



Agenda

Planning Committee

Tuesday, 17 January 2023 at 7.00 pm

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

Membership (Quorum – 4)

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

Substitute Members

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

Agenda

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Live Broadcast

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

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4. APPLICATION NO: 22/01290/FUL First Floor 40 High Street Brentwood Essex CM14 4AJ
5. Planning Appeals Update (September - December 2022)
6. Fees & Charges Update

To Follow

7. Urgent Business

A handwritten signature in black ink, appearing to read 'J. Stephenson', is centered within a light blue rectangular background.

Jonathan Stephenson
Chief Executive

Town Hall
Brentwood, Essex
09.01.2023

Information for Members

Substitutes

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.

Rights to Attend and Speak

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.

Point of Order/ Personal explanation/ Point of Information

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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The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of

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

 **Private Session**

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 **Evacuation Procedures**

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



Minutes

Planning Committee Tuesday, 20th December, 2022

Attendance

Cllr Tanner (Chair)	Cllr Jakobsson
Cllr Barber (Vice-Chair)	Cllr Laplain
Cllr Dr Barrett	Cllr Mrs Murphy
Cllr M Cuthbert	Cllr Mynott
Cllr Fryd	Cllr Parker
Cllr Gelderbloem	Cllr Wiles

Apologies

Substitute Present

Also Present

Cllr Hossack
Cllr Aspinell
Cllr Mrs Davies
Cllr Foan

Officers Present

Phil Drane	- Director - Place
Caroline Corrigan	- Corporate Manager (Planning Development Management)
Jonathan Quilter	- Corporate Manager (Strategic Planning)
Daryl Cook	- Planning Officer
Paulette McAllister	- Programme Lead - Strategic Housing Development Programme
Kathryn Williams	- Consultant Planner
Georgioa Taylor	- Planning Assistant
Claire Mayhew	- Corporate Manager (Democratic Services) and Deputy Monitoring Officer
Zoe Borman	- Governance and Member Support Officer

287. Apologies for Absence

No apologies were received.

288. Minutes of the Previous Meeting

The Minutes of the previous meeting held on 22nd November were agreed as a true record.

A motion was moved by the Chair to vary the agenda to debate Item 5, Application No. 22/01336/FUL Development of Land South of Harewood Road, Pilgrims Hatch ahead of Item 3.

This was agreed.

289. APPLICATION NO: 22/01336/FUL Development at Land South Of Harewood Road Pilgrims Hatch Essex CM15 9PD

This application is a scheduled Committee item as the applicant is Brentwood Borough Council's Housing Team and concerns Council owned land.

The application is submitted on behalf of Brentwood Borough Council, as part of its Strategic Housing Delivery plan (SHDP), which as part of its remit identified a number of sites across the borough that could contribute to the Council's objective of delivering affordable housing with low carbon emission and 'green' developments.

Ms Kathryn Williams presented the report.

Mr Richard Smith, NPS Property Consultants, addressed the Committee on behalf of the Applicant.

Ms Paulette McAllister was present at the meeting and addressed the Committee on behalf of the Strategic Housing Development Partnership. Ms McAllister also read a statement on behalf of two residents, also present, supporting the application.

Cllr Aspinell and Cllr Mrs Davies, Ward Councillors, were present at the meeting and spoke in favour of the application. Cllr Aspinell recognised the input on this project from the late Mr Ian Winslet (Strategic Director). It was suggested that Mr Winslet be memorialised in some way as part of this development, potentially in terms of naming the building, a sentiment that other Members in the Chamber agreed with.

Members welcomed this application and thanked all those involved for their hard work and dedication. This was echoed across the Chamber.

A motion to **APPROVE** the application was **MOVED** by Cllr Tanner and **SECONDED** by Cllr Barber.

Following a full discussion, a vote was taken and Members voted as follows:

FOR: Cllrs Barber, Dr Barrett, Cuthbert, Fryd, Gelderbloem, Jakobsson, Laplain, Murphy, Mynott, Parker, Tanner, Wiles (12)

AGAINST: (0)

ABSTAIN: (0)

The application was **APPROVED UNANIMOUSLY** subject to the conditions outlined in the report.

290. APPLICATION NO: 22/01523/FUL 8A Harewood Road Pilgrims Hatch Brentwood Essex CM15 9PD

Planning permission was being sought for the installation of plant to the rear yard area to be enclosed by a 2.1m high timber fence enclosure at 8A Harewood Road, Pilgrims Hatch, Brentwood. The building and surrounding curtilage is owned by Brentwood Borough Council. The application was, therefore, to be determined by the Planning Committee.

Mr Daryl Cook was present at the meeting and presented the report to Members.

Cllr Davies, Ward Cllr, spoke in favour of the application, however, raised concerns around noise levels.

A motion to **APPROVE** the application was **MOVED** by Cllr Tanner and **SECONDED** by Cllr Wiles.

Following discussion, a vote was taken and Members voted as follows:

FOR: Cllrs Barber, Dr Barrett, Cuthbert, Fryd, Gelderbloem, Jakobsson, Laplain, Murphy, Mynott, Parker, Tanner, Wiles (12)

AGAINST: (0)

ABSTAIN: (0)

The application was **APPROVED UNANIMOUSLY** subject to the conditions outlined in the report.

291. APPLICATION NO: 21/00269/NON/1 2 - 8A Harewood Road Pilgrims Hatch Essex CM15 9PD

A non-material amendment was sought to application 21/00269/BBC (Removal of internal partitions between existing shops to create one single shop with alterations to shop fronts, installation of a ramp to the rear elevation, raise flat roof to the rear of the store and minor alterations to include the infilling of existing openings) for the removal of ramp to the rear of the building at 2-8A Harewood Road, Pilgrims Hatch. The application had been referred to Planning Committee as the application site and building are Council owned land.

Mr Daryl Cook was present at the meeting and presented the report to Members.

A motion to **APPROVE** the application was **MOVED** by Cllr Tanner and **SECONDED** by Cllr Wiles.

Following discussion, a vote was taken and Members voted as follows:

FOR: Cllrs Barber, Dr Barrett, Cuthbert, Fryd, Gelderbloem, Jakobsson, Laplain, Murphy, Mynott, Parker, Tanner, Wiles (12)

AGAINST: (0)

ABSTAIN: (0)

The application was **APPROVED UNANIMOUSLY** subject to the conditions outlined in the report.

292. APPLICATION NO: 22/01282/HHA 59 Petresfield Way West Horndon Brentwood Essex CM13 3TG

A Planning Referral Request was submitted by West Horndon Parish Council for the following reason:

Proposed works are large and bulky and will create privacy issues for neighbouring properties. Also, there is a substantial increase inhabitable space leading to an increased off street parking requirement. Proposed works make no allowance for this. This will lead to increase on street parking. The property has a shared drive arrangement with neighbouring properties. This has been identified as a future area for conflict given the increased parking need.

Miss Georgia Taylor was present at the meeting and presented the report to Members.

The Chair read a statement from Mr Herbert objecting to the application.

Cllr Foan, West Horndon Parish Council, was present at the meeting and addressed the Committee raising concerns of the Parish Council and residents alike with regards to the application.

Following discussion, a motion to **APPROVE** the application was **MOVED** by Cllr Parker and **SECONDED** by Cllr Barber.

A vote was taken and Members voted as follows:

FOR: Cllrs Barber, Dr Barrett, Cuthbert, Fryd, Gelderbloem, Jakobsson, Laplain, Mynott, Parker, Tanner, Wiles (11)

AGAINST: Cllr Murphy (1)

ABSTAIN: (0)

The application was **APPROVED** subject to the conditions outlined in the report.

293. APPLICATION NO: 22/01202/FUL 70 Orchard Lane Pilgrims Hatch Brentwood Essex CM15 9RE

This application has been referred by Cllr David Kendall for the following reasons:

The adjoining neighbours life is detrimentally affected by the development. It is overbearing, it effects the light in their lounge and the height of the building is unbalancing the adjoining property.

Planning permission is sought for the construction of a replacement dwelling at 70 Orchard Lane, Pilgrims Hatch.

Mr Daryl Cook presented the report to Members.

The Chair read a statement from neighbouring residents, Mr and Mrs Powell, objecting to the application.

Cllr Aspinell and Cllr Davies, Ward Councillors, expressed residents' concerns regarding the application and the fact that work had been carried out prior to planning permission being granted and how future maintenance may require access to the neighbour's property.

Following discussion a motion to **APPROVE** the application was **MOVED** by Cllr Parker and **SECONDED** by Cllr Barber.

A vote was taken and Members voted as follows:

FOR: Cllrs Barber, Dr Barrett, Gelderbloem, Jakobsson, Murphy, Parker, Tanner, Wiles (8)

AGAINST: (0)

ABSTAIN: Cllrs Cuthbert, Fryd, Laplain, Mynott (4)

294. Planning Enforcement Activity Overview

The report summarised the enforcement activity undertaken in Brentwood Borough for the period between 1 January 2022 and 30 September 2022.

Mrs Corrigan outlined the report.

Following a full discussion, the report was noted.

295. Epping Forest District Council Further Main Modification consultation

Epping Forest District Council submitted their Local Plan to the Secretary of State in 2018. Following the initial examination, additional work was required regarding air quality and recreational impacts on Epping Forest. A Main Modifications consultation was undertaken in 2021. Brentwood Borough Council did not respond to this consultation as no previous objections had been raised through the Regulation 18 stage.

Due to the length of time between the commencement examination and the completion of the Main Modifications consultation, added to the availability of the appointed Planning Inspector, a new inspector was appointed to continue the examination process in May 2022. Upon review of the responses received from the 2021 modifications consultation, Epping Forest District Council were instructed to undertake a Further Main Modification consultation, which has recently concluded.

An officer response to the Further Main Modifications was submitted, expressing general support that Epping Forest District Council progress their local plan. This report was provided for information to update members on the progress of the plan making process in an adjoining district.

Mr Quilter summarised the report.

Following discussion the report was noted by Members.

296. Infrastructure Funding Statement 2021-22

The council is required to prepare an Infrastructure Funding Statement at least annually by 31 December. The most recent statement sets out a summary of the developer contributions received via section 106 obligations for 2021-22.

Mr Quilter introduced the report.

Following a full discussion the report was noted by Members.

297. Urgent Business

There were no items of urgent business.

The meeting concluded at 21:27

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SITE PLAN ATTACHED

BIRLEY GRANGE HALL LANE SHENFIELD BRENTWOOD ESSEX CM15 9AL

CONVERSION OF EXISTING DWELLING INTO TWO APARTMENTS, RETENTION OF EXISTING ANNEX TO BE USED AS A DWELLING. REMOVAL OF TENNIS COURT AND CONSTRUCTION OF 6 DWELLINGS, INCLUDING 3 DOUBLE GARAGES AND A SINGLE GARAGE. ADDITIONAL CAR PARKING SPACES FOR THE EXISTING CHURCH

APPLICATION NO: 22/01459/FUL

WARD	Shenfield	8 WEEK DATE	13 December 2022
CASE OFFICER	Mrs Carole Vint	EXT OF TIME	27 January 2023

Drawing no(s) relevant to this decision: 9125 / 05; 9125 / 06; 9125 / 07; 9125 / 08; 9125 / 10; 9125 / 11; 9125 / 12; 9125 / 13; 9125 / 15; 9125 / 17; 9125 / 18; 9125 / 01; 9125 / 02 with details; 9125 / 04;

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

The recommendation for refusal is understood in the context of policy. However, this does not take into consideration the health and safety benefits that the additional parking would have on local residents and the pupils and staff of the school opposite. In addition, the applicant has noted the officer's recommendation and altered the plans accordingly.

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 committee could visit the site and debate the application at the next planning meeting.

1. Proposals

This application relates to the conversion of the existing dwelling into two 3 bed apartments, conversion of the covered pool to provide a four car garage, retention of existing annex to be used as a separate dwelling, removal of tennis court and construction of 6 dwellings, plus erection of 3 double garages and a single garage. Provision of 7 car parking spaces for the adjacent Church.

2. Policy Context

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 below.

The Brentwood Local Plan 2016-2033

- Policy MG02 – Green Belt
- Policy BE02 – Water Efficiency and Management
- Policy BE04 – Managing Heat Risk
- Policy BE05 – Sustainable Drainage
- Policy BE07 – Connecting New Developments to Digital Infrastructure
- Policy BE11 – Electric and Low Emission Vehicle
- Policy BE12 – Mitigating the Transport Impacts of Development
- Policy BE13 – Parking Standards
- Policy BE14 – Creating Successful Places
- Policy BE16 – Conservation and Enhancement of Historic Environment
- Policy HP03 – Residential Density
- Policy HP06 – Standards for New Housing
- Policy NE01 – Protecting and Enhancing the Natural Environment
- Policy NE03 – Trees, Woodlands and Hedgerows
- Policy NE07 – Protecting Land for Gardens

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

- 22/00291/FUL: Conversion of existing dwelling into two apartments and retention of existing annex to be used as a dwelling. Removal of tennis court and construction of 6 dwellings, including 3 double garages and a single garage. Additional car parking spaces for the existing Church. **-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/>

A total of 12 letters have been received, 7 objecting to the proposal and 5 in support. The concerns arising from the letters include:

- Concerns regarding the impact of the proposal on highway safety, due to its the location;
- Impact upon the local highway due to construction, increased and ongoing vehicular and pedestrian access;
- Concerns regarding the single width vehicular access along Hall Lane;
- Proposed impact upon green belt land, resulting in inappropriate development;
- Proposal not in keeping with the existing pattern of development and would appear at odds with the existing dwelling and surrounding development;
- No current traffic analysis undertaken;
- Concerns regarding the proposed access arrangements;
- Increase in traffic will result in an increase in noise and pollution to neighbouring residents;
- Concerns regarding water table levels on surrounding sites;
- Loss of trees, bushes and hedges on the site and impact upon local wildlife;
- Impact upon ecology and the variety of species reported to be on the site;
- Confirmation or no agreement between the developer and the Church in relation to the additional parking spaces for St Marys Church;
- Roof height reduction to chalet style dwellings incongruous with Birley Grange;
- Gain of seven parking spaces for the Church car park, results in the loss of two to facilitate this;
- Impact upon setting of heritage assets of Grade II Church and Shenfield Hall;
- Loss of privacy and tranquillity within rear garden and within adjacent dwelling;
- Enlargement of car park, is likely to attract more cars, rather than alleviate the current parking issues;
- Potential future owners would remove more of the existing tree screening;
- Refuse collection, not clear how this would be facilitated due to the access.

Supporting comments summary:

- In support, Brentwood does require more housing;
- Easy access to the station;
- Benefit of car parking for Church and school and alleviate potential congestion;
- Fantastic use of space;
- More housing for local residents;
- Provision of houses rather than flats is welcomed.

5. Consultation Responses

Detailed below is a summary of the consultation responses, if any received. The full version of each consultation response can be viewed on the Council's website via Public Access at the following link:

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

- **Historic England:**

Thank you for your letter of 28 October 2022 regarding the above application for planning permission.

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

We suggest that you seek the views of your specialist conservation and archaeological advisers. You may also find it helpful to refer to our published advice at

<https://historicengland.org.uk/advice/find/>

It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.

- **Essex Wildlife Trust:** No comments received at time of writing the report.
- **Environmental Health & Enforcement Manager:** No comments received at time of writing the report.
- **Historic Buildings and Conservation Officer:**

Built heritage advice concerning an application for the conversion of existing dwelling into two apartments and the retention of an existing annex, to be used as a dwelling. The application also proposes the removal of a tennis court and construction of six dwellings, including three double garages and a single garage. Additional car parking spaces will be provided for the existing church.

Birley Grange is a large, detached house, set within spacious grounds. Located on the northern edge of Shenfield, the house is surrounded by areas of fields and woodland to the west, sharing its eastern boundary with the churchyard of St Mary's Church, a Grade II* listed building (list entry number: 1197213). Two Grade II, individually listed, gravestones are located within the churchyard. Whilst there is a high level of vegetation and tree cover separating the church and Birley Grange, their proximity is palpable, and the spacious grounds of the house serve to reinforce the church's separation from the core of Shenfield to the south, from which it has always been distinct. Within this section of Hall Lane, the grain of development is notably looser than the character of Hall Lane to the south of the application site, which has been developed into a series of residential cul-de-sacs as Shenfield expanded in the latter twentieth century.

A brief heritage statement has been provided in support of this application, forming part of the overall planning statement. It is concluded that 'The design and layout of the development proposal will not have any impact upon the identified historical assets.' It is unclear if Historic England's best practice guide, GPA 3, The Setting of Heritage Assets has been used to inform this conclusion. From the details provided, it is suggested that the conclusion is based purely on the lack of visual link between the church and Birley Grange (section 6.8 of the applicant's planning statement). However, as the document produced by Historic England makes explicit, setting is more than just a visual connection or link, and an increase in noise, activity, change in land use, increased density, noise and light spill on the application site could have a detrimental impact upon the significance of the church due to harm to its setting. These aspects should have been considered by the applicant for the application to be fully compliant with section 194 of the NPPF.

As described above, the current nature of the application site (a single house in large grounds, with a low density of development on the site), does, in my opinion, contribute to the setting and significance of the church. The site also forms a gradual lowering in building density on the edge of Shenfield, where buildings gradually give way to open countryside, albeit slightly truncated by the A12. The proposal to construct six new dwellings and ancillary garages on the site thus raises an 'in principle' concern from a built heritage perspective, as the increased density of building within the grounds of Birley Grange would represent an urbanisation of an area which contributes to the wider setting of the listed church. Whilst the prominence of Birley Grange would be retained to some extent by the lower building height of the new dwellings, this would not mitigate against the other residual effects caused by the subdivision of the application site, introduction of additional residential paraphernalia and increased movement, noise and density.

The subdivision of Birley Grange, into two apartments, is not objectionable on its own, however the additional dwellings and development of the site into a small cul-de-sac should be considered as resulting in less than substantial harm to the significance of the Grade II* listed St Mary's Church. Whilst the addition of more car parking may be beneficial to the operational use of the church, this benefit does not, I believe, constitute a heritage benefit which outweighs the overall negative impact which will be caused to the church's setting. Sections 130, 197(c), 200 and 202 of the NPPF are applicable, as is section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- **Highway Authority:**

The documents submitted with the planning application have been duly considered and a site visit was carried out previously. There are no fundamental changes to the previous application for this site (reference 22/00291/FUL) in terms of highways considerations. Consequently, the Highway Authority would reiterate its previous position as follows;

The existing site access is being retained and, although the proposals will result in a minor increase in its use, it does allow two vehicles to pass each other comfortably clear of the highway. It also complies with highway standards in terms of visibility splays for the observed speed of the road and the proposals fully comply with Brentwood Borough Council's adopted parking standards. The plans also provide an added benefit of a small increase in off-road parking for the local church.

There are no formal pedestrian footways immediately outside the access on Hall Lane. However, historic data indicates that this area of the highway sees slow speeds and it is regularly used safely by pedestrians to access the neighbouring church and primary school. Given the modest size of the development and the absence of any recorded road traffic incidents in this location of Hall Lane over the last 5 years, there is no evidence to suggest that the proposals will have an unacceptable impact on highway safety, which is the NPPF criteria for refusal on highways grounds.

Therefore, from a highway and transportation perspective, the impact of the proposal is acceptable to the Highway Authority subject to the following requirements:

1. 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

Reason: To ensure that on-road parking of these vehicles in the adjoining roads does not occur, that loose materials and spoil are not brought out onto the highway, in the interests of highway safety and Policy DM1 of the Highway Authority's Development Management Policies February 2011.

2. The site access shall be provided in accordance with Drawing no 17-044-FS-03C.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway, and so that vehicles can enter and leave the highway in a controlled manner, in the interest of highway safety and in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

3. 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 in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

4. Prior to first occupation of the proposed development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, as approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

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

Informatives

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 carriageway.

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

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

- **EBPG-**

Thank you for contacting us again regarding this scheme. Since we have not been provided with any additional ecology surveys, we are assuming that the applicant continues to rely on the updated survey from Adonis Ecology dated 25th April 2022 which documents the results of survey work from 7th February 2022.

We wish to stress at the outset that, contrary to comments made in the report submitted to the planning committee in relation to the previous application (22/00291/FUL), the developer has not been working with our group to resolve issues relating to the protected species on site and it is misleading to suggest that this is the case. Although we are appreciative of the changes to the original plans and the additional surveying carried out to ascertain the extent of the activity on site, we still have very serious concerns.

Based on the documents presented in support of this case, we do not believe that sufficient information is held for a planning decision to be made. With this in mind, an updated badger survey should be provided before further consideration is given to granting planning permission for this scheme.

Finally, due to the close proximity of active badger setts to all the proposed units on site, we recommend that permitted development rights are removed by way of condition on any planning permission awarded. This will allow proper consideration of any future extension plans with a view to ensuring that the badgers remain protected.

Whilst we have no objection in principle to this scheme, and are appreciative of the efforts being made to protect the species, we do believe that further work needs to be undertaken by the applicant and the ecologist to satisfy additional concerns prior to the application being determined.

- **County Archaeologist:**

Thank you for consulting the Historic Environment Advisor to Brentwood Borough Council on the above application.

The Essex Historic Environment Record (EHER) shows that the buildings proposed for conversion have historic origins. Birley Grange (labelled as a 'Parsonage') is visible on the 1777 Chapman and André map of Essex. The more detailed Shenfield tithe map of 1838 depicts the main dwelling as well as the annex, and two other buildings that have since been demolished. Additionally, the tithe map and, later, the first edition OS map from the 1860s, both show the site as containing a series of formal gardens associated with the dwelling.

The alterations and conversions proposed to be undertaken on the main dwelling are extensive and include the removal and insertion of multiple walls to facilitate the proposed subdivision of the property. Historic fixtures or fittings may survive within Birley Grange and any surviving stylistic or typological evidence could provide dating evidence for the building's construction and evolution since that time. A programme of historic building recording should therefore be undertaken on the main dwelling prior to the commencement of any conversion or alteration works, to create an archive record of the structure.

In contrast to the previous planning application, the historic annex is being retained in this scheme, and the proposed internal alterations to it are relatively minor. As a result the annex will not need to be included within the scheme of historic building recording.

In addition, the proposed development is located directly adjacent to a historic medieval manorial site, today comprising the church/hall complex of the 16th-century Shenfield Hall and the 15th-century church of St Mary the Virgin, as well as an associated threshing barn (all of which are listed buildings). Medieval manorial complexes in Essex contain a core of a manor house and church, and also often include an array of other buildings, including agricultural buildings (such as the still standing barn) and ancillary dwellings. Given that the 1777 map clearly shows the proposed development area as being within the manorial site, it is likely that archaeological remains associated with this historic complex (including earlier building remains) may survive and be impacted by the proposed development.

In view of the above, this office recommends that the following conditions are attached to any planning consent, in line with the National Planning Policy Framework, paragraph 205:

RECOMMENDATION: A Programme of Building Recording

1. No demolition, conversion or alterations shall commence until a programme of historic building recording has been secured in accordance with a Written Scheme of Investigation (WSI) to be submitted by the applicant and approved in writing by the local planning authority.
2. No demolition, conversion or alterations shall take place until the satisfactory completion of the recording in accordance with the WSI submitted.
3. The applicant will submit to the local planning authority a report detailing the results of the recording programme and confirm the deposition of the archive to an appropriate depository as identified and agreed in the WSI.

RECOMMENDATION: A Programme of Trial Trenching, followed by Open Area Excavation

1. No development or preliminary groundworks can commence until a programme of archaeological trial trenching evaluation has been secured in accordance with a Written Scheme of Investigation which has been submitted by the applicant, and approved by the planning authority.
2. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological evaluation identified in the Written Scheme of Investigation defined in Part 1 and confirmed by the Local Authorities archaeological advisors.
3. A mitigation strategy detailing the excavation/preservation strategy of the archaeological remains identified shall be submitted to the local planning authority following the completion of the archaeological evaluation.
4. No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been signed off by the local planning authority through its historic environment advisors.
5. The applicant will submit to the local planning authority a post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

A professional and accredited team of historic building specialists and archaeologists should undertake the building recording and evaluation work. Both phases of work should be carried out prior to the commencement of development. If both programmes of work were carried out by the same contractor this office would accept the submission of a single Written Scheme of Investigation detailing both works.

The work will comprise a Historic England Level 3 historic building recording survey of the main dwelling, and a trial-trenching evaluation of the development site, focused on the footprints of the proposed new dwellings and associated infrastructure. Subsequent to this, depending on the results of the trenching, a further phase of archaeological excavation and/or monitoring may be required.

The Borough Council should inform the applicant of the archaeological recommendation and its financial implications. An archaeological brief outlining the work required and the level of recording will be issued from this office on request and should be acquired prior to the production of a Written Scheme of Investigation.

- **Arboriculturalist:**

The current scheme is a revision of the previously refused 22/00291/FUL. This application still seeks permission to construct 6 new dwellings; however the building designs have altered. The reduction in the size and width dwelling in Plot 1 means that the Category A Cedar T27 is now proposed to be retained. There will still be an incursion into the root protection area with part of the rear of the house and most of the garage being within the RPA. The plans do not show any patio or paths within the rear garden which would also cause incursions. The crown of the tree would also require a crown lift to allow the garage to be constructed.

The retention of the tree is welcomed; however, I would expect that there would be post-development pressure to remove or reduce the tree once Plot 1 is occupied due to the proximity of the branches to the rear of the house and the likely shading of the rear garden.

As stated previously the proposed car park extension would be visible from Hall Lane at least in the short-term until the proposed new planting established. The site is set back from the road and therefore the views would be limited. The car park is approximately 5m from the corner of house in Plot 2.

While the revisions to the scheme now allow for T27 to be retained, I am still concerned about the likely post-development pressures on this tree and the retained parts of WG2.

I have reviewed the comments submitted by the EBPG and agree that the protected species tunnel features picked up on the northern edge of the tennis court by the Ground Penetrating Radar have not been addressed in the Ecology Report. It is noted however that there does not appear to be any sett entrances within this area.

It is noted that the EBPG does not object to the scheme in principle. The matters relating to the type and position of fencing on northeast part of the site are matters that could be addressed through a condition.

The submitted Ecology Report was valid for six months from 7 February 2022; therefore if the scheme is permitted it would be necessary to undertake a new survey to identify any changes to the use of the site by the protected species and to address the issues raised above and inform the construction method statement.

6. Summary of Issues

Planning permission is sought for the conversion of the existing dwelling into two 3 bed apartments, conversion of the covered pool to provide a four car garage, retention of existing annex to be used as a separate dwelling, removal of tennis court, construction of 6 dwellings, plus erection of 3 double garages and a single garage and provision of 7 car parking spaces for the adjacent Church.

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. In this case a further material consideration is the planning history, including a recently refused planning application for a similar proposal, which has not been the subject of an appeal.

Planning History

The site has a recent relevant planning history, set out in section 3 above. Application reference 22/00291/FUL for the conversion of existing dwelling into two apartments and retention of existing annex to be used as a dwelling. Removal of tennis court and construction of 6 dwellings, including 3 double garages and a single garage. Additional car parking spaces for the existing Church, which was refused 29 July 2022 for the following reasons:

- 1. The location of the proposed dwellings and the resultant increase in the bulk and spread of the development would have a greater impact on openness than the existing dwelling and detached annexe currently on the site and as such fails to fall within the list of exceptions to inappropriate development outlined in NPPF para 149. The proposal therefore constitutes inappropriate development and would therefore conflict with Brentwood Local Plan Policy MG02 and Chapter 13 of the National Planning Policy Framework (2021) as regards to development in the Green Belt. The considerations put forward by the applicant do not amount to 'very special circumstances' that 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.*
- 2. The proposed dwellings would not be in keeping with existing pattern of development and materially would appear at odds with the existing dwelling and surrounding development and involve the introduction of built form in this location which would erode the open nature of the site and green belt. The layout of the proposed development is considered contextually inappropriate by way of the arrangement of street arrangement of bland urban typologies that urbanise a sensitive setting and would fail to preserve the setting of the adjacent listed building and assets, contrary to Section 16(2) of the Planning (Listed Buildings*

and Conservation Areas) Act 1990. The proposal would result in the loss of a Category A tree and part of a Category A woodland group, to facilitate the construction of Plot 1. The loss of the trees would result in a detrimental effect on the character of this section of Hall Lane. The proposal is considered to be contrary to Chapters 12, 15 and 16 of the NPPF 2021, which require good design, conserving and enhancing the natural and historic environment and Policies BE14, BE16, NE01, NE03 and NE07 of the Brentwood Local Plan.

This current application is similar to the recently refused application. The applicant appears not to have taken the opportunity to appeal the refusal during the six months from the date of refusal, which has now expired. The proposed dwellings have been revised as set out below: and have been compared by house types, taking the maximum dimensions.

	House Type 1		House Type 2		House Type 3	
Scheme	Current	Previous	Current	Previous	Current	Previous
Width	10.1 metres	Same	7.7 metres	Same	9.8 metres	Same
Depth	12.5 metres	Same	11.8 metres	Same	13.5 metres	Same
Height	7.8 metres	8.7 metres	8.1 metres	9.5 metres	7.3 metres	8.3 metres

The difference when comparing the previous scheme to the current scheme is the change to the overall heights of the dwelling, the footprint of the dwellings remains the same as the previous refusal. In terms of a visual appearance, with the reduction in the ridge height and subsequent eaves reduction, the first floor windows have a pitched roof added

Paragraph 7.16 of the planning statement makes reference to the matter that “The applicant asserts that the revised designs, and lesser scale, have improved the relationship of the development to the site and its surroundings, address concerns with the previous application”. This is considered below. In relation to the Green Belt, the designation of the site has not changed since the recent refusal, the site is still within the green belt, which is acknowledged in the planning statement submitted with the application. Therefore, the appropriate comparison, particularly in green belt terms, is with the existing development on the site and not simply whether the proposal is less harmful than the unacceptable form of development proposed in the last application.

The main issues which require consideration as part of the determination of this application are:

- Impact of the proposal on the Green Belt;
- The impact of the proposal on the character and appearance of the area;
- The impact of the proposal on the adjacent heritage assets;

- Impact on the living conditions of the occupiers of neighbouring properties;
- Impact on the trees and ecology;
- Parking and access issues

Principle of Development

The Brentwood Local Plan 2016 – 2033, as approved, has been produced in light of the NPPF's emphasis on sustainable development. Strategic policies MG01, MG02 and MG03, set out the Boroughs overarching strategic strategy for growth. Policy MG01 refers to the sites allocated for growth, of which this site is not one of the strategic sites identified. Policy MG02 ensures to maintain the openness of the green belt in line with national planning policy and Policy MG03 sets out the settlement hierarchy, which identifies Shenfield as settlement category 1.

The site is within the Metropolitan Green Belt, as such the acceptability of the principle of the proposal will very much depend on whether it complies with green belt policies. Having assessed the principle, other development management issues, such as design, appearance, impact on the adjacent heritage assets and effect on neighbours, if any, will be considered.

Green Belt

Green Belt Policy MG02 of the Brentwood Local Plan is to implement the green belt policies of the NPPF. Chapter 13 of the NPPF (2021) states the government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

The NPPF lists exceptions to inappropriate development in the green belt in paragraphs 149 and 150, though the supporting statement submitted with this application makes no reference to this. However, in order to assess the application, officers have considered the proposal in the context of the nearest relevant exception to inappropriate development. The proposal insofar as it relates to the conversion of the existing dwelling into two apartments, retention of the existing detached chalet dwelling (annexe) on the site to be used as a dwelling and the conversion of the covered swimming pool as a four car garage is compliant with paragraph 150 relating to reuse of existing buildings.

Paragraph 149 of the NPPF relates to new buildings and states that a Local Planning Authority (LPA) should regard the construction of new buildings as inappropriate in the Green Belt with limited exceptions. The exception closest in relevance 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.*

The proposal does not relate to affordable housing and therefore the last bullet can be discounted.

There is no official measure to assess openness and the NPPF does not suggest a method to compare existing and proposed development or judge openness. Openness is a visual quality, normally considered to be the lack of buildings, a useful way to assess the new build elements of proposals in comparison with existing lawful development is a visual comparison of the massing, spread and position of existing and proposed buildings. While it's not unusual for people to quote numerical data for footprint, floorspace or volume when considering redevelopment proposals in the greenbelt, reliance on mathematical data can be misleading and is not supported in National Planning Practice Guidance. Officers have consistently advocated a comparison is the massing and spread of built form on a site as a reliable way of assessing the impact on openness, as advocated in case law and national planning practice guidance.

The application site is on land currently associated with Birley Grange. The removal of tennis courts is considered to have minimal benefit to the openness of the green belt and any benefit is more than lost by the construction of six detached two storey dwellings, including 3 double garages and a single garage and the provision of additional car parking spaces for the existing adjacent Church.

The proposed two storey dwellings would partly encircle the existing dwelling and be located to the southeast, east and to the north of the site. Currently the land surrounding the existing dwelling is open, devoid of development, with the exception of the existing detached annexe to the northeast and the tennis courts to the north western part of the site.

The site is predominantly enclosed along all boundaries with mature trees, shrubs and bushes. The site is set back from highway, with the land falling slightly to the northwest. The application has been revised to retain the Category A tree (T27 – Atlas Cedar), which was previously going to be removed, though its lower branches would be removed up to 4.5 metres from ground level. The retention of the tree would to some degree reduce the views of the development from the street. Given the location, size and its proximity to surrounding development, the site cannot be considered as limited infilling.

Whilst not claimed by the applicant, however, even if the site were to be considered as previously developed land (PDL), as outlined in the Glossary (Annex 2) to the NPPF - it

is noted that the NPPF contains the paradox that land in built-up areas such as residential gardens is excluded from the definition of PDL where as gardens outside built up areas are not - it should not be assumed that the whole of the curtilage should be developed, particularly when considering the effect on openness which is the fundamental test on green belt sites.

The location of the proposed dwellings and the increase in the bulk and spread of the development would have a greater impact on openness than the existing dwelling and detached annexe currently on the site and therefore would not meet the criteria of this exception of the NPPF (149g). The proposal therefore constitutes inappropriate development in the Green Belt contrary to local policy MG02 of the local plan and Chapter 13 of the NPPF, and as such very special circumstances that clearly outweigh the harm to the green belt and any other harm, would be required to justify this inappropriate development in the Green Belt.

Very special circumstances

For inappropriate development in the greenbelt to be considered further requires consideration of whether there are very special circumstances. Two paragraphs in the NPPF are particularly relevant in this regard:

“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 last sentence is particularly worthy of note. Even were there to be very special circumstances they would need to clearly outweigh the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, which is a much higher threshold than an ‘on balance’ judgement.

The planning statement submitted with the application sets out the following as very special circumstances:

Housing demand

The supporting statement makes the out of date claim that the Council does not have a 5 year housing land supply and the presumption in favour of sustainable development applies – the tilted balance.

This is incorrect. The Brentwood Local Plan 2016-2033 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. Following the adoption of the Brentwood Local Plan 2015-2033, the plan now has a supply of housing land, in excess of five years supply. These sites are sustainably located within the Borough. In November 2022, a Housing Delivery and Supply Monitoring Update was provided to the Planning Committee. This report identified that the Brentwood Local Plan had identified a five year land supply of 5.21 years. Whilst this figure informs the Local Plan, a land supply of 6.9 years has now been identified. In relation to Housing Delivery Test, a 2022 position statement was provided, the first following adoption of the new local plan. Whilst this has not been subject to final verification by DLUHC, through the publication of the annual HDT results, the HDT measurement is anticipated to be 86%, which is in excess of the 85% requirement and the application of the NPPF paragraph 11(d) presumption in favour of sustainable development no longer applies.

If this was found not to be the case and as considered with the previous application, if the application were to be considered under paragraph 11 d) ii) of the NPPF and the tilted balance applied in relation to the application which would deliver a net gain of eight new dwellings – that is granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The NPPF lists specified protected areas, such as greenbelt that are not subject to a permissive approach to boosting housing supply as protection of the greenbelt provides a strong reason to restricting development itself. Therefore, the contribution to housing land delivery does not provide a justification for approving inappropriate development in the greenbelt, regardless of design or context. In such circumstances the ‘tilted balance’ would have been disengaged and now levels of land supply and delivery are such that it does not apply in this borough.

Community asset

The planning statement makes reference to the gift of part of the land to extend the Church car park by 7 car parking spaces and providing additional parking for the local church and school drop off and collection. The planning statement makes superficial reference to the proposal referring to ‘ongoing discussions’ without committing to how or when the spaces would be provided, who would operate and maintain the spaces or their retention into the future. The arrangement shown on the submitted masterplan shows a restricted access with restrained parking area – the size of each space falls below the minimum 5.0 by 2.5m size standard, and far below the recommended 5.5 by 2.9m standard - such that the car park would not be an attractive option to use given the potential for it to become the focus of congestion at school drop off/collection time and potentially in relation to church events. The benefit of such a compromised facility is very limited and would not outweigh the harm to the green belt identified above. The benefit of those spaces would not meet the substantial test of clearly outweighing the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal.

Design, Character and Appearance and impact upon Heritage Assets

The site is located on Hall Lane, Shenfield, on the edge of Shenfield, where buildings give way to open countryside and within the setting of the adjacent Grade II* Church of St Mary the Virgin to the east, that has Grade II listed tombstones of Richard Moss and George Gross within the grounds. The site currently comprises a detached two storey dwelling, positioned centrally within a large spacious garden, a detached chalet annexe is located to the north eastern corner. The access to the site is located on the right hand corner of Hall Lane and has a sweeping drive with a downwards gradient towards the main dwelling. The topography of the site continues in a downwards gradient towards the rear boundary, levelling off for the existing tennis courts. The site is wholly located within the Green Belt and has a verdant boundary on all sides, with mature trees, hedgerows and shrubs along and within the site and is surrounded by areas of fields and woodland to the west. Whilst there is a high level of vegetation and tree cover separating the church and Birley Grange, their proximity is palpable, and the spacious grounds of the house serve to reinforce the church's separation from the core of Shenfield to the south, from which it has always been distinct.

The proposal includes the conversion of the existing dwelling into two apartments, the attached two storey building, which is set lower within the ground, is currently used as a swimming pool, which would be infilled providing parking for the flats. The existing detached annexe on the north eastern corner of the site would be retained and used as a dwelling. The reuse of these elements would have a neutral effect on the character of the area. The proposed construction of six detached two storey dwellings, including 3 double garages and a single garage would be located to the south east, east and north of the site, which is currently void of development, along with the provision of additional car parking spaces for the existing adjacent Church, would change the character of the site and the locality.

The proposed dwellings would be detached, two storey four bedroom dwellings. The layout of the dwellings would be urban in context, whilst Policy HP03 refers to development proposal not allocated within the plan should have a density of at least 35 dwellings per hectare, subject to context. The development proposed is of a lower density than normally required elsewhere, but due to green belt and character constraints, such a density of at least 35 dwellings per hectare on this site would not be sympathetic to the rural character of the existing site.

In terms of materials, the existing dwelling is a detached two storey dwelling, with rendered elevations. The existing detached annexe is a part weatherboarded and rendered dwelling, with a rear and side facing dormer. Whilst the design of the dwellings has been revised when compared to the previous refusal, the overall design of the dwellings is still considered to be of fairly generic bland house types, comprising three house types of two dwellings each, mixed amongst the site, The proposed materials would comprise red multi stock bricks, cream render, with two plots having black boarding elements to the front elevations, with a mixture of slate grey and mixed

russet roof tiles. When compared to the existing dwelling and of those within the vicinity and the site immediate context, the proposed bland house types would appear at odds with the existing development and involve the introduction of built form in this location which would erode the open nature of the site and locality, contrary to Policy BE14.

In relation to heritage assets, the supporting statement contains a brief section dedicated to heritage, however it is considered that this statement does not meet the minimum requirements of paragraph 194 of the NPPF. The statement concludes that the site is separated by an extremely mature and dense row of trees and that the site is set lower in land level to that of the Church and that both sites cannot be viewed in context to one another and goes on to state "*The design and layout of the development proposal will not have any impact upon the identified historical assets*". As referred to by the Council's Historic Buildings Officer, it is unclear if Historic England's best practice guide, *GPA 3, The setting of Heritage Assets* has been used to inform this conclusion. The Planning Note 3 from Historic England, is explicit, in that setting is more than just a visual connection or link and any increase in noise, activity, change in land use, increased density, noise and light spill on the application site could have a detrimental impact upon the significance of the church due to harm to its setting. These aspects should have been considered by the applicant for the application to be fully compliant with section 194 of the NPPF.

The Council's Historic Buildings and Conservation Officer considers the proposal raises an 'in principle' concern from a built heritage perspective, as the increased density of building within the grounds of Birley Grange would represent an urbanisation of an area, which contributes to the wider setting of the listed church, which is contextually inappropriate and would conflict with paragraph 197c of the NPPF, which refers to development that makes a positive contribution to local character and distinctiveness. Whilst the prominence of Birley Grange would be retained to some extent by the lower building height of the new dwellings, this would not mitigate the other residual effects caused by the subdivision of the application site, introduction of additional residential paraphernalia and increased movement, noise and density.

An in principle objection is raised to the new dwellings proposed and the parking arrangements, by way of impact upon the historic environment and the character of Hall Lane. The nature of the application site, is a single house set in large spacious grounds, with a low density of development on the site, which contributes to the setting and significance of the adjacent Church. The proposal by way of the additional dwellings and development of the site into a small cul-de-sac should be considered as resulting in less than substantial harm to the significance of the Grade II* listed St Mary's Church. Whilst the addition of more car parking may be beneficial to the operational use of the church, this benefit does not, constitute a heritage benefit which outweighs the overall negative impact which will be caused to the church's setting.

The harm identified by the Council's Historic Buildings and Conservation Officer, is material. Therefore, under S66(1) of the Planning and Listed Building and

Conservation Areas Act 1990, makes it clear that a Local Planning Authority (LPA) should have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Chapter 16 of the NPPF (2021) aims to conserve and enhance the historic environment, with paragraph 199 stating that “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”.

As outlined above, the Historic Buildings Officer considers the proposal would result in less than substantial harm to the adjacent designated Heritage Asset and its setting. In addition, the proposals are not justified by a credible Heritage Assessment. Without such baseline analysis the approach has been misled and resulted in a design not complementary to the character and architectural interest of the adjacent listed building. No adverse comments are made in relation to the subdivision of the Host Building.

The Historic Buildings and Conservation Officer’s comments above are pertinent to the proposal and as such, the proposed development overall is considered contextually inappropriate by way of the arrangement of street arrangement of bland urban typologies that urbanise a sensitive setting and would fail to preserve the setting of the adjacent listed building and assets, contrary to Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and contrary to Chapters 12 and 16 of the NPPF 2021, which require good design and conserving and enhancing the historic environment and Policies BE14, BE16 of the Brentwood Local Plan.

Impact on Neighbour Amenity

A number of letters of representation have been received in relation to this application raising concerns over loss of privacy as well as disturbance in relation to increased noise. In terms of noise and disturbance the proposal is located within a residential area where further residential development would not be considered unacceptable from the point of view of undue noise or disturbance. Noise and disturbance during construction could be minimised through the use of a Construction Environmental Management Plan.

Given the location of the proposed dwellings, they are located at a sufficient distance to protect neighbours from an overbearing development harmful to residential amenity. The proposal would not result in any overbearing impact, loss of light, outlook or privacy to the adjacent occupiers.

Other matters

The comments received from the neighbouring occupiers have already been fully considered in the above evaluation of the proposal.

Living Conditions for future occupiers

The dwellings would comply in terms of amenity space provision (both for the host dwelling and the proposed, as well as meeting the nationally described space standards Policy HP06.

Parking and Highway Considerations

At least two off street parking spaces are proposed with adequate space for safe manoeuvre which is compliant with Essex guidelines. ECC Highways has provided a consultation response listed in full above and raise no objection to the scheme, subject to conditions and would comply with Policy BE12 and BE13.

Policy BE11 also requires the provision of, as a minimum, the space and infrastructure for electric vehicle charging / plug-in points for occupants and visitors to the application site in order to reduce pollution and climate change impacts. This is a key requirement for a large-scale transition to electromobility envisioned within the plan. Were the application to be considered favourably, then a condition requiring electric vehicle charging infrastructure would be required.

Trees, Landscaping and Ecology

The site contains a large house with a detached residential annex, outbuildings and a tennis court. These are set within a large garden area containing large trees and shrubs, enclosed by wooded belts. It is adjacent to the parish church.

The Council's Arboricultural officer has considered the Arboricultural Impact Assessment submitted that contained a tree survey undertaken in accordance with BS5837:2012. The proposal, a revision of the previously refused application, reference 22/00291/FUL, still seeks to construct six new dwellings, with a revision to the buildings design. The reduction in the size and width dwelling in Plot 1 means that the Category A Cedar T27 is now proposed to be retained. However, this will still result in an incursion into the root protection area with part of the rear of the house and most of the garage being within the RPA. The plans do not show any patio or paths within the rear garden which would also cause incursions. The crown of the tree would also require a crown lift to allow the garage to be constructed.

Whilst the retention of the tree is welcomed; however, I would expect that there would be post-development pressure to remove or reduce the tree once Plot 1 is occupied due to the proximity of the branches to the rear of the house and the likely shading of the rear garden. Concerns are also raised regarding the likely post-development pressures on the retained parts of WG2 and would be contrary to Policies NE01, NE03 and NE07.

As stated previously the proposed car park extension would be visible from Hall Lane at least in the short-term until the proposed new planting established. The site is set back from the road and therefore the views would be limited. The car park is approximately 5m from the corner of house in Plot 2.

In relation to ecology, the comments submitted by the EBPG have been reviewed and are in agreement that the protected species tunnel features picked up on the northern edge of the tennis court by the Ground Penetrating Radar have not been addressed in the Ecology Report. It is noted that the EBPG does not object to the scheme in principle. The matters relating to the type and position of fencing on northeast part of the site are matters that could be addressed through a condition.

The submitted Ecology Report was valid for six months from 7 February 2022; therefore if the scheme is permitted it would be necessary to undertake a new survey to identify any changes to the use of the site by the protected species and to address the issues raised above and inform the construction method statement. Such a Construction Environmental Management Plan (CEMP) would be required to set out the detailed requirements to minimise the effects on protected species. A bat survey would be required to inform mitigation requirements.

The application is therefore not supported on arboricultural and ecology grounds and would be contrary Chapter 15 of the NPPF and local Policies NE01, NE03 and NE07, in relation to the location of the development and the existing trees, the potential loss of the trees would result in a negative impact to the visual amenity of the area.

Sustainability

The purpose of the planning system is to contribute to the achievement of sustainable development. In determining whether a proposal would represent sustainable development there are three objectives which must be considered;

- An economic objective,
- A social objective, and
- An environmental objective.

Paragraph 38 of the NPPF states that “*Decision-makers at every level should seek to approve applications for sustainable development where possible.*”

Economically the proposal would generate employment during the construction period, commensurate with its small size. Socially the proposal would provide a net gain of eight family homes. In terms of environmental sustainability, the design and access statement makes very limited aspirational comments about the buildings incorporating high levels of insulation; reducing the space heating requirements and reducing CO2 emissions; low energy lighting, flow restrictors, aerated taps and dual flush cisterns, and contractors being encouraged to segregate waste during construction. The planning statement refers to the likely need to incorporate solar PV panels, though none are shown on the submitted drawings. Further full details would be required to confirm that

the proposal would be capable of delivering the 10% reduction in carbon dioxide emissions as per Policy BE01, along with confirmation that the new dwellings would be able to achieve the limits of 110 litres per person per day as per Policy BE02. Details of the private drainage system and connectivity to a new sewer have not been provided, in order to comply with Policy BE05. However, most of the requirements of these policies could be dealt with via pre-commencement conditions should planning permission be granted.

Environmentally it is however also considered that the proposal would appear out of character with the prevailing pattern of development resulting in demonstrable harm to the street scene. The proposal does not therefore represent sustainable development as set out within the NPPF.

Comments on reasons for calling the application to committee.

The reason for the call in to committee is reproduced in full at the beginning of the report. There appears to be no disagreement that planning policies have been applied correctly in reaching the recommendation. The committee will be aware that the planning system is 'plan led' and the borough has the benefit of an up to date development plan. It is one of the roles of the planning committee to implement its development plan. Furthermore, the up to date development plan clearly states that with regard to development in the green belt, it will follow the requirements in the NPPF, which as this report indicates above are not met by this proposal. Unlike at previous times the titled balance is no longer engaged in the borough for reasons of either land supply or delivery. The benefits of the parking have been assessed above and are not considered to be of significant weight. It is not clear what is meant by the recommendation not taking into "account the reality of the present situation and lacks fairness".

Conclusion

The site is in the Green Belt and the proposal is inappropriate development which the NPPF tells us is harmful by definition. The matters put forward in support of the proposal do not amount to very special circumstances that clearly outweigh the harm to the Green Belt or the other harm identified within the above report. The addition of 8 units would contribute to the boroughs housing supply but would not amount to a reason to approve the development as outlined within the NPPF and the NPPG. The application is recommended for refusal.

Where a planning application is called to committee, the committee becomes the decision maker for that application for the local planning authority. Following the principle of consistency, the committee should have regard to the previous application referred to above. This is the case irrespective of whether the previous applications were determined by officers under delegated powers or by the planning committee. Were the committee minded to grant permission for this application, given the recent

history of a refusal, relating to a similar proposal on the site, it should clearly state the planning reasons for such a contrasting decision.

7. Recommendation

The Application be REFUSED for the following reasons:-

R1 U0049443

The location of the proposed dwellings and the resultant increase in the bulk and spread of the development would have a greater impact on openness than the existing dwelling and detached annexe currently on the site and as such fails to fall within the list of exceptions to inappropriate development outlined in NPPF para 149. The proposal therefore constitutes inappropriate development and would therefore conflict with Brentwood Local Plan Policy MG02 and Chapter 13 of the National Planning Policy Framework (2021) as regards to development in the Green Belt.

The considerations put forward by the applicant do not amount to 'very special circumstances' that 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.

R2 U0049444

The proposed dwellings would not be in keeping with existing pattern of development and materially would appear at odds with the existing dwelling and surrounding development and involve the introduction of built form in this location which would erode the open nature of the site and green belt. The layout of the proposed development is considered contextually inappropriate by way of the arrangement of street arrangement of bland urban typologies that urbanise a sensitive setting and would fail to preserve the setting of the adjacent listed building and assets, contrary to Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would result in a detrimental effect on the character of this section of Hall Lane. The proposal is considered to be contrary to Chapters 12, 15 and 16 of the NPPF 2021, which require good design, conserving and enhancing the natural and historic environment and Policies BE14, BE16, NE01, NE03 and NE07 of the Brentwood Local Plan.

Informative(s)

1 U0009373

The following development plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: BE01, BE02, BE04, BE05, BE11, BE12, BE13, BE14, BE16, MG02, HP03, HP06, NE01, NE03, NE07, National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

2 INF20

The drawing numbers listed above are relevant to this decision

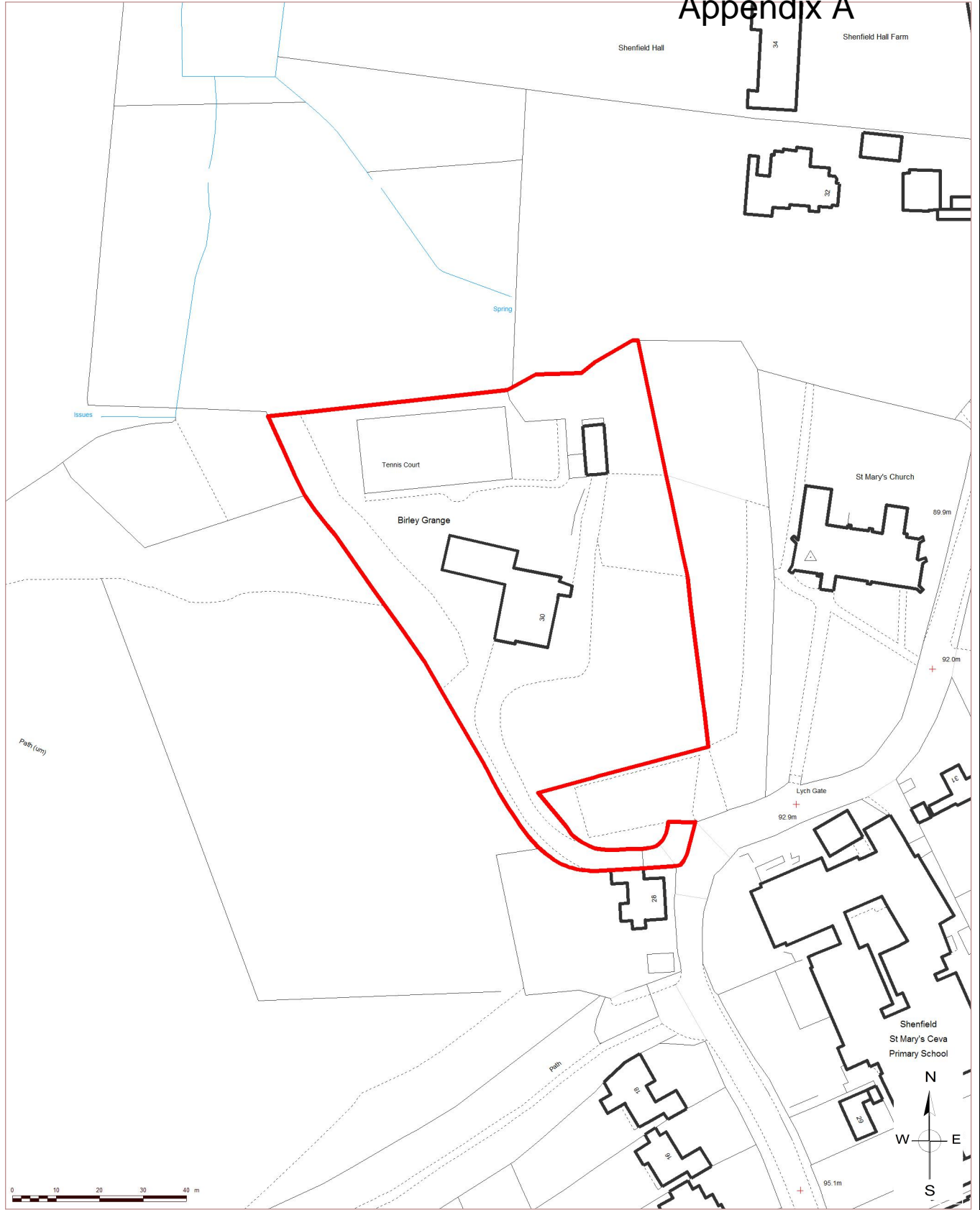
3 INF23

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

Appendix A



Title : Birley Grange, Hall Lane, Shenfield, Brentwood, Essex CM15 9AL

22/01459/FUL

Scale at A4 : 1:1250

Date : 17th January 2023

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



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SITE PLAN ATTACHED

FIRST FLOOR 40 HIGH STREET BRENTWOOD ESSEX CM14 4AJ

CHANGE OF USE FROM SNOOKER HALL (D2 ASSEMBLY AND LEISURE) TO BAR/NIGHTCLUB(SUI GENERIS), USE OF FIRST FLOOR TERRACE AS SMOKING AREA, INSTALLATION OF RETRACTABLE CANOPY TO THE REAR AND CONSTRUCTION OF A WALL TO THE WEST SIDE OF THE FIRST FLOOR REAR TERRACE. (PART-RETROSPECTIVE)

APPLICATION NO: 22/01290/FUL

WARD Brentwood South **8/13 WEEK DATE** 07.11.2022

PARISH **Ext. Of Time** 16.12.2022

CASE OFFICER Brooke Pride

Drawing no(s) relevant to this decision
1490-01/REV B; 1490-02; 1490-03; 1490-04; DESIGN ACCESS AND HERITAGE STATEMENT;
:

The application is reported to the Planning and Licensing Committee as it has been referred by Cllr. Gareth Barrett. The reasons given are:
The smoking area/the balcony impacts the residents of Alfred Road and High Street properties directly. For context, noise needs to be considered when development may create additional noise, or would be sensitive to the prevailing acoustic environment (including any anticipated changes to that environment from activities that are not permitted but not yet commenced).

1. Proposals

Planning permission is sought for the change of use of the first floor from snooker club to a bar/nightclub and for the rear terrace area to be used as an outdoor smoking area with the construction of a perimeter wall and installation of a retractable canopy. The application has been accompanied by a Design, Access and Heritage Statement along with a Roof Terrace Structural Report, a technical noise note, and a copy of the Premises Licence dated 8 September 2021. The D&A Statement sets out that the site

has been occupied as a night club since at least April 2019 and prior to this, as a Sports Bar and Lounge.

The site is located approximately half way along the south side of Brentwood High Street and comprises a three storey building with retail units at ground floor, an undercroft vehicle access (for service vehicles) and a pedestrian access to the first and second floors of the building. The entire first floor is given over to the night club, with residential flats on the second floor. An outdoor terrace area is located to the rear of the first floor, accessed via the night club. A fire escape stair way is located at the rear providing a route down from the terrace.

Alfred Road, a residential street lies to the south east, approximately 70m away to the nearest house; Beckett House lies 50m away to the south. The site lies within the Brentwood High Street Conservation Area and the building is adjacent to a Grade II* Listed Building and the ruins of the Old Chapel of St Thomas Becket, which is a scheduled ancient monument.

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)
- Brentwood Town Centre Design Guide
- Policy BE14 Creating Successful Places
- Policy BE16 Conservation and Enhancement of Historic Environment
- Policy PC05 Brentwood Town Centre
- Policy BE13 Parking Standards
- Policy PC09 Night Time Economy

3. Relevant History

- 96/00012/ADV: Retention Of Internally Illuminated Fascia Sign, Internally projecting Box Sign, Together With The Display Of A Fascia Sign Illuminated Externally By 5 Existing Lamps.- Application Refused
- 95/00229/FUL: First Floor Extension At The Rear Together With External staircase. – Application Approved

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 received.

5. Consultation Responses

- **Highway Authority-**

A site visit has been undertaken and the information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal includes an addition in height to a brick wall at first floor level that is adjacent to a footway below. The applicant must apply to Essex Highways for a license for any associated scaffolding etc. that may be required during the construction phase, therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority as it is not contrary to Development Management policies.

- **Historic Buildings And Conservation Officer-**

Thank you for consulting on this application within Brentwood Town Centre; the description pertains 'Part-Retrospective application including, change of use from D2 Assembly and Leisure to Sui Generis Bar/Nightclub. Use of terrace as smoking area, the installation of retractable canopy and the construction of a wall to the west side of the terrace'.

The site is a Non Designated Heritage Asset (refer to adopted Local List) located within the core of Brentwood Town Centre Conservation Area and within the setting of Heritage Assets, these include, the Scheduled Monument of The Chapel of St Thomas a Becket (List Entry Number:1017452), the Grade II listed building of RUINS OF OLD CHAPEL OF ST THOMAS A BECKET (list entry number 1197221), the setting of the Grade II listed buildings of 44 High Street (List Entry number 1025027) 60, HIGH STREET, List UID: 1197218, 62, HIGH STREET List UID: 1025033.

This advice relates to the impact of the proposals upon the NDHA and the setting of designated heritage assets only. For transparency the Heritage Statement (page 17)

refers to a 'Grade I listed building' of 'Peverell House', this statement is made in error; I confirm there are no Grade I listed buildings within the setting of the application site. The proposed approach to match identically in material, bond and coping a vertical extension at the flank wall of this structure is considered of neutral impact, as such no adverse comments are offered in respect of the works to the NDHA and its setting. I trust the above is of assistance.

- **Environmental Health & Enforcement Manager-**

I refer to your memo in connection with the above-mentioned application and would make the following comments.

The premises have been operating as a nightclub for several years and most of the issues relating to noise breakout have been resolved through Licensing conditions on the premises licence.

The addition of a lobby to the rear door onto the roof terrace is seen as an improvement which will reduce the level of sound from the main bar area being emitted when the door to the roof terrace is opened.

The details of the roof terrace provided are acceptable; however the installation of the solid brick wall to one elevation and roof covering may need to be checked for compliance with the requirements of the legislation around smoking areas to ensure that the area is sufficiently open to allow this use.

CONDITIONS

The lobby to the bar area shall be provided as indicated in the submitted plans. Details of the acoustic insulation shall be agreed with the Local Planning Authority and the doors shall be fitted with self-closing devices to reduce the likelihood of both doors being left open.

The proposed alterations and improvement of the roof structure to the external roof terrace shall be implemented prior to use of this area. Details of the wall surfaces shall be assessed to ensure compliance with the legislation to permit this area to be used as an external smoking area.

The level of amplified sound within the premises shall be controlled by the premises management incorporating the use of a sound limiting device to the amplification equipment. The amplified sound shall be controlled during operation of the premises to a level agreed with the Local Planning Authority.

- **Historic England-**

T&CP (Development Management Procedure) (England) Order 2015
& Planning (Listed Buildings & Conservation Areas) Regulations 1990

FIRST FLOOR 40 HIGH STREET, BRENTWOOD, ESSEX CM14 4AJ

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

We suggest that you seek the views of your specialist conservation and archaeological advisers. You may also find it helpful to refer to our published advice at <https://historicengland.org.uk/advice/find/>

It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.

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.

The Brentwood Town Centre Design Guide is also of relevance for any development within this area and encourages the use of the upper floors within the High Street. Developments should enhance the upper floors of the High Street as shown within the TCDG SPD of good and bad examples of development found within the surrounding area.

Background

The area within the current application sits above two retail units, and the terrace is located to the rear over shops below. An earlier Planning Enforcement investigation determined that a material change of use of the site had occurred including the use of the terrace area for smoking. The requirements of the Premises Licence necessitated a safety cage to be erected in this area, however no planning permission was ever sought for either the change of use or the erection of the cage which is deemed to be operational development. Since that time, the new owners have sought to resolve the planning breach, resulting in the current application.

Permission is sought for the change of use, the erection of a perimeter wall along the west and southern edges of the terrace and the installation of a retractable canopy. An internal lobby will also be constructed although as this sits within the envelope of the building, does not require specific consent.

Design, Character and Impact upon Heritage Assets

S66 (1) of the Planning and Listed Building and Conservation Areas Act 1990 makes it clear that a Local Planning Authority should have special regard to the desirability of preserving the Listed Building and its setting or any features of special architectural or historic interests which it possesses. Paragraph 199 of the NPPF states that great weight should be given to conserving a designated heritage asset's significance. Local plan policy BE16 is of relevance here and further enforces that new development should seek to preserve or enhance the conservation area, providing clear justification and supported by a Heritage Statement.

The external changes proposed are to the rear of the site which will include a wall to the west elevation which faces towards the scheduled ancient monument and a highly visible vantage point by users of the Baytree Centre. The wall will be constructed up to first floor eaves height with a brick, mortar and stone coping to match the existing wall.

As the materials proposed are to match the existing wall, it is considered that there would be no material harm to the setting of nearby Listed Buildings, the Scheduled Ancient or the appearance of the Conservation Area, because of the wall.

The terrace area will be contained within the new wall and the retractable roof canopy over, to be used when required such as in inclement weather. The new wall will remove the existing security railings and as such, be an improvement to the aesthetics of the building and the overall appearance of the Conservation Area. This would be compliant with the Local Plan policies BE14 and BE16 and meet the aims and objectives of the NPPF and Brentwood Town Centre Design Guide.

Brentwood Town Centre and Night Time Economy

Local Plan Policy PC05 requires development to conserve the positive qualities of the Brentwood Town Centre while enhancing and improving negative aspects of its function and appearance, and is also encouraged by the Town Centre Design Guide. The proposal seeks to retain a use of a first floor within the High Street which is encouraged, but not to the harm of the activation and vibrance of the area. The proposal seeks no changes to the external fenestration of the building retaining its front elevation appearance within the High Street as well as retaining an activation of a first floor unit.

The Brentwood Local Plan also requires developments that are within the night time economy i.e. nightclubs and bars, should not detrimentally effect the character or amenity of the surrounding residential area through smell, litter, noise or traffic problems and provide evidence of responsible management and stewardship arrangements to ensure there is no disturbance to surrounding properties and residents or harm to surrounding area amenity.

In terms of the use of the building, it contributes to the night time economy of the Town Centre and meets the criteria of policy PC05. The impact of its external area is considered under the next section.

Effect on residential Neighbour Amenity

The main issue for consideration is the effect of noise spillage from the use of the outside terrace for smoking and from people leaving and entering the club to access the terrace. The nearest residents are to the south of the building within Alfred Road and residential flats within the Town Centre, and the 3 residential units at second floor of the building.

The application is accompanied by a technical note which details how the external wall could be constructed against the existing wall that sound absorption materials can be added to the internal surface of the wall. The note also details that the club's noise management plan should restrict and control numbers on the terrace at night and no music is to be played on the terrace. An internal lobby area is also proposed to be constructed and traffic through the doors controlled by club staff, with one on the club side and one in the lobby, to remove the temptation of holding doors open between the club and outside to maximise noise control.

Based on the comments of the Environmental Health officer, it is considered that the insertion of the lobby would result in a reduction in noise emanating from the club and an improvement to surrounding residential amenity.

It is recommended that any permission includes a condition requiring the club to provide a Noise Management Plan to provide details of how many people will be allowed to use the terrace at any one time (no more than 30), how the terrace area will be managed by staff, and how the club will ensure the lobby is used correctly

Otherwise, it is considered that the proposed use and development is reasonable and appropriate within an urban area and high street setting.

Highways and Parking Considerations

The site lies within a highly sustainable area with public transport available as well as car parking. The proposed use would not significantly increase the visitors to the Brentwood Town Centre and no further parking provisions would be required.

Conclusion

Subject to conditions, it is recommended that the application be approved.

6.0 RECOMMENDATION

The Application be APPROVED subject to the following conditions:-

1 DRA01A Development in accordance with drawings

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

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

2 Construction of wall

The materials, mortar, stone detailing to be used in the construction of the external surfaces of the building hereby permitted shall match those used in the existing building.

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

3 Construction of wall (#2)

The terrace wall shall not be constructed until such time as a plan detailing the method and materials to be used, including external or internal sound proofing, has been submitted to and approved in writing by the local planning authority. The wall shall be constructed in accordance with the approved plan and retained thereafter. The terrace area shall not be used or occupied until such time as the wall is constructed as approved.

Reason: In the interests of neighbouring amenity.

4 Opening times

The premises shall not be open for customers outside the following hours: 11:00 to 02:30 Monday to Sunday and Bank Holiday.

Reason: To allow the local planning authority the opportunity to manage activity on the site that may impact on surrounding premises and amenity.

5 Terrace Area

Prior to first use of the terrace, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority setting out the ways in which the terrace area shall be managed. The Plan shall set out details including (but not limited to),

- The number of clients using the terrace at any one time.
- The way in which the terrace area will be always managed by the club staff, including ways in which the doors within the lobby area shall be controlled.
- Restrictions on the times of use
- Confirmation that no music will be played or seating areas provided
- Number and placement of cigarette butt utensils
- Signage (placement and wording)
- Sound limiting device to reduce amplified noise

The approved plan shall be implemented on first use of the terrace area and continued thereafter.

Reason: To protect residential amenity of surrounding occupiers.

6 Lobby

The lobby to the bar area shall be provided as indicated in the submitted plans. Prior to construction of the lobby, details of the acoustic insulation and self closing doors shall be submitted to, and approved in writing by the Local Planning Authority. The lobby shall be fully constructed before first occupation of the terrace as a smoking area.

Reason: To ensure that noise spillage is kept to a minimum, in the interest of neighbour amenity,

Informative(s)

1

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

The following Development Plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: BE14, BE16, PC05, BE13, PC09; 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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

BACKGROUND DOCUMENTS

DECIDED:

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Appendix A



Title : First Floor, 40 High Street, Brentwood, Essex, CM14 4AJ

22/01290/FUL

Scale at A4 : 1:1250

Date : 17th January 2023

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



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Committee(s): Planning Committee	Date: 17 January 2023
Subject: Planning Appeals Update (September – December 2022)	Wards affected: All
Report of: Phil Drane, Director of Place	Public
Report Author: Mike Ovenden, Associate Consultant Planner Email: mike.ovenden@brentwood.gov.uk	For information

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 received between September and December 2022. This is part of a regular series of updates brought to the Planning Committee for information. The most recent update was provided in September 2022 (Item 164).
2. The summaries below identify 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, or the weight they are willing to attach to material considerations, for example the tilted balance, in the context of other planning considerations.
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 an 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*). The appeals reported in this

report were all non-major developments determined under delegated powers (i.e. no committee decisions).

5. This report contains reference to the appeal 'Start Date' given to an appeal by the Planning Inspectorate; the rough equivalent of the validation date. However, unlike the validation process undertaken by local planning authorities when receiving planning applications (which if an application is complete on submission it is given a validation date of the next day after submission even if the process takes a few days), the automated date stamp on the appellants form often indicates that the appeal form was submitted to the Inspectorate weeks or months before it is given a start date. It's worthy of note that the enforcement appeal summarised at the end of this list was determined approximately 23 months after the date stamp on the appellants appeal form.
6. The application documents and appeal decisions are available to view on the council's website at www.brentwood.gov.uk/planning and via Public Access.

Appeal Decisions

7. The following appeal decisions have been received since the beginning of September 2022. Between September and December 2022 there were five appeal decisions issued by the Planning Inspectorate. Four were allowed (i.e. lost) (although one of these was a split decision), and one (Enforcement Notice) was upheld (i.e. won). That means that during the four-month period, 80% of appeals were allowed against the council's decision to refuse planning permission, significantly above the 31% performance indicator target. This will be kept under review as part of quarterly and annual performance indicator monitoring, noting that for the period previously reported (June – August 2022), only 9% of appeals (11) were allowed against the council's decision to refuse (see Planning Committee Item 164, 29 September 2022). This shows that the rates fluctuate across the year and so an annual figure provides more of a balanced picture.

7.1	Application No:	22/00154/HHA (NM)
	Location:	22 Hunter Avenue, Shenfield,
	Proposal:	Construction of an outbuilding to rear to include pitched roof and gable ends
	Appeal start date:	10 June 2022 (Householder 'Fast track' appeal)
	Appeal decision:	Appeal Allowed 14 October 2022

The main issues for consideration were: the character and appearance of the area; and the living conditions of the occupants of neighbouring dwellings. The proposed outbuilding differed from a previously approved scheme in terms of its height and roof materials and had been partially constructed at the time of the Inspectors visit.

Outbuildings were noted to be a common feature of the gardens in the locality although varied in height, proportions, materials and roof form. Despite the outbuilding raising above the boundary fences, it was considered to be comparable to nearby outbuildings and was not considered to appear overly dominant or at odds with the prevailing character of the area. In terms of the impacts upon neighbours living conditions, the location of the outbuilding was significantly set back from neighbouring buildings and feature a degree of separation from boundaries. It would be viewed in the context of other outbuildings and therefore would not appear overbearing or worsen outlook for neighbouring residents thereby not causing a sense of enclosure.

7.2

Application No:	21/00704/FUL (NM)
Location:	8 Springfield Avenue, Hutton
Proposal:	Single storey front extension with canopy roof, part two/part single storey rear extension incorporating first floor dormer, alterations to fenestration and subdivide property to create a 2-bed end of terrace house with parking and vehicular access onto Cotswold Gardens
Appeal start date:	28 March 2022
Appeal decision:	Appeal Allowed 10 November 2022

The main issues for consideration were the effect of the proposal on the character and appearance of the area. Due to the variance in roof type in the surrounding area, the Inspector considered the catslide roof and dormer addition to not be an unacceptable departure from the characteristic of the surrounding area, nor the mass and scale of the dwelling. Further, the overall size of the donor dwelling and proposed was not considered uncharacteristic of the area, considering those of the surrounding dwelling. As such, the appeal was allowed.

7.3

Application No:	21/01762/HHA (NM)
Location:	48 Woodway, Hutton
Proposal:	Two storey and single storey rear extension, front porch and dormer window to front. Alterations to fenestration.
Appeal start date:	7 April 2022 (Householder 'Fast track' appeal)
Appeal decision:	Appeal Allowed (Split decision) 22 November 2022

The development proposed was for a double and single storey rear extension, front porch and dormer window, with window proposed in the flank walls. The application had not been refused relating to the front porch and dormer window owing to the scale and size being subservient to the host dwelling and the Inspector agreed that these elements were acceptable. The reason for refusal related solely to the two-storey rear extension, which therefore was the sole focus of the appeal. The Inspector concluded that the rear extension would harm the living conditions of the occupants of No. 50. In doing so the Inspector agreed with the judgement of the local planning authority. It is notable that the Inspector in reaching his view was fully aware of both the lack of objection from the occupiers of number 50 but also the letter of support provided by those residents for the appellant.

This case illustrates one aspect of the contrasting powers of the Inspector and of local planning authorities, the Inspector was able to issue a split decision, allowing the appeal insofar as it related to the non-contentious elements but refusing the element the local planning authority found to be unacceptable. While the appeal was in part allowed, in effect it was entirely consistent with the views of the local planning authority.

7.4

Application No:	22/00184/HHA (NM)
Location:	56 Westwood Avenue, Shenfield
Proposal:	Hip to gable roof, dormer window to rear to create second floor, roof light to front.

Appeal start date:	26 June 2022 (Householder 'Fast track' appeal)
Appeal decision:	Appeal Allowed 23 November 2022

The development proposed to construct a hip to gable extension, rear dormer roof windows and fenestration alterations. The application site already benefitted from a two-storey side extension, and the proposal sought to construct the hip to gable extension from the existing extension. The reason for refusal was due to the scale design of the hip to gable and rear dormer which would result in a bulky and dominant addition within the roofscape. The inspector concluded that the hip to gable extensions as well as large rear dormers are a common feature within the street scene and would relate to the surrounding built environment. Therefore, the appeal was allowed on these grounds.

7.5

Application No:	20/00129/NINA1 (NM)
Location:	St Ninians, Alexander Lane, Hutton
Development:	Enforcement Notice Unauthorised erection of a balcony not in accordance with drawing 13/23/03/C associated with approved planning permission 17/01195/FUL.
Appeal start date:	22 February 2021
Appeal decision:	Enforcement notice upheld 13 September 2022

The Enforcement Notice was served on 24 November 2020 and its requirements were threefold:

- a) Remove the unauthorised balcony attached to the third floor flat;
- b) Restore the building to the authorised design as set out in the approved drawing (13/23/03/C) associated with planning permission 17/01195/FUL; and
- c) Remove from the land all materials arising from compliance with steps 1 & 2.

By the time of the Inspector's site visit the unlawful development had been removed and on that basis the Inspector decided that the appeal on ground A (that permission should be granted for the unlawful development) did not fall to be determined. The appeal on ground G (that the time for compliance was too short) was allowed on the basis that as the first requirement had been complied with, the time to complete requirements two and three could be extended from six weeks to three months. Following a site visit, steps 2 & 3 have not achieved compliance. The appellant was notified on 28 December 2022 and given 28 days to comply. Failure may result in the commencement of prosecution proceedings.

Consultation

8. Individual applications include statutory consultation periods.

References to Corporate Strategy

9. 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 decision-making process.

Implications

Financial Implications

Tim Willis, Interim Director – Resources (S151 Officer)

Tel/Email: 01277 312500/tim.willis@brentwood.rochford.gov.uk

10. There are no direct financial implication arising from this 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 projected and considered when setting the budget.

Legal Implications

Andrew Hunkin, Interim Director – People & Governance (Monitoring Officer)

Tel & Email: 01277 312500/andrew.hunkin@brentwood.rochford.gov.uk

11. There are no legal implications arising from this report.

Economic Implications

Phil Drane, Director – Place

Tel/Email: 01277 312500/phil.drane@brentwood.rochford.gov.uk

12. There are no direct economic implications arising from the report.

Equality and Diversity Implications

Kim Anderson, Corporate Manager (Communities, Leisure and Health)

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

13. There are no equality and diversity implications arising from this report.

Background papers

- Item 164, Planning Committee, 29 September 2022, Planning Appeals Update (June – August 2022)
- Item 60, Planning 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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