8. Implications**



### **Financial Implications**

**Name & Title: Jo-Anne Ireland, Acting Chief Executive**

**Tel & Email 01277 312712 / jo-anne.ireland@brentwood.gov.uk**

- 8.1 There are no direct financial implications arising from this report.

### **Legal Implications**

**Name & Title: Philip Cunliffe-Jones Planning Lawyer**

**Tel & Email: 01277 312703 / p.cunliffe-jones@brentwood.gov.uk**

- 8.2 The Secretary of State for Communities and Local Government is responsible only to Parliament in making regulations or orders under Section 333 Town and Country Planning Act 1990. In 1967, Essex County Council challenged a Special Development Order by a previous Minister of Housing and Local Government granting planning permission for the development of Stansted as the site of the third London Airport. The application was struck out – the court held that the power to make a special development order was a purely administrative legislative power, for the exercise of which the Minister was responsible to nobody except parliament.
- 8.3 However, where a formal consultation exercise is carried out the decision making authority is obliged to take into account relevant responses received within the consultation guidelines and timetable.

**Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

- 8.4 None.

## **9. Background Papers**

- 9.1 The Government consultation can be found on :

- 9.2 <https://www.gov.uk/government/consultations/technical-consultation-on-planning>.

## **10. Appendices to this report**

- Appendix A – Summary of proposed changes to the planning system outlined in Chief Planning Officer letter on 'Technical Consultation'
- Appendix B – Motion of Sefton Borough Council in response to changes to the planning system

**Report Author Contact Details:**

**Name:** Tony Pierce, Acting Head of Planning  
**Telephone:** 01277 312512  
**E-mail:** [tony.pierce@brentwood.gov.uk](mailto:tony.pierce@brentwood.gov.uk)

# Appendix A

## Summary of proposed changes to the planning system outlined in Chief Planning Officer letter on 'Technical Consultation'

Section 1: Neighbourhood Planning
A statutory time limit of 10 weeks (70 days) within which a local planning authority must make a decision on whether to designate a neighbourhood area...
... but the consultation period for applications to designate neighbourhood areas is maintained at six weeks.
The current statutory requirement for a minimum six weeks consultation on a neighbourhood plan is removed...
...but a new statutory test setting out basic consultation requirements is introduced.
Require the provision of information alongside a submitted neighbourhood plan which allows obligations under the Strategic Environmental Directive to be assessed.
Section 2: Reducing planning regulation to support housing, high streets and growth
Prior approval for B1(c) and B8 to C3 residential. Prior approval matters are listed as: <ul style="list-style-type: none"> <li>• Flooding</li> <li>• Transport</li> <li>• Contamination</li> <li>• Noise</li> </ul> Views are sought on whether it would be beneficial to be able to take account of the impact of a residential use being introduced into an existing employment area.
Prior approval for town centre <i>Sui Generis</i> uses (laundrettes, amusement arcades, casinos and nightclubs) to C3 residential. Prior approval matters are listed as: <ul style="list-style-type: none"> <li>• Transport and highways</li> <li>• Contamination</li> <li>• Flooding</li> </ul> Potential prior approval matters include: <ul style="list-style-type: none"> <li>• Design and external appearance</li> <li>• Floorspace limitations</li> </ul>
Permanent retention of prior approval for B1(a) offices to C3 residential. An additional prior approval matter is proposed: <ul style="list-style-type: none"> <li>• Impact of significant loss of strategically important office accommodation.</li> </ul>
Extension of completion date for B1(a) office to C3 residential prior approvals presently permitted to 30 <sup>th</sup> May 2019.
Neighbour notification prior approval for larger residential extensions made permanent.
The deadline for completing residential extensions approved under the prior approval scheme will be removed.
Most uses falling within use class A2 will be moved into use class A1 (with the exception of Betting Shops and Pay Day Loan Shops)
The new use Class A2 (Betting Shops and Pay Day Loan Shops) will have its permitted development rights removed so applications must be made for such establishments.

Neighbour notification prior approval for A1, A2, laundrettes, amusement arcades, casinos and nightclubs to A3 Restaurants and Cafes.

- Limited to premises of 150m<sup>2</sup> in size or smaller.
- Prior approvals matters that may be considered if raised by a neighbour are:
  - Noise
  - Traffic
  - Odour
  - Opening hours
- It is proposed that safeguards are put in place to avoid:
  - Loss of shops that are considered essential local services.
  - Adverse impacts on a shopping area.

Prior approval for A1, A2, laundrettes, amusement arcades, casinos and nightclubs to D2 Assembly and Leisure.

Prior approvals matters are listed as:

- Traffic and highways
- Parking
- Noise

New PD rights for A1 to allow for the provision of small (up to 20m<sup>2</sup> floor area and 4m in height) ancillary buildings to be erected within the curtilage of the building to facilitate click and collect services.

New PD right for A1 to allow for the installation of loading bay doors and loading ramps. A limit of 20% increase in size is proposed.

Increase the PD threshold for mezzanine floors in A1 units above 200m<sup>2</sup>.

Prevent maximum parking standards impacting on parking provision within town centres.

Prior approval allowing the use of land and/or buildings for commercial filming and associated physical development.

- Limited to 9 months in any 27 month period;
- Limited to sites of 1ha in size;
- Conditional upon:
  - no demolition, excavation or alteration of existing buildings;
  - no overnight sleeping accommodation;
  - reinstatement of land to original condition;
  - 10m maximum height of outside sets
- Prior approval matters listed as:
  - Transport and highways
  - Travel Plan
  - Noise
  - Light

Prior approval for Solar PV up to 1MW on non-domestic buildings.

Prior approval matters are listed as:

- Siting and design (with a focus on minimising glare)

Revised permitted development rights for business premises issues in May 2013 to be made permanent.

The deadline for completing extensions under the revised permitted development rights for business premises will be removed.

New permitted development rights for waste management facilities to allow for the replacement of plant, machinery and buildings. Limits on the size of any replacement plant, machinery and buildings is proposed.

New permitted development rights are proposed for equipment housing for sewerage undertakers. These would allow for the installation of a pumping station, valve house, control panel or switchgear house into a sewerage system.

### Section 3: Improving the use of Planning Conditions

Introduction of a 'deemed discharge' for certain types of planning conditions where they have not been decided in an appropriate time limit.

Deemed discharge would not apply to:

- development which is subject to an Environmental Impact Assessment;
- development which is likely to have a significant effect on a qualifying European site;
- development in areas of high flood risk (e.g. where development is in flood zones 2 & 3 or where there are reported critical drainage issues);
- conditions that have the effect of requiring that an agreement under Section 106 of the Town and Country Planning Act 1990 (as amended), Section 278 of the Highways Act 1980 to be entered into before an aspect of the development can go ahead;
- any conditions requiring the approval of details for outline planning permissions required by reserved matters.

A deemed discharge would only be activated by the applicant serving a notice on the local planning authority.

A deemed discharge notice can be served 6 weeks from the day after the discharge of conditions application was received by the local planning authority.

Deemed discharge would apply to Full and Outline conditions, not to matters attached to a reserved matter application.

The fee for a non-determined condition discharge application should be returned after 8 weeks as opposed to the current 12 weeks.

Draft planning conditions for major applications should be shared with the applicant 10 days before the decision is issued.

Require written justification for the use of a pre-commencement condition.

### Section 4: Planning application process improvements

Remove the requirement to consult Natural England on all applications for development within 2 km of a SSSI.

Change the requirement to consult the Highway Agency on development likely to affect a trunk road to read as follows:  
*Development, other than minor development, likely to result in an adverse impact on the safety of, or queuing on a trunk road.*

Various changes to the requirement to consult English Heritage with the aim of reducing the number of consultations arising from small scale development proposals.

Requirement to notify the railway manager of applications within 10m of a railway line.

Consolidation of amendments to the Town and Country Planning (Development Management Procedure) Order 2010 into a single order.

### Section 5: Environmental Impact Assessment Thresholds

All proposals falling within, or partially within sensitive areas will continue to need to be screened for environmental impacts.

The screening threshold for industrial proposals outside sensitive areas will be increased from 0.5ha to 5ha.

The current screening threshold for urban development outside sensitive areas, which includes residential development, means that all sites over 5ha are screened. At 30dph this results in all schemes over 150 units being screened. It is proposed that residential developments are only screened when they would comprise 1,000 units or more.



FAO: Chair of Planning

**Councillor James Mahon**  
**Sefton Labour Group**

Town Hall  
Trinity Road  
Bootle  
L20 7AE

Tel: 0151 934 3361

Fax: 0151 934 3459

Email: [james.mahon@councillors.sefton.gov.uk](mailto:james.mahon@councillors.sefton.gov.uk)

Date: 18 August 2014

Our Ref: JM/Planning

Dear Chair of Planning,

**Re: Changes to the Planning System - Letter to Secretary of State for Communities and Local Government, Eric Pickles**

Sefton Council has resolved at a meeting of the full Council in July to write to Mr Pickles raising serious and wide ranging concerns about the impacts of the numerous changes to our national planning system. These changes are affecting our communities in many ways and often result in ourselves as local decision makers being faced with very difficult decisions for developments that our residents simply do not want. The National Planning Policy Framework (NPPF) favours developers. The Localism Act raises hope and expectations in our communities only for our residents to find again and again that there are no planning reasons for us to reasonably refuse unpopular developments. When we have tried this we lose on appeal. Now there is the additional pressure to avoid poor performance in appeals and the threat of special measures - potentially losing the right to determine major applications locally. This is surely not in the spirit of localism. The move away from full planning applications to prior determinations, the increasing numbers of permitted changes of use - without real consideration of impacts - are all examples of changes that do not embrace localism - they effectively mean our residents have very little, or no, opportunity to influence many new developments in their communities.

I have included below the minutes from our Council meeting - setting out my motion that was unanimously supported by Labour, Liberal Democrats, Conservatives and Independent councillors. I write to ask you to consider doing the same in your own Council and to write to Mr Pickles raising your concerns.

Kind regards,

A handwritten signature in black ink, appearing to read "J Mahon".

**Councillor James Mahon**  
**Sefton Council**

COUNCIL- THURSDAY 24TH JULY, 2014

### **33. NOTICE OF MOTION SUBMITTED BY COUNCILLOR MAHON**

It was moved by Councillor Mahon, seconded by Councillor Veidman and Unanimously RESOLVED:

That this Council:

Calls on the Secretary of State for Communities and Local Government, Mr. Eric Pickles M.P., to examine the changes the coalition Government has made to this country's planning system to see if they are working for the benefit of the communities. Some of the issues are detailed below.

#### **The National Planning Policy Framework**

There is a body of opinion that sees this as a 'Developers Charter' where the rules have shifted in favour of allowing much more development.

#### **Prior Notifications**

Several kinds of developments can now progress without the need for full application and full assessment of impacts. In most cases these don't include highway issues and ignore issues that many residents may be concerned about. Types of development covered by these changes include large house extensions, changes between different uses, changes of agricultural buildings to many other uses like hotels etc. Councils still need to determine these prior notifications, in many instances with no fee and with reduced timescales for decision making.

#### **Changes to the Use Classes Orders**

Now a much wider range of uses than ever can change to another use without the need for planning permission. These include shops to residential - what will this mean for our town centres? Restaurants to offices, shops to building societies or credit unions. These are only a small number of the changes of use that are now possible without needing planning permission.

#### **Localism Act - Neighbourhood Planning and Community Right to Bid**

Neighbourhood Planning could be a positive tool to support our own local plans. The process has been designed so that communities can help plan their local areas, but only if they accept the same, or more, development than our own Local Plan.

Community Right to Bid - this is in danger of becoming a tool to stall development proposals months when key assets come up for sale. This does not provide certainty and speed for new developments - it provides the opposite.

#### **Abolition of Regional Planning**

This was intended to bring more effective local decision making through the removal of a whole regional tier of control and influence in strategic planning. This has resulted in each local authority now having to prepare their own evidence and their own estimates about how many houses they need to build in their area. This has, in effect, introduced a huge new area of controversy and uncertainty for councils.



**4th November 2014**

## **Planning & Development Committee**

### **Memorandum of Understanding between Brentwood Borough Council and Basildon Borough Council**

**Report of:** *Gordon Glenday, Head of Planning and Development*

**Wards Affected:** *All*

**This report is:** *Public*

#### **1. Executive Summary**

- 1.1 Brentwood Borough Council and Basildon Borough Council, as the Local Planning Authorities, have prepared a “Memorandum of Understanding” (MoU) to agree to work together when considering cross boundary strategic planning issues. The MoU is set out in Appendix A.
- 1.2 This MoU sets out that both Councils will explore whether land to the west of Laindon (in Basildon Borough) and to the east of West Horndon (in Brentwood Borough) has any potential of meeting some of the development needs of both boroughs through a cross boundary development opportunity.
- 1.3 Both Councils consider this approach to be consistent with the National Planning Policy Framework (NPPF) and the Planning Practice Guidance under the duty to cooperate on plan making.

#### **2. Recommendation**

- 2.1 That the Memorandum of Understanding document be approved, as set out in Appendix A.**

#### **3. Introduction and Background**

- 3.1 Section 110 of the Localism Act 2011 amended Section 33A of the Planning and Compulsory Purchase Act 2004 requiring Local Planning Authorities to cooperate on strategic planning matters. This in turn is

supported by policy and guidance expectations in the National Planning Policy Framework (NPPF) and Planning Practice Guidance.

- 3.2 Brentwood Borough Council and Basildon Borough Council, as the Local Planning Authorities, have prepared a “Memorandum of Understanding” (MoU) to agree to work together when considering cross boundary strategic planning issues. The MoU is set out in Appendix A.
- 3.3 This agreement represents a duty to cooperate statement under the Localism Act 2011, the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG).
- 3.4 This MoU sets out that both Councils will explore whether land to the west of Laindon (in Basildon Borough) and to the east of West Horndon (in Brentwood Borough) has any potential of meeting some of the development needs of both boroughs through a cross boundary development opportunity.
- 3.5 This MoU is as a result of continued discussion between Brentwood and Basildon Councils as part of the duty to cooperate. This follows analysis of consultation responses to the Brentwood Local Plan Preferred Options 2013. It is also in light of consultation on the Basildon Borough Council Core Strategy Revised Preferred Options 2014, when land to the west of Laindon in Basildon (known as PAD5) and on the border with Brentwood Borough, was proposed by Basildon Borough Council as a strategic growth location.
- 3.6 The MoU is the necessary mechanism for agreement of a joint working arrangement between the Councils to prepare a consultation document and undertake public consultation to explore the suitability of a garden suburb development in this location. It commits the strategic planning and democratic resources of both Councils to work together for this aim and sets out the key principles that should be agreed and considered.

#### **4. Issue, Options and Analysis of Options**

- 4.1 Local Planning Authorities are required to produce Local Plans for their area. Plans should meet the objectively assessed needs of the area and demonstrate joint working with neighbouring authorities on planning issues that cross administrative boundaries.
- 4.2 Brentwood Borough Council’s most recent consultation as part of preparing its emerging Local Development Plan (Local Plan 2015-2030 Preferred Options, July 2013) received representations suggesting that

the area south of the A127 and east of the A128 be considered as an alternative growth location. This area borders the administrative boundary with Basildon Borough.

- 4.3 Basildon Borough Council's most recent consultation as part of preparing its emerging Local Development Plan (Core Strategy Revised Preferred Options, January 2014) proposed land west of Laindon (known as PAD5) as a strategic growth location. This area borders the administrative boundary with Brentwood Borough.
- 4.4 As part of draft Plan consultation both Councils are demonstrating delivery of new development within their urban areas and some small urban fringe sites in the short to medium term. However, the potential larger location of land west of Laindon in Basildon Borough to land east of West Horndon in Brentwood Borough has the potential to offer land supply solutions for the longer term across both boroughs.
- 4.5 In light of the above the MoU has been produced to provide the mechanism for joint working on a consultation document that considers the options. The MoU sets out that both Councils will explore the potential of the land to provide a cross boundary opportunity to help meet the objectively assessed needs of both boroughs.
- 4.6 Following the consultation, the Councils will analyse all responses and decide whether to continue exploring this development option. This could lead to the establishment of a joint project between the Councils to carry out further testing and assessment against their evidence base as part of plan-making in the future. If both Councils agree to continue, the MoU will be updated to reflect the next stage.

## **5. Reasons for Recommendation**

- 5.1 Both Council's have a duty to cooperate on planning issues that cross administrative boundaries. The NPPF sets out the expectation that joint working on areas of common interest be diligently undertaken for the mutual benefit of neighbouring authorities.
- 5.2 The Councils deem it necessary to undertake public consultation in order to thoroughly consider and appraise a garden suburb to the west of Laindon in Basildon and to the east of West Horndon in Brentwood, to assist in delivering housing land supply in the long term. The MoU has been produced to provide the mechanism for joint working between the Councils so that a consultation document can be prepared.

- 5.3 The Councils consider this approach to be consistent with the NPPF and the Planning Practice Guidance under the duty to co-operate on plan making.

## **6. Consultation**

- 6.1 The MoU has not been subject to consultation. The MoU provides the mechanism for joint working between both Councils so that a consultation document can be prepared to explore the potential of the proposal.

## **7. References to Corporate Plan**

- 7.1 The joint consultation will inform preparation of the Brentwood Local Development Plan, a key priority in the Council's Corporate Plan as part of 'A Prosperous Borough'. Consideration and appraisal of this proposal will enable continued preparation of the Plan in order that it stands the best chance of being found 'sound' at Examination in Public.

## **8. Implications**

### **Financial Implications**

**Name & Title: Jo-Anne Ireland, Acting Chief Executive**

**Tel/Email: 01277 312712 / jo-anne.ireland@brentwood.gov.uk**

- 8.1 The MoU sets out that both Councils agree to share the costs and expenses arising in respect of the Project between them. Costs will be apportioned between the Councils in the ratio Brentwood Borough Council 50% : Basildon Borough Council 50%.
- 8.2 It is agreed that each Council will commit an equal level of resource to ensure that deadlines are met, where possible. The costs of these resources will be met by the respective Council. Any variation to the level of resourcing will be subject to review and a cost implication may be applicable to the authority that is not providing the same level of resourcing.
- 8.3 Each Authority will commit in principle to a level of funding for the consultation document and the subsequent consultation, subject to the relevant Council's sign-off procedure.
- 8.4 Basildon Borough Council will manage finances on behalf of both Councils. Brentwood Borough Council will arrange for transfer of their apportionment in appropriate instalments to Basildon Borough Council. These are likely to be, but not exhaustive to:

- Any joint cost accrued to prepare the consultation document;
- Any joint cost accrued publicising the consultation;
- Any joint cost accrued analysing the results and publishing the outcome.

### **Legal Implications**

**Name & Title: Philip Cunliffe-Jones, Planning Lawyer**

**Tel/Email: 01277 312703 / p.cunliffe-jones@brentwood.gov.uk**

- 8.5 The legal duty to co-operate in relation to planning of sustainable development has statutory requirements in the Localism Act and the Local Plan Regulations. The NPPF paragraphs 178-181 (Planning Strategically across local boundaries) sets out the Government's expectations that local plans will co-ordinate and reflect strategic priorities. Paragraph 181 states that LPAs will be expected to demonstrate evidence of having effectively co-operated to plan for issues with cross boundary impacts when their Local Plans are submitted for examination.
- 8.6 It is a "duty to co-operate" and not a "duty to agree" but effective co-operation will mean consistent approaches to relevant evidence base and consultation responses, as well as seeking to achieve the strategic priorities for enabling sustainable development. The Inspector examining the Local Plan will consider not only the soundness of the evidence base but also the measures taken under the duty to co-operate.

### **Other Implications**

- 8.7 Both Councils will commit to issuing joint press releases and attending joint press conferences, where appropriate, to ensure communities are updated.
- 8.8 Both Councils will keep Thurrock Borough Council, as a neighbouring authority, and Essex County Council, as the highways, minerals and waste, social and educational authority informed on this strategic issue.

## **9. Background Papers**

- 9.1 Brentwood Borough Local Plan 2015-2030 Preferred Options for Consultation (July 2013)
- 9.2 Basildon Borough Core Strategy Revised Preferred Options (January 2014)

**10. Appendices to this report**

Appendix A - Memorandum of Understanding Relating to Consultation for Potential Development to the West of Laindon in Basildon and East of West Horndon in Brentwood

**Report Author Contact Details:**

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**DATED**

**2014**

**BASILDON BOROUGH COUNCIL**

- and -

**BRENTWOOD BOROUGH COUNCIL**

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**MEMORANDUM OF UNDERSTANDING FOR THE DEVELOPMENT OF  
THE CONSULTATION DOCUMENT RELATING TO THE POTENTIAL  
DEVELOPMENT TO THE WEST OF LAINDON IN BASILDON AND EAST  
OF WEST HORNDON IN BRENTWOOD**

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**Legal and Corporate Governance  
Basildon Borough Council  
The Basildon Centre  
St Martins Square  
Basildon  
SS14 1DL**

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**THIS MEMORANDUM OF UNDERSTANDING** is dated 4<sup>th</sup> day of November 2014

## **PARTIES**

- (1) The parties to this memorandum of understanding **MoU** are:
- (2) BASILDON BOROUGH COUNCIL of The Basildon Centre, St Martins Square, Basildon, SS14 1DL (**Authority One**).
- (3) BRENTWOOD BOROUGH COUNCIL of Town Hall, Ingrave Road, Brentwood, Essex CM15 8AY (**Authority Two**).

## **1. BACKGROUND**

- 1.1 Section 110 of the Localism Act 2011 amended Section 33A of the Planning and Compulsory Purchase Act 2004 requires Local Planning Authorities to cooperate on strategic planning matters. This in turn is supported by policy and guidance expectations in the National Planning Policy Framework and Planning Practice Guidance.
- 1.2 This agreement represents a duty to co-operate statement under the Localism Act 2011, the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG).
- 1.3 Authority One and Authority Two have agreed to work together on the project detailed in Annex A to this MoU (**Project**).
- 1.4 This MoU cannot override the statutory duties and powers of the parties and is not enforceable in law. However, the parties agree to adhere to the principles set out in this MoU.
- 1.5 This MoU may need to be supported by protocols and other documents not included here which set out in more detail operational considerations of how the parties will work together.
- 1.6 The parties wish to record the basis on which they will collaborate with each other on the Project. This MoU sets out:
  - (a) the key objectives of the Project;
  - (b) the principles of collaboration;
  - (c) the governance structures the parties will put in place; and
  - (d) the respective roles and responsibilities the parties will have during the Project.

**2. KEY OBJECTIVES FOR THE PROJECT**

- 2.1 The parties shall undertake the Project to achieve the key objectives set out in Annex A to this MoU (**Key Objectives**).
- 2.2 The parties acknowledge that the current position with regard to the Project and the contributions already made (financial and otherwise) are as detailed in the Annex A to this MoU.

**3. PRINCIPLES OF COOPERATION**

The parties agree to adopt the following principles when carrying out the Project (**Principles**):

- (a) collaborate and co-operate. Establish and adhere to the governance structure set out in this MoU to ensure that activities are delivered and actions taken as required;
- (b) be accountable. Take on, manage and account to each other for performance of the respective roles and responsibilities set out in this MoU;
- (c) be open. Communicate openly about major concerns, issues or opportunities relating to the Project;
- (d) learn, develop and seek to achieve full potential. Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- (e) adopt a positive outlook. Behave in a positive, proactive manner;
- (f) adhere to statutory requirements and best practice. Comply with applicable laws and standards including EU procurement rules, data protection and freedom of information legislation. In particular the parties agree to comply with the requirements of the Information Sharing Protocol attached to this MoU in Annex B;
- (g) act in a timely manner. Recognise the time-critical nature of the Project and respond accordingly to requests for support;
- (h) manage stakeholders effectively;
- (i) deploy appropriate resources. Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this MoU. In particular the parties agree to make the contributions detailed in Annex D to this MoU; and
- (j) act in good faith to support achievement of the Key Objectives and compliance with these Principles.

#### 4. GOVERNANCE

##### 4.1 Overview

The governance structure defined below provides a structure for the development and delivery the Project.

##### 4.2 Guiding principles

The following guiding principles are agreed. The governance will:

- (a) provide strategic oversight and direction;
- (b) be based on clearly defined roles and responsibilities at organisation, group and, where necessary, individual level;
- (c) align decision-making authority with the criticality of the decisions required;
- (d) be aligned with Project scope and each Project stage (and may therefore require changes over time);
- (e) leverage existing organisational, group and user interfaces;
- (f) provide coherent, timely and efficient decision-making; and
- (g) correspond with the key features of the governance arrangements set out in this MoU.

##### 4.3 Sponsors' board

- (a) The **Sponsors' Board** provides overall strategic oversight and direction to the Project. This group will consist of:

**Authority One:** The Leader of the Council, Cabinet Member of Regeneration and Planning and Chief Executive

**Authority Two:** The Leader of the Council, Chair of Local Development Plan Members Working Group and Chief Executive

- (b) The Sponsors' Board shall be managed in accordance with the terms of reference set out in Annex C to this MoU.

##### 4.4 Project board

- (a) A joint officer group (Project Board) will be established drawing on resources from both Authorities. They will communicate regularly to discuss and action the preparation of the consultation document and the consultation process.
- (b) The Project Board will provide strategic management at Project and workstream level. It will provide assurance to the Sponsors' Board that the

Key Objectives are being met and that the Project is performing within the boundaries set by the Sponsors' Board.

- (c) The Project Board consists of representatives from each of the parties. The Project Board shall have responsibility for the creation and execution of the project plan and deliverables, and therefore it can draw technical, commercial, legal and communications resources as appropriate into the Project Board. The core Project Board members are:

<b>Project Board Member</b>	<b>Position</b>	<b>Authority</b>
Lead Project Manager	Team Manager - Planning Policy	Basildon Borough Council
Project Manager	Planning Policy Team Leader	Brentwood Borough Council
Project Advisor	Service Manager – Planning Policy, Housing and Regeneration Strategy	Basildon Borough Council
Project Advisor	Head of Planning and Development	Brentwood Borough Council
Project Advisor	Senior Communications Officer	Basildon Borough Council
Project Advisor	Senior Communications Officer	Brentwood Borough Council
Project Advisor	Principal Legal Officer	Basildon Borough Council
Project Advisor	Head of Legal Services	Brentwood Borough Council

The Project Board shall meet regularly and shall from time to time, with the agreement of the Project Managers include officer representatives of the neighbouring borough of Thurrock Council and Essex County Council and any other organisations with related interest in the consultation outcomes.

#### 4.5 Reporting

Project reporting shall be undertaken at three levels:

- (a) **Project Board:** Minutes and actions will be recorded for each Project Board meeting. Any additional reporting requirement shall be at the discretion of the Project Board.
- (b) **Sponsors' Board:** Reporting shall be regularly, based on the action points from the Project Board highlighting: Progress this period; issues being managed; issues requiring help (that is, escalations to the Sponsors' Board)

and progress planned next period and/or aligned with the frequency of the Sponsors' Board meetings.

- (c) **Organisational:** the Project Board members shall be responsible for drafting reports into their respective sponsoring organisation as required for review by the Project Board before being issued.

**5. ROLES AND RESPONSIBILITIES**

5.1 The parties shall undertake the following roles and responsibilities to deliver the Project:

<b>Activity</b>	<b>Authority One</b>	<b>Authority Two</b>
Overall day to day responsibility for preparing the Consultation document	Lead: Team Manager – Planning Policy	Lead: Planning Policy Team Leader
Take the consultation to Corporate Management Team, then to Sponsors Board who will decide whether to endorse the document to be published for consultation.	Lead	Assure
Take the consultation document to the Local Development Plan Members Working Group, then to Corporate Leadership Board and then to Sponsors Board who will decide whether to endorse the document to be published for consultation.	Assure	Lead
Analyse the responses from the consultation and take them to the relevant committees to agree on the main issues raised and the outcome of the consultation.	Lead	Lead
Update the Memorandum of Understanding and reflect the governance arrangements necessary to facility delivery of the development, and incorporate proposals into each Council's Local Development Plans. (This action is dependant on the outcome of the consultation)	Lead	Assure

5.2 For the purpose of the table above:

**Lead:** the party that has principal responsibility for undertaking the particular task, and that will be authorised to determine how to undertake the task. The Lead must act in compliance with the Objectives and Principles at all times, and consult with

the other party in advance if they are identified as having a role to Assure the relevant activity;

**Assure:** the party that will defer to the Lead on a particular task, but will have the opportunity to review and provide input to the Lead before they take a final decision on any activity. All assurance must be provided in a timely manner. Any derogations raised must be limited to raising issues that relate to specific needs that have not been adequately addressed by the Lead and/or concerns regarding compliance with the Key Objectives and Principles.

If the outcome of the consultation is to not take this option further than Basildon Borough Council and Brentwood Borough Council will continue to work together on other strategic issues in accordance with the Duty to Cooperate and will establish the appropriate arrangements separate to this memorandum of understanding.

- 5.3 Within a reasonable time frame from the date of the MoU the parties shall develop a delivery plan for that part of the Project which shall identify the following:
- (a) the key milestones for the delivery of the Key Objectives;
  - (b) what employees (other than employees identified in this MoU) will be required to work on the project;
  - (c) whether any staff will need to be seconded from one party to the other;
  - (d) what staff will require access to the premises of the other party;

Each delivery plan must be approved by the Project Board.

## 6. ESCALATION

- 6.1 If either party has any issues, concerns or complaints about the Project, or any matter in this MoU, that party shall notify the other party and the parties shall then seek to resolve the issue by a structured communication, If the issue cannot be resolved within a reasonable period of time, the matter shall be escalated to the Project Board, which shall decide on the appropriate course of action to take. If the matter cannot be resolved by the Project Board within 5 days, the matter may be escalated to the Sponsors' Board for resolution.
- 6.2 If either party receives any formal inquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier or requests for information made under the Freedom of Information Act 2000) in relation to the Project, the matter shall be promptly referred to the Project Board (or its nominated representatives). No action shall be taken in response to any such inquiry, complaint, claim or action, to the extent that such response would adversely affect the Project, without the prior approval of the Project Board (or its nominated representatives).

**7. INTELLECTUAL PROPERTY**

- 7.1 The parties intend that [notwithstanding any secondment] any intellectual property rights created in the course of the Project shall vest in the party whose employee created them (or in the case of any intellectual property rights created jointly by employees of both parties in the party that is lead party noted in clause 5 above for the part of the project that the intellectual property right relates to).
- 7.2 Where any intellectual property right vests in either party in accordance with the intention set out in clause 7.1 above, that party shall grant an irrevocable licence to the other party to use that intellectual property for the purposes of the Project.

**8. TERM AND TERMINATION**

- 8.1 This MoU shall commence on the date of signature by both parties, and shall expire on completion of the Project
- 8.2 This MoU will be effective for 15 months commencing from the date on which it was signed by the Chief executive and Leaders of the two organisations. Its operation shall be reviewed at the end of the first [4] months in order to inform any changes necessary going forward.
- 8.3 Either party may terminate this MoU by giving at least three months' notice in writing to the other party.

**9. VARIATION**

This MoU, including the Annexes, may only be varied by written agreement of the Sponsor's Board.

**10. CHARGES AND LIABILITIES**

- 10.1 Except as otherwise provided, the parties shall each bear their own costs and expenses incurred in complying with their obligations under this MoU.
- 10.2 The parties agree to share the costs and expenses arising in respect of the Project between them in accordance with the Contributions Schedule set out in Annex D to this MoU to be developed by the Project Board and approved by the Sponsors' Board.
- 10.3 Both parties shall remain liable for any losses or liabilities incurred due to their own or their employee's actions and neither party intends that the other party shall be liable for any loss it suffers as a result of this MoU.

**11. STATUS**

11.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the parties from this MoU. The parties enter into the MoU intending to honour all their obligations.

11.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of the other party, nor authorise either of the parties to make or enter into any commitments for or on behalf of the other party.

**12. GOVERNING LAW AND JURISDICTION**

This MoU shall be governed by and construed in accordance with English law and, without affecting the escalation procedure set out in clause 6, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

**Signed for and on behalf of Authority One: Basildon Borough Council**

Name: Cllr Turner  
Position: Leader of Basildon Borough Council

Signature: .....

Name: Bala Mahendran  
Position: Chief Executive of Basildon Borough Council

Signature: .....

**Signed for and on behalf of Authority Two: Brentwood Borough Council**

Name: Cllr Aspinell  
Position: Leader of Brentwood Borough Council

Signature: .....

Name: Jo-Anne Ireland  
Position: Acting Chief Executive of Brentwood Borough Council

Signature: .....



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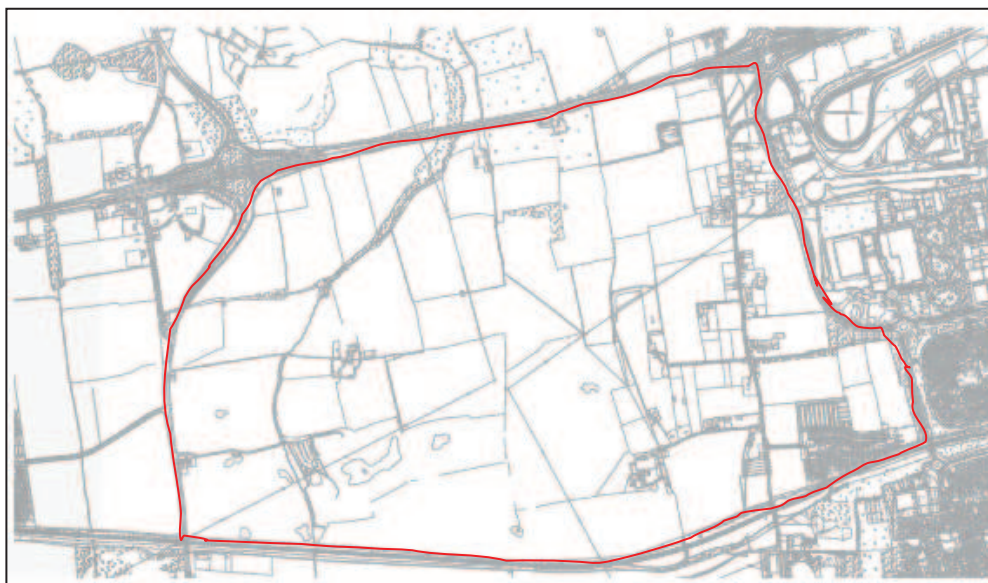
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## Annex A. The Project

### Project overview

Basildon Borough Council and Brentwood Borough Council, as the Local Planning Authorities, have prepared this “Memorandum of Understanding” (MoU) to agree to work together when considering cross boundary strategic planning issues.

This MoU signs up both Council’s to investigate whether land to the west of Laindon (in Basildon Borough) and to the east of West Horndon (in Brentwood Borough) has any potential of meeting some of the development needs of both Councils through a cross boundary development opportunity, see map below.



Map 1 – The potential site to explore for its development opportunity

All Councils are committed to preparing sound planning strategies to achieve the necessary delivery of OAN through their respective Local Plans. This MoU sets out that both Councils will explore the potential for land to the west of Laindon in Basildon (known as PADC5) and east of West Horndon in Brentwood to provide a possible joint cross boundary opportunity to help meet both Council’s OAN for housing as well as other needs and provision of infrastructure improvements.

Basildon Borough Council and Brentwood Borough Council are demonstrating delivery in their urban areas and some small urban fringe sites across their Boroughs in the short to medium term of their Plans. However this larger location extends from PADC5 in Basildon Borough Council Core Strategy Revised Preferred Options 2014 and has the potential to offer land supply solutions for the longer term across both authority areas. The development location will be referred to as a “garden suburb” for the purpose of this memorandum. A map of the project area for co-operation and consultation is set out above.

This agreement commits the strategic planning and democratic resources of all Councils to work together in preparing a consultation document to explore the garden suburb. To support the consultation document, this memorandum sets out the key principles that should be agreed and considered when preparing the consultation document.

The Councils now confirm through signing of this Memorandum of Understanding that they commit, under the duty to co-operate, to a consultation document to explore the garden suburb to the west of Laindon in Basildon and to the east of West Horndon in Brentwood to assist in the delivering of housing land supply in the long term. The Councils consider this approach to be consistent with the NPPF and the PPG under the duty to co-operate on plan making.

### **The Key Objectives**

The consultation document is the first step to establishing whether development to the west of Laindon in Basildon and east of West Horndon in Brentwood has any potential of meeting some of the development needs of both boroughs through a cross boundary development opportunity.

The key principles set out in this section should be agreed and taken account of when preparing the consultation document. The consultation document is to explore the potential for the garden suburb and therefore if the garden suburb option is not taken forward following the consultation, the agreed key principles may not be possible to deliver.

### *Joint Principles*

#### Agreed

- High quality homes and self-build opportunities to be provided with a large percentage available for families;
- Job opportunities and apprenticeships through new commercial / industrial provision;
- Provision of supporting local shops and community facilities;
- Provision for Gypsy and Traveller pitches;
- Quality open space, landscape and access to surrounding green spaces;
- Consideration for all constraints, such as Flood Risk 2 and 3a / b, Ancient Woodland, Local Wildlife Sites, pylons, public footpaths, historic environment, landscape, industrial area, registered parks and gardens, Nature Improvement Area, open space provision, ground water vulnerability, critical drainage area BA6, surface water drainage, topography and geology.
- Community ownership and long term stewardship of assets.

### *West Horndon Village*

- An appropriate range of public services for West Horndon Village to be provided in the garden suburb;
- Additional and improved infrastructure to be implemented as part of the garden suburb;
- The garden suburb boundaries in Map 1 above are to provide a wedge of land adjoining West Horndon preserving the open gap of Green Belt between Basildon and West Horndon that prevent coalescence;

### *Dunton Village*

- An appropriate range of public services for Dunton Village to be provided in the garden suburb;
- Additional and improved infrastructure to be implemented as part of garden suburb; including the A127;
- The garden suburb to provide appropriate local social, community, health and social services enabling residents to conveniently access these;
- Potential opportunity for a new railway station, providing good links to London in the garden suburb
- Appropriate landscaping schemes will need to be put in place to recognise the existing land form and retain long distance views, where possible.

### *Laindon Town Centre*

- The garden suburb to help support the regeneration of Laindon Town Centre

### *Thorndon Country Park and Langdon Hills Country Park*

- Improvements to Green Infrastructure and benefits to the local environment through connecting Thorndon Country Park to Langdon Hills Country Park;

### **The existing position and dependencies**

The amount of housing and commercial development in Basildon Borough, and Brentwood Borough is to be established in each Local Authority's Local Plan. The housing requirement will be derived from the full objectively assessed need for housing arising in both Boroughs taking account of economic growth aspirations and the location's presence in Thames Gateway South Essex.

The outstanding need to allocate sites to meet overall development requirements in both authorities will be pursued in the Local Plans or Review of Local Plans.

The need to meet Gypsy, Traveller and Travelling Showpeople provision will be sought through the Local Plans. The garden suburb as a settlement/ settlement extension will explore the potential to help meet this need.

Further work with Essex County as the highways authority will be required and work will be on-going as part of each authorities Plan preparation

### **Communication**

Both Councils will commit to issuing joint press releases and attending joint press conferences, where appropriate, to ensure communities are updated. Both Councils will provide information about the proposals on their websites.

A communication strategy will be put in place to ensure that both councils carry out the same level of consultation.

Both Councils will keep Thurrock Borough Council, as a neighbouring authority, and Essex County Council, as the highways, minerals and waste, social, and education authority informed on this strategic issue.

### **Project Management**

Both Councils will provide a Project Manager as part of its resource commitment. However, Basildon Borough Council will be the lead to prepare the consultation document and facilitate the consultation.

There will be a high level plan agreed for the work showing the key stages and timetable in the preparation of the consultation.

Basildon Borough Council will maintain details of the agreed budget and spend and will maintain a risk log identifying potential threats to the project and any mitigating actions, where appropriate. If any risks are significant; these will be reported through each Council's risk management programmes and appropriate solutions to manage the risk put in place.

A change control process will be used to assess proposed changes to the document that has been formally agreed or changes to the agreed Joint working arrangements.

### **Local Plan Background - Basildon Context**

Basildon Borough Council is in the process of preparing a Local Development Plan (LDP) to replace its existing 1998 Local Plan.

In 2007, the Council consulted on an Issues Paper when preparing its Local Development Framework Core Strategy, which set out the main issues for the Borough. The paper was criticised for being heavily focused on specific issues rather than strategic issues.

In 2012, the Council prepared a Core Strategy Preferred Options Report. The Core Strategy included three growth options; Option A: a low growth option of 6,500 homes and 5 hectares of employment land; Option B: a medium growth option of 10,100 homes and 14 hectares of employment land; and Option C: a high growth option of 21,600 homes and 26 hectares of employment land. The Council's Preferred Option was Option A.

The National Planning Policy Framework was introduced during the Council's consultation (March 2012) and set out local planning authorities should provide for their full objectively assessed need (OAN).

The Council's Cabinet concluded in November 2012 that Option A was unlikely to be found sound in light of national policy, alternatives available and the evidence base and a revision to the Preferred Option was necessary.

Additional evidence was commissioned during 2013 to inform the Revised Preferred Options. This included an update to the Strategic Housing Market Assessment, a Green Belt Study, and a housing topic paper, which identified that the Borough's OAN was a minimum of 16,000 homes by 2031.

In January 2014, the Council published a Core Strategy Revised Preferred Options which set out three different approaches to distributing the OAN. The Council's Revised Preferred Option was proportionate growth to the existing settlements based on their relative population sizes through fifteen strategic locations known as Policy Areas for Development and Change (PADCs). One of these strategic locations, PADCS is in West Basildon, on the border with Brentwood Borough.

Over 10,000 comments were received during the public consultation mainly from local people, but also developers, landowners, neighbouring authorities, statutory consultees and infrastructure providers.

On 14<sup>th</sup> September 2014, Cabinet formally noted all the representations made to the consultation and approved the recommended responses and actions to them.

### **Local Plan Background - Brentwood Context**

Brentwood Borough Council is in the process of preparing a Local Development Plan (LDP) to replace its existing 2005 Local Plan.

In 2009 the Council consulted on Issues & Options (LDF Core Strategy) which included four spatial options for growth, albeit to meet the then East of England Plan regional strategy housing target of 175 homes per year (3,500 2001-2011).

Consultation responses favoured the spatial option to centralise development in the Brentwood/Shenfield urban area and at transport nodes such as Ingatestone and West Horndon within the A12 and A127 transport corridors.



Following this, and in light of changing national policy and legislation, the Council decided to bring the Core Strategy together with site allocations and development management policies and produce one Local Plan.

In 2011 the Council undertook a comprehensive Neighbourhood Consultation to seek views on priorities for the LDP, neighbourhoods, housing numbers and potential sites. The top priority from residents was to maintain the character of the Borough and Green Belt.

In January 2013 the East of England Plan was formally revoked, leaving the Council to identify objectively assessed needs (OAN) as a starting point as required in the National Planning Policy Framework (NPPF). OAN for Brentwood Borough has been determined as 5,430 new homes over the Plan period 2015-2030, the upper end of a range of need. This has been informed and verified by demographic projections produced by Edge Analytics as part of the EPOA commission, the updated 2014 Brentwood SHMA and separate demographic evidence from Peter Brett Associates, as yet unpublished.

The Council consulted on Preferred Options in July 2013. This sought to provide a level of development above the old RSS target but below OAN because of the identified capacity constraints set out in evidence.

Housing provision was proposed for 3,500 new homes over the 15-year Plan period, some two thousand short of OAN in the hope that neighbouring former regional plan growth areas might provide some of the shortfall. Representations to the consultation (including those from neighbouring authorities such as Basildon Council), and a clearer view of the Planning Inspectorate’s interpretation of the need to meet full OAN, have meant that the Council is reconsidering its position with regard to housing need, among other things.

In order to meet OAN the Council is now considering further sites and a revised spatial strategy to form part of further Plan consultation.

**Risk Assessment**

<b>Risk</b>	<b>Implications and mitigation</b>
Change in attitude to joint working at either or both Authorities because of changes in political make up, changes in priority or conflicts in working relationships at Officer or Member level.	Delays in decision making, potential to revisit decisions taken all delays in delivery of and consultation on the Garden Suburb strategic planning consultation document.  The agreement of the MOU and of an opt out clause at the completion of the consultation feedback process should mitigate this risk

<p>Failure to agree a joint approach on key aspects of the plan</p>	<p>Delays while the options are debated, potential breakdown in relationships, potential failure of the joint approach with consequent implications for taking the work forward and explaining the failure to stakeholders. This could also have a potential resource implication that has been spent on the project so far.</p> <p>The respective Portfolio Holders will need to take the lead in resolving such issues.</p>
<p>Failure of either party to meet the commitments set out in the MOU.</p>	<p>Delays while the problems are resolved, additional resource/funding provided by the other party, potential breakdown of relationship between the parties.</p> <p>The respective Portfolio Holders/ Cabinet Members will need to take the lead in resolving such issues.</p>
<p>Different approval processes could delay decision making at key stages</p>	<p>Delays in progressing to the next stage of work, concerns that the authorities are getting out of step. Careful planning and identification of key 'pinch points' will identify potential problem areas.</p> <p>The agreement of the MOU and of an opt out clause at the completion of the consultation feedback process should mitigate this risk.</p>
<p>The Authorities are at different stages of developing their local planning documents; requirements for the level of detail of the documents vary, could confuse and delay the consultation process.</p>	<p>Disagreement on what level of detail should be consulted on could result in delays in coming forward with consultation document.</p> <p>An agreed Communication Strategy set out in this MoU will consider this detail and should mitigate this risk.</p>
<p>There may be adverse public reaction to a joint working approach.</p>	<p>The agreement of the MOU and of an opt out clause at the completion of the consultation feedback process should mitigate this risk.</p> <p>Potential new development of any scale can be contentious, clearly explaining the proposal and role of each local authority, and briefing Parish Council Members and</p>



	Members from adjoining authorities should mitigate this risk.
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## **Annex B. Information Sharing Protocol**

### **Information Sharing Agreement (ISA) framework**

The purpose of this (ISA) is to facilitate the exchange of information in order to comply with the statutory duty of local authorities to work together.

The parties to this MoU are not obligated to disclose information unless satisfied that the principles of data protection are upheld. Disclosure relies on existing conditions that justify the disclosure of information, on good relations and mutual trust, and the effectiveness of these information sharing arrangements is a reflection of the effectiveness of the project as a whole.

Relevant statutes may provide the power to disclose information, but may not impose a duty to disclose, thus control over the disclosure of information remains with the Authority that owns the information.

The parties undertake to ensure that personal information (as defined by the Data Protection Act 1998) held by them will be properly protected.

### **Parties**

The parties in this information sharing agreement are:

- a) Basildon Borough Council
- b) Brentwood Borough Council

### **Indemnity**

Where a disclosing party provides information to a requesting party which is inaccurate or where such information is disclosed in breach of the Data Protection Act 1998, any other statutory or common law requirements or the terms of this protocol, and the requesting agency incurs liability, cost or expense as a result of its reliance upon the information provided, the disclosing agency shall indemnify the requesting agency against any such liability, cost or expense reasonably incurred, provided that this indemnity shall not apply:

- a) Where the disclosing agency did not know, and acting reasonably, had no reason to know, that the information provided was inaccurate;
- b) In respect of any consequential or other indirect loss, damage, liability, cost or expense incurred
- c) unless the requesting agency notifies the disclosing agency as soon as practicable of any action, claim or demand to which it considers this indemnity may apply, permits the disclosing agency to deal with the action, claim or demand by settlement or otherwise and renders all reasonable assistance in so doing.

### Annex C. Sponsors' Board Terms of Reference

- **Remit:**

- Approval of Project Plan
- Approval of variation to the MoU
- Review and Approval of Consultation Document.
- Take into consideration the perspective of Brentwood Planning Committee

- **Decision-making:**

**Authority One:** The Leader of the Council, Cabinet Member of Regeneration and Planning and Chief Executive

**Authority Two:** [The Leader of the Council, Chair of Planning and Development Committee and Chief Executive

- **Meetings:**

- At a frequency and form mutually agreed and convenient for the parties to the MoU.

## **Annex D. Contributions**

This agreement will commit to working jointly on a consultation document to explore the potential development location of a garden suburb to the west of Laindon in Basildon and to the west of West Horndon in Brentwood.

Following the consultation, the Councils will analyse all the results and decide whether they continue to explore this development option. If it is subsequently agreed to explore this development option further, establishment of a joint project between the Councils will be considered to carry out further testing and assessment against evidence base as part of plan-making in the future. This will need to combine project working and delivery vehicle(s). If both Councils agree to continue, the MoU will be updated to reflect the next stage.

### **Funding and Resourcing**

Each Council will commit an equal level of resource to ensure that deadlines are met, where possible. The costs of these resources will be met by the respective Council. Any variation to the level of resourcing will be subject to review and a cost implication may be applicable to the authority that is not providing the same level of resourcing.

Each Authority will commit in principle to a level of funding for the consultation document and the subsequent consultation, subject to the relevant Council's sign off procedure set out in Section 5.

Costs will be apportioned between the Councils in the ratio Basildon Borough Council 50%: Brentwood Borough Council 50%.

Basildon Borough Council will manage finances on behalf of both Councils. Brentwood Borough Council will arrange for transfer of their apportionment in appropriate instalments to Basildon Borough Council. These are likely to be, but not exhaustive to

1. Any joint cost accrued to prepare the consultation document;
2. Any joint cost accrued publicising the consultation;
3. Any joint cost accrued analysing the results and publishing the outcome.

## **Members Interests**

Members of the Council must declare any pecuniary or non-pecuniary interests and the nature of the interest at the beginning of an agenda item and that, on declaring a pecuniary interest, they are required to leave the Chamber.

- **What are pecuniary interests?**

A person's pecuniary interests are their business interests (for example their employment trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and asset including land and property).

- **Do I have any disclosable pecuniary interests?**

You have a disclosable pecuniary interest if you, your spouse or civil partner, or a person you are living with as a spouse or civil partner have a disclosable pecuniary interest set out in the Council's Members' Code of Conduct.

- **What does having a disclosable pecuniary interest stop me doing?**

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not :

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business or,
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

- **Other Pecuniary Interests**

Other Pecuniary Interests are also set out in the Members' Code of Conduct and apply only to you as a Member.

If you have an Other Pecuniary Interest in an item of business on the agenda then you must disclose that interest and withdraw from the room while that business is being considered

- **Non-Pecuniary Interests**

Non –pecuniary interests are set out in the Council's Code of Conduct and apply to you as a Member and also to relevant persons where the decision might reasonably be regarded as affecting their wellbeing.

A 'relevant person' is your spouse or civil partner, or a person you are living with as a spouse or civil partner

If you have a non-pecuniary interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

**Planning and Development Control Committee  
Terms of Reference**

- (a) Town and Country Planning Act 1990 and any related legislation including:-
  - (i) determination of planning applications
  - (ii) enforcement of planning control
  - (iii) waste land notices, purchase notices, etc.
- (b) Listed Buildings and Conservation Areas Act 1990
  - (i) determination of applications for Listed Buildings and Conservation Area consent.
  - (ii) enforcement of Listed Building and Conservation Area legislation.
- (c) To consider and determine the Council's comments where appropriate on major development outside the Borough when consulted by other Local Planning Authorities.
- (d) To determine fees and charges relevant to the Committee

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