



# Agenda

## Planning Committee

Thursday, 29 September 2022 at 7.00 pm

Council Chamber, Town Hall, Ingrave Road, Brentwood, Essex CM15  
8AY

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### Membership (Quorum – 4 )

Cllrs Bridge (Chair), Barber (Vice-Chair), Dr Barrett, Cuthbert, Fryd, Gelderbloem, Jakobsson, Laplain, Mynott, Parker, Wiles and Tanner

### Substitute Members

Cllrs Barrett, Cuthbert, Heard, Mrs Hones, Mrs Pearson and Sankey

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### Agenda

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### Live Broadcast

[Live broadcast to start at 7pm and available for repeat viewing.](#)

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Jonathan Stephenson  
Chief Executive

Town Hall  
Brentwood, Essex  
21.09.2022

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### Information for Members

#### Substitutes

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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.

Where substitution is permitted, substitutes for quasi judicial/regulatory committees must be drawn from Members who have received training in quasi- judicial/regulatory decision making. If a casual vacancy occurs on a quasi judicial/regulatory committee it will not be filled until the nominated member has been trained.

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#### Rights to Attend and Speak

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Any Members may attend any Committee to which these procedure rules apply.

A Member who is not a member of the Committee may speak at the meeting. 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.

Members requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting.

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

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##### Point of Order

A member may raise a point of order at any time. The Mayor 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 Mayor on the point of order will be final.

##### 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 Mayor on the admissibility of a personal explanation will be final.

##### 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 Mayor. The Member must specify the nature of the information he/she wishes to provide and its importance to the current debate. If the Mayor 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 Mayor on the admissibility of a point of information or clarification will be final.

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### Information for Members of the Public

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#### Access to Information and Meetings

You have the right to attend all meetings of the Council and Committees. You also have the right to see the agenda, which will be published no later than 5 working days before the meeting, and minutes once they are published.

Dates of the meetings are available at [www.brentwood.gov.uk](http://www.brentwood.gov.uk).

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#### Guidelines on filming, photography, recording and use of social media at council and committee meetings

The council welcomes the filming, photography, recording and use of social media at council and committee meetings as a means of reporting on its proceedings because it helps to make the council more transparent and accountable to its local communities.

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

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these activities, in their opinion, are disrupting proceedings at the meeting.

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 **Private Session**

Occasionally meetings will need to discuss some of its business in private. This can only happen on a limited range of issues, which are set by law. When a Committee does so, you will be asked to leave the meeting.

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  **Access**

There is wheelchair access to the meeting venue from the Main Entrance. If you do wish to attend this meeting, please contact the clerk should you have specific accessibility needs. There is an induction loop in the meeting room.

 **Evacuation Procedures**

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



## Minutes

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### Planning Committee Tuesday, 26th July, 2022

#### Attendance

Cllr Bridge (Chair)	Cllr Laplain
Cllr Barber (Vice-Chair)	Cllr Mynott
Cllr Dr Barrett	Cllr Parker
Cllr Cuthbert	Cllr Wiles
Cllr Gelderbloem	Cllr Tanner

#### Apologies

Cllr Fryd	Cllr Jakobsson
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#### Substitute Present

Cllr Mrs Hones  
Cllr Sankey

#### Also Present

Cllr Cuthbert  
Cllr Heard  
Cllr Hossack  
Cllr Wagland  
Cllr Aspinell  
Cllr S Cloke  
Cllr Naylor

#### Officers Present

Caroline Corrigan	- Corporate Manager (Planning Development Management)
Jonathan Quilter	- Corporate Manager (Strategic Planning)
Paulette McAllister	- Principal, Design & Conservation Officer
Mike Ovenden	- Associate Consultant Planner
Carole Vint	- Planning Officer
Daryl Cook	- Planning Officer
Brendan Johnston	- Strategic Development Engineer, Essex Highways
Steve Plumb	- Landscape and Arboricultural Adviser
Kathryn Williams	- Consultant Planner
Tom Newcombe	- Solicitor, Birketts (for and on behalf of the Council's

Zoe Borman  
Solicitor)  
- Governance and Member Support Officer

### 118. Apologies for Absence

Apologies had been received from Cllrs Fryd and Jakobsson. Cllrs Sankey and Hones were substitutes respectively.

### 119. Minutes of the Previous Meeting

The Minutes of the last meeting held on 28<sup>th</sup> June 2022 were agreed as a true record.

### 120. 54 Nags Head Lane Brentwood Essex CM14 5NL

The application had been referred at the request of Cllr McLaren for the following reason:

Resident has put forward a proposal which in volumetric terms is similar to what has been approved under PD for a single story extension. The proposal is modest in scale and further development could be constrained through removal of further PD rights. I can only assume that it has been refused on basis of being inappropriate development in the green belt, as from a street scene / scale perspective it is more modest than other schemes which have previously been approved. Any impact on the green belt, e.g. openness, is subjective and I believe should be open to question by the planning committee. Note that even in it's proposed form the property does not meet the residents housing need.

Mrs Vint presented the report to the committee.

Ms Bland, resident, was present at the meeting and addressed the committee in support of the application.

Mr Driscoll, Agent, was also present and spoke on behalf of the applicant.

The Chair also read a statement from Ward Councillor, Cllr McLaren, in support of his referral.

Cllr Parker spoke in favour of the application and **MOVED** that the application be **APPROVED**, which was **SECONDED** by Cllr Bridge.

Cllr Parker requested that future permitted development rights be withdrawn. Officers confirmed a condition could be applied in exceptional circumstances. This condition was enforceable and had been tested.

A vote was taken and Members voted as follows:

FOR: Cllrs Barber, Bridge, Gelderbloem, Hones, Parker, Tanner, Wiles (7)  
AGAINST: Cllrs Dr Barrett, Cuthbert, Laplain, Mynott, Sankey (5)  
ABSTAIN: (0)

The motion to **APPROVE** the application was **RESOLVED** subject to the following conditions agreed with the Chair and Vice Chair following the meeting:

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 documents 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 U0047283

No development above ground shall take place until details 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 U0047285

No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan 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. wheel and underbody 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: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not

brought out onto the highway in the interests of highway safety, visual and neighbour amenity.

5 U0047286

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

6 U0047289

The development hereby approved shall be designed and built to meet Regulation 36 2 (b) requirement of 110 litres/person/day water efficiency set out in part G2 of Building Regulations 2015.

Reason: In the interests of improving water usage efficiency in accordance with Policy BE02 of the Brentwood Local Plan.

7 U0047292

The development hereby approved shall be designed and built to achieve at least a 10% reduction in carbon dioxide emissions above the requirements as set out in Part L Building Regulations.

Reason: In the interests of improving resource efficiency to meet the government's carbon targets in accordance with Policy BE01 of the Brentwood Local Plan.

8 U0047291

Prior to first occupation, the proposed buildings shall be provided with, as a minimum, the space and infrastructure required to provide at least 1 electric vehicle charging/plug-in points per building for the future occupants of the buildings and visitors to the site.

Reason: in order to provide for the transition to electromobility and reduce pollution and climate change impacts in the interests of the health and wellbeing of the public in accordance with policy BE11.

9 U0047290

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), the dwelling hereby permitted shall not be extended or enlarged in any way without the prior grant of specific planning permission by the local planning authority.

Reason: To prevent the creation of a dwelling of disproportionate size that would conflict with the policies of restraint within the Green Belt

Informative(s)



1 INF04 Amendments to approved scheme

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 Policies

The following development plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: MG02, BE14, BE13, BE11, BE01, BE02, National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

3 U0009018

o Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway.

o 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.

o The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

4 U0009019

Contaminated Land

Due to the current residential use of the site, it would not be necessary for a Phase 1 contaminated land report, but a watching brief should be kept during groundworks for any unforeseen contamination. If any is encountered an intrusive investigation would be required and a risk assessment and remediation strategy submitted to the LPA for approval should the investigation find it necessary.

Asbestos

Any asbestos within the current building, must be removed by a licensed contractor.

Bonfires

No bonfires should be permitted on site.

**121. Birley Grange Hall Lane Shenfield Brentwood Essex CM15 9AL**

The application had been referred at the request of Cllr Heard for the following reason:

The developer has spent the last 3 to 4 years obtaining highways approval / working with the church and diocese to agree an extension to the church car park to increase parking for both the church and the school. In addition they have worked with the local badger protection group to avoid harm to the

protected species, and addressed the drainage issues as currently the existing buildings are not connected to mains drainage.

So it is clear that a lot of work has been going on behind the scenes. The developer would welcome the opportunity to show the committee the project and for them to make a decision on the development.

The overall area is approximately 2 acres and this is a very low density project which would provide much needed accommodation to local residents. Another critical point is that enhanced parking for the church will stop people parking on the road which can become hazardous.

Mrs Vint presented the application to the committee, which included amendments to the agenda by way of;

An additional neighbour comment raising concerns regarding the proposed access and highway safety for users of the Church Car Park;

Clarification on the description of the proposal in the comments from the Historic Buildings and Conservation Officer, from 7 dwellings proposed to 6;

Page 55 of the agenda, the very special circumstances put forward by the applicant were identified as the first paragraph and first sentence under housing demand and community asset, with the remaining being officer's assessment.

A statement of objection from Mr Jones was read by the Chair.

Mr Willis, Agent for the applicant, addressed the committee on behalf of the applicant.

Cllr Aspinell, County Councillor, addressed the committee and welcomed the application as it highlighted the current parking issues and highways danger in the area.

Cllr Heard, Ward Councillor, addressed the committee in support of his referral and the need for more family homes in the area.

Cllr Tanner spoke in favour of the application adding the new car parking was a generous offer.

Cllr Tanner **MOVED** and Cllr Gelderbloem **SECONDED** that the application be **APPROVED**.

Some members raised concerns that the character of the buildings was not in keeping with the surrounding area and no very special circumstances for building in the green belt.

A vote was taken and Members voted as followed:

FOR: Cllrs Barber, Gelderbloem, Hones, Parker, Tanner, Wiles (6)  
AGAINST: Cllrs Dr Barrett, Bridge, Cuthbert, Laplain, Mynott, Sankey (6)  
ABSTAIN: (0)

The Chair took the deciding vote and the motion to **APPROVE** the application was **LOST**.

A vote was then taken to **REFUSE** the application and Members voted as follows:

FOR: Cllrs Dr Barrett, Bridge, Cuthbert, Laplain, Mynott, Sankey (6)  
AGAINST: Cllrs Barber, Gelderbloem, Hones, Parker, Tanner, Wiles (6)  
ABSTAIN: (0)

The Chair took the deciding vote and the motion to **REFUSE** the application in accordance with the recommendation was **RESOLVED**.

**122. De Rougemont Manor Great Warley Street Great Warley Brentwood Essex CM13 3JP**

This application had been referred to committee at the discretion of the Corporate Director - Planning and Economy - as a major application that is likely to be of interest to the committee.

Mr Ovenden presented the application to the committee.

Mrs Burgess, resident, addressed the committee opposing the application.

Mr Greest, resident, spoke supporting the application.

Ms Beaney, addressed the committee on behalf of Great Warley Conservation Society opposing the application.

The Agent, Mr Jeffrey, spoke on behalf of the applicant.

Cllr Cuthbert, Ward Councillor, addressed the committee raising concerns of detriment to the green belt, and **MOVED** that the application be **REFUSED**, this was **SECONDED** by Cllr Laplain.

Members commented that they saw very little change from the previous application which had been refused by committee.

A vote was taken and Members voted as followed:

FOR: Cllrs Dr Barrett, Bridge, Cuthbert, Laplain, Mynott, Sankey (6)  
AGAINST: Cllrs Barber, Gelderbloem, Hones, Parker, Tanner, Wiles (6)  
ABSTAIN: (0)

The Chair had the deciding vote. The motion to **REFUSE** the application in accordance with the recommendation was **RESOLVED**.

**123. Fairfield House Fairfield Road Brentwood, Essex, CM14 4SD**

This application has been referred to the Planning and Licensing Committee at the request of Cllr Sarah Cloke for the following reasons:

In the planning statement associated with this application the developer cites (policy) BE14 in our new LDP and reminds us that developments should safeguard the living conditions of future occupants. However, they fail to cite the full statement which is item J of BE14: *safeguard the living conditions of future occupants of the development and adjacent residents.*

The alterations to the development disregard the living conditions of adjacent residents as follows:

*1. Relocation of bin store and bike shed now mean these elements of the development will abut directly onto the rear of 2 Fairfield Road. Planned tree planting to form a barrier seems to have been removed from between the store and 2 Fairfield Road from what I can discern of the plans. We believe the adjustments should retain a planted barrier and in LDP 8.45 it states Trees, woodlands, hedges and hedgerows, wherever appropriate, should be incorporated within a landscape scheme. Since this was incorporated before it is unacceptable this has now been removed/downscaled. Furthermore, the noise and disruption of residents from 20 apartments entering the binstore regularly should not be underestimated. An alternative location should be sought and if not available measures to prevent door noise and transmission of smells into adjacent neighbours should be taken.*

*2. The reduction of car parking spaces from 14 to 12 is also unacceptable. The plan was originally approved for 12 apartments with 14 spaces, now 20 apartments with 12 spaces. Despite proximity to the train station, it is likely more than 50% of residents (even assuming only 1 adult per apartment which seems unlikely will want to park cars, not to mention visitors etc. Fairfield road is a narrow cul-de-sac that already suffers from antisocial parking issues that will only be worsened by this step. Recently a fire engine was not able to access the street to attend to an emergency. The LDP part 5.111 states "b. the type of development (fringe site, infill site, etc.) - infill sites are much more likely to be located in areas with existing travel patterns, behaviours and existing controls, and may be less flexible" This small street has already seen huge over development around it with no consideration to the ever-worsening access issues that existing residents are suffering.*

Mr Cook presented the application to committee which included amendments to the published report (namely, drawing number revisions and additional and revised conditions).

A statement was read by the Chair from Ms Cook, resident, objecting to the application.

Ms Marrocco, Agent for the applicant, addressed the committee.

Cllr Cloke, Ward Councillor, spoke regarding significant access issues in the area, but was pleased that the reasons for her referral had been addressed by the developer, namely planting between the bin store and street area, soft closing doors to minimise noise and the 2 additional parking spaces.

Cllr Bridge **MOVED** and Cllr Barber **SECONDED** that the application be **APPROVED**.

A vote was taken and Members voted as follows:

FOR: Cllrs Barber, Dr Barrett, Bridge, Cuthbert, Gelderbloem, Hones, Laplain, Parker, Sankey, Tanner, Wiles (11)

AGAINST: (0)

ABSTAIN: Cllr Mynott (1)

The motion to **APPROVE** the application was **RESOLVED** subject to the conditions outlined within the report and amendments referenced within the presentation.

#### **124. Development Land adjacent to Roman Road Ingatestone Essex**

This application had been submitted on behalf of Cala Homes, for the erection of 57 dwellings (including 20 affordable dwellings) accessed from Roman Road, together with associated highway works, landscaping, utilities, drainage infrastructure and parking.

Ms Williams presented the report.

Mr Angus, addressed the Committee on behalf of the Applicant, Cala Homes.

Members thanked Ms Williams for a thorough and comprehensive report and presentation.

Members raised concerns regarding the appropriateness of 3 storey buildings among surrounding bungalows and 2 storey buildings.

Members also commented that the site was within the LDP, recommended by officers and conditions thoughtfully applied.

Cllr Tanner **MOVED** and Cllr Hones **SECONDED** that the application be **APPROVED**.

A vote was taken and Members voted as follows:

FOR: Cllrs Barber, Dr Barrett, Bridge, Gelderbloem, Hones, Laplain, Parker, Tanner, Wiles (9)  
AGAINST: Cllrs Cuthbert, Mynott, Sankey (3)  
ABSTAIN: (0)

The motion to **APPROVE** the application was **RESOLVED** subject to the conditions outlined in the report.

[Cllr Bridge declared a non-pecuniary interest as he lives near the site]

[Cllr Sankey declared a non-pecuniary interest as Parish Councillor for Fryerning and Ingatestone Parish Council]

**125. Urgent Business**

**SITE PLAN ATTACHED**

**CLAY HALL DAYS LANE PILGRIMS HATCH BRENTWOOD ESSEX CM15 9SJ**

**CONSTRUCTION OF FOUR DETACHED DWELLINGS**

**APPLICATION NO: 22/00559/FUL**

<b>WARD</b>	Pilgrims Hatch	<b>8/13 WEEK DATE</b>	23.06.2022
<b>PARISH</b>		<b>Ext. Of Time</b>	TBC
<b>CASE OFFICER</b>	Brooke Pride		

**Drawing no(s)  
relevant to this  
decision:**

AHUB2202001-26; AHUB2202001-27; AHUB2202001-29;  
AHUB2202001-30; AHUB2202001-31; AHUB2202001-10;  
AHUB2202001-11; AHUB2202001-14; AHUB2202001-15;  
AHUB2202001-16; AHUB2202001-17; AHUB2202001-18;  
AHUB2202001-19; AHUB2202001-20; AHUB2202001-21;  
AHUB2202001-22; AHUB2202001-23; AHUB2202001-24;  
AHUB2202001-25; AHUB2202001-3; AHUB2202001-4;  
AHUB2202001-5; AHUB2202001-6; AHUB2202001-7;  
AHUB2202001-9; AHUB2202001-14; AHUB2202001-26;  
AHUB2202001-1; AHUB2202001-2; PLANNING STATEMENT;  
AHUB2202001-13; AHUB2202001-12

**The application is reported to the Planning and Licensing committee in accordance with the requirements of the Council's constitution.**

## **1. Proposals**

Planning permission is sought for the demolition of storage buildings and the erection of four houses.

### Site Description

The application site is located on the north side of Days Lane. The site outlined in red comprises of a dwelling the occupation of which was tied to a previous planning permission. The condition to tie the occupation has been removed by the granting of planning permission reference 21/01519/FUL. The dwelling is located close to the entrance with ancillary buildings, the lawful use of which is a mixture of storage and

the keeping of horses, closer to the middle of the site, with a large riding arena to the north of the site. As the site is at a lower level than the adjacent highway have a low and the character of this part of the green belt is derived from the semi rural setting including the low density and low visual impact of the buildings and their typology.

The site is served by two access points; one leads to the dwelling and stable buildings and the other to the storage building and smaller stable building. The site comprises of large amounts of hard standing with minimal landscaping. To the north of the site is open countryside. The entirety of the site is washed over by the Green Belt.

## **2. Policy Context**

The Brentwood Local Plan 2016-2033

The Plan was adopted as the Development Plan for the Borough on 23 March 2022. At the same time the Brentwood Replacement Local Plan, August 2005 (saved policies, August 2008) was revoked.

- National Planning Policy and Guidance
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Policy BE02 Water Efficiency and Management
- Policy BE04 Managing Heat Risk
- Policy BE07 Connecting New Developments to Digital Infrastructure
- Policy BE11 Electric and Low Emission Vehicles
- Policy BE13 Parking Standards
- Policy BE14 Creating Successful Places
- Policy MG02 Green Belt
- Policy HP06 Standards for New Housing

## **3. Relevant History**

- 01/00561/FUL: Change of Use to a dwelling for occupation by equestrian worker – Application Permitted
- 14/00006/FUL: Rebuilding of derelict outbuilding/stables adding additional roof storage (Retrospective) – Application Refused



- 16/00826/FUL: Replacement of existing buildings, open sided timber frame Dutch barn to be multi purpose use of hay/straw/carriages storage, internal stables and storage of rugs and harnesses (Retrospective) – S70C Decline to Determine
- 16/01540/FUL: Construction of open fronted horse drawn carriages store, hay and straw storage, roof space storage for rugs harness and costumes/hats.- Application Permitted
- 20/00702/FUL: Demolition of existing storage buildings and construction of one detached dwelling. – Application Permitted
- 20/00764/FUL: Redevelopment of riding school and stables to provide three dwellings. – Application Permitted
- 21/01519/FUL: Removal of conditions 2 (Occupancy) and Variation of condition 3 (Restriction of domestic curtilage) of application BRW/561/2001 (Change of Use of Existing building to a three bedroom dwelling for occupation by an equestrian worker) – Application Permitted
- 21/01554/FUL-Discharge of Section 106 agreement attached to planning permission 01/00561/FUL – Current Application
- 21/01557/FUL: Proposed relocation of storage building – Application Refused

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

Where applications are subject to public consultation those comments are summarised below. The full version of each neighbour response can be viewed on the Council's website via Public Access at the following link:

<http://publicaccess.brentwood.gov.uk/online-applications/>

No neighbour representations were made on this application.

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

- **Arboriculturalist-** No comments received
- **Highway Authority-**

The information that was submitted in association with the application has been fully considered by the Highway Authority.

The Highway Authority will protect the principle use of the highway as a right of free and safe passage of all highway users.

The proposal would encroach on and obstruct a Public Right of Way (PRoW) Footpath as explained in the notes below, therefore:

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

1. As far as can be determined from the submitted plans, the proposed development

would encroach on and obstruct a Public Right of Way footpath no.101 (Brentwood).

2. The proposal if permitted would set a precedent for future similar developments which is detrimental to the safety of all highway users.

The proposal is therefore contrary to the Highways Act 1980 and policy DM1 and DM11 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Notes:

The application includes the demolition of equestrian and agricultural buildings, subdivision of the site and construction of four dwellings. The Highway Authority do not object to the principle of the development. However, the highway record has been examined and it has been confirmed that part of the Public Right of Way Footpath no.101 Brentwood runs through the site.

PRoW:

It is understood that the applicant has made initial enquires with Essex Highways regarding the process required to extinguish the section of the public footpath that runs through the site.

The applicant will be required to apply for an Order either under the Town and Country Planning Act S257 or the Highways Act 1980 S118. This process includes various consultations, and the outcome is not guaranteed.

Therefore, until such time as an Order is confirmed, the Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PRoW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no 101 (Brentwood) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The applicant should seek confirmation of the route of the Public Right of Way from ECC Highway Records. For more information on this service please follow this link: <https://www.essexhighways.org/highway-schemes-and-developments/adoptions-and-land/highway-status-enquiries.aspx> and please contact [highway.status@essexhighways.org](mailto:highway.status@essexhighways.org) who will be able to provide details. The Highway Authority may consider a revised proposal that excludes any development on the PRoW or a renewed application if and when the existing PRoW is formally extinguished

- **Public Rights Of Way-** see section PRoW
- **Environmental Health & Enforcement Manager-**

## Noise

I would recommend restricting construction activities to the following hours: 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 Saturdays with none on Sundays and Public Holidays.

I would also recommend the submission of a Construction Environmental Management Plan (CEMP) be submitted to the LPA for approval prior to works commencing. The CEMP should as a minimum deal with the control of dust during construction and demolition and noise mitigation measures having regard to BS 5228-1:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites.

## Contaminated Land

I would recommend completing a Phase I assessment to understand if contamination onsite is likely. If contamination is suggested onsite, a Phase II report and remediation would be required and submitted to the Local Planning Authority before development begins.

## **6. Summary of Issues**

The starting point for determining a planning application is the Development Plan, in this case the Brentwood Local Plan 2016-2033. Planning legislation states that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant material considerations for determining this application are the National Planning Policy Framework 2021 (NPPF) and National Planning Practice Guidance (NPPG). Although individual policies in the Local Plan should not be read in isolation, the plan contains policies of particular relevance to this proposal which are listed in section 4 above.

### Green Belt

#### Principle

The aims and objectives of Local Plan policy MG02 are in compliance with the National Planning Policy Framework, Chapter 13. This sets out that the Government attaches great importance to the Green Belt; inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations (paras 147 & 148). 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.

Green Belt serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

However, paragraph 145 of the NPPF sets out a limited list of development that can be acceptable subject to meeting other criteria. Most relevant to this proposal is :

- (g) Limited infilling or the partial or complete redevelopment of previously developed land whether redundant or in continuing use (excluding temporary buildings) which would: -

-not have a greater impact on the openness of the Green Belt than the existing development ; or

-not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

No affordable housing is proposed and the second point can therefore be discounted. It is considered that the site falls within the definition of previously developed land. The policy test as to whether the proposal is inappropriate development is therefore reliant on it not having any greater impact on the openness of the Green Belt compared to the existing situation.

#### Openness and purposes of including land in the Green Belt

There is no official measure to assess openness and the NPPF even in its revised form does not suggest a method to compare existing and proposed development or judge openness. This issue was addressed to some degree in National Planning Practice Guidance (001 Reference ID: 64-001-20190722) published in late 2019. That guidance is based on caselaw and indicates that assessing the impact on openness:

“requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects – in other words, the *visual impact of the proposal may be relevant*, as could its volume;

- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- the degree of activity likely to be generated, such as traffic generation.”

It is to be noted that this is guidance rather than policy but it gives examples of matters which ‘may need to be taken into account’ which it makes clear are not all embracing or necessarily excludes other matters.

As openness is a visual quality normally considered to be the lack of buildings, officers consider the most appropriate method to assess new build elements to be a visual comparison of the massing, spread and position of existing and proposed buildings.

The existing lawful buildings v proposed buildings :

To the southwest of the site the access leads to two buildings one (labelled building 4) a modest stable range for four horses, dual pitched roof and 3.5 metres in height the second building (labelled building 2) is part flat roof at 3.7 metres high and part dual pitch roof at 5.4 metres in height.

Set within the northeast part of the site is a long stable range (building 3) with a mixture of roof designs pitched and lean-to style roof with a maximum height of 3 metres and 30 metres wide. The car port (building 6) which serves the main dwelling is put forward within the redevelopment of the site, however this is a modest two bay car port extending 4 metres in height and set between the commercial unit and the existing dwelling on site.

The existing buildings are of a modest scale, and as indicated on the existing street scene drawing, sit well within the semi rural context and setting. The proposed development would result in a significant increase in the mass as a result of the increase in height compared to the existing buildings with all four proposed dwellings at 6 metres in height which is double the height of the stable range and an average of a 60% increase in height compared to the remaining buildings.

Submitted Plan No. AHUB2202001-13 shows the areas of proposed hardstanding and landscaping. The existing site is predominantly hardstanding with little landscaping and grassed areas. The proposed hardstanding will be within existing areas of hardstanding and the development proposed will be within the existing areas of hardstanding.

A massing model has been provided to show the existing and proposed development, plan AHUB2202001-3D. The massing model helps to show the visual and spatial impact of the proposed development on the openness of the Green Belt. The model clearly shows the significant increase in bulk compared to the existing development due to the increase in height and volume. This will result in the proposed development having a greater impact upon the openness of the Green Belt than the existing buildings.

The building to the rear of the existing dwelling is discounted as set out within the refusal of application 21/01557/FUL, separate enforcement action will be taken.

It should be noted that comparing numerical data for footprint, floorspace and volume has no policy basis and can be misleading; however such comparisons can assist when considering volume, meaning massing. The comparisons are set out below:

	Footprint (sqm)	Volume (cubic metres)	Height (m)
Existing	437.7	1280.82	3.0 (lowest)
Proposed	337.4	1509.56	6

These figures differ from that put forward by the applicant who included both an existing dwelling to be retained and a further building that does not benefit from a lawful status.

The increase in terms of volume would be 18%, and the increase in height compared to the lowest height of building within the site is 200%. The proposed massing model shows that the proposed development would be set further forward than the existing building and not within a similar location, they would be more prominent within the thoroughfare and Green Belt setting.

The proposal has been submitted following pre-application advice which clearly stated that the argument put forward for the dwellings would only be partially visible from the road as the site level drops as you access into the site would not justify the increase in scale and height of the development. The assessment of impact upon the Green Belt is not based on what is visible from the public realm but the increase of development both visually and spatially.

The increase in scale, height and spread of the proposed development compared to the existing lawful build form would have a greater impact on the openness of the greenbelt than the existing situation and as such conflict with para 145 (g). It would therefore be inappropriate development within the Green Belt. It would therefore rely on 'very special circumstances' to clearly outweigh the harm identified.

#### Design, Character and Appearance

The proposed dwellings are similar in terms of their design features with gable designs and oak framed porches. Plot 1 proposes an oak framed porch, front gable with a glazed feature and dormer style window to the front and rear. Plot 2 proposes a single storey dwelling with a vaulted ceiling and rear gable glazing feature. Plot 3 proposes an oak open porch with dormers to the front and rear as well as a gable feature to the rear with feature glazing. Plot 5 proposes a gable feature to the front with full height glazing.

A material palette has been submitted with natural wood, timber feature, red/brown colours, multi-red brickwork which is considered acceptable. Overall, the design of the development is appropriate for its setting.

The proposed design and material palette is considered to be acceptable for the semi-rural location of the site. The development, subject of condition, will not have an unacceptable detrimental impact on visual amenity or the character and appearance to the surrounding area therefore the proposal is compliant with policy BE14 of the Local Plan.

### Residential Amenity

The site is formed around a central commercial unit which is not with the ownership of the applicant. The proposed dwellings would not lead to a harmful impact upon the existing commercial unit as residential development already exists around within the area. The environmental health team have been consulted and do not consider the existing commercial unit to result in harm to the existing residential use or proposed level of residential use on the site and proposed an internal noise condition to be achieved to ensure the quality of living conditions for any future occupiers.

The most immediate neighbour is Crow Green Farm, which converted the building closets to Clay Hall into residential accommodation. Plot 5 will be closets to the neighbouring dwelling, set back from its rear building line. As shown on drawing AHUB2202001-26 the section of plot 5 is not of a scale, nor will it have a fenestration that will result in a detrimental impact upon the living conditions of the adjacent neighbours by way of loss of privacy, loss of light, overbearing impact or general disturbance from the development itself.

The proposed development is suitably distanced as to not amount to any overbearing impact, loss of light or outlook or create any undue overlooking or loss of privacy to the adjacent occupiers. The proposed development is compliant with policy BE14 of the local plan.

### Living Conditions

Policy HP06 of the Local Plan requires new development to accord with the space standards set out within the DCLG technical housing standards.

All dwellings proposed and existing will be provided over 100sqm of private amenity space which is considered a guidance amount within the Essex Design Guide for dwellings of this size. All dwellings will be provided with an unoverlooked amenity area and good quality living conditions. The internal space of each bedroom and internal floor space also complies with the minimum standards set out within the DCLG.

## Parking and Highway Considerations

No objections have been received on the re-use of the two existing accesses into the site which are either side of the commercial unit, and all dwellings including the existing will be provided with at least two off street parking spaces which accords with the current parking standards. Therefore, the proposal complies with policy BE13 of the local plan.

## Public Right of Way

Chapter 8 Para. 100 of the NPPF states that planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provides better facilities for users.

Pre-application advice was sought prior to the submission of the current application which highlighted as before within the previous application of 20/00764/FUL that the public right of way that crosses through the site as shown on the block plan should be kept open and accessible within any development submitted. The information provided was not considered and the proposed development clearly is set on top of the public right of way obstructing any future access. No permission has yet been granted by PROW authority nor permission in principle.

Objection has been raised on the basis the development would encroach on and obstruct a Public Right of Way footpath no.101 (Brentwood), and if permitted could set precedent for other developments to be permitted detrimental to the safety of all highway users by prevent access.

The application includes the demolition of equestrian and agricultural buildings, subdivision of the site and construction of four dwellings. The Highway Authority do not object to the principle of the development. However, the highway record has been examined and it has been confirmed that part of the Public Right of Way Footpath no.101 Brentwood runs through the site.

Comments have also been received from PRow department and confirmed the applicant is required to apply for an order which involves various consultations before development can be permitted and cannot be dealt with as a planning condition as this would be at the heart of the planning application put forward. Therefore, until such time as an Order is confirmed, the Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PRow is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no 101 (Brentwood) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The proposal conflicts with para.100 of the NPPF as the proposal does not protect or enhance the public right of way No.101 nor does it provide better facilities. The proposal



obstructs the PRow and therefore contrary to the Government's aims and objectives set out within Chapter 8 of the NPPF.

### Trees and Landscaping Considerations

Drawing AHUB2202001-13 shows the changes to the hard standing areas to be turned to grassed areas. No details of the proposed landscaping have been included so would be conditioned to provide further planting to the rear of the site. Informal discussion with the arboricultural officer confirms there is no concern to the ecology of the site nor harm to the surrounding trees and landscaping.

### Noise and Contamination

The site is within a rural area with predominantly residential surrounding the site. There is a nearby commercial unit, which is for the repairing of vehicles and used during the day time hours. No objection has been raised on the basis of surrounding noise.

The site is a former riding yard and arena with potential contamination and therefore a phase I contamination report has been requested as a condition if the application is to be approved.

### Sustainability Considerations

In order to ensure the proposal provides compliance with the sustainability policies aims and objectives, conditions are recommended. The new local plan requires developments to be more sustainable, meeting the building regulation requirements and minimising heat risk and therefore conditions will be attached if the application is to be approved requiring the dwellings to provide electric car charging points and waste water management.

The proposal is considered to comply with the aims and objectives of policies BE02, BE04, BE07 of the BLP.

### Planning Balance

In the newly adopted Local Plan the Council's record of housing delivery is such that the tilted balance be invoked, however the policies in the framework in so far as they relate to the Green Belt, provide a clear reason for refusing the development proposed, presumption in favour of sustainable development does not apply.

The site also has a 'fall back' position for the construction of:

20/00702/FUL: Demolition of existing storage buildings and construction of one detached dwelling. – Permitted 11.09.2020

20/00764/FUL: Redevelopment of riding school and stables to provide three dwellings.  
– Permitted 14.08.2020

The extant permissions hold material weight in determining this application. The current proposal is for the re-development of the site as a whole instead of two separate developments. The extant permissions allowed for one dwelling within the location of building 2 and 4 which was of a chalet style dwelling and larger in scale as the buildings were taller within this area of the site. The development is located where building 3 was modest in scale, single storey dwellings with low ridges and set near to the existing built form. The proposed development was set back from the public realm within the site and would not result in more harm to the openness of the Green Belt than the existing built form.

The current proposal spreads development across the site away from the existing built form and would have a greater impact upon the openness of the Green Belt than the current situation and extant planning permissions.

There would be associated social and economic benefits although some of these would be limited by virtue of time and the scale of the proposal. But these benefits would be insufficient to outweigh the conflict with the development plan as a whole.

### Conclusion

The proposal represents inappropriate development in the Green Belt by virtue that it is more harmful to the openness of the Green Belt than the existing situation. Extant permissions would have a less harmful impact and are considered not to be inappropriate development. As such, no very special circumstances exist that outweigh the harm identified.

## **6.0 RECOMMENDATION**

The Application be REFUSED for the following reasons:-

1

The proposed development represents inappropriate development within the Green Belt as it would have a greater impact on the openness of the Green Belt than the existing development, as a result of its scale, height, spread and mass. The proposal will result in a material reduction in the openness of the Green Belt. As such, the proposed development is contrary to National Planning Policy Framework 2021 paragraphs 149 and 150 and planning policy MG02 of the Local Plan. Other matters that may weigh in favour of the proposed development have been considered, but singularly and collectively they do not clearly outweigh the harm to the Green Belt. Therefore 'very special circumstances' to justify inappropriate development in the Green Belt do not exist.

2

The proposed development results in an obstruction of a Public Right of Way No.101 Brentwood with no confirmed Order to remove or divert the PRow. The proposed development is contrary to Chapter 8, Para.100 of the National Planning Policy Framework 2021 which requires PRow to be protected and enhanced.

Informative(s)

1

The drawing numbers listed above are relevant to this decision

2

The following development plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: BE02, BE04, BE07, BE11, BE13, BE14, MG02, HP06; National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

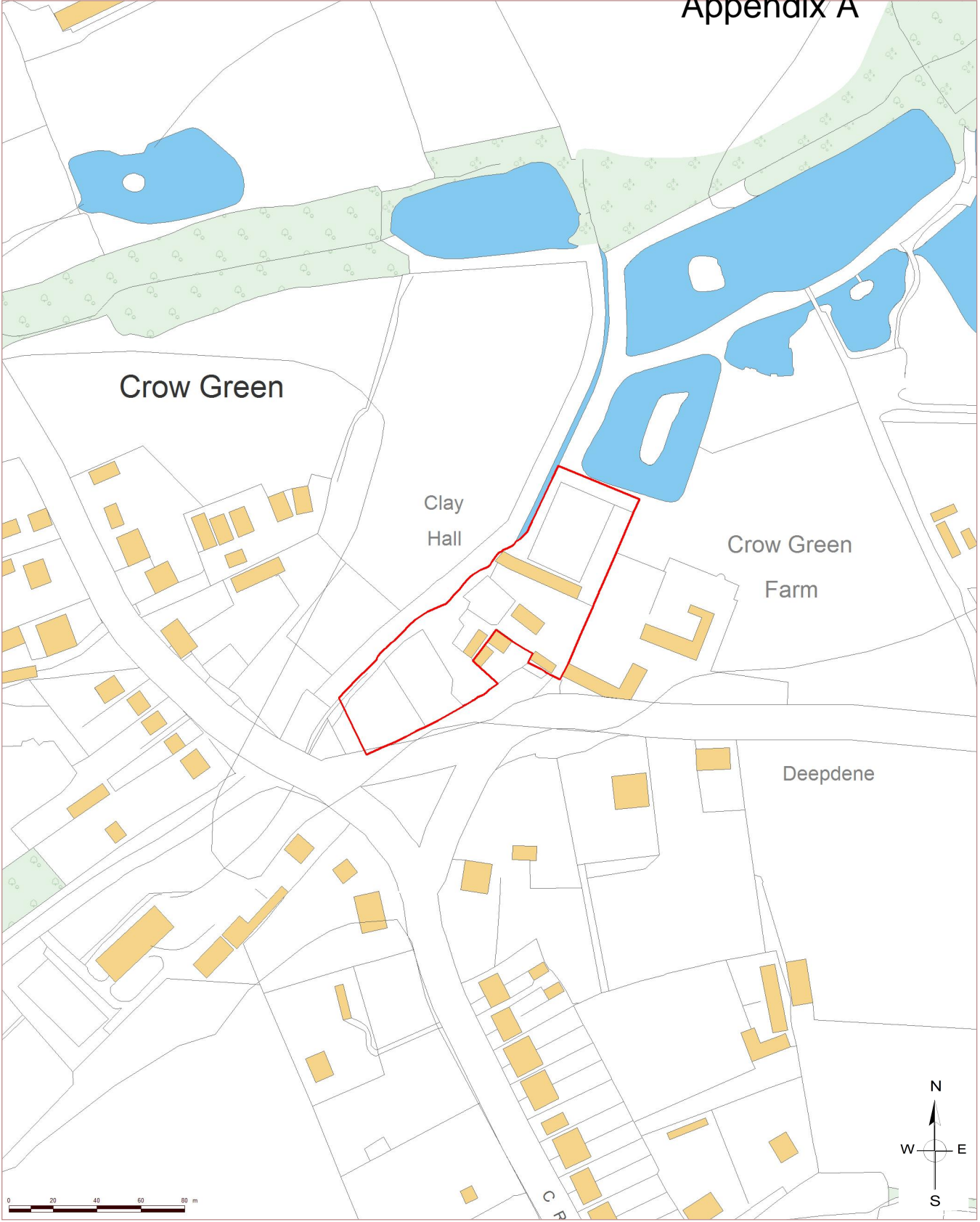
3

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. Further advice may be sought from the Local Planning Authority via the pre-application service prior to the submission of any revised scheme. Details of the pre-application service can be found on the Council's website at <https://www.brentwood.gov.uk/planning-advice-and-permissions>

*BACKGROUND DOCUMENTS*

**DECIDED:**

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Title : Clay Hall, Days Lane, Pilgrims Hatch, Brentwood, Essex CM15 9SJ

22/00559/FUL

Scale at A4 : 1:2500

Date : 20th September 2022

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



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**SITE PLAN ATTACHED**

**GLENGARTH, TALLY-HO DRIVE, HUTTON, BRENTWOOD, CM13 1SP**

**RAISING RIDGE HEIGHT TO CREATE FIRST FLOOR WITH REAR AND FRONT DORMERS AND ROOF LIGHT TO FRONT. DEMOLISH EXISTING REAR GABLE TO BE REPLACED WITH FLAT ROOF AND LANTERN. NEW OPEN STORM PORCH OVER THE EXISTING FRONT DOOR. PITCHED ROOF TO EXISTING GARAGE.**

**APPLICATION NO: 22/01011/HHA**

<b>WARD</b>	Hutton East	<b>8 Week date</b>	6 September 2022
<b>CASE OFFICER</b>	Jane Lowe	<b>Extension of time</b>	30 September 2022

**Drawing no(s)  
relevant to this  
decision:** 1724 PL01; 1734 PL02; Site Plan;

This application has been referred to committee at the request of Cllr Hossack for the following reason:

*The recommendation for refusal is understood in the context of policy. However, the policy is being applied based on the 'history of the site' namely footprint of the original 1950 building, effectively a 'holiday shack' at this plotlands site. When using this as a baseline it provides limited scope for expansion which the applicant needs at this time. However other properties have differing baselines i.e. larger starting positions and therefore larger dwelling already exist in the immediate vicinity. Therefore, some of the rejection reasons such as based on ridge height negate the fact the LPA has previously approved dwellings in the immediate vicinity with much larger ridge heights.*

*The issue is the NPPF policy forces planning officers to compare and work from the original dwelling and makes no provision of the context of the app in accordance with what is already there in terms of scale of neighbouring properties and street scene elevations. Therefore the 'impact on the appearance of the area' is not an issue, in fact from a design perspective it is an enhancement.*

*Previous decisions need to be considered here, the report quotes the Essex Design Guide for dormers and goes onto state that other dormers in the vicinity do not follow this guidance. The dwelling being surrounded by other larger dwellings on this estate means it cannot physically have detrimental impact on*

*the openness of the GB. The report also states that neighbouring amenity is unaffected i.e. if there was to be a detriment to the GB then it would affect the neighbouring amenity.*

*In short, I do not believe the recommendation gives account for the reality of the present situation and lacks fairness. I would be most appreciative if the cttee could visit the site to see the present reality at this location (which includes several new builds on empty plots) and then debate my points above.*

## **1. Proposals**

Planning permission is sought to raise the ridge of an existing bungalow and add two front dormers and a rear dormer with single rooflights to the front and rear, removal of an existing rear gable, replacing it with a flat roof, providing 2 roof lanterns over the existing kitchen and lounge, continuing the flat roof across the whole rear elevation creating a rear canopy behind the existing garage, the proposed flat roof wraps around over the existing garage which will be raised to the same level, plus the construction of an open porch with a gable roof and alterations to fenestration

### **Site Description**

The application dwelling is on the northern side of Tally Ho Drive, a private road to the south of Rayleigh Road. It benefits from previous additions and now forms a 3 bedroomed detached bungalow with an attached garage.

Tally Ho Drive was originally rural plotland, during the early C20th, where pockets of land were sold for the development of weekend cottages, holiday bungalows or small holdings in rural areas.

The locality is washed over by the Green Belt to a significant distance. This area is characterised by modest bungalows and chalets set back from the main highway with many having had extensions that have been erected under permitted development rights.

This application follows a recent application 22/00168/HHA which was refused on green belt and design grounds. This proposal is for similar works but in addition now also includes 2 front dormers. The previous application which was refused on the following grounds:

1. The proposed extensions, due to its size when combined with a previous extensions, would amount to a disproportionate addition in relation to the size of the original dwelling. As such it would represent inappropriate development in the Green Belt that would have materially greater impact on the openness of the Green Belt than the original dwelling. The proposal therefore conflicts with Brentwood Local Plan 2016-2033 Policies MG02 and Chapter 13 of the NPPF as



regards to development in the Green Belt. There are no matters in support of the application which would clearly outweigh the harm the development would cause through inappropriateness and reduction in openness of the Green Belt, within which the site is located. Therefore, no very special circumstances exist to justify the grant of planning permission for the inappropriate development.

2. The rear dormer window is of an unacceptable design, size and bulk that would be sufficient to detract from the character and appearance and the visual amenity of the surrounding area of the host dwelling. The proposal is in conflict with policy BE14 of the local plan and the design principles of the NPPF and NPPG.

That application was determined after the adoption of the new local plan in March 2022 and there have been no changes in planning policy since that time.

## **2. Policy Context**

The Brentwood Local Plan 2016-2033

The Plan was adopted as the Development Plan for the Borough on 23 March 2022. At the same time the Brentwood Replacement Local Plan, August 2005 (saved policies, August 2008) was revoked.

- Policy MG02 Green Belt
- Policy BE14 Creating Successful Places

National Planning Policy and Guidance

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)

## **3. Relevant History**

- BRE 281/50 Additions – refused
- PD/0530/63 Conservatory – (exempt)
- BRE/130/74 Extension to and re-roofing of bungalow
- BRW/645/81 Single storey rear extension and garage - Refused
- BRW/1024/81 Garage at side, front porch
- BRW 254/87 Rear Extension – no drawings
- 22/00168/HHA: Raising ridge height to create first floor with rear dormer and rooflight to front. Demolish existing rear gable and construct flat roof over kitchen and lounge, add gable open porch to front, raise garage roof and alterations to fenestration -Application Refused

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

Where applications are subject to public consultation those comments are summarised below. The full version of each neighbour response can be viewed on the Council's website via Public Access at the following link:

<http://publicaccess.brentwood.gov.uk/online-applications/>

- No comments received

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

- None Applicable

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

##### Green Belt

The starting point for determining a planning application is the Development Plan, in this case the Brentwood Local Plan 2016-2033. Planning legislation states that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant material considerations for determining this application are the National Planning Policy Framework 2021 (NPPF) and National Planning Practice Guidance (NPPG). Although individual policies in the Local Plan should not be read in isolation, the plan contains policies of particular relevance to this proposal which are listed in section 2 above.

Policy MG02 of the Local Plan states that the Green Belt will be preserved from any form of inappropriate development so that it continues to maintain its openness and serve its key functions and permission will not be granted for inappropriate development unless very special circumstance exists. The policy also states that all development proposals will be assessed and considered in accordance with NPPF green belt policy. Paragraph 149 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt with some exceptions including:

*c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building*

When judging whether additions over and above the size of the original building are disproportionate, the NPPF does not set out a method of assessing increased size or a threshold for judging whether that increase is disproportionate. Whilst the proposals do not further increase the footprint of the dwelling planning history details the property has already benefited from various extensions.

A planning statement submitted in support of the application claims that the original holiday cottage, known as Happy Cott, was removed, and in support of this an Ordnance Survey extract from 1960 has been submitted showing a vacant plot, though another extract provided by the applicant from the same time does show a building on the site. The planning statement refers to the previous application from 1974 (reference BRW130/74) for the construction of single storey side extensions incorporating a bedroom, bathroom and kitchen and new roof. The applicant theorises that the 'original dwelling' known as 'Happy Cot' was replaced not extended at that time. The agent claims that the dwelling's plinth and window reveals would be inconsistent if the extensions were constructed at different times. He therefore claims that the dwelling known as 'Glengarth' was totally re-built at that time, and the larger, 1974 dwelling should be considered to form a new original building as detailed in Para 3.17 as highlighted in Yellow on Page 12 of the statement.

Based on this claim in calculating the footprint of the existing dwelling as it stands presently with the current rear additions, garage and front porch the total additional footprint of the dwelling has increased incrementally by 80.17% which would amount to a disproportionate addition in relation to the size of the original dwelling.

Original (based on 1974 footprint)	Extensions	Total footprint	Percentage increase
80.82 m <sup>2</sup>	64.79 m <sup>2</sup>	145.61 m <sup>2</sup>	80.17%

However, notwithstanding the above, records for application BRW130/74 indicate the proposal incorporated extensions on the west flank of the dwelling forming a bedroom, bathroom and kitchen. No records are provided within the application to show the existing floor layout, however Building Regulation records do indicate the works progress with the commenced on 30/5/74, excavations on 31/5/74, concrete 28/6/74 etc and the final completion of works on 9/6/78. All records detailed for Building Regulations, including notes following site inspections, refer to extensions and new roof, with no mention of a re-building of the dwelling, therefore based on this evidence the 'dwelling' does not appear to have been a re-build/replacement dwelling from 1974, but an extension to the 1950s original. Therefore, that smaller 1950s building remains the baseline for judging 'original' in the context of green belt policy. The total of extensions already carried out and now proposed need to be assessed as whether they fail the 'disproportionate' test set out in green belt policy.

Later history for the site details a 1981 application (ref BRW/645/81) for a proposed single storey side/rear extension (Kitchen & Utility) and garage, this application was refused on green belt grounds:

*This application is unacceptable seeking to further increase the habitable floorspace of the dwelling, which if taken together with previous extensions represents an overall increase of by approximately 75% (i.e. 591 sq ft).*

591sq ft in metric equates to approx. 54.9 m<sup>2</sup>. This measurement compares to the habitable internal floor area detailed within the existing drawings submitted with this application for all the rooms on the west flank elevation - bedroom 3 / bathroom / utility / part kitchen and porch, plus the proposed side extension to the kitchen as applied for by BRW/645/81. The 1981 proposal was therefore considered to be an extension of a previously extended dwelling and undermines the theory of the 1974 replacement.

A subsequent application was submitted following that refusal applying solely for the attached garage and front porch (BRW1024/81) which was approved with restrictive conditions applied for the garage use. Application ref BRW 254/87 was approved for single storey extension at rear but no drawings are held for this application, only the decision notice where reference is also incorporates restrictive conditions for the garage use. Notwithstanding the information put forward, application ref BRW/645/81 was refused on green belt grounds and it would appear the original dwelling was not demolished and re-built.

Therefore, based on historic planning evidence it would appear the 'original dwelling' known as Glengarth would appear to be two bedrooms and Playroom as detailed within the existing layout, where the following footprint calculation shows:

Original	Existing	Percentage increase
45.18m <sup>2</sup>	145.21	221.40%

Case Law [Sevenoaks District Council v Secretary of State for the Environment and Dawe (1997)] determined that a detached garage should be considered as part of the dwelling, in the sense that it was a normal domestic adjunct. Therefore, these figures include the existing attached garage which is considered to be adjunct to the dwelling. The property benefits from extensions which calculate to an increase in the footprint by approx. 221.40% therefore the dwelling has already been substantially extended.

### Design, Character and Appearance

Notwithstanding the objections on green belt grounds, the proposal needs to be considered on design grounds. This proposed development compares with the previous application to increase the main ridge line of the roof by approx 1.34 metres (comparison between EX01 and PL01) which is considered acceptable in design terms.

The rear gable roof would be removed and a rear dormer is proposed spanning 7.2m in width across the rear elevation of the dwelling; at the front two pitched roof dormers are proposed to create first floor accommodation within the enlarged roofspace.

The two front dormers would span a width of 2.4m when measured externally wall to wall, they are set down from the roof and are evenly spaced in relation to the porch and existing ground floor windows. The dormers and proposed porch canopy share the same pitch angle and are found acceptable in design terms.

Policy BE14 Local Plan supports the delivery of high quality attractive design and references The Essex Design Guide. This sets out the requirements for dormer windows stating *dormers to be a minor incident within the roof plane, with a purpose of allowing light into the roof space and not to gain extra headroom over any great width. Dormers should not be located close to verges of hips and should be gables, cat-slide or flat lead roofs.*

Whilst the proposed front dormers would comply with this guidance, the proposed rear dormer with a length of 7.2m would be considered as inappropriate scale and size in relation to the roof slope and would not appear subservient to the existing building or a minor incident within the roof plane. It is considered as an obtrusive addition that would detract from the character and appearance of the host dwelling. It is noted the neighbouring property Rose Cottage has an existing front dormer.

The roof of the existing garage would be replaced with a raised roof with a maximum height of 3.55m with a raised front pitch which continues with a flat roof over the existing single storey rear and side elements, creating a canopy overhang to the rear, plus the insertion of 2 raised roof lantern serving the lounge and kitchen. Two further rooflights are proposed to serve the existing windowless central playroom and first floor landing area. Alterations to the fenestration include the insertion of a patio door within the rear garage and a side window within the raised flank wall these proposals would be acceptable in design terms.

In design terms whilst the proposal is acceptable with regard to the proposed ridge raise, front dormers, porch canopy and roof alterations, the rear dormer would fail to comply with Policy BE14 of the Brentwood Local Plan.

### Residential Amenity

The host dwelling is set in a private road and is sited between 2 detached bungalow/chalets.

Rose Cottage is sited on the Western boundary and is set forward to the application dwelling nearer to the private road. Rose Cottage has an existing garage sited adjacent to the side boundary which is attached to the dwelling. The front facing dormers would overlook the private Road and the side garage with the rear dormer facing into the garden of the host dwelling. The proposal is not of a size or design that would result in a harmful impact upon the living conditions of the neighbouring occupiers by way of overbearing impact, loss of privacy or loss of light.

Foxleigh shares a common boundary on the east side of the application dwelling, the properties share the same building line with the dwelling set away 3.2m away from the boundary. The proposal would not be of a size or design that would result in a harmful

impact upon the living conditions of the neighbouring occupiers by way of overbearing impact, loss of privacy or loss of light.

The proposed development is suitably distanced as to not amount to an overbearing impact, loss of light or outlook or create any undue overlooking or loss of privacy to the adjacent occupiers. The proposed development is compliant with policy BE14 of the local plan.

### **Comments on matters raised in referral to committee**

The scope for extensions at the site is constrained by Green Belt policies and the potential for permitted development extensions appears limited. The original dwelling was small in comparison to neighbouring properties and therefore the starting point and scope for extension was limited. It has been significantly extended in the past to the point where further additions would be disproportionate.

The Brentwood Local Plan states that the authority will implement national green belt policies (the NPPF) and those policies do not support proposals which, in combination with previous and proposed extensions, result in disproportionate extensions to the original building (defined as either as it existed in 1948 or if newer as originally built). These policies concentrate on the dwelling itself and the green belt assessment does not have regard to the size of neighbouring properties. The approach taken by established national policy on green belt is not beyond criticism but when determining applications, decision makers, be they officers, committees or appeal inspectors, need to consider policies as they are written. No matters amounting to very special circumstances exist and therefore the application is recommended for refusal.

### **Conclusion**

The proposed development constitutes inappropriate development in the Green Belt which the NPPF determines is 'by definition harmful' and would harm the openness of the Green Belt, by way of raising the ridge and adding front and rear dormers to accommodate additional first floor habitable floorspace. The applicant has not demonstrated very special circumstances to justify permission for inappropriate development in this case. The proposals rear dormer fails to comply with Policy BE14 by creating a dormer which is inappropriate in scale and size and would not appear subservient to the existing building. It is considered as an obtrusive addition that would detract from the character and appearance of the host dwelling

The proposal would therefore be contrary to Policy MG02 and BE14 of the Brentwood Local Plan and the NPPF.

## **7.0 RECOMMENDATION**

The Application be REFUSED for the following reasons:

1 R1 U0047679 Inappropriate development in the Green Belt

The proposed extensions, due to its size when combined with a previous extension, would amount to disproportionate additions in relation to the size of the original dwelling. As such it would represent inappropriate development in the Green Belt that would have materially greater impact on the openness of the Green Belt than the original dwelling. The proposal therefore conflicts with Brentwood Local Plan 2016-2033 Policies MG02 and Chapter 13 of the NPPF as regards to development in the Green Belt.

There are no matters in support of the application which would clearly outweigh the harm the development would cause through inappropriateness and reduction in openness of the Green Belt, within which the site is located. Therefore, no very special circumstances exist to justify the grant of planning permission for the inappropriate development.

2 R2 U0047680 Unacceptable design, size and bulk of rear dormer

The proposed rear dormer window would be of an unacceptable design, size and bulk that would be sufficient to detract from the character and appearance and the visual amenity of the surrounding area of the host dwelling. The proposal is in conflict with policy BE14 of the local plan and the design principles of the NPPF and NPPG.

Informative(s)

1 INF05 Policies

The following development plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: BE14, MG02 National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

2 INF20 Drawing Numbers (Refusal)

The drawing numbers listed above are relevant to this decision

3 INF25 Application Refused Without Discussion

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. 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 : Glengarth, Tally Ho Drive, Hutton, Brentwood, Essex CM13 1SP

22/01011/HHA

Scale at A4 : 1:1250

Date : 20th September 2022

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



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SITE PLAN ATTACHED

**MEADOW VIEW, MURTHERING LANE, NAVESTOCK, ROMFORD ESSEX RM4 1HL**

**CONSTRUCTION OF A HENGE**

**APPLICATION NO: 22/01082/FUL**

**WARD** Brizes & Doddinghurst **8 WEEK DATE** 21 September 2022

**PARISH** Navestock **Extension of time** 5 October 2022

**CASE OFFICER** Mr Mike Ovenden

**Drawing no(s) relevant to this decision:** ACDL-SUN/DIAL-001 P02; ACDL-SUN/DIAL-002 P01;  
ACDL-SUN/DIAL-003 P01; ACDL-SUN/DIAL-004 P01;  
ACDL-SUN/DIAL-005 P01; ACDL-SUN/DIAL-006 P01;  
ACDL-SUN/DIAL-007 P01; ACDL-SUN/DIAL-008 P01; SITE  
LOCATION PLAN 1:2500;

This application has been referred to committee at the request of Councillor Keith Parker for the following reason:

This application is for a sculpture which has been entered for the Turner Prize. It is of some size and considered by many to be a significant work of art. I believe the committee have a right to decide it's future.

## **1. Proposals**

This application is for the retention of a largely completed development. The henge has an overall diameter of 36 metres, and is constructed from 30 concrete blocks, each standing four metres tall, topped by 30 horizontal 'lintol' blocks adding a further metre in height. In the centre is a vertical pillar standing up to six metres above ground level. Within the main 'circle' is a smaller semi circle built on similar principles.

## **2. Policy Context**

The Brentwood Local Plan 2016-2033

The Plan was adopted as the Development Plan for the Borough on 23 March 2022. At the same time the Brentwood Replacement Local Plan, August 2005 (saved policies, August 2008) was revoked.

- Strategic Policy MG02: Green Belt
- Policy BE12: Mitigating the Transport Impacts of Development

- Policy BE13: Parking Standards
- Strategic Policy BE14: Creating Successful Places

#### National Planning Policy and Guidance

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)

### **3. Relevant History**

- 18/01635/FUL: Construct replacement single detached dwelling with basement and sunken garden to front and bridged entrance (revised application to 14/00629/FUL) Retrospective -Application Refused
- 20/01784/FUL: Use of 4 x mobile homes during COVID 19 Pandemic. (Retrospective) -Application Permitted
- 21/01472/S191: Application for a Lawful Development Certificate for an Existing use or operation or activity for the use of the stables outbuilding as a self-contained residential dwelling -
- 21/01473/FUL: Construction of a detached dwelling as approved under 14/00629/FUL with addition of basement and associated landscaping (part retrospective) as well as construction of an area of hardstanding and fencing to the north of the dwelling (retrospective) -Application Refused
- 22/00035/FUL: Variation of condition 2 of application 20/01784/FUL (Use of 4 x mobile homes during COVID 19 Pandemic. (Retrospective) for the variation for permission to be extended to 10/01/2023. -Application Permitted
- 21/02078/FUL: Construction of a henge -Application Refused

### **4. Neighbour Responses**

- NA

### **5. Consultation Responses**

- **Parish Council:**

Navestock Parish Council objects the above application as was submitted for the original application 21/02078 FUL, on the same grounds and cause for concern that the Henge has already been advertised as a tourist attraction.

There are discrepancies on the application stating that the work or change of use has not started. This is clearly untrue.

The structure is stated as being constructed of concrete. Surely this would require foundations and would need to conform to building regulations being such a large structure.

Although the henge is considered not to encroach on PROW 25 as first believed, it remains an inappropriate development in greenbelt under policies GB1 and GB2 with no very special circumstances as found by Brentwood Borough Council in its previous application.

Any such development as this is, harms the character of the rural greenbelt area and is an encroachment of greenbelt land. It would fail to preserve the character of the rural land.

The henge development conflicts with Brentwood County Councils Replacement Local Plan Policies CP1, GB1, GB2 and its objectives with regard to development in the Greenbelt.

With regards to employment and hours filled in on the application form, this too raises questions as having publicly been advertised as a public attraction at £10 a visit, it would be naturally assumed a person will take the entrance fee, allow access and as advertised on the link below has opening hrs.

[https://www.google.co.uk/search?q=unhanged+tourist+attraction&ie=UTF-8&oe=UTF-8&hl=en-gb&client=safari&dlr=1&sei=lzW8Yrb\\_H5CV8gLP2YbQCw#dlr=1&ikt=LocalPoiAbout&lpg=cid:CglgAQ%3D%3D&trex=m\\_t:icl\\_akp,rc\\_f:rln,rc\\_ludocids:13128219512533756075,ru\\_gwp:0%252C7,ru\\_lqi:Cht1bmhpbmdlZCB0b3VyaXN0IGF0dHJhY3Rpb25lzf6ksoW5gIAIWicQABABEAIYARgCIht1bmhpbmdlZCB0b3VyaXN0IGF0dHJhY3Rpb26SARJ0b3VyaXN0X2F0dHJhY3Rpb26qASMQASoflht1bmhpbmdlZCB0b3VyaXN0IGF0dHJhY3Rpb24oAA,ru\\_phdesc:f0n9rL8NWbg,trex\\_id:A1m6Me](https://www.google.co.uk/search?q=unhanged+tourist+attraction&ie=UTF-8&oe=UTF-8&hl=en-gb&client=safari&dlr=1&sei=lzW8Yrb_H5CV8gLP2YbQCw#dlr=1&ikt=LocalPoiAbout&lpg=cid:CglgAQ%3D%3D&trex=m_t:icl_akp,rc_f:rln,rc_ludocids:13128219512533756075,ru_gwp:0%252C7,ru_lqi:Cht1bmhpbmdlZCB0b3VyaXN0IGF0dHJhY3Rpb25lzf6ksoW5gIAIWicQABABEAIYARgCIht1bmhpbmdlZCB0b3VyaXN0IGF0dHJhY3Rpb26SARJ0b3VyaXN0X2F0dHJhY3Rpb26qASMQASoflht1bmhpbmdlZCB0b3VyaXN0IGF0dHJhY3Rpb24oAA,ru_phdesc:f0n9rL8NWbg,trex_id:A1m6Me)

The article link below highlights the history of this structure and the site which it lies within has previous planning breaches.

<https://roscommonherald.ie/2022/06/11/stonehenge-and-the-rossie-connection/>

It is also noted that the applicant Mr McNamara has not submitted the name of the owner/agricultural tenant as requested on the application form.

We believe as a Parish Council and concerns aired by the residents we represent, it calls into question its purpose and possible future consequences if this development is allowed.

- **Highway Authority:**

The proposal is on land that is shared with a Public Right of Way footpath. The Essex Highways Public Right of Way Team have also examined the application and they do not raise an objection to the proposal as submitted, therefore from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following condition:

1. The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over footpath 25 (Navestock) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

**Reason:** To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

- **Arboriculturalist:** No comments received

## **6. Summary of Issues**

The starting point for determining a planning application is the Development Plan, in this case the Brentwood Local Plan 2016-2033. Planning legislation states that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant material considerations for determining this application are the National Planning Policy Framework 2021 (NPPF) and National Planning Practice Guidance (NPPG), and the similar application refused earlier this year under reference 21/02078/FUL. Although individual policies in the Local Plan should not be read in isolation, the plan contains policies of particular relevance to this proposal which are listed in section 2 above.

The applicant states that the proposal has been revised since the last application to have a different roof treatment to create a top garden area (see drawing ACDL-SUN/DIAL-001 P02).

### Green Belt

The site is in the greenbelt which washes over the locality and continues to some distance away from the site. This is shown on the policies map that accompanies the local plan. The government attaches great importance to the greenbelt. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Green belt is a spatial designation not a qualitative one, and the requirement to protect openness applies just as much to less attractive areas of greenbelt as to attractive countryside. Policy MG02 seeks to implement national green belt policy as set out in the Framework.

The applicant has provided a single page covering letter, claiming the development is an 'engineering operation' that would preserve the openness of the Green Belt due to its low height and high visual permeability. The applicant claims that the development is not inappropriate development in the green belt in accordance with paragraph 150 of the NPPF.

'Engineering operations' are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Therefore,

the proposal needs to be assessed to see if it is an engineering operation. If it is it will need to be assessed against the test in paragraph 150.

The term engineering operation applies in practice to activities altering the profile of land by excavation, embanking or tipping, or alternatively those which change the character of the surface of land by the laying down of hardstanding. However, there is limited guidance in the 1990 Act as to the scope of "engineering operations". At S.336 of the Act it is stated that such operations include the formation and laying out of a means of access to highways. The placing or assembly of any tank in any part of any inland waters for the purpose of fish farming is an engineering operation by virtue of sec.55.4(A). Those examples are quite different from the development subject to this application. It is considered that this development is not an engineering operation and therefore the exception in Paragraph 150 does not apply.

The Planning Act in s.336 provides the following definition of a building: building includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building. The development is constructed on site likely using significant plant and machinery. It cannot be moved without being demolished/taken apart, its weight would be equivalent to attachment to the ground, and there is no indication that the building would not be permanent. It is a building. Paragraph 149 of the NPPF relates to buildings in the green belt. It is considered that none of the exceptions (a) to (g) are relevant to this development. As neither paragraphs 149 or 150 apply, the development is inappropriate development in the green belt.

The development, a significant part of which has already been erected, is a building in the green belt and as indicated above is inappropriate development. The NPPF states:

147. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

148. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The development is significant in its size. Drawing ACDL-SUN/DIAL-001 refers to "Stonehenge 36m diameter". The outer ring comprises 30 vertical 4 m long pillars, these are bridged by 30 lintels each approximately 3.5 metres long by 1 m in height when laid horizontally. Within this outer circle is a semi circle of ten pillars and 9 horizontal lintels (drawing 008 refers to 11 lintels) each one of reduced length in comparison to those in the outer ring. The drawings do not scale accurately to marked dimensions, but taken together indicate the developments circumference to be 36 metres, its height to be five metres tall. A central pillar is indicated to be a metre higher than the rest of the structure (ie six metres high).

The applicant claims the development to be of low height and high visual permeability. The building operations carried out to date have resulted in a structure that has a significant presence on the ground. Due to its dimensions, the size of the pillars and limited gaps between them, the presence of other pillars in the middle and on the opposite side from the viewer, it has a significant opaqueness and not the high visual permeability claimed by the applicant.

Policy BE14 requires proposals to respond to the character and appearance of the surrounding area, protect the amenities of neighbours, are of a high standard of design and have sensitively integrated parking. Policy B12 requires proposals to not have a detrimental effect on the highways network and BE13 to have appropriate levels of parking.

Part of the character of the area comes from its rural situation within the greenbelt and therefore development that harms the greenbelt would harm the character of the area and to that extent be contrary to Policy BE14.

As with the last application, clear information has not been provided on how the development would be used. Previously the suggestion was that it would be enjoyed by the applicant. This reference has been removed from the submission. If not open to public use and/or not attracting sightseers, the proposal would be less likely to harm the living conditions or reasonable amenity of neighbours or create highway or parking issues. The application does not identify any parking. However, were the development to become a public attraction it may give rise to parking or highway issues and would have a greater impact on the character of the area. This is considered to be a significant possibility even if visitors are not actively encouraged. The Parish Council has identified two websites where public information is provided on the development and a fee of £10 per car is indicated (<https://roscommonherald.ie/2022/06/11/stonehenge-and-the-rossie-connection/>)

As indicated above, part of the character of the area is derived from the openness of the site. This is considered above, and the proposal has not demonstrated that this part of its character would be protected and therefore fails Policy BE14.

#### Public Right of Way

Paragraph 100 of the NPPF requires planning decisions to protect and enhance public rights of way and access. This development appears to be on the route of a public right of way (No 25). The applicant has indicated that the objection from ECC highways given at the time of the last application, relating to the public right of way, has been removed, and through the formal consultation process part of determining this application that has proven to be the case. The reason for this change of heart has not been explained. However, in the absence of an objection from the highways authority, the second reason for refusal has fallen away.



## Other matters

The applicant refers to the development as an art feature on the garden land for the dwelling at Meadow View. That “would appear similar to the Achill Henge in Ireland”, erected approximately a dozen years ago. The site does not appear to be part of the curtilage or garden to any dwelling. The applicant has not claimed very special circumstances, and none are considered to exist. The changes to the development since the last application – creation of a top garden area – do not materially alter planning issues.

In summary, the development is inappropriate development in the green belt and material considerations do not amount to very special circumstances that clearly outweigh the harm to the green belt and all other harm and therefore the application is recommended for refusal.

## **7. Recommendation**

The Application be REFUSED for the following reasons:-

R1        U0047377    Inappropriate development in the green belt

The proposal is inappropriate development in the Green Belt that is by definition harmful. It would materially detract from its openness, would represent an encroachment of development in the countryside and would fail to preserve the character of this rural land. No information has been provided on how the development would be used but the development has the potential to become a public attraction and so give rise to parking and highway issues further undermining the character of the green belt. It would therefore conflict with Brentwood Local Plan Policy MG02 and the objectives of the Framework with regard to development in the Green Belt.

The applicant's case has been considered but matters raised collectively do not clearly outweigh the harm to the Green Belt or the other harms identified. Therefore, very special circumstances to justify inappropriate development in the Green Belt do not exist.

### Informative(s)

#### 1 INF05 Policies

The following development plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: MG02, BE12, BE13, BE14, National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

#### 2 INF20 Drawing numbers

The drawing numbers listed above are relevant to this decision

3 INF23 Refused No way forward

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and clearly identifying within the grounds of refusal either the defective principle of development or the significant and demonstrable harm it would cause. The issues identified are so fundamental to the proposal that based on the information submitted with the application, the Local Planning Authority do not consider a negotiable position is possible at this time.


*BACKGROUND DOCUMENTS*

**DECIDED:**

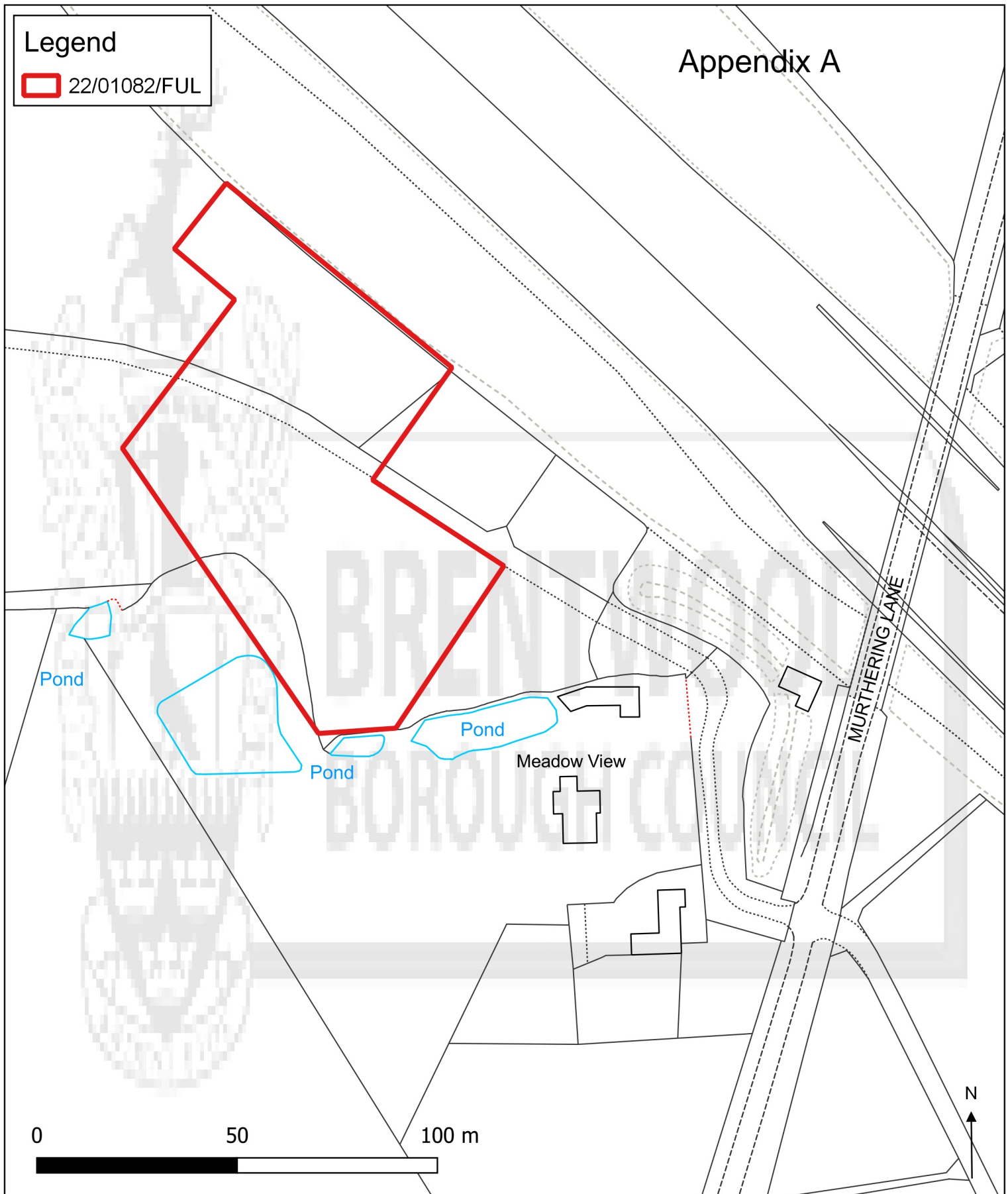


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**Legend**

 22/01082/FUL

**Appendix A**



**MEADOW VIEW, MURTHERING LANE, NAVESTOCK, ROMFORD  
ESSEX RM4 1HL**



Drawing No. : 22/01082/FUL

Scale at A4 : 1:1250

Drawn by : OSJ

Service : Planning

Date : 21st September 2022 © Crown copyright and database rights 2022 Ordnance Survey 100018309

Jonathan Stephenson  
Chief Executive  
Brentwood Borough Council  
Town Hall, Ingrave Road  
Brentwood, CM15 8AY  
Tel.: (01277) 312500

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**SITE PLAN ATTACHED**

## **5G TELECOMS INSTALLATION AT BROCKSPARKSWOOD HANGING HILL LANE HUTTON ESSEX**

**PROPOSED 5G TELECOMS INSTALLATION: 15M HIGH, STREET POLE AND 3 X  
ADDITIONAL ANCILLARY EQUIPMENT CABINETS AND ASSOCIATED  
ANCILLARY WORKS.**

**APPLICATION NO: 22/00842/TEL**

<b>WARD</b>	Hutton South	<b>56 Day date</b>	4 August 2022
		<b>Extension of time</b>	26 September 2022

**CASE OFFICER** Mrs Carole Vint

**Drawing no(s)  
relevant to this  
decision:** BRW22247\_BRW078\_86542\_CM0938\_GA\_REV A/A;  
BRW22247\_BRW078\_86542\_CM0938\_GA\_REV A/A;  
BRW22247\_BRW078\_86542\_CM0938\_GA\_REV A/A;

**The application is reported to the Planning and Licensing committee in  
accordance with the requirements of the Council's constitution.**

### **1. Proposals**

This application relates to a permitted development prior notification proposal for a 15 metre high street monopole and three additional ancillary equipment cabinets (of 1.75m, 1.6m and 1.15m high) and associated ancillary works. The applicant telecommunications code system operator in this case is CK Hutchison Networks (UK) Ltd known as 'Three'.

The proposal would be sited on a grass verge located between the footpath and the back of the highway on land between the junction with Brocksparkwood and Wendover Gardens. The development would be approximately 6.4m back from the carriageway and 1.6 metres from the footway. The land is void of development, apart from lampposts on the verge close to the highway and a mature tree on the site. There is a verdant boundary along the back edge of the footpath adjoining a wooded area "Hare Hall Shaw" with dwellings located in Bonningtons and Riffhams beyond.

### **2. Policy Context**

The starting point for determining an application is the Development Plan, in this case the Brentwood Local Plan 2016-2033, insofar as it is relevant to matters of siting and appearance. Planning legislation states that applications must be determined in

accordance with the development plan unless material considerations indicate otherwise. Relevant material considerations for determining this application are the National Planning Policy Framework 2021 (NPPF) and National Planning Practice Guidance (NPPG). Although individual policies in the Local Plan should not be read in isolation, the plan contains policies of particular relevance to this proposal which are listed below.

The Brentwood Local Plan 2016-2033

- Policy BE14 Creating Successful Places
- Policy BE06 Communications infrastructure

The Plan was adopted as the Development Plan for the Borough on 23 March 2022. At the same time the Brentwood Replacement Local Plan, August 2005 (saved policies, August 2008) was revoked.

National Planning Policy and Guidance

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)

### **3. Relevant History**

- None relevant.

### **4. Neighbour Responses**

Where applications are subject to public consultation those comments are summarised below. The full version of each neighbour response can be viewed on the Council's website via Public Access at the following link:

<http://publicaccess.brentwood.gov.uk/online-applications/>

A total of 25 neighbour letters were posted, no comments have been received.

### **5. Consultation Responses**

- **Essex County Fire Service (Headquarters):**  
No objection to the proposal proceeding.
- **Environmental Health & Enforcement Manager:**  
Environmental Health has no comments or objections on this application.
- **Highway Authority:**  
From a highway and transportation perspective the impact of the proposal is acceptable.



## **6. Summary of Issues**

### Background

This is not a planning application. It relates to a form of development that is permitted development (i.e. has a national planning permission) under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 16 Class A – electronic communications code operators. Prior to exercising permitted development rights, operators must apply to the local planning authority for a determination as to whether the prior approval of the Council will be required for two issues – the 1) siting and 2) appearance of the development. This is what the application seeks to establish. If prior approval is required, the local planning authority then determines whether those details are acceptable.

The Government is strongly supportive of telecommunications networks and the significant social and economic benefits they provide to individuals, businesses and other organisations. The proposal would provide significant public benefits in the form of maintaining and improving network coverage and enabling future technologies. Policy BE06 is similarly broadly supportive of telecommunications infrastructure, though not without caveats. This development relates to improving the network coverage and capacity, most notably in relation to 5G services in the area from CK Hutchison Networks. The applicant has chosen the application site as there is no suitable existing base station in the search area.

As indicated previously when considering similar proposals, the issues to consider with this type of application are very limited and only relate to the following:

- whether the prior approval of the local planning authority is required for the siting and appearance of the development.
- If prior approval is required whether the submitted details are acceptable.

The committee is aware that the determination period for this type of application is limited to a maximum of 56 days and if no decision is made within that period the developer may proceed without delay. In January 2020 a legal judgement established that it is possible to extend the 56 day period by agreement with the applicant. In this case an extension of time has been agreed so that the application can be heard at planning committee in September.

The supplementary information provided with the application indicates that the sequential approach as outlined in the NPPF was taken when investigating this site. The proposal has an extremely constrained cell search area and the applicant recognises that the very nature of installing a new 5G mast infrastructure within an urban setting requires a well considered balance between the need to extend the coverage with that of a visual intrusion, as such the street pole and associated cabinets was considered the most appropriate solution available. Other locations were investigated and subsequently discounted as stated in the supplementary information.

Policy BE14 is supportive of development proposals provided they respond sympathetically to their context and build upon existing strengths and characteristics, and where appropriate, retain or enhance existing features which make a positive contribution to the character, appearance or significance of the local area and deliver a high quality design. Proposals should also safeguard the living conditions of future occupants of the development and adjacent residents and deliver safe and accessible places. The proposal would not give rise to problems relating to access, parking and can be accommodated by local highway infrastructure. To that extent the proposal complies with Policy BE14.

Policy BE06 requires evidence to demonstrate, that the possibility of mast or site sharing has been fully explored and no suitable alternative sites are available in the locality including the erection of antennae on existing buildings or other suitable structures, avoiding harm to highway safety, avoiding development which has an unacceptable impact on the character and appearance of the area, including landscape, heritage and the natural environment, along with being designed for minimal disruption for maintenance or future upgrades. The applicant has provided sufficient information relating to the need for the development and the site is not in the greenbelt or in an area of historic interest. To that extent the proposal partly complies with Policy BE06; other aspects of the policy are considered below.

### Siting

The proposed siting of the development is approximately 30 metres from the rear boundary of dwellings located in Riffhams beyond, having a dense woodland, Hare Hall Shaw between the development and the dwellings to the rear. The development would be sited on the grass verge, set amongst other street furniture. Due to its siting the development would not be prominent in the landscape and there is no conservation area or listed buildings in the vicinity. The permitted development requirements do not envisage prior approval being required as a standard response, but only where necessary. The applicant has included these details with the application, though for the above reasons details of siting are not required.

### Appearance

The applicant has also included details of appearance with the application. The development is functional in its design and the applicant has chosen a street pole mast to limit its visual presence. The mast and equipment would be colour RAL 6009 (fir green) to lessen the visual appearance. Given the nature of the development proposed its appearance would not be harmful to the character of the area or the amenities of nearby residents. For these reasons details of appearance are not required.

On the basis of the above, it is considered that the proposal complies with the NPPF (Chapter 105 and 7) and Policies BE14 and BE06 of the Brentwood Local Plan.

The application is accompanied by a Declaration of Conformity with ICNIRP Public Exposure Guidelines. In light of this, it is national policy that decision makers should not need to further consider health and safety matters.

The permission granted by the General Permitted Development Order contains conditions relating to time limit for implementation and requiring development to be carried out as shown on the submission, so no further conditions are necessary.

## **7. Recommendation**

Prior approval is not required for siting and appearance.

### Informative(s)

1 U0009103

This decision relates solely to whether prior approval is required of siting and appearance of the development. It does not confirm whether the proposed development complies with other conditions or limitations in the Town and Country Planning (General Permitted Development) Order 2015 (as amended), Schedule 2, Part 16, Class A - electronic communications code operators), or whether the proposal would be lawful. As such you may wish to submit an application for a certificate under s.192 to confirm the lawfulness of the proposal.

2 U0009104

Under Class A(11), the development must be completed within a period of 5 years starting with the submission date of the prior notification application.

3 U0009105

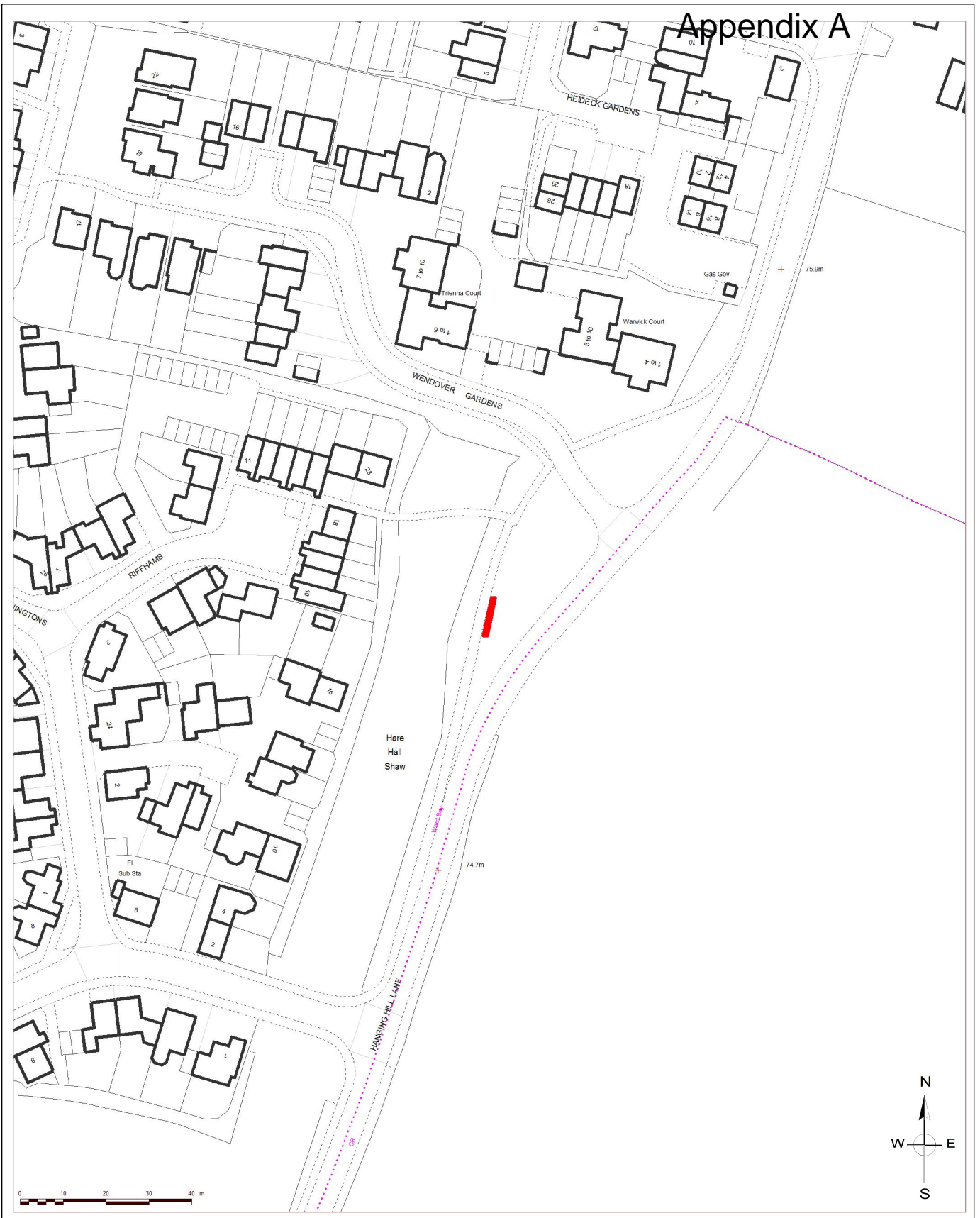
Under Class A(9) The development must be carried out in accordance with the details provided in the application.

### *BACKGROUND DOCUMENTS*

### **DECIDED:**



# Appendix A



Title : 5G Telecoms Installation at Brocksparkwood, Hanging Hill Lane, Hutton, Brentwood, Essex

22/00842/TEL

Scale at A4 : 1:1250

Date : 20th September 2022

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



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**SITE PLAN ATTACHED**

## **5G TELECOMS INSTALLATION ON THE CORNER WITH ROBIN HOOD ROAD WARESCOT ROAD BRENTWOOD ESSEX**

**PROPOSED 5G TELECOMS INSTALLATION: 15M HIGH, STREET POLE AND 3 X  
ADDITIONAL ANCILLARY EQUIPMENT CABINETS AND ASSOCIATED  
ANCILLARY WORKS.**

**APPLICATION NO: 22/00841/TEL**

<b>WARD</b>	Brentwood North	<b>56 day date</b>	4 August 2022
		<b>Extension of time</b>	26 September 2022

**CASE OFFICER** Mrs Carole Vint

**Drawing no(s)  
relevant to this  
decision:** BRW22236\_BRW077\_86537\_CM0936\_GA\_REV\_A/A;  
BRW22236\_BRW077\_86537\_CM0936\_GA\_REV\_A/A;  
BRW22236\_BRW077\_86537\_CM0936\_GA\_REV\_A/A;

**The application is reported to the Planning and Licensing committee in  
accordance with the requirements of the Council's constitution.**

### **1. Proposals**

This application relates to a permitted development proposal for a 15 metre high street pole and three additional ancillary equipment cabinets (of 1.75m, 1.6m and 1.15m high) and associated ancillary works. The applicant telecommunications code system operator in this case is CK Hutchison Networks (UK) Ltd known as 'Three'.

The proposal would be sited on an open area of highway land where the footway widens to between 4.5 and 5.9 metres, on the corner of Robin Hood Road and Warescot Road. The land is devoid of development, on a prominent corner, with the blank wall of No. 2-4 Warescot Road approximately 600-700mm away.

### **2. Policy Context**

The starting point for determining an application is the Development Plan, in this case the Brentwood Local Plan 2016-2033, insofar as it is relevant to matters of siting and appearance. Planning legislation states that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant material considerations for determining this application are the National Planning Policy Framework 2021 (NPPF) and National Planning Practice Guidance (NPPG). Although individual policies in the Local Plan should not be read in

isolation, the plan contains policies of particular relevance to this proposal which are listed below.

The Brentwood Local Plan 2016-2033

- Policy BE14 Creating Successful Places
- Policy BE06 Communications infrastructure

The Plan was adopted as the Development Plan for the Borough on 23 March 2022. At the same time the Brentwood Replacement Local Plan, August 2005 (saved policies, August 2008) was revoked.

National Planning Policy and Guidance

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)

### **3. Relevant History**

- None relevant.

### **4. Neighbour Responses**

Where applications are subject to public consultation those comments are summarised below. The full version of each neighbour response can be viewed on the Council's website via Public Access at the following link:

<http://publicaccess.brentwood.gov.uk/online-applications/>

A total of nine letters have been received in objecting to the proposal, a summary of the comments are as follows:

- Cluttered at street level and out of scale and not in sympathy with the residential area and poorly designed;
- Questions regarding the location of other potential opportunities and were these undertaken;
- Concerns regarding potential impact to the new development recently granted approval at 2-4 Warescot Road;
- Incompatible with the balconies and windows of the adjacent proposed development at 2-4 Warescot Road;
- Impact upon the future occupiers of Flats 1, 4 and 6;
- Cabinets located immediately in front of the balcony for flat 1, detrimental to the enjoyment of the amenity space;
- Impact on market value for flat 1;
- Concerns regarding the size of the base area, exceeding the limits of the Order;
- Visually detracts from the amenity of the area;
- Negative impact on the visual and residential amenity by virtue of scale and external appearance;



## **5. Consultation Responses**

- **Essex County Fire Service (Headquarters):**  
No objection to the proposal proceeding.
- **Environmental Health & Enforcement Manager:**  
Environmental Health has no comments or objections on this application.
- **Highway Authority:**  
From a highway and transportation perspective the impact of the proposal is acceptable.

## **6. Summary of Issues**

### Background

This is not a planning application. It relates to a form of development that is permitted development (i.e. has a national planning permission) under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 16 Class A – electronic communications code operators. Prior to exercising permitted development rights, operators must apply to the local planning authority for a determination as to whether the prior approval of the Council will be required for two issues - the 1) siting and 2) appearance of the development. This is what the application seeks to establish. If prior approval is required, the local planning authority then determines whether those details are acceptable.

The Government is strongly supportive of telecommunications networks and the significant social and economic benefits they provide to individuals, businesses and other organisations. The proposal would provide significant public benefits in the form of maintaining and improving network coverage and enabling future technologies. Policy BE06 is similarly broadly supportive of telecommunications infrastructure, though not without caveats. This development relates to improving the network coverage and capacity, most notably in relation to 5G services in the area from CK Hutchison Networks. The applicant has chosen the application site as there is no suitable existing base station in the search area.

As indicated previously when considering similar proposals, the issues to consider with this type of application are very limited and only relate to the following:

- whether the prior approval of the local planning authority is required for the siting and appearance of the development.
- If prior approval is required whether the submitted details are acceptable.

The committee is aware that the determination period for this type of application is limited to a maximum of 56 days and if no decision is made within that period the developer may proceed without delay. In January 2020 a legal judgement established that it is possible to extend the 56 day period by agreement with the applicant. In this

case an extension of time has been agreed so that the application can be heard at planning committee in September.

The supplementary information provided with the application, indicates that the sequential approach as outlined in the NPPF was taken when investigating this site. The proposal has an extremely constrained cell search area and the applicant recognises that the very nature of installing a new 5G mast infrastructure within this dense urban setting requires a well considered balance between the need to extend the coverage with that of a visual intrusion, as such the street pole and associated cabinets was considered the most appropriate solution available. Other locations were investigated and subsequently discounted as stated in the supplementary information.

Policy BE14 is supportive of development proposals provided they respond sympathetically to their context and build upon existing strengths and characteristics, and where appropriate, retain or enhance existing features which make a positive contribution to the character, appearance or significance of the local area and deliver a high quality design. Proposals should also safeguard the living conditions of future occupants of the development and adjacent residents and deliver safe and accessible places. The proposal would not give rise to problems relating to access, parking and can be accommodated by local highway infrastructure. To that extent the proposal complies with Policy BE14.

Policy BE06 requires evidence to demonstrate, that the possibility of mast or site sharing has been fully explored and no suitable alternative sites are available in the locality including the erection of antennae on existing buildings or other suitable structures, avoiding harm to highway safety, avoiding development which has an unacceptable impact on the character and appearance of the area, including landscape, heritage and the natural environment, along with being designed for minimal disruption for maintenance or future upgrades. The applicant has provided sufficient information relating to the need for the development and the site is not in the greenbelt or in an area of historic interest. To that extent the proposal partly complies with Policy BE06; other aspects of the policy are considered below.

### Siting

The applicant has included details of the siting within the application. The proposed mast and associated equipment would be set close to the back edge of the pavement, close to the adjacent boundary with No. 2-4 Warescot Road, which currently comprises a single storey flat roofed building, which abuts the boundary. In this position the development would be very prominent in the street scene and there is no scope for any meaningful mitigation especially of the mast. The development would be highly visible in this urban location. This proposal would have a significant and detrimental effect on the character of the area and as submitted the siting of the proposal is unacceptable and the details of siting should be refused.

As indicated, the location of the development would be on a highly prominent, open, corner position, sited towards the back edge of the pavement. The area to the east has a small ribbon of retail area, with residential areas to the northeast, northwest and to the south. The surrounding area is mainly characterised by two storey development. The siting of the proposal would have a significant detrimental effect on the character and appearance of the area and nearby residential dwellings within close proximity to the site, which through the scale and position of the development would be highly prominent and harmful. The adjacent site, No. 2-4 Warescot Road, has recently been granted planning permission, reference 21/02115/FUL, for the construction of a part two and part three storey block comprising 6 flats. Were that residential development to be carried out, given the location of the proposed mast and associated equipment, the mast would be positioned approximately 1.8m from the proposed new building, with its balconies and window openings. The lower part of the proposed building would be approximately 7 metres tall with the tallest part measuring 10.3m – the mast would be 15m. For the reasons given above, it is recommended that approval of siting is required and refused.

### Appearance

The applicant has provided one elevation of the proposed mast and associated cabinets. Given the nature of this proposal, details of appearance are required. The applicant has included those details with the application. The development is functional in its design and makes no attempt to mitigate the impact of the mast or the cabinets. While it may be possible to reduce the visual impact of the cabinets it is the mast that would have the greatest effect on the character of the area. Given the nature of the development proposed its appearance would be harmful to the character of the area and the amenities of nearby residents. A photomontage of the mast and the adjacent development at No. 2-4 Warescot Road has been provided by a third party (the agent of the residential development) and the agent for this prior notification was asked to comment on the accuracy of that montage. The agent confirmed the montage to be an accurate representation. This montage further confirms the harmful impact the proposal would have on the appearance of the site and surrounding area.

As submitted, the appearance of the proposal is unacceptable. The scale and height of the mast is almost double the height of the adjacent residential properties with the cluster of cabinets of different proportions, introducing further clutter. The appearance of the proposal would have a significant detrimental effect on the appearance and character of the surrounding area which is predominantly residential. The highly prominent location would further accentuate the harm and through its scale and position stands alone. The details of appearance should be refused.

This report focuses consideration of the proposal to matters relating to siting and appearance of the development and for the reasons given above this application is recommended for refusal.

## **7. Recommendation**

The Application be REFUSED for the following reasons:-

R1 U0047916

Prior approval is required for siting and appearance and prior approval for both is refused.

The proposal is unacceptable because it would result in the provision of a mast and associated cabinets in a very prominent location and would be detrimental to the character of the area and the amenity of nearby residents. It is considered that the benefits associated with the upgrade/improvements to the telecommunication network likely to be associated with this proposal do not outweigh the harm identified. The proposal is contrary to Policies BE14 and BE06 of the Brentwood Local Plan and the National Planning Policy Framework.

### Informative(s)

1 INF05

The following development plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: BE14, BE06, National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

2 INF20

The drawing numbers listed above are relevant to this decision

3 INF25

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development. Details of the pre-application service can be found on the Council's website at <https://www.brentwood.gov.uk/planning-advice-and-permissions>

### *BACKGROUND DOCUMENTS*

### **DECIDED:**

Appendix A



Title : 5G Telecoms Installation On the Corner with Robin Hood Road & Warescot Road, Brentwood, Essex

22/00841/TEL

Scale at A4 : 1:1250

Date : 20th September 2022

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



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<b>Committee(s):</b> Planning and Licensing Committee	<b>Date:</b> 29 September 2022
<b>Subject:</b> Planning Appeals Update (June – August 2022)	<b>Wards affected:</b> All
<b>Report of:</b> Phil Drane, Director of Place	<b>Public</b>
<b>Report Author:</b> Mike Ovenden, Associate Consultant Planner Email: mike.ovenden@brentwood.gov.uk	<b>For information</b>

## Summary

This report provides Members with a summary of recent planning appeal decisions.

## Main Report

### **Introduction and Background**

1. This report provides a summary of recent planning appeal decisions in the borough between June and August 2022. This is part of a regular series of updates brought to the Planning and Licensing Committee for information. Most recently an update was provided in June 2022 (Item 60).
2. The report provides a summary of the main issues and comments made by inspectors, which can be useful when making decisions on current and future planning applications. It shows that different inspectors can reach different views on similar matters. Inspectors can sometimes have an inconsistent approach to the conditions they are willing to impose, for example requiring provision of a travel information pack often requested by highways and also on the removal of specified permitted development rights.
3. A local planning authority record of success for defending appeals is the measure taken by the Department for Levelling up, Housing and Communities (DLUHC) to assess the quality of decision making. This is broken down into Majors (M) and Non-Majors (NM), with a maximum allowable 'loss rate' of ten percent of the total number of applications of that type determined. The measure relating to Major appeals is challenging due to the low number of such applications that smaller authorities tend to receive in contrast to the measure for Non-Majors. However, there is currently no basis for concern regarding either measure in Brentwood borough, though this is reviewed regularly.
4. The summary of appeal decisions below identifies the category in each case (i.e. Major or Non-Major). Where the application that led to the appeal was determined by committee, it is marked with a (C), and where it was refused contrary to recommendation this marked (C\*).
5. The application documents and the appeal decisions are available to view on the council's website at [www.brentwood.gov.uk/planning](http://www.brentwood.gov.uk/planning) (via Public Access).

## Appeal Decisions

6. The following appeal decisions have been received since June 2022. Overall, 11 decisions were issued of which 10 were dismissed and one was allowed (this equates to 91% dismissed or in line with the council's decision during that period). In addition, one application for appeal was made outside the allowed period and so the Planning Inspectorate turned away the appeal. None of these cases were determined by the Planning and Licensing Committee.

6.1

<b>Application No:</b>	<b>15/00039/UNLCOU</b>
<b>Location:</b>	Karma Court, Ashwells Road, Pilgrims Hatch
<b>Proposal:</b>	Appeal against material change of use of the land from agricultural use to a mixed use of agricultural use and residential use and car sales and car storage use and also unauthorised operational development by the siting of a mobile home on the land which, given its degree of permanence, facilitates the unauthorised residential use and also the siting of a portacabin which is used as an office for the car sales/car storage business to facilitate the unauthorised material change of use of the land
<b>Appeal Decision:</b>	Appeal dismissed, Enforcement Notice upheld 29 June 2022

Public Inquiry appeal held at Town Hall on 14 & 15 June 2022. The Inspector considered three grounds of appeal against the Enforcement Notice:

Ground B: That the breach of planning control had not occurred: The inspector determined that the siting of a mobile home and portacabin (in association with the car sales and storage use) and the unauthorised storage of vehicles for sale on the land did constitute a material change of use of the land, and that therefore their removal, as required by the Notice was justified.

Ground D: That it was too late to take enforcement action against the matters stated in the Notice: The Inspector determined that, based upon the evidence presented at the Inquiry, the appellant had failed to prove on the balance of probabilities test, that the 10 year immunity period had been achieved, especially given the other evidence available, i.e. satellite images taken over several different years.

Ground G: That the time given to comply with the Notice is too short: The Inspector determined that the compliance periods as stated in the



Enforcement Notice “strikes an appropriate balance between the appellant's rights and the wider public interest, i.e. the ongoing public harm caused by the unauthorised development”.

The appeal was dismissed on all three grounds.

6.2

<b>Application No:</b>	<b>20/01645/FUL (NM)</b>
<b>Location:</b>	Land Adjacent 63 Tallon Road, Hutton
<b>Proposal:</b>	Proposed construction of a new office building, alongside ancillary vehicle access, parking, and associated development
<b>Appeal Decision:</b>	Appeal dismissed, costs not awarded 12 August 2022

The main issues were the impact of the development on highway safety with particular regard to parking provision and access; and the impact on future occupants of 63 Tallon Road and the proposed office in terms of layout and availability of parking provision. The council claimed the development proposed would be incompatible with adjacent residential development (applications 17/01333/PNCOU and 17/01966/FUL), which is completed and occupied.

The appeal site related to the rear car park of 63 Tallon Road within a busy industrial estate. It was observed that there was a significant extent of parking on the footpaths and verges of the road within limited on street parking opportunities within the immediate vicinity. These factors result in the narrowing of the carriageway and pedestrians needing to walk in the road meaning great care is needed when using the highway.

In terms of parking provision, the supporting documents failed to demonstrate the relationship of the new parking provision with those provided for the occupants of the completed residential development. The absence of this information led the Inspector to conclude that some parking bays would be “lost or negatively impacted through the appeal scheme”. This would lead to parking outside of the site and would exacerbate “existing parking pressures and hazardous conditions”. Furthermore, in terms of access, the new structures were considered to be substantial barriers to visibility for both emerging and approaching vehicles and in the absence of evidence for suitable visibility splays to be achieved, there would be “an unacceptable hazard” to vehicles and, given the removal of demarcated pedestrian access, “a significant risk to the safety of pedestrians”.

In terms of effects upon occupants of 63 Tallon Road, it was observed that whilst the absence of off-street parking was inconvenient, this factor alone was not considered to result in existing and proposed accommodation being substandard.

The Inspector did not consider that conditions could be imposed to overcome the harm identified as they would fail to meet the six tests and consequently dismissed the appeal.

This application was also subject to a costs application against the council which was refused. The appellant considered the council behaved unreasonably through failure to give an opportunity to make minor amendments to the proposed development, and the alleged inaccuracy of comments from the Highway Authority. The Inspector considered that whether amendments can be submitted related to the councils processes and practices who themselves considered amendments not to be minor and required re-consultation if accepted. There was no convincing evidence to suggest such amendments would have made the scheme acceptable. This did not amount to unreasonable behaviour. In terms of the Highway Authority consultee comments, the Inspector concluded that whilst unclear in terms of parking standards being complied with or not, this had been clarified within the officer's report. This did not amount to unreasonable behaviour.

6.3

<b>Application No:</b>	<b>21/00043/HHA (NM)</b>
<b>Location:</b>	Lion Lodge North, The Avenue, Warley
<b>Proposal:</b>	Partial demolition of existing utility room and removal of pergola. Construction of single storey side and rear extensions.
<b>Appeal Decision:</b>	Appeal dismissed, costs not awarded  25 August 2022

The main issue of the appeal was whether the proposal would preserve a Grade II Listed Building, a Grade II\* registered park and garden, Thorndon Hall and any features of special historic interest that they possess, and the extent it would preserve or enhance the character and appearance of Thorndon Park Conservation Area.

The Inspector found there still to be symmetry between the two lodges when viewed from the west, irrespective of their 20<sup>th</sup> Century additions and their significance is derived from its architectural and historic interest as a pair of notable former lodge buildings, which previously related to a 18th-century country house, Thorndon Hall.

The greater extent of development proposed at North Lodge would have a more harmful effect on the floor plan layout and setting of the building. However, given the historic evolution of the lodge set out above, it is highly likely that the proposal would not lead to the loss of important historic fabric, so the demolition of later additions would not be harmful to the significance of the listed building. The proposal included a WC to bedroom one which the Inspector found to constitute harmful alterations to the plan form of the bedroom.

The Inspector found the proposal would bring greater symmetry and unity to the composition of the additions to the lodges, it would not directly affect the original lodge or result in the loss of important historic fabric, and the works to Bedroom 1 would have no direct effect externally. Nevertheless, the extension would crowd the lodge building and distract from its architectural and historic interest. Furthermore, alteration of the floor plan and concealment of a window in Bedroom 1 would undermine the legibility and, thereby, the understanding and significance of the listed building.

Benefits were put forward, in that the proposal would better meet the needs of the appellant, however this would amount to a private benefit. The Inspector determined that the public benefits if any, would not justify allowing the works.

The inspector found no harm to the Conservation Area as the proposal would be situated away from the road and would not be prominent and set within existing planting of a garden and therefore would result in the existing characteristics of the surrounding woodland.

The siting of the proposal would fail to preserve the special historic interest of the Grade II listed building, including its setting. It would fail to satisfy the requirements of the Act, National Planning Practice Guidance, paragraphs 197, 199 and 200 of the Framework and conflict with the design and heritage aims of Local Plan Policies BE14 and BE16.

The Inspector found the council had acted unreasonably (the reasons for refusal should have been clearer in the officer's report), however did not cause unnecessary or wasted expense. Therefore, an award of costs was not justified.

6.4

<b>Application No:</b>	<b>21/00044/LBC (NM)</b>
<b>Location:</b>	Lion Lodge North, The Avenue, Warley
<b>Proposal:</b>	Partial demolition of existing utility room and removal of pergola. Construction of single storey side and rear extensions.
<b>Appeal Decision:</b>	Appeal dismissed, costs not awarded

25 August 2022

This appeal covered much the same issues as the related planning appeal, reported above.

The siting of the proposal would fail to preserve the special historic interest of the Grade II listed building, including its setting. It would fail to satisfy the requirements of the Act, National Planning Practice Guidance, paragraphs 197, 199 and 200 of the Framework and conflict with the design and heritage aims of Local Plan Policies BE14 and BE16.

6.5

<b>Application No:</b>	<b>21/01282/FUL (NM)</b>
<b>Location:</b>	Greenbank, Little Warley Hall Lane, Little Warley
<b>Proposal:</b>	Removal of conditions 4 (Outbuildings 3 and 4 to be demolished), 5 (Permitted Development Rights for Dwelling), 6 (Permitted Development Rights for Outbuildings) and 7 (Use of Outbuildings) of application 18/00315/FUL (Replacement dwelling and associated works (Retrospective))
<b>Appeal Decision:</b>	Appeal allowed 15 June 2022

Permitted development extensions were approved at this site (13/01374/PN42 and 17/00839/S192) but the extent of demolition necessitated the need for a planning application for a replacement dwellinghouse (see 18/00315/FUL). The application subject to this appeal sought to remove conditions 4, 5, 6 and 7 of that permission. The council granted planning permission, removing condition 7 and varying and reimposing conditions 4, 5 and 6 as new conditions 1, 2 and 3, which are the subject of this appeal. The main issue was whether the conditions were reasonable and necessary to preserve the openness of the Green Belt and the purposes of including land within it.

Condition 1 required outbuildings to be demolished on site; condition 2 withdrew permitted development rights for extensions and alterations to the replacement dwellinghouse; and condition 3 withdrew permitted development rights for development under Class E (buildings etc incidental to the enjoyment of a dwellinghouse).

The Inspector found that Condition 1 was reasonable, subject to an amendment to the wording, because it informed the decision of the original application (18/00315/FUL) in ensuring the exception to inappropriate development within the Green Belt was met. In terms of conditions 2 and 3 which relate to the withdrawal of permitted development rights, the Inspector

considered that there was not clear justification to do so. Having considered the context of the site and the degree in which openness would be impacted by further works, given neighbouring dwellings which still retained such rights, there were not circumstances particular to the site to justify a stricter approach to permitted development rights that exist on other properties within the Green Belt.

The inspector concluded that Conditions 2 and 3 were not reasonable or necessary and thus the appeal succeeded in removing these conditions.

6.6

<b>Application No:</b>	<b>20/01502/FUL (M)</b>
<b>Location:</b>	Land At Chitral, Wyatts Green Road, Wyatts Green
<b>Proposal:</b>	Redevelopment of the site comprising demolition of existing commercial buildings removal of rubble and bunds, spoil heaps and tipped waste and construction of 17 new dwelling houses (use class C3), together with associated landscaping, vehicle and cycle parking and infrastructure works
<b>Appeal Decision:</b>	Appeal dismissed  23 June 2022

The main issues for this appeal were:

- i. whether the proposal would be inappropriate development in the Green Belt, and;
- ii. if the proposal would be inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

During the appeal lifetime a unilateral undertaking (UU) was submitted relating to the provision of six affordable houses as part of the proposal. As such the application was assessed under paragraph 149 g) of the NPPF in respect of the Green Belt.

The proposals would result in a 149% increase in volume and 21% increase in footprint compared to the existing built form with the addition of multiple two storey dwellings spread further across the site and at a higher height than the existing built form. Though views into the site would be limited, nonetheless the harm to the openness of the Green Belt would be substantial and as such would result in inappropriate development in the Green Belt.

Further consideration was given to the encroachment of proposed built form into areas that are not considered previously developed land, assessing this under paragraph 150 e) of the NPPF, however as per the above the proposal

would still have a much greater impact on the openness, including residential paraphernalia and surfacing.

In respect of Very Special Circumstances, the Inspector attached considerable weight to the provision of 6 affordable dwellings within the proposal and UU, as well as moderate weight to the benefit of tidying the land and removing the existing buildings. Further, improvement to biodiversity and surface water management was considered to attract moderate weight, though improvement to the living conditions of surrounding residents by virtue of the reduced noise of the proposal was not demonstrated and thus limited weight was given to this aspect. However, in summary these matters taken collectively do not outweigh the harm to the Green Belt and as such no Very Special Circumstances exist.

The appeal was dismissed.

6.7

<b>Application No:</b>	<b>21/00298/FUL (NM)</b>
<b>Location:</b>	158 Brentwood Road, Herongate
<b>Proposal:</b>	Construction of 1 no. 3-bedroom dwelling & landscaping
<b>Appeal Decision:</b>	Appeal dismissed 15 June 2022

There were four main issues. These were the effect of the proposed development on:

- i. the character and appearance of the area;
- ii. highway and pedestrian safety with specific regard to visibility;
- iii. the privacy of the occupiers of 162 Brentwood Road; and
- iv. whether the proposed development would provide an acceptable level of privacy and standard of outdoor space for future occupiers.

In terms of the character and appearance of the area, the proposal would result in a loss of open space to the side of the dwelling. Also, by reason of the proposals scale, positioning and proximity to the side and rear boundaries it would appear cramped within its plot with limited opportunities for mature landscaping/ screening.

In terms of highway and pedestrian safety, due to the heavily trafficked road and unjustified visibility splay this would have an unacceptable impact on the transport network in terms of highway safety.

In terms of the living conditions of neighbouring occupiers, no detrimental harm was considered to occur as a result of existing screening as well as both oblique angles of vision and the distance of outlook from the proposed windows.

In terms of the living conditions of future occupiers, similar to the above where views into proposed amenity spaces are oblique and limited this was considered acceptable.

In terms of planning balance, the Inspector attached significant weight to the impacts on the character and appearance of the area and highway safety and moderate weight to the provision of additional housing, finding the benefits not to outweigh the harm overall.

The appeal was dismissed.

6.8

<b>Application No:</b>	<b>21/01646/HHA (NM)</b>
<b>Location:</b>	216 Woodland Avenue, Hutton
<b>Proposal:</b>	Demolition of existing conservatory and construction of part single part two storey rear extension. Loft conversion to include dormer to rear
<b>Appeal Decision:</b>	Appeal dismissed 27 July 2022

In this appeal the Inspector concluded that the proposed roof would be awkward and unsightly, distorting the roof in a way that would be even less attractive than a conventional “hip-to-gable” conversion. Therefore, it would have a harmful impact on the streetscene, contrary to design policies.

The appeal was dismissed.

6.9

<b>Application No:</b>	<b>21/01849/HHA (NM)</b>
<b>Location:</b>	1 Linden Rise, Warley, Brentwood
<b>Proposal:</b>	Raise ridge and chimney, roof alterations to provide gable ends, construction of a rear dormer window and roof lights to the front
<b>Appeal Decision:</b>	Appeal dismissed 27 July 2022

The main issue for this appeal was the impact upon the character and appearance of the surroundings.

The proposal would see the roof form amended to include a ridge height increase and create gable side ends (rather than frontage) with a rear dormer window across the rear elevation. The Inspector considered that the pattern of

the estate avoids regimentation and different forms and materials have provided interest and variety within the street scene. In terms of the roof itself, the Inspector found that a reconfiguration would not necessarily be out of keeping with the surroundings. It would reflect other forms within the area and not be unduly incongruous or overbearing.

However, the proposed dormer window would have a “seriously harmful effect” on the appearance of the surroundings with a gabled side elevation being very obvious in views along the street with a box-shaped dormer an intrusive design element which sharply contrasted with the remaining roofscape of this building and area undermining the design integrity of the estate. It would be incongruous and create a top-heavy appearance.

The appeal was dismissed.

6.10

<b>Application No:</b>	<b>21/01376/FUL (NM)</b>
<b>Location:</b>	Paglesham, 23 Ridgeway, Hutton
<b>Proposal:</b>	Demolition of existing house and construction of replacement dwelling
<b>Appeal Decision:</b>	Appeal dismissed 28 June 2022

The main issues are the effect of the proposed development on the character and appearance of the site and its surroundings; and the living conditions of the occupants of No. 21 Ridgeway, with specific regard to outlook.

In terms of the design of the proposal, the Inspector found that due to the height and scale of the proposed dwelling spread across the plot this would appear unwieldy in comparison to neighbouring dwellings with limited articulation in the bulk at upper storey level. Further, the mix of insets and projections, particularly at the front, would be cumbersome resulting in an appearance inferior to the refined architectural embellishment of the existing dwelling and it could not be said to raise the standard of design in the area. Finally, the glazing would emphasize the verticality and scale of the dwelling.

In terms of the living conditions of the occupants at No. 21 Ridgeway, due to the scale and siting of the dwelling across two storeys with a steep pitched roof and large space of flank wall, this would be oppressive, overbearing and imposing when viewed from No. 21 resulting in significant harm to the living conditions of the occupiers at No. 21.

The appeal was dismissed.



6.11	<b>Application No:</b>	<b>20/01923/TPO (NM)</b>
	<b>Location:</b>	3 Nethergate, 39 Rayleigh Road, Hutton
	<b>Proposal:</b>	To fell existing TPO Ash tree
	<b>Appeal Decision:</b>	Appeal dismissed 20 July 2022

The Inspector considered that whilst there are numerous other mature trees close by, the appeal tree makes a meaningful and valuable contribution to the verdant townscape of the locality. Felling the tree, would have a significant harmful effect upon the character and appearance of the area and the appeal was dismissed.

6.12	<b>Application No:</b>	<b>22/00550/HHA (NM)</b>
	<b>Location:</b>	2 La Plata Grove, Brentwood
	<b>Proposal:</b>	Dormer window to front to create second floor
	<b>Appeal Decision:</b>	No further action 22 August 2022

The appellant submitted the appeal outside the allowed period and so the Planning Inspectorate turned away the appeal.

## Consultation

- Individual applications include statutory consultation periods.

## References to Corporate Strategy

- The Council's Planning Development Management team perform statutory planning functions as the local planning authority. The team assists in achieving objectives across the Corporate Strategy, including economic

growth, environmental protection, community development and delivering effective and efficient services. The planning appeals system is part of the local decision-making process.

## **Implications**

### **Financial Implications**

**Name/Title: Jacqueline Van Mellaerts, Corporate Director (Finance & Resources)**

**Tel/Email: 01277 312500/jacqueline.vanmellaerts@brentwood.gov.uk**

9. There are no financial implications arising from the report. The cost of defending appeals is covered by the Development Management budget. Lost appeals can result in additional financial implications if costs are awarded, for instance. This is considered and projected when setting the budget.

### **Legal Implications**

**Name & Title: Steve Summers, Strategic Director and Interim Monitoring Officer**

**Tel & Email: 01277 312500/amanda.julian@brentwood.gov.uk**

10. There are no legal implications arising from this report. The council as local planning authority meets its statutory duties as part of the appeals process, which can include legal representation where required dependent on the circumstances of individual applications.

### **Economic Implications**

**Name/Title: Phil Drane, Director of Place**

**Tel/Email: 01277 312500/philip.drane@brentwood.gov.uk**

11. There are no economic implications arising from the report. The council as local planning authority is tasked with decision-making, which includes an applicant's right to appeal. Planning decision-making considers a range of themes to ensure that development benefits the borough, including economic growth.

### **Equality and Diversity Implications**

**Name/Title: Kim Anderson, Corporate Manager (Communities, Leisure and Health)**

**Tel/Email: 01277 312500/kim.anderson@brentwood.gov.uk**

12. There are no equality and diversity implications arising from this report. Individual planning applications may trigger the need for this to be assessed alongside similar considerations, such as a Health Impact Assessment.

**Background papers**

- Item 60, Planning and Licensing Committee, 28 June 2022, Planning Appeals Update (February – May 2022)

**Appendices to report**

None

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## **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, of 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.

## **Terms of Reference Planning**

(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.

- (i) To guide the Council in setting its policy objectives and priorities.
- (ii) To carry out the duties and powers of the Council under current legislation;
- (iii) To develop, implement and monitor the relevant strategies and policies relating to the Terms of Reference of the committee.
- (iv) To secure satisfactory standards of service provision and improvement, including monitoring of contracts, Service Level Agreements and partnership arrangements;
- (v) To consider and approve relevant service plans;
- (vi) To comply with the standing orders and financial regulations of the Council;
- (vii) To operate within the budget allocated to the committee by the Council.
- (viii) To determine fees and charges relevant to the committee;

To review and monitor the operational impact of policies and to recommend proposals for new initiatives and policy developments including new legislation or central government guidance

(d) Powers and duties of the local planning authority in relation to the planning of sustainable development; local development schemes; local development plan and monitoring reports and neighbourhood planning.

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