



# Agenda

## Planning Committee

Tuesday, 19 September 2023 at 7.00 pm

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

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### Membership (Quorum – 4 )

Cllrs Mynott (Chair), M Cuthbert (Vice-Chair), Dr Barrett, Bridge, Mrs N Cuthbert, Mrs Francois, Gelderbloem, Gorton, Heard, McCheyne, Munden and Mrs Murphy

### Substitute Members

Cllrs Barber, Barrett, Hirst, Laplain, Marsh and Sankey

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### Agenda

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### Live Broadcast

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

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Jonathan Stephenson  
Chief Executive

Town Hall  
Brentwood, Essex  
11.09.2023

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### Information for Members

#### Substitutes

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

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

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#### Rights to Attend and Speak

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

A Member who is not a member of the Committee may speak at the meeting. The Member may speak at the Chair's discretion, it being the expectation that a Member will be allowed to speak on a ward matter.

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

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

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##### Point of Order

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

##### Personal Explanation

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

##### Point of Information or clarification

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

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### Information for Members of the Public

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

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

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

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

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

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

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 **Private Session**

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

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 **Evacuation Procedures**

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## Minutes

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### Planning Committee Tuesday, 25th July, 2023

#### Attendance

Cllr Mynott (Chair)	Cllr Gelderbloem
Cllr M Cuthbert (Vice-Chair)	Cllr Gorton
Cllr Dr Barrett	Cllr Heard
Cllr Mrs N Cuthbert	Cllr McCheyne
Cllr Mrs Francois	Cllr Munden

#### Apologies

Cllr Bridge	Cllr Mrs Murphy
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#### Substitute Present

Cllr Barber  
Cllr Hirst

#### Also Present

Cllr Aspinell  
Cllr Parker  
Cllr Poppy  
Cllr Kendall  
Cllr Lockhart

#### Officers Present

Emily Yule	- Strategic Director
Caroline Corrigan	- Corporate Manager (Planning Development Management)
Jonathan Quilter	- Corporate Manager (Strategic Planning)
Fiona Dunning	- Senior Planning Consultant
Daryl Cook	- Senior Planning Officer
Carole Vint	- Planning Officer
Zoe Borman	- Governance and Member Support Officer
Brendan Johnston	- Strategic Development Engineer, Essex Highways

#### 104. Apologies for Absence

Apologies had been received from Cllrs Bridge and Murphy. Cllrs Barber and Hirst were substitutes respectively.

#### **105. Minutes of the Previous Meeting**

The Minutes of the previous meeting held on 18<sup>th</sup> July 2023 were agreed as a true record.

The Chair proposed to vary the order of the agenda and hear Item 6, Land East of Nags Head Lane, as the first application. This was agreed by Members.

#### **106. APPLICATION NO: 22/01347/FUL LAND EAST OF NAGS HEAD LANE NAGS HEAD LANE BRENTWOOD ESSEX**

Ms Fiona Dunning presented the report to Members.

The committee heard from Mr Caruso on behalf of Mascalls Gardens Resident's Association. Mr Caruso stated there had been little engagement from the developers with residents and the current application impacted their homes and gardens blocking light, loss of countryside, loss of natural habitat and unsafe highways. They objected to the application in its current form.

Mr Orr addressed the committee in support of the application.

Cllr Kendall, was present at the meeting and spoke in objection to the application.

Cllr Mynott **MOVED** and Cllr M Cuthbert **SECONDED** a motion to **DEFER** the application.

A full debate identified several concerns from Members which required further engagement from officers with the applicant, including cumulative highway issues and how the site engages with the Gateway site; layout/design particular the street adjacent to the eastern boundary and landscaping/buffer zone; clustering of affordable housing units; ecology/and landscaping including the need for a badger survey; consultation with neighbours.

Mrs Corrigan summarised the following points :

- Further Badger survey be undertaken - Mrs Corrigan advised the Ecology officer had reviewed both Badger and Butterfly reports and this could be dealt with under pre-commencement condition.
- Thames Water conflicting advice in report – Mrs Corrigan advised that both Surface and Foul water drainage had been deemed acceptable by Thames Water and this could be conditioned.

- Brentwood Gateway – the Gateway application has resolution for approval but at present the decision has not been issued. It would be unreasonable to withhold permission on the current application on that basis, as it is not a planning reason for refusal.
- Road Safety improvement – Brentwood LPA defers to the Highway Authority on this and the Highways Authority have requested conditions and infrastructure contributions to be dealt with via s106 contributions from the developer.
- Landscaping – this can be secured by condition and enforced if breached.
- Removal of Permitted Development Rights – these are used where considered necessary but are not site wide.

Members voted as follows:

FOR: Cllrs Dr Barrett, Barber, M Cuthbert, N Cuthbert, Francois, Gelderbloem, Gorton, Heard, Hirst, McCheyne, Munden, Mynott (12)

AGAINST: (0)

ABSTAIN: (0)

The motion to **DEFER** the application was **CARRIED UNANIMOUSLY**.

[Cllr Hirst declared a non-pecuniary interest as Essex Police, Fire and Crime Commissioner in relation to consultations mentioned in the report.]

**107. APPLICATION NO: 23/00481/FUL RED HOUSE FARM WARREN LANE DODDINGHURST BRENTWOOD ESSEX CM15 0JD**

The application had been referred to the Committee because the applicant, Mr Clifford Poppy, is a borough Councillor.

Mrs Carole Vint presented the report.

Both Cllr Parker and Cllr Gelderbloem, Ward Councillors, spoke in favour of the application.

Cllr Barrett **MOVED** a motion to **APPROVE** the application. This was **SECONDED** by Cllr Hirst.

Members voted as follows:

FOR: Cllrs Dr Barrett, Barber, M Cuthbert, N Cuthbert, Francois, Gelderbloem, Gorton, Heard, Hirst, McCheyne, Munden, Mynott (12)

AGAINST: (0)

ABSTAIN: (0)

The motion to **APPROVE** the application was **CARRIED UNANIMOUSLY**.

[The Monitoring Officer had granted a dispensation to all committee members in relation to the Applicant being a Borough Councillor.]

**108. APPLICATION NO: 23/00411/FUL SHENCOT ALEXANDER LANE HUTTON BRENTWOOD ESSEX CM13 1AG**

The item has been referred to Committee by Cllr Jan Pound for the following reason:

*Policy BE:13 Parking Standards states that proposals which make under provision of parking in respect of the Essex Parking Standards should be justified by evidence detailing the local circumstances that justify deviation from the standard. Whilst the site is located near to Shenfield there is clear evidence submitted by local residents in opposition to the application that Alexander Lane is already suffering from dangerous on street parking that is resulting in highways safety issues. Coupled with the need for deliveries and workman to service the building this application will result in further highways safety issues for road users and should be rejected for this planning reason. There is no evidence that the normal parking requirements can be reduced without causing these safety issues.*

Mr Daryl Cook presented the report to Members.

Mr Shah was present at the meeting and spoke in objection to the application.

The committee also heard from the Applicant in support of the application.

Cllr Pound, Ward Cllr, reiterated her reason for referral and further concerns regarding the design and scale of the development and its impact upon the character of the area.

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

Members raised concerns regarding material reasons why this application should not be approved.

Following a full debate, Members voted as follows:

FOR: Cllrs Barber, Francois, Gelderbloem, Heard, Hirst, McCheyne (6)

AGAINST: Cllrs Dr Barrett, M Cuthbert, N Cuthbert, Gorton, Munden, Mynott (6)

ABSTAIN: (0)



The Chairman used his casting vote.

The motion to **REFUSE** the application was **LOST**.

A motion was **MOVED** by Cllr Mynott and **SECONDED** by Cllr M Cuthbert to **APPROVE** the application.

Members voted as follows:

FOR: Cllrs Dr Barrett, M Cuthbert, N Cuthbert, Munden, Mynott (5)

AGAINST: Cllrs Barber, Francois, Gelderbloem, Heard, Hirst, McCheyne (6)

ABSTAIN: Cllr Gorton (1)

The motion to **APPROVE** the application was **LOST**.

A further motion to **APPROVE** the application was **MOVED** by Cllr Mynott and **SECONDED** by Cllr M Cuthbert.

Members voted as follows:

FOR: Cllrs Dr Barrett, M Cuthbert, N Cuthbert, Gorton, Munden, Mynott (6)

AGAINST: Cllrs Barber, Francois, Gelderbloem, Heard, Hirst, McCheyne (6)

ABSTAIN: (0)

The Chairman used his casting vote.

The motion to **APPROVE** the application was **CARRIED**.

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

**MONITORING OFFICER ADVISORY NOTE:**

The correct voting process was not followed on the application 20/00411/FUL, Shencot, Alexander Lane, Hutton, Hutton, Brentwood, Essex CM13 1AG.

Therefore, I have asked that the application be re-considered at a future Planning Committee.

- 109. APPLICATION NO: 23/00254/PNTEL PROPOSED 20M HIGH SLIM LINE PHASE 8 MONOPOLE C/W WRAPAROUND CABINET AT BASE, 3NO. ADDITIONAL ANCILLARY EQUIPMENT CABINETS AND ASSOCIATED ANCILLARY WORKS**

This application was reported to the Planning Committee in accordance with the requirements of the Councils Constitution.

Mr Daryl Cook presented the report to Members.

Mr Ellingworth, a resident, was present and spoke objecting to the application.

Following discussion a motion was **MOVED** by Cllr M Cuthbert and **SECONDED** by Cllr Mynott to **REFUSE** the application.

Members voted as follows:

FOR: Cllrs Dr Barrett, Barber, M Cuthbert, N Cuthbert, Francois, Gelderbloem, Gorton, Heard, Hirst, Munden, Mynott (11)

AGAINST: Cllr McCheyne (1)

ABSTAIN: (0)

The motion to **REFUSE** the application was **CARRIED**.

#### **110. Planning Appeals Update**

This report provided a summary of recent appeal decisions that have been received relating to sites in the borough. This report is regularly presented to the committee and was last reported on 22 March 2023 (summary of appeals between December 2022 and February 2023, Item 423).

Mr Corrigan introduced the report.

The report was noted by Members.

#### **111. Urgent Business**

There were no urgent items.

The meeting concluded at 22:00

**SITE PLAN ATTACHED**

**SHENCOT ALEXANDER LANE HUTTON BRENTWOOD ESSEX CM13 1AG**

**DEMOLITION OF EXISTING PROPERTY AND CONSTRUCTION OF NEW BUILDING CONTAINING FIVE NEW TWO BED DWELLINGS**

**APPLICATION NO: 23/00411/FUL**

<b>WARD</b>	Hutton North	<b>8/13 WEEK DATE</b>	26 May 2023
<b>PARISH</b>		<b>EOT DATE</b>	TBC
<b>CASE OFFICER</b>	Mr Daryl Cook		

**Drawing no(s) relevant to this decision:** Specification for Soft Landscape Works and 5 Year Management Plan; 18294-NEA-01 (Noise Exposure Assessment); Material samples document by Spatial Design Architects; Flood Risk Assessment by Urban Water (146-FRA-002); Construction Method Statement Rev A by Spatial Design Architects; P03/A; S01; P01/A; P02/B; OS 2568-23.1/A; OS 2568-23.2/A;

**This item was initially referred to July 2023 Committee by Cllr Jan Pound for the following reason:**

*Policy BE:13 Parking Standards states that proposals which make under provision of parking in respect of the Essex Parking Standards should be justified by evidence detailing the local circumstances that justify deviation from the standard. Whilst the site is located near to Shenfield there is clear evidence submitted by local residents in opposition to the application that Alexander Lane is already suffering from dangerous on street parking that is resulting in Highways Safety issues. Coupled with the need for deliveries and workman to service the building this application will result in further highways safety issues for Road users and should be rejected for this planning reason. There is no evidence that the normal parking requirements can be reduced without causing these safety issues.*

**Members will recall that the committee voted on a proposal to refuse the application which was lost; it then voted on a proposal to approve the application, which was also lost. The committee then voted on a further**

proposal to approve the application which was carried on the Chairman's casting vote.

The monitoring officer has advised that this item be added to the agenda to allow the committee to consider its resolution.

**Legal Advice on the matter for Members benefit (below), is given below, and a Legal representative will be available on the night.**

*'In terms of the matter coming back to committee each and every member will need to consider whether they are predetermined or whether they can come to the committee with an open mind. They will each need to consider themselves whether there is by their conduct any appearance of bias or predetermination that could lead a member of the public to cast doubt on their impartiality in taking part and voting on the matter.*

*Each member needs to be clear that they attend the committee to consider the matter with an open mind and is not predetermined irrespective of their previous involvement in the last planning committee.*

*I have provided training to members and they all need to re-read Probity in Planning (link - <https://www.local.gov.uk/publications/probity-planning-advice-councillors-and-officers-making-planning-decisions> )'*

At the time of writing this report, no further changes to the proposal have been made. Therefore, the development and the contents of the report below are unchanged from the earlier committee report.

## **1. Proposals**

Planning permission is sought for the demolition of existing property and construction of new building containing five new two bed dwellings at Shencot, Alexander Lane, Hutton.

## **2. Policy Context**

National Planning Policy Framework 2021 (NPPF)

National Planning Practice Guidance (NPPG)

National Design Guide (NDG)

Brentwood Local Plan (2016-2033) (BLP):

- 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 HP06 Standards for New Housing
- Policy MG03 Settlement Hierarchy
- Policy NE01 Protecting and Enhancing the Natural Environment
- Policy NE03 Trees, Woodlands, Hedgerows
- Policy NE07 Protecting Land for Gardens
- Policy NE09 Flood Risk
- Policy PC10 Protecting and Enhancing Community Facilities

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.

### **3. Relevant History**

- 21/00451/FUL: Demolition of existing house and construction of new building containing 3no x 1 bed flats and 2no x 2 bed flats - Application Refused
- 21/02027/FUL: Demolition of existing property and construction of new building containing five new dwellings - Application Permitted

### **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/>

This application has been advertised by way of neighbour notification letters on two occasions. At the time of writing this report, 8 neighbour representations have been received following the first round of consultation and are summarised below:

- Impacts upon the highway network and safety of its users (visibility, inadequate parking provision on site, whether a reduction in parking is acceptable)

- Vehicles forced to park on the road would have changed the visual nature of the lane
- Proposal would intercept a 45-degree angle (first floor)
- The footprint and mass is larger than the existing plot; bulkier form than the previous application
- The timing of the submission limits the time period for neighbours to comment (Easter break)
- The provision of flats is changing the character of the street from family homes. The Council should protect the local family environment
- Additional dwellings (flats) place pressure on local amenities, doctors, schools and the use of the road network
- Impact of the development on the amenities and living conditions of neighbouring properties occupiers (noise, smell, overbearing, overlooking, loss of privacy, daylight/sunlight impacts, effects on rights to light)
- Bin store location would create a health risk to pedestrians
- Previous representations have been ignored / failed to be addressed
- The application should be discussed at Committee
- Inaccuracies within the submission (elevations labelled incorrectly)

Any further representations received within the second round of consultation and prior to Committee will be submitted/presented as an addendum to this report.

## **5. Consultation Responses**

- **Environment Agency-**

Thank you for your consultation dated 04 April 2023. We have reviewed the documents as submitted and we have no objection to this planning application, providing that you have taken into account the flood risk considerations which are your responsibility. A condition and informative is recommended.

- **Anglian Water Services Ltd-**

No response received at the time of writing this report.

- **Arboriculturalist-**

The silver birch that was covered by a TPO and growing in the rear garden was removed with permission and the Order has been revoked.

The landscape scheme that has been submitted with the application includes 6 new birches as part of the planting scheme. The landscape scheme is considered realistic based on the space that is available.

There is no objection on landscape grounds to the proposal.

- **Basildon Fire Station-**

No objections raised. Conditions and Informatives recommended.

- **Highway Authority-**

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

The proposal includes the demolition of the existing dwelling and creation of 5 flats. The existing vehicle access will be utilised, and 3 off-street parking spaces and a shared turning area are included, this is comparable to the permitted extant use.

A reduced car parking standard has been applied. Brentwood Borough Council's adopted parking standards state that "for main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development." The local highway network is protected by parking restrictions and in transport terms the site is considered to be in a sustainable location with good access to frequent and extensive public transport, as well as Shenfield's facilities and car parks, therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions. Informative recommended.

- **Environmental Health & Enforcement Manager-**

No objections raised. Conditions and Informatives recommended.

- **Thames Water Development Planning-**

Thank you for consulting Thames Water on this planning application. Having reviewed the details, we have no comments to make at this time.

## **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 include the NPPF and 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.

Planning permission is sought for Demolition of existing property and construction of new building containing five new two bed dwellings at Shencot, Alexander Lane, Shenfield.

### **Procedural matters**

A revised drawing (P02/B) has been submitted to correct a mislabeling of the elevations and an amendment to the Construction Method Statement to reflect standardised working hours on sites. A further set of revised drawings have been submitted amending the location of the bin store to the rear enabling the retention of 4 parking spaces to the front plus alterations to the windows on the flank of the building. A further period of consultation has been undertaken following receipt of the further set of drawings.

### **Site context**

The application site is located within Alexander Lane, a residential area characterised by a mix of both detached dwellings within spacious plots and blocks of flats – such as the adjacent site Grasmere. The site comprises an area of 0.07 hectares with a single dwellinghouse.

### **Recent Planning History**

Planning permission has recently been granted (reference 21/02027/FUL) for: Demolition of existing property and construction of new building containing five new dwellings. The principle of redevelopment of this site has therefore been established and this is a material planning consideration.

The application is similar to that previously approved (which carries significant weight) with 5 x two-bedroom flats proposed. The supporting Planning Statement summarises the changes as:

- *The installation of a lift to provide inclusive and accessible units;*
- *A reduction from 4 to 3 car parking spaces following issues with the layout as consented; **(now amended to retain 4 spaces)***
- *The provision of the refuse storage behind the existing hedge, following issues with the location shown on the approved drawings; **(now amended to be located to the rear)***
- *An enlarged roof, with crown and pitched ridges, to follow the design aesthetic of Grasmere;*
- *A revised front gable elevation to match the roof pitch;*



- *A shallow rear gable projection, ensuring that there is no overbearing impact on neighbouring properties, following the aesthetic of Grasmere;*
- *The reduction in dormers to the side roof slopes;*
- *An improved internal layout for Flat 5, to accommodate a two-bedroom flat;*
- *The provision of enlarged cycle parking storage within the rear;*
- *The provision of an electric car charging point;*
- *General improvements to the internal layouts of proposed flats.*

The submission incorporates additional information to ensure pre-commencement conditions (and others) are avoided, where possible, to allow for development to progress on site.

### **Consistency in decision-making**

Members are reminded that National Planning Practice Guidance (NPPG) advises that similar cases should be determined in a consistent manner and failing to do so may amount to unreasonable behaviour giving rise to a substantive award against a local planning authority. Planning authorities must behave equitably between applicants and must be seen to do so.

Caselaw on this point includes:

- *R (Midcounties Co-Operative Limited) v Forest of Dean District Council [2017] EWHC 2050*
- *Baroness Cumberlege v Secretary of State for Communities & Local Government [2017] EWHC 2057*

These two court decisions emphasise the need for consistency in planning decision-making, especially when assessing similar developments. This is not so onerous so as to mean all previous decisions (at the site or nearby) must be considered. However, it is clear that there are instances where decisions are so similar that to fail to take them into account would be nothing but unreasonable.

### **Change of Use considerations**

The principle of the change of use has been established and would comply with policy PC10 of the BLP. The proposal would continue to provide flats which comply with the nationally described space standards (policy HP06 of the BLP).

### **Design and Amenity considerations**

The proposal incorporates a deeper footprint to enable layout changes and which would also incorporate the installation of a central lift. Roof alterations are also proposed incorporating two dormers with one on each flank. The changes are considered to replicate form of the adjacent Grasmere, and this is considered to be acceptable. Unfortunately, this would result in the provision of a crown roof feature, but this is not dissimilar to adjacent buildings and the pitched roof with set down would screen this element from public views. The building would remain set down (albeit marginally) from Grasmere still providing a transition in building heights which is welcomed.

Alterations to the bin store and cycle storage as illustrated are also considered to be acceptable.

In terms of impacts upon neighbouring properties, the buildings footprint would not result in the interception of a 45-degree line which is measured from the ground floor rear windows (as illustrated on the proposed drawings). This is considered to be acceptable. The overall height (9.43m) is considered to be acceptable and not dissimilar to that previously approved (~430mm higher). The roof form hips away from both neighbouring boundaries and therefore the proposal is not considered to give rise to a material overbearing effect or overshadowing effects. In addition, it has previously been established that the fenestration pattern would not give rise to a material overlooking or loss of privacy effect to neighbouring properties subject to an obscure glazing condition. Overlooking would not be materially worse than what would be expected of a residential dwelling within an established urban setting and layout. Nor is the proposal as a whole considered to give rise to a material impact in terms of noise, smell or general disturbance. Therefore, the proposal is considered to continue to comply with policies BE14 and NE07 of the BLP.

### **Highway and Parking considerations**

In terms of parking provision, the proposal has been amended to retain 4 parking spaces which mirrors that of the extant scheme. An electric vehicle charging point is also proposed to serve these spaces.

The Highway Authority have been consulted and consider the proposal to be acceptable as a whole. The site is located within Settlement Category 1 (see policy MG03) which covers the main urban area of Brentwood. Within such areas, there are a range of existing infrastructure, services and opportunities for employment, retail, education, health and leisure facilities. Areas are typically highly accessible and well served by public transport provision. This provides scope for a reduction in car parking standards.

The site is in a highly sustainable location with frequent access to rail services and good bus links. Cycle storage is also accommodated and therefore when considering these factors, reliance upon private motor vehicles can be reduced. The reduction in parking

provision is acceptable in order to encourage more sustainable modes of transport being utilised.

Whilst the concerns of the Ward Member and neighbours are noted, it was previously noted within the Officer report of the extant application that: *“Illegal parking activities such as parking on grass verges or across existing driveways goes beyond the scope of planning.”* There are parking restrictions in place along this road and it is the responsibility of the designated parking enforcement team, which is understood to be SEPP, to monitor and patrol non-compliance.

The referral reason also considers that the need for deliveries and workman to service the building as a further concern, although like visitors they would need to adhere to existing parking restrictions in place. Whilst disruption during the construction phase is inevitable, planning permission should not be refused on this basis. The applicant has submitted a Construction Method Statement which considers parking of site operatives/visitors, loading and unloading of plant/materials and its storage, wheel washing facilities, measures to control the emission of dust/dirt through construction as well as recycling of waste and hours in which work and deliveries are to take place. These measures are all considered to be acceptable and as an approved document, will need to be adhered to.

The proposal is considered to accord with policies BE11, BE12 and BE13.

### **Flood Risk considerations**

In terms of flood risks, it has previously been established that whilst the site falls within fluvial Flood Zone 3a and the use would be classified as “more vulnerable”, the proposed use would be acceptable and does not materially change from the previous assessment. The proposal would accord with local policy NE09.

### **Landscaping considerations**

In terms of landscaping, a landscaping plan has been submitted which would see new trees planted (including a silver birch replacement) and is confirmed by the Councils Arboriculturalist to be acceptable. The proposal is considered to accord with policies NE01 and NE03 of the BLP.

### **Other Matters**

All representations received have been fully considered prior to making a recommendation on this application and informatives are brought to the developer’s attention. Other considerations raised are commented upon below:

- Objections in relation to ‘Rights of Light’ is presumed to be in reference to a legal protection of natural light. This issue is covered by a paper written by The Law Commission in March 2012 – *Rights to Light*. Easements of light, for which the term “rights to light” is a synonym, are private property rights. Not all buildings benefit from this right and for those that do, this is sometimes covered by the law of prescription i.e. a right gained through the passage of time. They are not about the treatment of light by the planning system which considers the impact of development upon the daylight and sunlight experienced by neighbouring buildings and their occupiers. Therefore, this issue is fundamentally a civil matter beyond the scope of planning.
- The Council have complied with the requirements to notify neighbours about the proposed development through the sending of notification letters and considering any representations received up until determination.
- In terms of pressure upon existing infrastructure and services, the infrastructure delivery plan takes into account windfall sites across the local plan period ensuring there is sufficient infrastructure across the borough as a whole.

## **Conclusion**

Following the submission of revised drawings, Officers consider that the effect of the development as proposed is considered to be identical to the previously approved scheme in terms of its effect on the character and appearance of the area and in terms of its impact upon the highway network.

Therefore, having considered the relevant material considerations, the proposed development is considered to accord with the development plan as a whole and is recommended for approval.

## **7. Recommendation**

The Application be APPROVED subject to the following conditions:-

### **1 TIM01 Standard Time - Full**

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

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

### **2 DRA01A Development in accordance with drawings**

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

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

3 The relationship between the height of the building hereby permitted and adjacent buildings shall be as indicated on the approved drawings.

Reasons: To safeguard the character and appearance of the area, the living conditions of nearby residents and for the avoidance of doubt.

4 The proposed development shall be carried out in full accordance with the Flood Risk Assessment reference 146-FRA-002 dated 15/11/2021 by Urban Water and the following mitigation measures detailed within the FRA (unless otherwise agreed in writing by the Local Planning Authority):

o Provision of compensatory flood storage in accordance with the Flood Risk Assessment referenced above. Detailed drawings, calculations and cross sections of the proposed compensatory flood storage area, appropriate flow routing and topographic level information must be submitted to demonstrate that lost storage will be replaced at the same level at which it is lost and that flood water will return to the river as water levels fall. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: In order to mitigate and reduce the risk of flooding which would otherwise be to the detriment of the proposed development and future occupants in accordance with policies BE05 and NE09 of the Brentwood Local Plan and the aims and objectives of the National Planning Policy Framework.

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

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

6 Prior to first occupation of the development, the vehicle parking area and associated turning area shall be provided as shown in approved drawing: P01/A. Each parking space shall have minimum dimensions in accordance with current parking standards. The vehicle parking area and associated turning area shall be retained in the agreed form at all times.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety and to ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

7 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, 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

8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no satellite dishes or aerials shall be fixed to the building hereby permitted without the prior written approval of the local planning authority.

Reasons: in the interests of visual amenity and to safeguard the character of the area.

9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no alterations shall be made to the fenestration pattern hereby approved including the enlargement of window openings or the provision of roof lights or dormer windows.

Reasons: in order to safeguard the amenities and living conditions of neighbouring dwellings occupiers.

10 WIN03 Obscured glazing (on drawings)

The windows identified on the approved drawings as being obscure glazed shall be:- a) glazed using obscured glass to a minimum of level 3 of the "Pilkington" scale of obscuration and b) non-opening below a height of 1.7m above the floor of the room in which the window is installed. The window(s) shall be installed prior to the first occupation of the building or use of the room of which the window(s) is installed. Those windows shall remain so glazed and non-openable. (Note the application of translucent film to clear glazed windows does not satisfy the requirements of this condition)

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

11 No plant or machinery shall be installed on the building until the details of any plant and machinery to be installed on the building hereby permitted have been submitted to and approved in writing by the local planning authority. If proposed, the details shall be accompanied by an acoustic report carried out by a suitably qualified acoustic consultant/engineer and be in accordance with BS4142: 2014 'Methods for rating and assessing industrial and commercial sound' ensuring the rating level it is at least 5 dB below the background level. The development shall be completed in

accordance with the approved details and no plant or machinery shall be used at the site, other than that which has the prior written consent of the local planning authority.

Reasons: in the interests of visual and neighbour amenity and to safeguard the character of the area.

12 The proposed building shall not be occupied until the infrastructure for the fastest available broadband connection installed on an open access basis has been provided for the future occupants of the residential units.

Reason: in order to ensure that new developments are connected to digital infrastructure in accordance with policy BE07 of the Brentwood Local Plan.

13 The proposed residential units shall not proceed above slab level until details of:

- measures to ensure that the residential units do not exceed 110 litres per person per day;
- measures to provide wastewater infrastructure capacity;
- measures to achieve lower water consumption rates and to maximise futureproofing;
- measures to demonstrate the development would not have an adverse impact upon the sewerage network; and
- measures to improve water quality and protect the quality and functioning of existing water courses/groundwater.

have been submitted to and approved in writing by the Local Planning Authority. Where adverse impacts are identified, mitigation measures shall be set out. The development shall be implemented as approved.

Reason: in order to ensure that the proposed development incorporates the sustainable principles in relation to policy BE02 of the Brentwood Local Plan.

#### Informative(s)

1 INF02 Reason for approval (objections)

Reason for approval: The proposal would accord with the relevant policies of the development plan as set out below. The Council has had regard to the concerns expressed in representations, but the matters raised are not sufficient to justify the refusal of permission.

2 INF04 Amendments to approved scheme

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

3 The following development plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: BE02, BE04, BE05, BE07, BE11, BE12, BE13, BE14, HP06, MG03, NE01, NE03, NE07, NE09, PC10; National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

#### 4 INF22 Approved Following Revisions

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### 5 INF29 Party Wall Act

The developer is reminded of the provisions of the Party Wall etc Act 1996 which may require notification of the proposed works to affected neighbours. Detailed information regarding the provisions of 'The Act' should be obtained from an appropriately qualified professional with knowledge of party wall matters. Further information may be viewed at <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>

#### 6 Highways informative:

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

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

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

#### 7 INF32 Environmental Health Informative

When carrying out building work, you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction which shall be complied with. Notwithstanding, the developer is reminded to ensure compliance with the requirements of the Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior permission is sought where it is required, the Authority may serve a notice on the site/works setting out conditions of permitted work under section 60 of the Act. British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory Order as the accepted guidance for noise control during construction work. An action in statutory nuisance can be brought



by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.

The developer is also reminded that, where applicable, during the construction phase on the building site, no bonfires should be undertaken. The Environmental Protection Act 1990 outlines that smoke arising from bonfires can be considered a statutory nuisance. The Highways Act also outlines smoke drifting onto a public highway is an offence.

The developer is also reminded, where applicable, to ensure that any asbestos containing materials within existing buildings is removed by an appropriately licensed contractor before undertaking any development on site in the interests of health and safety.

#### 8 INF33 Considerate Contractor Advice Note

Considerate Contractor Advice Note - The developer is advised to ensure full compliance with the 'Guidelines for good practice' when undertaking construction and demolition works during the relevant phases. A copy of the guidelines is available online: [https://document.brentwood.gov.uk/pdf/pdf\\_1185.pdf](https://document.brentwood.gov.uk/pdf/pdf_1185.pdf).

9 There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy.

Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk-based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met.

#### 10 Environment Agency Informative:

The developer is advised to peruse the consultation response in full. The following extracts are brought to the developers immediate attention:

##### Culverted Main River Watercourses:

One or all of these properties under riparian law will be responsible for the culverted main river watercourse underneath the driveway/access bridge. We permissively assist landowners in maintaining this section of main river watercourse (Shenfield Brook) but ultimately ownership and liability falls to landowners which is not us in this area.

Environmental Permit for Flood Risk Activities:

The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The Tributary of River Wid, is designated a 'main river'.

Application forms and further information can be found at:

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. It is an offence to carry out these activities without a permit where one is required.

## *BACKGROUND DOCUMENTS*

### **DECIDED:**

# Appendix A



Title : Shencot, Alexander Lane, Hutton, Brentwood, Essex CM13 1AG

23/00327/FUL

Scale at A4 : 1:1250

Date : 19th September 2023

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



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**SITE PLAN ATTACHED**

**264 RAYLEIGH ROAD HUTTON BRENTWOOD ESSEX CM13 1PX**

**PROPOSED FIRST FLOOR SIDE EXTENSION, SINGLE STOREY REAR EXTENSION, REMOVAL OF CHIMNEY, INSERTION OF ROOF LIGHT, INSTALLATION OF SOLAR PANELS AND CONVERSION OF GARAGE INTO HABITABLE LIVING ACCOMMODATION WITH AN ENTRANCE DOOR AND WINDOW FOR THE SUB-DIVISION OF EXISTING DWELLING TO CREATE NEW DWELLING WITH ASSOCIATED PARKING AND AMENITY SPACE. PROPOSED WIDENING OF EXISTING VEHICULAR ACCESS.**

**APPLICATION NO: 23/00327/FUL**

<b>WARD</b>	Hutton East	<b>8/13 WEEK DATE</b>	31 May 2023
<b>PARISH</b>		<b>Ext of time</b>	4 August 2023
<b>CASE OFFICER</b>	Ms Brooke Pride		
<b>Drawing no(s) relevant to this decision:</b>	22-1349 Rev 08 D02; 22-1349 Rev 07 D06; 22-1349 Rev 07 D07; 22-1349 Rev 07 D08; 22-1349 Rev 07 D09; 22-1349 Rev 07 D01;		

**This application has been referred to committee following a request of Ward Councillor Rigby with the following reasons:**

**Highway safety and traffic levels**

The parking scheme will effectively require any vehicles to reverse on and off a narrow frontage at both 264 and 264A onto the main road, the fast-flowing Rayleigh Road / A129. I believe a physical inspection of the property will demonstrate that. The absence of any objection by the highways authority does not conclusively dispose of this objection as per the previous application and would result in potential harm to highway safety. I do not believe the widening of existing access from Rayleigh Road to be used by both dwelling houses will achieve the results sought and inspection will demonstrate this.

**Design, appearance and layout/ effect on the area**

The proposed development changes the status of the dwellings from semi-detached to terrace which is out of context with the surrounding character of the site and represents a significant change from the chalet-style developments prevalent in this section of Rayleigh Road from Goodwood Avenue to Havering's Grove. No evidence is offered by

the planning officer in support of the application of approved, named, previous planning applications other than bare assertion.

Furthermore, the comparison with terraced developments to the east of the site is inappropriate, as no examples of terracing in that style can be seen in the immediate area, which are of a detached or villa style. The development is out of character with the immediate surrounding area, as opposed to the more built-up elements of Hutton East from Rayleigh Road as it meets St Peter's Church. The comparison is therefore misleading.

The boundary of the site runs behind the dwellings of Goodwood Avenue, and separated by a strip of land as shown upon drawing No. 22-1349-08-D02. The proposed development is within close proximity of the dwellings and has effectively incorporated, the drainage ditch, a historic and known wildlife corridor to Hutton Country Park, in excess of curtilage.

The latest application basically seeks to divide into two, leaving a very narrow but very long rear garden for one, and a truncated garden for the other, on which a number of houses in Goodwood Avenue back on to either one, or the other, from No 2 to No. 12 Goodwood Avenue. The space provided as a result of the split is cramped and narrow at 50sqm and 5.4m wide which is barely indicative of good garden quality. It is totally out of context with surrounding gardens, and does not provide a good level of amenity, as the plot of 264A is only 2.5 m wide at the north end.

### **Need to safeguard the countryside or protected species of plant or animal**

The application will impact on the unregistered land which acts as a drainage ditch, owing to heavy clay soil, shown in the plans which extends from the rear of 264 Rayleigh Rd until 18 Goodwood Avenue, when it appears in a culvert, re-surfacing before it joins a stream in Hutton Country Park and thence the River Wid, acting as a potential soakaway

It has been a wildlife corridor for hedgehogs, badgers and foxes and was the site of a historic hawthorn hedge bordering the ditch, which needs to be protected for drainage, water absorption and benefit of wild life. While the hedge was razed to ground level in May 2020, it now shows signs of recovery.

### **The planning history of the site**

There has been a catalogue of applications for this property, stretching back twenty years, of which this is the latest attempt to capitalise on the value of the property without regard for the overall neighbourhood, with a long history of applications, failed and withdrawn, of which only the most recent have been listed. This property has benefited from extensive additions in excess of 50% since build in 1962, and should be preserved as a single dwelling-house. An approval of this application would be to condone the destruction of the drainage ditch and also the improper adoption of land.

## **1. Proposals**

Planning permission is sought for the demolition of a single storey storage building and construction of two detached, two storey dwellinghouses, with associated parking and gardens.

## **2. Policy Context**

The Brentwood Local Plan 2016-2033

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

- Policy BE14 Creating Successful Places
- Policy BE13 Parking Standards
- Policy BE02 Water Efficiency and Management
- Policy BE04 Managing Heat Risk
- Policy BE11 Electric and Low Emission Vehicles
- Policy HP06 Standards for New Housing

National Planning Policy and Guidance

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

## **3. Relevant History**

- 19/00367/FUL: Conversion of dwelling into two dwellings to include single storey rear extension, proposed front canopy, first floor side extension, garage conversion into habitable room and rear dormer. – Application Refused
- 18/01806/PN42: Single storey rear extension. The proposed extension would extend 6m beyond the rear wall of the original dwelling, the maximum height of the proposed extension would be 3m and the proposed eaves height would be 3m. – Prior Notification is Required/Refused
- 18/01163/FUL: Single storey rear extension, first floor side extension over garage, conversion of garage to habitable room, single storey front extension and loft conversion to include roof light to the front and dormer to the rear. – Application Permitted

## **4. Neighbour 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/>

One neighbour objection has been received for this application:

- The block plan submitted is flawed and claims land outside of the ownership

*Officer comment: A revised site location and block plan has been received removing the strip of land to the side of the site from the red outline.*

- The proposed amenity space for the dwelling is awkward, impractical and restricted.

*Revisions have been made to the proposed amenity space, with the assessment set out in detail within the main body of the report.*

- Vehicles would exit the site in a reverse gear which is dangerous due to the speed of the road and traffic.

- 

*The highway authority have raised no objection to the vehicle manoeuvres proposed by the development as per the previous application. The proposed parking and vehicle movements would not result in harm to highway safety.*

- The proposed development would change the status of the dwellings from semi-detached to terrace which is out of context with the surrounding character of the site.

- 

*The impact of the development upon the character of the area will be assessed within the report below.*

## **5. Consultation Responses**

- **Highway Authority-**

A site visit has been previously undertaken and the information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal includes the subdivision of the site and loss of a garage to habitable accommodation. A widened vehicular access is included and subject to conditions, each dwelling shall be provided with two compliant off-street parking spaces within each curtilage, therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions.

## **6. Summary of Issues**



Planning permission is sought for a first floor side extension over existing garage, a single storey rear extension, the removal of the chimney, installation of roof light and solar panels, the conversion of the existing garage into habitable space and fenestration changes for a door and window to allow for the sub-division of the building to create an additional dwelling with associated parking and amenity space with the widening of the existing access from Rayleigh Road to facilitate access.

### Site Description/Background

The application site is located on the east side of Rayleigh Road, occupied by a semi-detached dwelling which has been extended at single storey and the front amenity space paved to provide off street parking.

Planning permission was refused under application 19/00367/FUL on 24<sup>th</sup> September 2019 for a similar development for the following reasons:

1

*The proposed rear dormer by reason of the size and design would be poorly related to and an overly dominant feature of the roof slope into which it is to be inserted. As such, the dormer would appear out of character with the dwelling and harmful to the character of the surrounding area. This element is therefore in conflict with Local Plan Policies CP1 (i), (iii) and H17 of the Brentwood Replacement Local Plan 2005 and the aims and objectives of the National Planning Policy Framework.*

2

*By reason of the design size and siting, the proposed rear extension would be an unneighbourly addition, given its size and close proximity to the boundary line. Furthermore the proposed front hardscaping, alterations and materials would result in an incongruous appearance to the front elevation, harmful to the overall character and appearance of the area and the development would represent an overdevelopment of the existing building, and as such, the extensions would result in significant material harm to the character and appearance of the area and the dwelling itself, failing to safeguard local distinctiveness and contrary to Chapter 12 of the National Planning Policy Framework and Policy CP1(i) and (iii) of the Brentwood Replacement Local Plan 2005.*

3

*The proposal results in a development constrained within the site and results in an awkward amenity arrangement to the rear of the dwelling and does not safeguard the future occupiers of the site and therefore fails to meet the requirements of policy CP1 and the National Planning Policy Framework that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.*

Following the refused application, pre-application advice was sought to discuss the reasons for refusal and explore whether a revised scheme could overcome concerns.

## Design, Character and Appearance

The proposal includes works to the existing dwelling and extensions in order to create an additional dwellinghouse to the side of No.264 Rayleigh Road. A 1.8m wide first floor extension is proposed to the side of house and would follow the existing ridge line and front building line.

The application dwelling would be extended by 2.4 metre at ground floor to the rear and the new dwelling would be extended at ground floor rear by 1.4 metre both with a flat roof. The development would also include alterations to the fenestration of the ground floor by replacing the garage door with a window and entrance door for the new dwelling; a roof light and PV panel is proposed within the roof.

Following the refused application, the scale of extensions have been reduced, the rear dormer has been removed and the single storey apron has been removed. If granted permission, it is considered that a condition to remove permitted development within the roof is attached, to allow the Local Planning Authority the opportunity to manage development that may result in over development or loss of amenity.

The resulting development would change the pair of semi detached to a short row of 3 terraced dwellings. A terrace feature is a common design layout and not considered to be harmful to the surrounding character of the area; the front fenestration in both properties would mirror each other, facing materials would be to match the existing house and the ridge line would be continuous. As a design feature the terrace is not inherently unacceptable and examples of terraces can be found in nearby roads such as Tomlyns Close. There is no one strong overriding pattern of development in this part of Rayleigh Road. Other schemes along Rayleigh Road have created additional dwellings to existing semi detached, such as 194 Rayleigh Road. Notwithstanding, the proposed creation of a new dwelling in this location is considered acceptable in planning terms on its own merit.

The single storey rear extensions to both the existing and new dwelling have been reduced in comparison to the previously refused application, and improves the space provided for the rear amenity. The proposed extensions would retain a spatial distance between the neighbouring dwellings and would not result in a cramped or contrived addition within the street scene.

The solar panels proposed to the rear of the new dwelling are not visible from the public realm. Such additions to properties serve to support sustainable renewable energy and are increasingly common feature within urban areas. It is considered that they would not have an unacceptable harmful effect on the visual amenity of the area.

The proposed development relates well to its immediate setting within Rayleigh Road and the wider context. It is considered that the proposal 19/00367/FUL has overcome

the design reasons set out in the previous refusal and as such is compliant with policy BE14 of the Local Plan.

### Impact upon Neighbour Amenity

#### No.268

The neighbouring dwelling No.268 is a detached bungalow that has benefitted from a single storey rear and side extension that is situated upon the common boundary shared with the application dwelling. The brick wall of the neighbouring dwelling extends along the chamfered alleyway to the side of the site. The existing ground floor of the application dwelling which accommodates part of the garage also has a chamfered design to accommodate a side access into the rear amenity space of the dwelling. The first floor side extension will extend 1.8 metres from the flank wall to the existing ground floor building line and follow the chamfered design. The flank wall of the neighbouring dwelling creates the boundary treatment between the two properties for part of the site, to the rear the boundary treatment changes to a close boarded fence and to the front the boundaries are separated by a brick wall and planting.

The proposed side extension would be set in from the common boundary by 1.5 metres at the front of the site which narrows to 0.9 metres at the closest point towards the rear of the extension. The first floor side extension includes a side facing window which would be conditioned as obscured glazed to prevent any material overlooking into the amenity areas of No.268. The proposed single storey rear extension will also be set off from the common boundary by 0.3 metres. The proposed development would not result in an overbearing impact by way of its size or loss of privacy or loss of light to the neighbouring occupiers.

#### No.262

The proposed single storey rear extension will be set along the common boundary shared with No.262. The single storey rear addition has been reduced compared to the previous application will not extend deeper than the neighbouring extension. The proposed development will not detrimentally impact upon the living conditions of the neighbouring occupiers by way of overbearing impact, loss of privacy or loss of light.

The boundary of the site runs behind the dwellings of Goodwood Avenue, and is separated by a strip of land as shown in drawing No. 22-1349-08-D02. The proposed development is at an angle to these dwelling and far enough away so as not to result in any unacceptable overlooking or loss of privacy.

The proposed development is compliant with policy BE14 of the local plan.

### Future Living Conditions

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

previous reasons for refusal was based upon the limited and awkward amenity space that would be provided.

A survey of the site has been carried out, which confirms the sites boundaries on drawing No. 22-1349-08-D02. Both dwellings would be provided with adequate useable garden areas.

Each room is provided with sufficient light and ventilation, the dwellings will be dual aspect. The dwellings are provided with the space to meet the technical housing standards for a bedroom 3 person house, including storage.

The revisions overcome one of the previous reasons for refusal and now provides a usable amenity space and good quality living conditions for any future occupiers of the site in compliance with Policy HP06.

### Sustainability

Except for the modest single storey rear elements, the proposed development would be contained within the footprint of the existing building. The rear elevation is north facing with larger windows and doors to mitigate any overheating of the new house as required by policy BE04. The development includes renewable energy sources; solar panels and includes an electric car charging for the existing and proposed dwelling. Part of the front driveway is within an area considered to have low risk of surface water flooding, no other part of the site is within a critical drainage area or considered to have assets that aid with surface water flooding.

The proposal is considered to comply with the aims and objectives of policies BE02, BE04 and BE11 of the BLP.

### Highways and Parking

The proposed development includes the widening of an existing access from Rayleigh Road to be used by both 264 and the new dwelling. The development will also provide two off street parking spaces per dwelling at a size of 2.5m x 5m which measured from drawing 22-1349-08-D02 is achievable. The highway authority are satisfied with the proposed parking layout and provision, subject to conditions as per the previous planning application and raise no concern of any impact of the manoeuvring in and out of the driveway.

The development would provide a safe access to the existing and proposed dwellinghouses and provide two off street parking spaces per dwelling which would comply with the minimum parking standards set out with Policy BE13 of the Local Plan.

### Other Matters

The neighbour objections have been addressed within the report. Revisions were received during the period of the application addressing issues raised by neighbouring occupiers regarding the ownership of land. The red line boundary has been amended as per land registry documentation and a site survey has been carried out to provide the measurement of the site and its own boundaries.

Essex County Council map flooding information confirms that the ditch alongside the site does not contribute to flood mitigation. The proposal is more than 20m from a watercourse and will not increase the risk of flooding elsewhere. The application submission confirms that there are no protected or priority species on the site and no trees or hedge are proposed to be removed as part of the development.

### Conclusion

The principle of an additional dwelling is acceptable subject to the application meeting all development management requirements. The proposal is considered to meet the criteria of local plan policies and as such represents sustainable development; no significant adverse impacts have been identified and the presumption in favour of sustainable development is therefore triggered. The proposal is compliant with policies BE14, BE13, HP06, BE02, BE04, BE11 of the local plan, the NPPF and the NPPG and as such is recommended for approval subject to condition.

## **6.0 RECOMMENDATION**

The Application be APPROVED subject to the following conditions:-

**1 TIM01 Standard Time - Full**

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

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

**2 DRA01A Development in accordance with drawings**

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

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

**3**

The materials 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.

4

The first floor east facing window serving the internal bathroom shall be:- a) glazed using obscured glass to a minimum of level 3 of the "Pilkington" scale of obscuration and b) non-opening below a height of 1.7m above the floor of the room in which the window is installed. The windows shall be installed prior to the first occupation of the building or use of the room of which the window(s) is installed. Those windows shall remain so glazed and non-openable. (Note the application of translucent film to clear glazed windows does not satisfy the requirements of this condition)

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

5

Prior to first occupation of the development and as shown in principle on planning drawing 22-1349 Rev 07 Page 09, the vehicular access shall be widened to provide a suitable dropped kerb vehicular crossing of the footway.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy BE13 of the Local Plan

6

Prior to first occupation of the development and notwithstanding the dimensions of the parking spaces on planning drawing 22-1349 Rev 07 Page 09, each parking space shall be provided with dimensions in accordance with current parking standards. The vehicle parking areas shall be retained in the agreed form at all times.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy BE13 of the Local Plan

7

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, 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 policy BE13 of the Local Plan

8

Prior to first occupation, the proposed building shall be provided with, as a minimum, the space and infrastructure required to provide at least 1 electric vehicle charging/plug-in

points for the future occupants of the building and visitors to the site.

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

9

The proposed building shall not proceed above slab level until details of:

- measures to ensure that the building does not exceed 110 litres per person per day;
- measures to provide wastewater infrastructure capacity;
- measures to achieve lower water consumption rates and to maximise futureproofing;
- measures to demonstrate the development would not have an adverse impact upon the sewerage network;
- measures to improve water quality and protect the quality and functioning of existing water courses/groundwater.

have been submitted to and approved in writing by the Local Planning Authority. Where adverse impacts are identified, mitigation measures shall be set out. The development shall be implemented as approved.

Reason: in order to ensure that the proposed development incorporates the sustainable principles in relation to policy BE02 of the Brentwood Local Plan.

10

Aside from those indicated on the approved drawings, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order) no dormer windows, or rooflights shall be constructed and no change shall be made to the shape of the roof without the prior grant of specific planning permission by the local planning authority.

Reason: To safeguard the living conditions of the occupiers of neighbouring dwellings.

#### Informative(s)

1

Reason for approval: The proposal would accord with the relevant policies of the development plan as set out below. The Council has had regard to the concerns expressed in representations, but the matters raised are not sufficient to justify the refusal of permission.

2

The permitted development must be carried out in accordance with the approved drawings and specification. If you wish to amend your proposal you will need formal permission from the Council. The method of obtaining permission depends on the

nature of the amendment and you are advised to refer to the Council's web site or take professional advice before making your application.

3

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

4

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

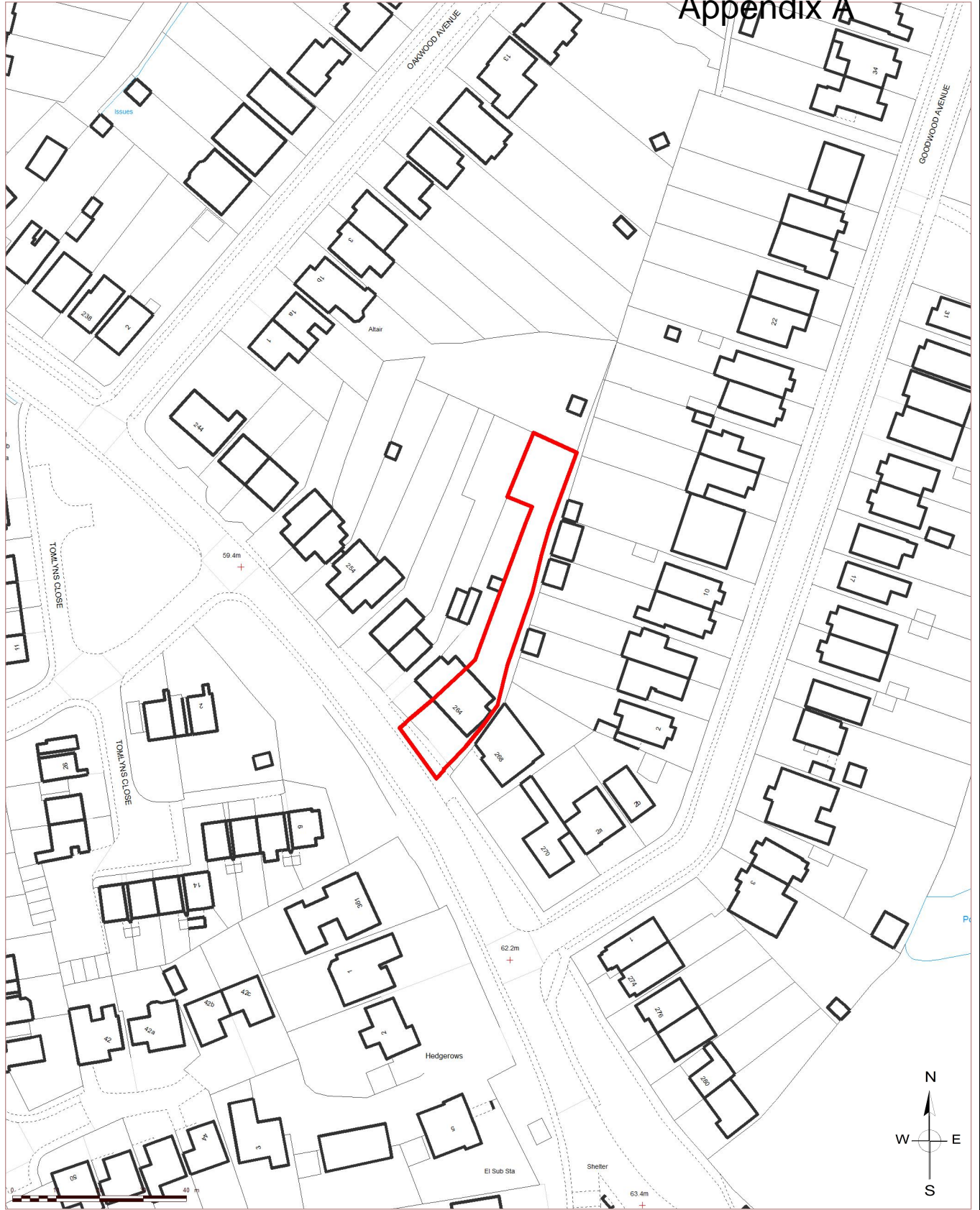
**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

<https://www.brentwood.gov.uk/-/applicationsviewcommentandtrack>



# Appendix A



Title : 264 Rayleigh Road, Hutton, Brentwood, Essex, CM13 1PX

**23/00327/FUL**

Scale at A4 : 1:1250

Date : 19th September 2023

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



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**SITE PLAN ATTACHED**

**THE NIGHTINGALE CENTRE (THE SNAP CHARITY) PASTORAL WAY WARLEY  
BRENTWOOD ESSEX CM14 5GB**

**ADDITION OF AIR CONDITIONING CONDENSER UNITS TO THE FLAT ROOF ON  
THE FRONT ELEVATION.**

**APPLICATION NO: 23/00697/FUL**

**WARD** Warley **EXPIRY DATE** 25 September 2023

**CASE OFFICER** Jane Lowe

**Drawing no(s)  
relevant to this  
decision:** CA-748-10; CA-748-01;CA-748-03; SITE LOCATION PLAN;

**The application is to be determined by the committee as it relates to a Council owned building.**

## **1. Proposals**

Planning permission is sought for the siting of two air conditioning condenser units on the front of the building of The Snap Charity, The Nightingale Centre, Pastoral Way, Warley, Brentwood.

## **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.

- MG02 Green Belt
- BE14 Creating Successful Places

National Planning Policy and Guidance

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

### 3. Relevant History

- 03/01039/FUL: Extension to Community Centre (Formally the Dutchess of Kent Building) For Use as A Doctors Surgery Together With The Formation Of A Car Park And A Pedestrian And Cycle Track -Application Permitted
- 08/00698/FUL: Installation of External Security Shutters on The First Floor of The Snap Centre -Application Permitted
- 09/00114/FUL: Installation of Awning to Children's Activity Hall -Application Permitted

### 4. Neighbour Responses

Following the display of site notices and letters to neighbouring occupiers no comments have been received.

### 5. Consultation Responses

- **Great Warley Conservation Society:** No comments have been received.
- **Arboriculturalist:** No comments have been received.
- **Environmental Health & Enforcement Manager:**

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

CONDITIONS: None

INFORMATIVES: Air conditioning units should be appropriately maintained to prevent them from causing noise disturbances.

### 6. Summary of Issues

The proposal relates to the provision of two air conditioning condensing units to the flat roof of a ground floor projection fronting 'The Snap Charity' which forms part of The Nightingale Centre. The building has a single storey flat roofed projection which is attached to a sloping roof which rises to the first floor level serving a staircase. The two condensing units differ in size, the larger one measures approximately 100cm by 100cm; the smaller one 80cm wide by 50cm tall. The units would be set back a minimum of two metres on the angled frontage and face towards the slip road and Beechwood Surgery. The Agent has confirm both units would be white/cream colouring.

## Design, Character, and Appearance

The development is modest in scale, approaching de minimis, but as the applicant has submitted a valid application it is appropriate to determine it. The application site is located within the Green Belt backing onto open sports fields with the Snap Centre directly facing onto Beechwood Surgery and entrance road.

It is noted Warley Hospital site, which forms a Grade II Listed Building is set within Pastoral Way however the proposals would be set a minimum distance of some 100m from the Listed Buildings and therefore would not have an effect on its setting. Likewise, it would have a neutral effect in the green belt and would not be inappropriate development.

## Impact on Neighbour Amenity

In terms of impact of residential amenity, The Nightingale Centre is set away from adjoining properties and the proposals would not be of a size or design that would result in a harmful impact upon the living conditions of the neighbouring occupiers by way of overbearing impact, loss of privacy or loss of light.

Environmental Health has raised no adverse comments but requested an informative suggesting regular maintenance/service of the units.

## Conclusion

The proposal would not have a detrimental impact on visual amenity, the character and appearance of the surrounding area or the green belt and therefore the proposal is compliant with policies MG02 and BE14 of the Brentwood Local Plan. The application is recommended for approval.

## **7. Recommendation**

The Application be APPROVED subject to the following conditions:-

### 1 TIM01 Standard Time - Full

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

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

### 2 DRA01A Development in accordance with drawings

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

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

Informative(s)

1 INF01 Reason for approval

Reason for approval: The proposal would accord with the relevant policies of the development plan as set out below.

2 INF04 Amendments to approved scheme

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

3 INF05 Policies

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

4 INF21 Positive and proactive

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.

5 U0010098 Note concerning air conditioners

The air conditioning condensing units should be appropriately maintained and regularly serviced in order to prevent the risk of noise disturbances.

*BACKGROUND DOCUMENTS*

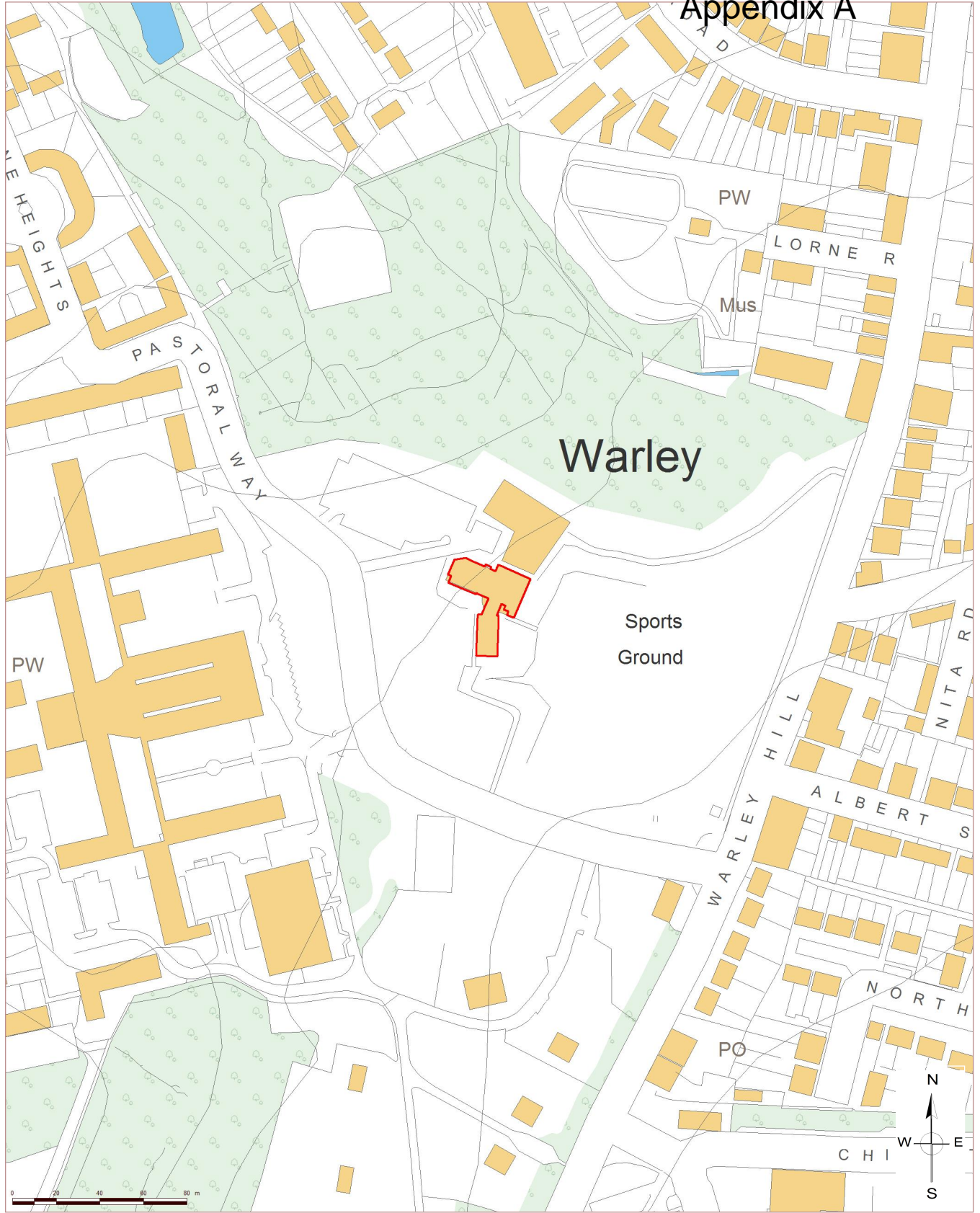
**DECIDED:**



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Appendix A



Title : The Nightingale Centre (The Snap Charity), Pastoral Way, Warley, Brentwood, Essex, CM14 5GB

23/00697/FUL

Scale at A4 : 1:2500

Date : 19th September 2023

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



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**SITE PLAN ATTACHED**

**COURAGE COURT HUTTON DRIVE AND BROOKFIELD CLOSE HUTTON  
ESSEX**

**DEMOLITION OF COURAGE COURT BUILDING AND CONSTRUCTION OF A  
FOUR STOREY ZERO CARBON (IN USE) APARTMENT BLOCK  
CONTAINING 22 FLATS, 19 X ONE BEDROOM AND 3 X TWO BEDROOM  
AND ASSOCIATED WORKS.**

**APPLICATION NO: 23/00768/FUL**

**WARD**                      Hutton Central                      **8/13 WEEK  
DATE**                      19 September 2023

**PARISH**                      **Extension of  
time DATE**

**CASE OFFICER**      Fiona Dunning

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

External Lighting 6001P07; Landscape Details 003A/REV P1; 005A/REV P1;  
10595-01A; 10595-02; 002/REV P2; 060/REV P1; 061/REV P1; 062/REV P1;  
063A/REV P1; 064A/REV P1; 065A/REV P1; 066A/REV P1; 6001/REV P07;  
001A/REV P1; 003/REV P1; Sustainability Statement December 2020;  
Sustainability Statement Addendum March 2021 and June 2023; Addendum Design  
and Access Statement June 2023; Surface Water Drainage Strategy January 2023;  
Addendum February 2021 and June 2023; Preliminary Ecological Appraisal,  
Greenlight 2021; John Hobson Bat Survey 2021; Ecology Report Addendum August  
2023; Transport Statement and Addendum March 2021 and June 2023; Statement  
of Community Involvement and Addendum June 2023; Contamination Report;  
Planning Statement June 2023; Tree Protection Method Statement; Tree Protection  
Plan

**1.0 DESCRIPTION OF PROPOSAL**

**Background**

Planning permission was granted in July 2021 for the refurbishment and extension of the Courage Court to provide 22 apartments as part of the redevelopment of land off Brookfield Close for 62 zero carbon homes under planning reference 20/01912/FUL. Pre-commencement conditions are currently being discharged for 20/10912/FUL and, subject to pre-commencement conditions being discharged, demolition is likely to commence in the Autumn of 2023. The approved development is part of the Council's Small Sites Affordable Homes Programme, which aims to redevelop and transform underused sites for zero carbon (in use housing developments).

The 2020 application was assessed under Brentwood Replacement Local Plan 2005 and at that time the Brentwood Local Plan 2016 - 2033 was the emerging Local Development Plan. The assessment of the current application has reviewed the relevant policies of the Brentwood Local Plan 2016 – 2033 and there is no departure to these policies.

Since the permission was granted for 20/01912/FUL, residents have moved out and further survey work undertaken, which has shown that the conversion and extension of Courage Court has structural complications, and it would be more economically viable to demolish the building. The 20/01912/FUL permission could not be amended due to the description of the development changing and therefore a new application has been submitted for the demolition and rebuilding of Courage Court.

## **The proposal**

The new building would not alter the number of apartments, layout, footprint or parking approved under 20/01912/FUL. Due to the apartment building being new rather than refurbished, the thickness of the slab between floor levels is proposed to increase to meet Building Regulations and the floor to ceiling heights increased from 2.3m to 2.6m, providing good internal amenity for future occupants. The proposed building would be up to 1.2 metres higher than the approved refurbished building (see Drawing No. 106595-HBS-XX-XX-DR-A-023A).

The appearance of the building would remain the same as the approved on the north, west and south elevations. The east elevation would change on the southern wing from render to timber weatherboard. Along with timber weatherboard, brick, glass balustrades with white metal around the balcony slab, white metal solar shades, roof tiles and solar panels are proposed. The proposed materials are the same as the approved scheme under 20/01912/FUL, with a condition requiring final details to be submitted and approved in writing.

## **2.0 SITE DESCRIPTION**

Courage Court has frontage to Hanging Hill Lane to the west, Brookfield Close to the north and Hutton Drive to the south. On the eastern side of the site is a pathway between Hutton Drive and Brookfield Close. Due to the topography of the site, part of the path is stepped. The existing building is set back from the site boundaries where there are established trees, grassed areas, outbuildings and a carpark for approximately 4 vehicles. The existing building has two main pedestrian access points, one off Brookfield Close serving 7 dwellings and the other off Hutton Drive serving 9 dwellings. The existing apartments do not have balconies or courtyards, but there is a small amount of enclosed communal open space to the south and a paved communal area to the east, enclosed by storage buildings and a boundary brick wall. There are 6 two-storey dwellings to the east of the site, which are setback from the pathway by approximately 7 metres where some on-site parking is provided. These dwellings are privately owned and were not part of the wider development site of 20/01912/FUL.

The character of the area is mainly residential, with a mix of 1 and 2 storey dwellings with 3 storey apartment buildings. There is one small supermarket opposite the site on the corner of Hutton Drive and Hanging Hill Lane. Other nearby services and facilities include Willowbrook Primary School to the east of Brookfield Close and Shenfield railway station, which is less than 1 mile to the west of the site.

### **3.0 RELEVANT HISTORY**

- 20/01912/FUL: Redevelopment of site including demolition of houses and bungalows and development of 62 zero carbon homes incorporating extensions and conversion of Courage Court to form 22 flats, construction of 16 houses and 24 flats; provision of open space, landscaping and associated works. - Application Permitted
- 20/01912/COND/1: Discharge of conditions 9 (Bat Survey) of application 20/01912/FUL (Redevelopment of site including demolition of houses and bungalows and development of 62 zero carbon homes incorporating extensions and conversion of Courage Court to form 22 flats, construction of 16 houses and 24 flats; provision of open space, landscaping and associated works).
- 20/01912/COND/2: Discharge of conditions 29 (Arboricultural Method Statement to include tree protection plan) of application 20/01912/FUL (Redevelopment of site including demolition of houses and bungalows and development of 62 zero carbon homes incorporating extensions and conversion of Courage Court to form 22 flats, construction of 16 houses and 24 flats; provision of open space, landscaping and associated works.) – Application Permitted

### **4.0 SUMMARY OF 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/>

- **Arboriculturalist-**

An updated arboricultural impact assessment and method statement have been provided. The revised scheme will not result in any increased effects on trees. The three silver birches identified previously will require removal and 6 replacement trees are proposed.

No updated ecological assessment has been submitted however having visited the site recently I do not consider there to have been any significant changes and the site remains as having low ecological value.

A landscape scheme has been submitted which is considered appropriate for the scheme, although there is no detail regarding the numbers of shrubs to be provided. This final detail can be conditioned – it does not need to be a pre-commencement condition.

No objection to the scheme on landscape or ecology grounds.

- **ECC SUDS-**

Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following:

Condition 1

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- o Limiting discharge rates to a combined rate of 7.8l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- o Final modelling and calculations for all areas of the drainage system.
- o The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. This should be demonstrated via a treatment train for each catchment.
- o Detailed engineering drawings of each component of the drainage scheme.

- o A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- o A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason

- o To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- o To ensure the effective operation of SuDS features over the lifetime of the development.
- o To provide mitigation of any environmental harm which may be caused to the local water environment
- o Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

Condition 2

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

Condition 3

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

- **Highway Authority-**

The documents submitted with the planning application have been duly considered and a number of visits were made during the course of assessing the original application for this site (reference 20/01912/FUL).

The latest proposals involve the redevelopment of the Courage Court building to provide the same number of apartments as the current permitted scheme, but do not include plans to alter parking provision or access to the site. From the Highway Authority's viewpoint therefore, the impact of the development on the highways is unaffected.

Consequently, from a highway and transportation perspective, the impact of the proposal is acceptable to the Highway Authority subject to conditions and informatives.

- **Essex Badger Protection Group-**

The Essex Badger Protection Group is currently aware of 10 badger setts within 2km of the application site, none of which are close enough to be considered at risk of direct harm. The area does nevertheless have a high number of urban badgers and we believe that a degree of construction related mitigation will be necessary in order to protect any foraging badgers from harm during the completion of the project.

We strongly recommend that the following measures are adopted during the build phase:

- All site personnel should be fully briefed concerning the presence of badgers in the area and the mitigation measures to be followed.
  - Any trenches or deep pits should be securely covered overnight to stop any badgers falling in and becoming trapped. Alternatively, a rough plank can be provided, at an angle no steeper than 45 degrees, to allow any badgers a suitable means of escape.
  - Any trenches/pits should be inspected each morning and evening to ensure no badgers have become trapped.
  - The storage of topsoil or other 'soft' building materials within the site should be given careful consideration. Badgers will readily adopt such mounds as setts, which would then be afforded the same protection as established setts. So as to avoid the adoption of any mounds, they should be subject to daily inspections before work commences.
  - During the work, the storage of any chemicals should be contained in such a way that they cannot be accessed or knocked over by any roaming badgers.
  - Open pipework with a diameter of more than 120mm should be properly covered at the end of the working day to prevent badgers entering and becoming trapped.
  - Litter and potentially dangerous materials on site should be cleared at the end of the working day. Care should be taken to ensure that there are no sharp metal objects or pointed protrusions on the ground which could seriously injure a badger due to their poor eyesight.
  - Adherence to these measures to be confirmed to planners at regular intervals by the project ecologist.
- **Essex Wildlife Trust-** No comments received.



- **Environmental Health & Enforcement Manager-**

No comments or objections to make currently.

Please forward The Construction Method Statement in due course.

- **Housing Services Manager-**

It is critical that we can increase the supply of affordable and good quality housing provision within the Borough to ease the burden on the Council's waiting lists and reduce homelessness.

A high proportion of residents are likely to be on lower incomes or reliant on some form of benefit. For some, this means that they cannot afford to heat their homes adequately which can cause associated health, social issues, and poorly maintained homes.

The approach to deliver carbon zero (in use) homes will deliver energy efficient homes by adopting a fabric first approach and using alternative heat sources and heat recovery systems which will provide our residents with lower running costs which will reduce the impact of these issues.

The planned regeneration of the site will work towards assisting the Council in the supply of much needed new affordable, low-cost housing, and will benefit the overall wider community.

- **Affinity Water-** No comments received.

- **Anglian Water Services Ltd-**

Section 1 - Assets Affected - There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that informatives are included within your Notice should permission be granted.

Section 2 - Wastewater Treatment - The foul drainage from this development is in the catchment of Shenfield And Hutton Water Recycling Centre that will have available capacity for these flows.

Section 3 - Used Water Network - The proposed connection is acceptable. We do not require a condition in planning for foul water. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

Section 4 - Surface Water Disposal - The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

Anglian Water has reviewed the submitted documents Flood Risk Assessment and Drainage Strategy Jan 21 01-01-106592-FRA-Rev B; 23\_00768\_FUL-DRAINAGE\_DOCUMENTATION-1009686 - CCTV Survey and Infiltration Results and can confirm that these are acceptable to us. We require these documents to be listed as approved plans/documents if permission is granted.

- **NHS Healthcare-** given that fewer than 10 net additional dwellings are created by this development, the ICB does not wish to request a contribution to increasing healthcare capacity.

- **Thames Water Development Planning-**

This application does not fall within the Thames Water catchment area, therefore we have no comments to make.

- **Schools & Education-** No comments received.
- **Operational Services Manager-** No comments received.
- **Open Space Strategy Coordinator-** No comments received.
- **UK Power Networks-** No comments received.

- **Crime Prevention Design Advisor**

The 'Essex Police - Designing out Crime Office (DOCO) recognise that developments where safety and security has been addressed and 'designed out' at the earliest planning stages, will enhance the health and wellbeing of future residents. Perception of crime and fear of crime can be an influential factor in determining the success, synergy and ongoing sustainability of a community.

Good design and early co-ordination, incorporating 'Crime Prevention Through Environmental Design' (CPTED) principles, can avoid the conflicts that may be expensive or impossible to resolve once the construction phase is complete. CPTED forms part of Police Crime Prevention Initiatives (PCPI) which is the official UK Police Security Initiative.

We would welcome the opportunity for engagement with the design team to discuss the security design aspects of the development to ensure provision of a safe and secure environment for the future community. We would specifically ask that the applicant consider the following factors concerning security:

#### Mitigation of crime

It is essential to consider crime as a material consideration throughout the life cycle of the scheme, both during construction and when the site is complete. Essex Police would recommend developers consider the foreseeability of crime from the outset of this

project and maximise on the opportunity to design such issues out, to prevent the need for bespoke situational crime prevention measures in the future.

It is important that design specifications provide an effective and realistic level of physical security that is commensurate with the risk, posed, particularly in relation to theft/burglary and anti-social behaviour.

#### Site Security

Further clarity and detail would be welcomed to confirm how the site will be secured during the construction phase of the project together with what measures will be taken to protect plant and materials on the construction site.

#### Landscaping

The DOCO would welcome the opportunity to liaise regarding the green architecture and appropriate landscaping plan, especially with regards to the use and management of the proposed communal spaces within the development and the general topography of the site. We are also interested in the provision of street furniture and any proposed play equipment within the open public realm space.

#### Physical Security and Access control

We request consultation regarding proposals to ensure the safety and security for residents of the twenty-two dwellings within the development. Further clarity in relation to apartment entrance doors, windows, communal doors and communal spaces within the apartment blocks is sought.

#### Mail/parcel delivery

We would like information regarding mail delivery and parcel delivery and whether a provision for a secure area for parcel delivery is being considered. Theft of parcels has risen exponentially since the "COVID" pandemic and with the change of shopping habits the delivery of valuable goods should be factored into design and security consideration.

#### Cycle storage/Bin Store

We acknowledge the applicants plan to promote sustainability agendas within the site by including cycle storage; we would recommend secure closed door cycle storage for residents. For police preferred products please see the SBD web site; <https://www.securedbydesign.com>

Furthermore, we are keen to understand the arrangements for bin storage and collection; such areas, if not properly protected, could become subject of anti-social behaviour.

#### Management and maintenance

At the appropriate stage within the planning process, we would be keen to understand the finer detail of management and maintenance proposals. The long-term durability of

security can only be guaranteed if it is maintained and regularly serviced with appropriate plans in place to ensure security does not fall into disrepair through neglect.

To conclude, Essex Police strongly recommends that the developer seeks to achieve the relevant Secured by Design accreditation detailed within the current Secured by Design Homes guide; (<https://www.securedbydesign.com/guidance/design-guides>), provides full details. We provide a cost free, impartial advice service to applicants who require advice on Crime Prevention Through Environmental Design and Secured by Design.

## **5.0 SUMMARY OF NEIGHBOUR COMMENTS**

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/>

One comment was received from a neighbour raising the following:

- Not enough parking
- Courage Court external materials need to be of high quality given the building is a landmark on Hanging Hill Lane
- This application should address failings of the wider development to make it an exceptional development
- Further consultation with local residents was not undertaken prior to submission
- Current environment is unpleasant and the wider site permission was granted 2 years ago. The development needs to commence

## **6.0 POLICY CONTEXT**

National Planning Policy and Guidance

National Planning Policy Framework 2023 (NPPF)

National Planning Practice Guidance (NPPG)

National Design Guide (NDG)

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. The relevant policies are:

MG01: Spatial Strategy

MG03: Settlement Hierarchy

MG05: Developer Contributions  
BE01: Carbon Reduction and Renewable Energy  
BE02: Water Efficiency and Management  
BE03: Establishing Low Carbon and Renewable Energy Infrastructure Network  
BE04: Managing Heat Risk  
BE05: Sustainable Drainage  
BE07: Connecting New Developments to Digital Infrastructure  
BE09: Sustainable Means of Travel and Walkable Streets  
BE11: Electric and Low Emission Vehicles  
BE12: Mitigating the Transport Impact of Development  
BE13: Parking Standards  
BE14: Creating Successful Places  
BE15: Planning for Inclusive Communities  
HP01: Housing Mix  
HP02: Protecting the Existing Housing Stock  
HP03: Residential Density  
HP05: Affordable Housing  
HP06: Standards for New Housing  
NE01: Protecting and Enhancing the Natural Environment  
NE02: Green and Blue Infrastructure  
NE03: Trees, Woodlands, Hedgerows  
NE05: Open Space and Recreational Facilities  
NE06: Allotments and Community Food Growing Space  
NE07: Protecting Land for Gardens  
NE08: Air Quality  
NE09: Flood Risk  
NE10: Contaminated Land and Hazardous Substances  
NE11: Floodlighting and Illumination

Other local and regional documents/guidance

- ECC Green Infrastructure Standards
- ECC Sustainable Drainage Systems Design Guide
- ECC Parking Standards
- ECC Infrastructure Contributions
- ECC Design Guide

## **7.0 ASSESSMENT**

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 2023 (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 6 above.

### **Principle of development**

The principle of 6 additional dwellings on the site by creating an additional storey has been established by the granting of planning permission for the wider site under planning reference 20/01912/FUL. Under that application Courage Court was to be retrofitted rather than demolished.

The construction of the replacement building comprising 22 apartments would help contribute to the requirement for new homes in sustainable locations. There is sufficient infrastructure capacity for the increase in the number of dwellings and the improved on-site facilities of a roof terrace, additional on-site parking and allotment garden mitigates the need for additional off-site infrastructure contributions. The proposal would improve the economic, social and environmental conditions of the area by using the land efficiently as well as providing new zero-carbon (in-use) affordable homes. The proposal is therefore consistent with Local Plan policies MG01 and MG05 and the National Planning Policy Framework.

### **Sustainable Design**

Both the NPPF and the Local Plan policies promote low carbon developments to take account of a changing climate and to minimise the impact on the environment. An Energy and Sustainability Statement Addendum has been submitted with the planning application addressing the changes in the original submission. The new replacement building would continue to have a fabric first approach, supplemented with heat pumps and photovoltaic panels to achieve Passivhaus certification rather than the previously proposed EnerPhit upgrades. The use of renewables is consistent with Policy BE03 of the Local Plan. The Energy and Sustainability Statement Addendum identifies the improvements to the construction of the building to reduce energy requirements and continue to achieve Net Zero Carbon Emissions (in-use) taking account of the estimated embodied carbon savings change due to the demolition.

Policy BE01 requires at least a 10% reduction in carbon dioxide emissions above the requirements of Part L of the Building Regulations and where possible a minimum of 10% of predicted energy needs from renewable energy. The proposal would be of a 'Passivhaus' construction, which would provide a super-insulated and air-tight building with good indoor air quality meeting the policy requirement of BE01. The water consumption would comply with the limits of 110 litres per person per day to comply with Policy BE02. The original planning permission did not include a condition for this as it was in the supporting documents that were approved. The updated Planning

Statement submitted with the application confirms Policy BE02 will be met, and this document is listed to be approved.

The design and layout of the building and its orientation have been set by the existing building. Heat risk has been managed through the fabric first approach and limited glazing.

It is considered that the loss of the estimated embodied carbon savings is compensated by the proposed dwellings having a greater floor to ceiling height, which would improve the living conditions of future residents through improved ventilation within the new dwellings, consistent with Policy BE04 of the Local Plan. In addition, the disposal of the existing materials would be managed through the proposed site waste management plan condition.

The new building would incorporate low carbon and renewable technologies that exceed the local plan and NPPF requirements. No additional conditions to those which have been included in the planning permission 20/01912/FUL are considered necessary to make the proposal acceptable.

Any unknown contamination would be addressed under proposed condition 10, which is consistent with the 20/01912/FUL.

### **Flood Risk and SuDS**

The site is in Flood Zone 1, which means that there is a low probability of flooding and residential development is a compatible land use. The Flood Risk Assessment and Drainage Strategy submitted for 20/01912/FUL has been submitted with the application along with an Addendum dated 8 June 2023, detailing the reason for the demolition of the building and how the proposal would remain consistent with the drainage strategy approved and referred to in condition 26 of planning permission 20/01912/FUL. The Addendum also provides details of capacity for foul drainage.

The on-site drainage strategy includes an attenuation of surface water for a 100-year event plus an allowance of 40% for climate change, which is a betterment to the existing site drainage. The Addendum report refers to a significant reduction in flows from the wider site, which is supported by the Lead Local Flood Authority subject to conditions previously included on the 20/01912/FUL permission. This is consistent with Policy BE05 of the Local Plan.

### **Housing**

The proposal would provide 6 additional dwellings to the existing 16 and proposes 19 x 1 bedroom units and 3 x 2 bedroom units, which is the same as previously approved

and consistent with Policy HP02. All units would be M4(2) compliant, with three units being M4(3) compliant, exceeding the requirements of Policy HP01. The density for the 2020 planning application was reported as 51 dwellings per hectare, which meets the expected net density of at least 35 dwellings per hectare. The proposal has also taken a design-led approach with increasing the number of units while being sympathetic to the local character of the area, consistent with Policy HP03. It is anticipated that Courage Court will provide at least 70% of the units as affordable housing and the final number will be determined by previous occupiers right to return. The 2020 permission included a condition requiring 70% affordable housing across the wider site and a complementary condition is proposed for the current application. The minimum requirement of 35% affordable housing under Policy HP05 will be met.

Each unit has been designed to meet the national space standards and would be provided with the floor to ceiling height exceeding the minimum requirements, making the internal amenity of the units very good. In addition to the internal amenity meeting the space standards, each unit is provided with private open space in the form of balconies and the building includes a roof garden and a communal allotment garden secured by a 1.8m high railing boundary and gates. This is consistent with Policy HP06 of the Local Plan.

The carbon zero (in use) will assist residents returning and future residents with fuel costs and good quality housing as supported by the Housing Manager.

## **Highway and Parking**

The parking numbers and layout remain as previously approved, which is 9 spaces for the 22 dwellings proposed. This shortfall in parking spaces was deemed acceptable as the existing building had no formal parking provision. The approved scheme includes 2 disabled bays relocated for two residents who will be moving into two of the ground floor dwellings of Courage Court. The other 7 car parking spaces are located within the site adjacent to Hanging Hill Lane and accessed via Hutton Drive.

Future residents of Courage Court would have access to the secured cycle storage within the building. There are several services and facilities within walking and cycling distance of the site. The original report discussed the reduction in vehicle parking standards and sustainability and highlighted that the lack of on-site vehicle parking would encourage residents to walk, cycle and/or use public transport. The site is in a sustainable location with a 14 minute walk to Shenfield Station and a convenience store, school and bus stops within a short walking distance.

The Highway Authority has recognised that the proposal has not changed apart from Courage Court now proposed to be demolished and rebuilt and therefore has not raised any objections on highway grounds.



Policy BE13 of the Local Plan allows for provision of parking spaces to be below the parking standards providing it is supported by evidence detailing local circumstances. The circumstances are that the proposal provides an additional 6 dwellings and there is currently no on-site parking for the building. Therefore the 6 new dwellings are provided with parking spaces. It should also be noted that the existing planning permission is extant and it would be unreasonable to require additional parking to what has been approved previously and could be implemented.

The additional 6 dwellings proposed with the provision of 7 car parking spaces is considered to be generally consistent with the Essex Parking Standards and therefore consistent with Policy BE13, as this policy requires the decision-maker to have regard to those standards and local circumstances.

### **Design, Character and Appearance**

Policies BE14 and BE15 require proposals to meet high design standards and deliver safe and inclusive places where residents can thrive.

The proposed building would have the same footprint as the existing with an additional storey, consistent with the 20/01912/FUL approved plans. Due to the requirement to meet the latest Building Regulations and Design Guides, the proposed building is up to 1.2m taller than the building granted planning permission (see Drawing No. 023A Rev P1). The previously approved building was approximately 1.5 metres taller than the existing building so there will be an overall increase of up to 2.7 metres. The lift and stair roof access on the 2020 plans was 3.2m higher than the existing building, which would make the current roof access enclosure 4.4m higher than the existing roof. The roof terrace provides communal open space for residents with a garden around the perimeter and a seating area. The changes to the proposed building are not considered significant as they would not create any significant impacts on nearby neighbours due to the proposed building being at least 40 metres from the closest dwellings at Nos. 4 – 14 Hutton Gardens. It is noted that the mature existing trees, located to the east of the building and to be retained, would sit between the new building and these dwellings. This increase in height would be marginal in regard to the outlook and daylight from these adjoining dwellings to the west of Courage Court. Overall, the proposal for Courage Court is considered to have a positive impact on the residents of 4 – 14 Hutton Gardens as two outbuildings to the east of the building would be demolished and replaced with an allotment garden and landscaped areas, creating an openness adjacent to the pathway.

Each new apartment is proposed to have private outdoor open space (balconies) and the size of each dwelling meets the minimum national space standards with step-free access provided within the building via the two lifts. The balconies on the eastern side of the building are no closer to those approved under 20/01912/FUL and are not

considered to create any loss of privacy to the adjoining residents as they are set into the façade rather than projecting.

As mentioned in section 1.0, the materials palette are the same as previously proposed, with a condition requiring details to be approved in writing for work above ground level. This means that overall the character and appearance of the building will retain some of the features of the existing building but also reflect the other new building in the wider site and provide significantly improved internal amenity of future occupants.

The comments of the Crime Prevention Design Advisor are noted and Secured by Design principles were discussed at pre-application stage for the original application. While Secured by Design Accreditation is not proposed, measures to design out crime have been incorporated and the updated building regulations have improved security in dwellings. The cycle storage doors, communal access doors and the entrance gates to the community allotments will have security to help prevent intruders and anti-social behaviour. The 1.8m high steel rail fencing around the community allotment will provide security and surveillance of this area and the communal car parking and walkways/paths will be visible from several proposed apartments and from existing dwellings nearby. Post-delivery to ground floor apartments is proposed with boxes for upper floor apartments located on the ground floor.

The management and maintenance of the building will be by Brentwood Borough Council Housing. The Construction Management Plan is to be agreed with the future contractor and would include details of site security during construction.

The proposal is consistent with policies BE14 and BE15 of the Local Plan.

### **Landscape, Ecology and Biodiversity**

The footprint of the building is the same as the previously approved refurbished building and therefore no change is proposed to the hard and soft landscaping and retained trees surrounding the building. This includes retaining and protecting six mature trees on the site, removing four trees and planting 6 new trees on the Courage Court site. A Tree Protection Method Statement and accompanying Tree Protection Plan have been submitted and are the same documents that have been agreed to be discharged under planning reference 20/01912/COND/2. As a result, there is no requirement for a pre-commencement condition for tree protection and the condition is proposed to be amended to refer to the documents approved. The landscape plan submitted (DR-L-003 Rev P01) has been accepted by the Arboriculturalist in principle and while it shows the planting densities it does not show the planting mix. A condition is proposed requiring this information, consistent with the 2020 permission.

An Addendum to the Preliminary Ecological Appraisal has been submitted specifically relating to the demolition of Courage Court. The Preliminary Ecological Appraisal

submitted with the 2020 planning application determined that the site had no specific ecological value with no significant habitat features present. This appraisal recommended additional bat surveys be undertaken as some of the buildings had high potential for bat roosting. Courage Court was not one of these buildings but an additional survey was undertaken by John Dobson in September 2021 for the 2020 planning application site and did not find any evidence of the presence of bats and or features on Courage Court offering potential roosting places. An evening bat activity and emergence survey found no evidence of bats emerging from Courage Court. It should be noted that additional bat surveys have been requested for the application to discharge condition 9 of 20/01912/FUL (20/01912/COND/1) as some of the buildings had high potential for bat roosting and the Dobson Bat Survey did not appear to fully cover these buildings identified in the preliminary appraisal. At the time of writing the report some additional surveys had been undertaken but not yet completed. The last surveys are due to be undertaken in early September and it is likely the details would have been submitted by the time this report is being considered by the Planning Committee. An update on the surveys could be reported by the applicant at the meeting if required although as noted above, Courage Court building itself has already been discounted as having bat roosting potential.

The Dobson Survey recommended biodiversity enhancements including retaining existing gaps in site boundaries for hedgehogs and other wildlife. The boundary treatment proposed for this development site include the railings around the allotment garden and the retaining wall on the northern side of the building. Details of bird and bat boxes and hedgehog fencing are proposed to be included in a condition, which is consistent with the 2020 planning permission. The request from the Badger Protection Society is proposed to be included as an informative included in the decision notice.

The proposed landscaping plan with the roof terrace with planting, garden allotment, bird and bat boxes, new tree and shrub planting and the retention of mature trees is considered to protect and enhance the environmental quality of the site in accordance with Policies NE01, NE02, NE03 and NE06 of the local plan.

### **Other Matters**

The comments from the resident are noted and the materials proposed for Courage Court are considered to be of high quality in appearance and relating to the building being constructed to Passivhaus standards. The provision of parking for Courage Court is more than existing and is considered acceptable given an additional 6 apartments are proposed with 7 car parking spaces and 2 wheelchair spaces. The additional public consultation by the applicant prior to submitting the application for the demolition and rebuilding of Courage Court was by letter and did not include the wider area but was limited to the immediately adjoining neighbours who would be most affected by the proposal. The residents who were consulted on planning application 20/01912/FUL were sent new consultation letters and had the opportunity of commenting on the amendments. It is the intention of the applicant to commence demolition works when

the relevant pre-commencement conditions are discharged and the contractors are appointed.

## **8.0 CONCLUSION**

The proposal is essentially an amendment to 20/01912/FUL, which was granted planning permission on 12 July 2021. The footprint, number of units, materials, landscaping, design and on-site car parking are the same as previously approved. Due to a technicality the original permission could not be amended as the description changed with the demolition of the existing Courage Court. The other change includes the height of the new building being up to 1.2 metres higher than the approved refurbished building as a result of Building Regulation and nationally-described space standard requirements for new buildings. This increase in height would be marginal and unlikely cause any significant impacts on the amenity of adjoining neighbours to the east on Hutton Gardens or to those on the west of Hanging Hill Lane.

The significant benefits of the wider site approved under 20/01912/FUL continue with the current proposal delivering new well-designed affordable homes that are energy efficient in a landscaped setting that encourages community cohesion and active travel to services and facilities through the planned outdoor spaces on site. The NPPF states that substantial weight should be given to the value of using previously developed and under-utilised land where it can contribute to the needs for housing. The provision of zero-carbon (in use) sustainable homes also holds great weight, particularly when 70% of them will be affordable homes. The improvement in Council's housing stock will also be more economical for future residents in relating to limiting the need for heating and cooling.

The proposal has significant merit and is recommended for approval subject to conditions that are based on the extant 2020 permission and the information submitted with the current application.

## **9.0 RECOMMENDATION**

The Application be APPROVED subject to the following conditions:-

1 TIM01 Standard Time - Full

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

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

2 DRA01A Development in accordance with drawings

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

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

3 U0052495 Materials

Notwithstanding the details shown on the drawings hereby approved; no development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

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

4 U0052496 Site Levels

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

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

5 U0052497 Boundary Treatments, External Lighting and CCTV

Notwithstanding the external lighting plan submitted; the development shall not be occupied until details of the treatment of all boundaries including drawings of any gates, fences, walls or other means of enclosure and any external street lighting, bollards or CCTV have been submitted to and approved in writing by the local planning authority. The approved details shall be completed prior to the first occupation of the development and shall thereafter be permanently retained and maintained.

Reason: In the interests of safeguarding the character and appearance of the area, secure be design, and to safeguard living conditions of adjacent occupiers.

6 U0052498 Estate Management Plan

Prior to the occupation of the development, details of an estate management plan shall be submitted and approved by the Local Planning Authority. Thereafter the estate will only operate in accordance with that approved strategy. The estate management plan shall include but not be limited to:

-parking management strategy identifying how the parking for existing and proposed residents will be managed to optimise the efficient use of the off-street parking spaces

- security and access arrangements
- management and maintenance of open space, allotments and street furniture
- management and maintenance of SuDS features
- ongoing management and maintenance of Shared Mechanical Systems and Plant (e.g., ground source heat pumps and how the contract to manage the system will be tendered and the likely impact it would have on the residents' service charge).
- management and maintenance of hard and soft landscaping

Reason: In the interests of highway safety and amenity.

7 U0052499 Planting plan details

Notwithstanding the Landscape Plan for Courage Court shown on drawing DR-L-003-PO1, no development above ground level shall commence on site, until a final planting plan providing details of the location and number of shrubs and herbaceous planting has been submitted to and approved in writing by the Local Planning Authority.

The approved landscaping scheme and planting plan shall be completed during the first planting season after the date on which any part of the development is commenced or in accordance with a programme to be agreed in writing by the local planning authority. Any newly planted tree, shrub or hedgerow or any existing tree, shrub or hedgerow to be retained, that dies, or is uprooted, severely damaged or seriously diseased, within five years of the completion of the development, shall be replaced within the next planting season with another of the same species and of a similar size, unless the local planning authority gives prior written consent to any variation. All hard landscaping shall also be carried out in accordance details shown on Drawing No. DR-L-003-PO1 prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

8 U0052500 Ecology Enhancements

Details, including location, number and design, of bird and bat boxes shall be submitted to and approved by the Local Planning Authority in writing prior to occupation of the development. The boxes shall be installed in accordance with the details, maintained and retained in perpetuity. Any additional fencing that is not railings shall be designed to allow hedgehogs and amphibians to travel under fences.

Reason: In order to provide a biodiversity net-gain in the interests of sustainable development.

9 U0052501 Unexpected Protected Species

In the event that any bats or other protected species are found prior to or during demolition, the contractor shall stop work and notify Natural England immediately to ensure appropriate action is taken.

Reason: To safeguard and preserve protected species.

10 U0052502 Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development, that was not previously identified, it shall be made safe and reported immediately to the local planning authority. No further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential pollutants associated with current and previous land uses) in line with paragraphs 174 and 183 of the National Planning Policy Framework.

11 U0052507 Overheating Assessment

Prior to commencement on site (excluding demolition) the applicant shall demonstrate that the homes are not at risk of overheating by submitting one of the following:

- a) A PHPP overheating analysis demonstrating a "Pass" for the current design proposals in the current climate, as well as a 'high risk' scenario where adverse conditions are artificially introduced. It is suggested that these are recreated by either increasing occupancy above expected range (by 1 or 2 occupants) and/or by altering climate data by using the PHI Summer Temperature Tool; or
- b) A TM59 analysis demonstrating compliance with all criteria for a 'worst case' house and flat on the development; or
- c) A qualitative approach to adapting the houses and flats to deal with higher external temperatures, e.g. a detailed process for adding external shading systems without requiring significant facade work or ensuring that the MVHR system specified has ability to add a small active cooling module at a later date."

Reason: To ensure the development would not lead to overheating for the health and amenity of future of future occupiers

12 U0052508 Soft Landings Framework

In addition to the guidance of the Soft Landings Framework published by BSRIA, prior to occupation, the Applicant should submit proposals for:

- a) A handover visit with all residents that meets Criteria 2 of HQM 11.1 Aftercare.
- b) Home user guides that meet the criteria and minimum information presented in the HQM 11.2 Home Information credit.

Reason: To ensure future residents are trained and assisted in renewable home ownership, in the interest of their amenity.

13 U0052509 Waste Management Plan

Prior to the commencement on site a Site Waste Management Plan shall be submitted to the local planning authority for review once a contractor has been appointed. The plan should set clear targets in this document for diversion from landfill, review of the material on-site and possibilities for reuse or recycling.

Reason: In the interests of reducing embodied carbon.

14 U0052511 Construction Method Statement

The development shall be carried out in accordance with the Construction Method Statement

has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

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

15 U0052514 Provision of Vehicle Parking

The proposed development shall not be occupied until such time as the vehicle parking spaces indicated on the approved plans, including any parking spaces for the mobility impaired, have been installed and marked out. Signage shall be erected stating the parking is allocated for residents of the development only and shall be retained in perpetuity unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with the adopted parking standards and policy T5.

16 U0052515 Boundary Planting

Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.



Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

17 U0052516 Cyle Parking and Refuse storage

None of the accommodation hereby permitted shall be occupied until the facilities for the storage of refuse and cycle parking have been provided in accordance with the details shown on the approved drawings and specifications; details of the refuse storage facilities shall be submitted to and approved in writing prior to the occupation of the development hereby permitted. Cycle parking shall be provided in accordance with the EPOA Parking Standards and shall be secure, convenient, covered. The approved facilities shall be provided prior to occupation and retained at all times. Thereafter the accommodation shall not be occupied unless those facilities are retained.

Reason: To ensure that adequate provision is made in the interest of highway safety, sustainable transportation and amenity.

18 U0052517 Travel Packs

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, 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.

29 U0052518 Suds

No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- o Limiting discharge rates to a combined rate of 7.8l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- o Final modelling and calculations for all areas of the drainage system.
- o The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. This should be demonstrated via a treatment train for each catchment.
- o Detailed engineering drawings of each component of the drainage scheme.
- o A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.

o A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development. To provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

#### 20 U0052519 SuDS Maintenance Plan

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

#### 21 U0052520 Maintenance Log

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

#### 22 U0052521 Tree Protection

The development shall be carried out in accordance with the Arboricultural Method Statement and Tree Protection Plan dated 21<sup>st</sup> July 2023 prepared by Andrew Day.

Reason: In the interest of protecting and preserving trees of significance.

#### 23 U0052522 Electric Car Charging

The development shall be constructed in a manner that will include the provision of car charging points for 10% of the parking bays hereby approved and appropriate infrastructure/ducting is provided to install electric vehicular charging and/or plug in points for every other parking bay.

Reason: To future proof the site to allow for the charging of electric or other low emission vehicles in the interest of sustainable transportation and development.

24 U0052523 Affordable Housing

Prior to occupation detail of arrangements for the provision of the 70% affordable housing hereby approved shall be submitted to and approved in writing by the local planning authority. The details shall include:

- (a) identification of the 15 dwellings which shall be constructed as affordable units
- (b) the type and tenure of the affordable housing provision to be made as part of the development
- (c) the arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing

Reason: To ensure that the level of affordable housing is maintained in perpetuity, for the continued benefit of the community.

Informative(s)

1 INF01 Reason for approval (no objections)

Reason for approval: The proposal would accord with the relevant policies of the development plan as set out below.

2 U0009962 Policies

The following development plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: MG01, MG03, MG05, BE01, BE02, BE04, BE05, BE07, BE08, BE09, BE11, BE12, BE13, BE14, BE15, BE16, HP01, HP03, HP05, HP06, NE01, NE02, NE03, NE05, NE08, NE09, NE10, National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

3 INF04 Amendments to approved scheme

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

4 U0010032 - Anglian Water Sewer connection

Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087

5 U0010033 - Protection of Existing Assets

A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team

for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

6 U0010034 - Building near to a public sewer

No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

7 U0010062 - SuDS

o Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).

o Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

o Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

o It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

o The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

o We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

8 INF21 - Approved Without Amendment

No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

9 U0010067 - Protection for badgers / wildlife

During demolition and construction:

- All site personnel be fully briefed concerning the presence of badgers and wildlife in the area and mitigation measures to be followed.
- Any trenches or deep pits be securely covered overnight to stop any badgers and wildlife falling in and becoming trapped. Alternatively, a rough plank can be provided, at an angle no steeper than 45 degrees, to a suitable means of escape.
- Any trenches/pits be inspected each morning and evening to ensure no badgers / wildlife have become trapped.

- Storage of topsoil or other 'soft' building materials within the site be given careful consideration. Badgers will readily adopt such mounds as setts, which would then be afforded the same protection as established setts. To avoid the adoption of any mounds, inspection prior to commencement of work is required.
- Storage of any chemicals be contained in such a way that they cannot be accessed or knocked over by any roaming badgers.
- Open pipework with a diameter of more than 120mm be properly covered at the end of the working day to prevent badgers entering and becoming trapped.
- Litter and potentially dangerous materials on site be cleared at the end of the working day. Care taken to ensure that there are no sharp metal objects or pointed protrusions on the ground which could seriously injure a badger due to their poor eyesight.
- It is requested that adherence to these measures be confirmed to the local planning authority at regular intervals by the project ecologist.

#### 10 INF27 Other legislation

This consent is only in relation to the town and country planning act. Other legislation may be applicable for which consent is required, such as the protection of wildlife. It is the duty of all parties to ensure compliance with all laws.

#### **Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

<https://www.brentwood.gov.uk/-/applicationsviewcommentandtrack>

#### **DECIDED:**

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Title : Housing Redevelopment Including Courage Court, Brookfield Close, Hutton, Brentwood, Essex

23/00768/FUL

Scale at A4 : 1:1250

Date : 19th September 2023

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



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**SITE PLAN ATTACHED**

**HERON COURT 198 BRENTWOOD ROAD HERONGATE BRENTWOOD  
ESSEX CM13 3PN**

**PROPOSED DEMOLITION OF THE 20TH CENTURY WINGS AND  
SOUTHERLY DAY ROOM. NEW EXTENSION ON TWO FLOORS TO BE  
CREATED, FORMING A SECURE COURTYARD ENCLOSURE. EXISTING  
GROUND LEVEL TO BE REDUCED. INCREASE IN BEDROOM NUMBERS  
FROM 33 TO 55 BEDROOMS.**

**APPLICATION NO: 22/01331/FUL**

**WARD** Herongate, Ingrave & West **8/13 WEEK**  
Horndon **DATE** 21 December 2022

**PARISH** Herongate & Ingrave **POLICIES**

**CASE OFFICER** Julia Sargeant

**Drawing no(s)** 5551-PA01; 5551-PA02; 5551-PA03; 5551-PA04;  
**relevant to this** 5551-PA05; 5551-PA06; 5551-PA07; 5551-PA08;  
**decision:** 5551-PA09; 5551-PA10; 5551-PA11; 5551-PA12;  
5551-PA13; 5551-PA14; 5551-PA15; 7485-1 1 OF 3;  
7485-2 2 OF 3; 7485-3 3 OF 3; 5551-LP;

**An appeal against non-determination of this application has been lodged. Jurisdiction for determining this application passed to the Planning Inspectorate upon receipt of the non-determination appeal and therefore any decision taken by the Planning Committee will now be a material consideration rather than a determinative outcome.**

**This application has been referred to Planning Committee by Councillor Murphy in relation to design, appearance and layout, conservation of buildings, trees and open land, impact on the appearance of the area, and the planning history of the site noting that there is a long history on the site of previous planning applications refused at Borough and Appeal level.**

## **1. Proposals**

Heron Court is a residential care home that comprises an original half-timbered tudoresque arts and crafts style building of two and a half storeys in height with a single storey extension to its south. The care home currently has 33 resident bedrooms, 32

of which are single rooms and 1 double room. 15 bedrooms are located within the original house and 18 bedrooms within the C20th extension. The building is set in generous grounds which slope down and away from the building to the south east with an overall change in ground level of around 3 metres.

Planning permission is sought to demolish the later 20th century single storey additions and replace with a larger two storey extension with glazed single storey links to the existing building. The proposed extension would have a contemporary appearance finished in red blended brickwork to the lower ground floor, vertical larch cladding to the first floor and featuring a gold coloured metal roof.

The layout and positioning of the proposed extension would create a courtyard arrangement between the new extension and the existing building providing a formal and secure central amenity area for the residents. The proposed development would increase the bedroom capacity of the care home to 55 with each bedroom benefiting from an en-suite. The proposal provides a more efficient plan layout than the existing care home with 'service corners' and a formal arrangement of functional spaces for residents to access communal living areas, along with staff facilities.

The application site is located towards the southern end of Herongate and is located within the Herongate Conservation Area as well as the metropolitan Green Belt. Heron Court is also a non-designated heritage asset formally noted within the Brentwood Local List and is of local importance.

## **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. The following policies are most relevant to this application:

- MG01 – Spatial Strategy
- MG02 – Green Belt
- BE01 – Carbon Reduction and Renewable Energy
- BE02 – Water Efficiency and Management
- BE04 – Managing Heat Risk
- BE05 – Sustainable Drainage
- BE07 – Connecting New Developments to Digital Infrastructure
- BE09 – Sustainable Means of Travel and Walkable Streets
- BE10 – Sustainable Passenger Transport
- BE11 – Electric and Low Emission Vehicles
- BE12 – Mitigating the Transport Impacts of Development
- BE13 – Parking Standards
- BE14 – Creating Successful Places
- BE15 – Planning for Inclusive Communities
- BE16 – Conservation and Enhancement of Historic Environment

HP04 – Specialist Accommodation  
NE01 – Protecting and Enhancing the Natural Environment  
NE02 – Green and Blue Infrastructure  
NE03 – Trees, Woodlands, Hedgerows  
NE05 – Open Space and Recreation Provision  
NE08 – Air Quality  
NE09 – Flood Risk  
NE10 – Contaminated Land and Hazardous Substances  
NE11 – Floodlighting and Illumination

#### Other Local Documents or Guidance

Essex Parking Standards 2009

#### National Planning Policy and Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

National Design Guide (NDG)

### **3. Relevant History**

- 11/00607/FUL - Proposed removal of existing roof, provision of new first floor, new stairs and lift and additional communal facilities – Permitted 26.09.2011
- 18/00099/FUL - Proposed redevelopment of Heron Court Care Home. Proposed demolition of the 20th century wings and southerly day room. New extension on three floors to be created, forming a secure courtyard enclosure. Existing ground level to be reduced. Increase in bedroom numbers from 33 to 65 bedrooms. – Refused - 29.06.2018 – Appeal Dismissed
- 19/00346/FUL - Proposed redevelopment of Heron Court Care Home. Proposed demolition of the 20th century wings and southerly day room. New extension on three floors to be created, forming a secure courtyard enclosure. Existing ground level to be reduced. Increase in bedroom numbers from 33 to 65 bedrooms. – Refused - 12.08.2019 – Appeal Dismissed

The planning history of a site is a material planning consideration and in this case there are recent appeal decisions which are directly relevant to this current submission and therefore carry significant weight. From the planning history it is evident that in 2011 planning permission was granted for a first floor extension above the existing single storey extension to the south. This would have increased the number of bedrooms within the care home to 44. This permission was not built out.

More recently planning permission has been refused and dismissed at appeal under references 18/00099/FUL and 19/00346/FUL for the proposed demolition of the 20th century wings and southerly day room. New extension on three floors to be created, forming a secure courtyard enclosure. Existing ground level to be reduced. Increase in bedroom numbers from 33 to 65 bedrooms. Both applications were for the same description of development, however the design and form of the extensions sought were different.

Application 18/00099/FUL was refused the following reasons:

1. The proposal extension, due to its size would amount to an excessive scale in relation to the size of the original building. As such it would represent inappropriate development in the Green Belt that would have materially greater impact on the openness of the Green Belt than the original building, to the detriment of the open and rural character of the locality. The proposal therefore conflicted with Brentwood Replacement Local Plan Policies GB1 and, GB2 and the provisions of the Framework as regards development in the Green Belt.
2. Other matters that might weigh in favour of the proposal had been considered but collectively they did not clearly outweigh the harm to the Green Belt or the other harms identified. Therefore very special circumstances to justify inappropriate development in the Green Belt did not exist.
3. The proposed development, by reason of its size and design would result in a building that would be harmful to the character and appearance of the Conservation Area. The proposed development would therefore be contrary to Policies CP1 and C14 of the Brentwood Replacement Local Plan and the provisions of the Framework.

Application 19/00346/FUL was refused the following reasons:

1. The proposed development by reason of its size and scale in relation to the size of the original building would represent inappropriate development in the Green Belt that would have materially greater impact on the openness of the Green Belt than the original building, to the detriment of the open and rural character of the locality, contrary to local policy GB1 and GB2 of the local plan and chapter 13 of the NPPF. It is not considered that there are any very special circumstances that exist to outweigh the harm to the Green Belt. Accordingly, the proposal is contrary to local policy GB1 and GB2 of the local plan and chapter 13 of the NPPF.
2. The proposed development, by reason of its design, form, style and architectural detail is unsympathetic to the character of the host building which positively contributes to the Herongate Conservation Area and would amount to demonstrable, but less than substantial, harm to the character, appearance and local distinctiveness of the Conservation Area. Although there are some public benefits of the development it is not considered they outweigh the harm caused to the designated heritage asset. Accordingly, the proposal is contrary to points (i), (ii) and (viii) of policy C14 and CP1 (i), (iii) and (viii) of the local plan and the

design and historic environment principles within chapters 12 and 16 of the NPPF.

Both applications were appealed and were considered in tandem referred to as Appeal A (18/00099/FUL) and Appeal B (19/00346/FUL) under appeal references APP/H1515/W/18/3219321 and APP/H1515/W/18/3237055 respectively. The Council did not defend the third reason for refusal in relation to Appeal A and therefore no objection was raised in relation to Appeal A in terms of impact upon the Conservation Area.

In considering the appeals the inspector advised that the main issues in respect of Appeal A and Appeal B were:

- Whether or not the development is inappropriate development in the Green Belt having regard to the Framework, including any relevant effects on the openness of the Green Belt and with regard to any relevant development plan policies
- The effect of the development on Herongate Conservation Area (Appeal B only)
- If the development is inappropriate, whether or not any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal in accordance with the Framework.

The Inspector found that both appeals would amount to inappropriate development in the Green Belt. However, weighed against this the Inspector found that the additional bed spaces would meet an acknowledged and urgent need for such accommodation, and that the development would result in a significant improvement in the quality of the existing accommodation and that the layout of the linked courtyard would have a positive effect on the Heron Court building in its setting. In relation to appeal B the inspector concluded that the extension would have an incongruous visual relationship with Heron Court and a harmful impact upon the Conservation Area. However, this harm would be less than substantial and the need to provide for older people in care homes of an appropriate standard is a public benefit and in this case it was found to outweigh the harm to the designated heritage asset. The Appeal A proposal was found by the Inspector to not be harmful to the Conservation Area.

The Council raised concerns with the submissions at the Hearing regarding the Financial Appraisal (FA) commissioned by the appellants as it concerned a 55 bed scheme and not the 65 bed scheme proposed. The FA established that a smaller 55-bed scheme would be viable, and it had not been updated to relate to the 65-bed scheme that was being considered. This raised an important point in terms of whether the development was the minimum necessary to achieve the benefits which derive from it.

In the Inspector's conclusion they state that:

*“The harm arising from inappropriate development in the Green Belt, which attracts substantial weight, and the benefits of the development to which I attribute significant weight is finely balanced in this case. However, I have also been unable to establish that the scale of development which is planned is the minimum necessary to achieve the benefit in terms of the improvement of the existing facilities, which reduces the weight which I attach to that benefit. This has the effect of shifting the balance towards a conclusion that the other considerations do not clearly outweigh the harm that I have identified. It follows that the very special circumstances necessary to justify either the Appeal A development or the Appeal B development do not exist.”*

This current submission has been submitted with the aim of addressing the previous reasons for refusal and the conclusions reached by the Inspector in the recent appeal decision. In this regard the proposal is now of a reduced scale and seeks an extension to create a 55 bed scheme as opposed to a 65 bed scheme and is supported by an updated Needs Assessment and Viability Report (as well as other relevant documentation).

#### **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/>

Six letters of objection have been received. The main reasons for objecting are summarised below:

- Whilst the height and mass of the proposed extension has been reduced from that proposed in the previous application (19/00346/FUL) it is still excessive and overwhelms the original attractive Arts and Crafts House.
- Would more than double the footprint of the existing property.
- Style, size and impact of the proposed extension is unacceptable in a conservation area and in Green Belt land.
- Materials to be used are incongruous with the setting of the area.
- The confused and seemingly random pitches and gables of the extension are at odds with the simple and pleasing roof shapes of Heron Court and adjacent houses.
- A smaller more sympathetic development must surely be possible.
- Reservations about the scale and design of current proposals. An increase of this size will dominate the area and be out of character to the other houses and listed buildings.
- Inappropriate development in the Green Belt.
- The development due to its size and design would be harmful to the character and appearance of the Conservation Area.

- The unattractive modern extension would be visible from the A128, Button Common, Heron Court, Heron Chase and neighbouring properties in the winter as most of the boundary trees are deciduous.
- The development should have sufficient merit to respect its surroundings without having reliance on impermanent vegetation.
- Proposed parking is inadequate and will probably result in overflow parking of Heron Court and the private road.
- Concerned adjacent green areas will be adversely affected by overflow parking.
- There are many other small care homes operating including Eastham Care Home which has only 22 beds.
- Upheaval for the existing vulnerable residents of Heron Court.
- Do not consider that there are any special circumstances to justify this inappropriate development.

## 5. Consultation Responses

- **Historic Buildings And Conservation Officer:**

Thank you for consulting on this application, which is within the Herongate conservation area, the application pertains a 'Proposed demolition of the 20th century wings and southerly day room. New extension on two floors to be created, forming a secure courtyard enclosure. Existing ground level to be reduced. Increase in bedroom numbers from 33 to 55 bedrooms'.

Heron Court is a building of merit, designed in the Arts and Crafts style within the Herongate Conservation Area. The building contributes positively the character and appearance of the Conservation Area and on the adopted Local Heritage List for Brentwood (IUD H-HC) 'Substantial Tudoresque art and crafts detached residence dating back to 1860 but remodelled after 1970 with substantial modern development to the South. Currently Heron Court Residential Home'

My previous advice stands in respect of the later extensions, these are not considered worthy of retention. The submitted Heritage Statement is from 2020, whilst I appreciate there is common ground on heritage there should have been an update to this document to reflect the impact. Notwithstanding this matter I offer the following advice:

Further to this submission, preapplication advice regarding a resubmission was undertaken in 2020 where I advised upon proposals tabled, this sought to adopt the design intent from scheme A (APP/H1515/W/18/3219321), main matters being around viability and need.

I reiterate extracts from my previous advice prior to Appeal regarding the design intent:

'It was most evident from my site inspection, the host building is not conducive to the efficient, functional and practical needs of the care home, particularly given the

specialist care which is offered here; indeed it would be counterproductive to attempt to rationalise the internal spaces within this host Arts and Crafts building to meet the needs of the current occupiers, potentially resulting in a loss of significant fabric and architectural detail, which could not be resisted given the building has no statutory protection.....softer pitched sculptural shapes with a more subordinate materiality; such contrasts in shape and detail with the use of vertical timber is complementary to context and not seeking to challenging the strong architectural style of Heron Court at its inception, nor is the proposed design trying to replicate the host building.

Whilst an architectural contrast of this nature may be viewed as 'at odds' with the host building, it is quite the contrary. Such contemporary contrasting extensions and buildings in Conservation Areas and indeed at Listed Buildings, if executed well with the highest quality of materiality and detailing, will actually serve to enhance the setting and significance of the host building, acting as a counterpoint back to the original and most important architecture in the curtilage, in this case, Heron Court..... I find the design intent proposed here refrains from an overambitious narrative and offers a neutral contrast'.

In Conservation terms there is a betterment to the scheme and its reduced massing.

In respect of Urban Design, the courtyard design approach I find to be informed by an architectural narrative based on evidence around courtyard design and dementia care, this has benefits in terms of an improved quality of life for future occupiers and maintains the historic building clearing it from the current later and harmful accretions.

As a consequence of the above, both in heritage and design terms, this application in my opinion, meets the requirements of the NPPF and is not objected to; if this scheme is recommended for approval I request and strongly advise strict conditions regarding materials and detailing, these must include granular details for concealed rainwater goods, quality external cladding (not plastic or composite) and well-engineered glazing with consideration for artificial light pollution and balustrades.

Conditions for detailing and materials are key as this is a contemporary response to a Non-Designated Heritage Asset and Conservation Area, therefore the execution in construction is of paramount importance.

- **Environmental Health & Enforcement Manager:**

In October 2022, I made the following comments from an Environmental Health perspective. I now also note receipt of the air quality statement (dated: March 2023) and will be pleased to provide further comments upon receipt of a CEMP or other such similar document.

#### Noise and Dust

It is recommended that a Construction Environmental Management Plan (CEMP) would be submitted to the LPA for approval prior to works commencing. The CEMP should as



a minimum deal with the control of dust during construction and noise mitigation measures having regard to BS 5228-1:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites. The CEMP should also confirm construction hours.

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

Other considerations

There are to be no bonfires on site.

The applicant should be mindful any asbestos removal from the original building should be removed by an appropriately licenced contractor.

- **Care Quality Commission:**

No response at time of report.

- **ECC SUDS:**

Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following:

Condition 1

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- o Limiting discharge rates to 2.83l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party/ All relevant permissions to discharge from the site into any outfall should be demonstrated.
- o Confirmation of the brownfield rate so that variable rate can be considered.
- o Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- o Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- o Final modelling and calculations for all areas of the drainage system.
- o The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- o Detailed engineering drawings of each component of the drainage scheme.

- o A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- o A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation

#### Reason

- o To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- o To ensure the effective operation of SuDS features over the lifetime of the development.
- o To provide mitigation of any environmental harm which may be caused to the local water environment
- o Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

#### Condition 2

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

#### Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

#### Condition 4

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

#### Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

#### Condition 5

The development hereby permitted shall not be commenced until the existing pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage and are restored to a fully working condition.

#### Reason

To ensure that drainage system implemented at the site will adequately function and dispose of surface water from the site.

Failure to carry out the required maintenance before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

- **Basildon Fire Station:**

I refer to your notification and consultation regarding the application for the proposed demolition of the 20th century wings and southerly day room. New extension on two floors to be created, forming a secure courtyard enclosure. Increase in bedroom numbers from 33 to 55 bedrooms; as a result the application has been considered and the following observations are made:

#### Access

Access for Fire Service purposes has been considered in accordance with The Essex Act 1987 - Section 13(1)(a)(b) and The Building Regulations 2010.

The proposal as described does not affect Fire Service access to existing premises in the vicinity and therefore in compliance with Section 13 (1)(b) of The Act.

Provision of Fire Service vehicular access will be expected to meet / maintain the requirements of The Building Regulations Approved Document B Volume 2, Section B5 (and so address Section (1)(a) of The Act); this will include where necessary adequate vehicle turning facilities within the grounds of the premises. If the expansion of the building is likely to increase the number of vehicles accessing the site, it important that consideration is given to how fire / emergency service vehicular access along the approach road into Heron Court will be maintained to avoid it being utilised for overspill parking by both staff and visitors which could restrict the overall width of the road and hinder emergency vehicle access to the home.

Provided the measures referred to above are addressed and parking of vehicles given due consideration then this Authority has no objection to the proposal.

More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

#### Building Regulations

It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. Applicants can decide whether to apply to the Local Authority for Building Control or to appoint an Approved Inspector.

Local Authority Building Control will consult with the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority (hereafter called "the Authority") in accordance with "Building Regulations and Fire Safety - Procedural Guidance". Approved Inspectors will consult with the Authority in accordance with Section 13 of the Building (Approved Inspectors etc.) Regulations 2010 (as amended).

#### Flood Plain Risk

The following statement with regard developments with any level of risk from flooding is submitted as part of this consultation.

At present, Essex County Fire and Rescue Service (ECFRS) under the Fire and Rescue Services Act 2004 and the Fire and Rescue Services (Emergencies) Order 2007, does not have a statutory duty to respond to flooding issues.

However, ECFRS is committed to protecting the people of Essex and will always endeavour to respond to a flooding emergency based on a risk assessed approach.

Due to the limited availability of specialist water rescue resources during flooding incidents, ECFRS has, on recent previous occasions, had to limit their operational response to 'life threatening situations' only. We would not therefore support proposals that are likely to increase this situation or add to the volume of calls received.

Where however approval is given to any application that has an element of flooding risk, it is recommended that specialist advice is obtained and acted on accordingly by the applicant to mitigate any risk of flooding to the development in the future; with this application the observations submitted by ECC Suds in response to this application refer and should therefore be considered.

#### Water Supplies

Should the application be successful the architect or applicant is reminded that additional water supplies for firefighting may be necessary for this development, and they are therefore urged to contact the Water Technical Officer at Service Headquarters, telephone 01376-576344 at the earliest opportunity.

#### Sprinkler Systems

There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy.

Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk-based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met.

- **Parish Council:**

Herongate & Ingrave parish council are strongly opposed to this application. They feel it represents overdevelopment of the site.

The design proposed for the new buildings is not at all sympathetic to the conservation area in which it sits and the heritage asset it is attached to.

The proposed plans will have a significant impact on the openness of the greenbelt which is against local and national planning policy and no special circumstances exist to justify this.

- **Herongate And Ingrave Preservation Society:**

Object to the application on the following grounds:

- The bulk and scale of the proposed building does not fit with the surrounding area and the development falls into Green Belt
- Traffic and parking – the approach road is narrow and can already become intermittently partially blocked with large delivery vehicles and parked cars, this leads to difficulties of access for residents and damage to verges and curbs. Consider increase in parking provision is insufficient for the development and concerned adjacent green areas will be adversely affected by overflow parking.
- Design Details: the materials to be used are incongruous with the setting of the area. Design features such as the walls of the extension and the timber first floor has very little in common with the existing building or nearby structures. Likewise, the proposed aluminium windows and the roofing are out of keeping for the current important building and the area. The pitches and gables of the extension are unsympathetic to the existing roof shapes of Heron Court and adjacent houses.
- Landscaping: The currently landscaped western boundary will be insufficient to shield the roof line and incongruous character of the roofing material of the proposed development from the public view, this is particularly relevant to the proximity of neighbouring listed buildings and the conservation area.
- Conclusion: This proposed development fails to respect the value of the existing street scene and the aesthetics of the adjacent dwellings and common land which also falls into the curtilage of one of the few remaining active Manorial Courts in England.

- **Highway Authority:**

The documents submitted with the planning application have been duly considered and a site visit carried out.

The proposals entail the continued use of an existing access and there is no record of any safety issues with that or the junction where Heron Court meets Brentwood Road in the most recent 5 year period. The proposals also include an increase in car parking provision to 23 spaces, which represents a notable improvement to the existing number of spaces per room ratio.

Consequently, 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 and that construction vehicles do not use unsuitable roads, in the interests of highway safety and Policy DM1 of the Highway Authority's Development Management Policies February 2011.

2. Notwithstanding the details shown on the Proposed Site Plan, the proposed development shall not be occupied until such time as the whole vehicle parking area, including a minimum of 3 parking spaces for the mobility impaired given the nature of the development, have been hard surfaced, sealed and formally marked out. The vehicle parking areas and associated turning areas shall be retained in this form at all times. Each parking space shall have minimum dimensions in accordance with current parking standards. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority. Full details of the revised layout is to be submitted to and approved by the Local Planning Authority.

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

3. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facilities shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- **Arboriculturalist:**

The ecological survey found that the site had generally low ecological value. These conclusions are considered appropriate given the current development and management. The surveys did find evidence of the building being used as a day roost by small numbers of bats. Additional surveys would be required to inform a EPS licence application.

If the scheme were permitted, I would request a condition requiring the results of the survey and EPS application be provided to the LPA.

Given the proximity of the extension to the retained trees and the known presence of bats on the site, I would request an external lighting condition to demonstrate how light spill of suitable habitat will be avoided.

The ecological report identifies mitigation and enhancement measures that could be provided. I request a condition requiring details of these measures to be submitted to the LPA prior to commencement.

The arboricultural impact assessment confirms that effects on trees will be limited so long as appropriate construction techniques are adopted. I would require an arboricultural method statement to be submitted to the LPA prior to commencement to provide detail of the techniques that will be used.

A landscape condition is required detailing the hard landscape materials and proposed planting to be provided.

Overall I have no objection to the proposal on landscape or ecology grounds subject to these conditions.

- **Essex Badger Protection Group:**

The consultation includes comments on matters relating to protected species and in accordance with current advice these detailed comments are not in the public domain. However, the group raises no objections to the proposal subject to conditions.

- **NHS England (East):**

Review of Planning Application

The information submitted in support of the planning application does not assess the impact of the proposal on healthcare capacity or how this impact would be mitigated.

Assessment of Development Impact on Existing Healthcare Provision

All but one of the existing GP practices do not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 22 new residents and subsequently increase demand upon existing constrained services.

The primary healthcare services directly impacted by the proposed development and the current capacity position are shown in Table 1.

The capacity of primary healthcare facilities in the area of the proposed development is already below the recognised standards of provision for the existing population. Additional population growth in the area resulting from new development would add to the deficit and so would be unsustainable if unmitigated.

Using the accepted standards set out below the table, the capital required to create additional floorspace for support the population arising from the proposed development is calculated to be £4,500.

The development would have an impact on healthcare provision in the area where there is already a deficit of primary care facilities. If unmitigated, the development would be unsustainable. Planning obligations could be used to secure contributions to mitigate these impacts and make an otherwise unacceptable development acceptable in relation to healthcare provision.

The Mid and South Essex Integrated Care System (ICS) therefore requests that the sum of £4,500 be secured through a planning obligation in the form of a S106 agreement is linked to any grant of planning permission in order to increase capacity for the benefit of patients of the Primary Care Network operating in the area. This may be achieved through any combination of extension, reconfiguration or relocation of premises.

#### Conclusions

The ICS has identified that the development will give rise to a need for additional healthcare provision to mitigate impacts arising from the development and requests that these are secured through a S106 legal agreement attached to any grant of planning permission. In the absence of such mitigation the development would impose an unsustainable burden on local healthcare services.

The terms set out above are considered appropriate having regard to the formulated needs arising from the development and the ICS is satisfied that the basis and value of the developer contribution sought is consistent with the policy and tests for imposing planning obligations set out in the NPPF.

The health partners of the ICS look forward to working with the applicant and the Council to satisfactorily address the issues raised in this consultation response and would appreciate acknowledgement of the safe receipt of this letter.

## **6. Summary of Issues**

### Principle of Development

The Council is required to determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70 (2) of the Town and Country Planning Act 1990 (TCPA 1990)).

The NPPF is clear that sustainable development is at the heart of the planning system. The Framework's definition of sustainable development has three interdependent



objectives that are mutually dependent upon each other and need to be balanced. These are the economic, social and environmental objectives.

As detailed above The Brentwood Local Plan 2016-2033 is the Development plan for the borough and the main relevant policies in relation to this application are listed above and although these should not be read in isolation, they are the most relevant to this application. Furthermore the previous planning history and recent appeal decision is a material consideration with this submission and consideration will be given throughout this report as to whether the previous reasons for refusal and Inspector's comments have been addressed.

### Green Belt

The application site is located within the Green Belt as shown on the policy map attached to the adopted Local Plan. The Government attaches great importance to the Green Belt. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Green Belt is a spatial designation not a qualitative one, therefore the requirement to protect openness applies just as much to attractive countryside as to less attractive areas of Green Belt.

Policy MG02 of the Brentwood Local Plan seeks to prevent inappropriate development of the Green Belt stating that all development proposals within the Green Belt will be considered and assessed in accordance with the provisions of national planning policy.

All development in the Green Belt, be it uses of land or operational development, is inappropriate for the purposes of the NPPF unless it accords with the exceptions listed in paragraphs 149 and 150.

In relation to this application paragraph 149 (c) is considered relevant which states an exception as:

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

A further exception test that is considered relevant with this application is paragraph 149 (g) which states:

*“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 table below shows the extent of the extension compared to the host building, expressed in Gross External Area (square metres).

	Existing	To be demolished	Proposed New	Total Proposed
Lower Ground Floor	0	0	1366.9	1366.9
Ground Floor	1062.2	591.9	1362.1	1832.4
First Floor	327.1	0	0	327.1
Second Floor	139.0	0	0	139.0
<b>Total</b>	<b>1528.3</b>	<b>591.9</b>	<b>2729.0</b>	<b>3665.4</b>

The net gross external area taking into account the demolition of the 20<sup>th</sup> century additions is 2137.1 sqm. which represents an increase of 140%. The proposed scheme is smaller than both previous refusals on the site (most recent application reference 19/00346/FUL would have had a 160% increase in net external area) in terms of overall scale and bulk due to the proposed extension being two storey in height as opposed to including three storey elements which both previous refusals did, however the overall footprint is slightly larger to account for the loss of the third storey.

It is considered that a 140% net increase in floor area is significant and increases in terms of the building's footprint, volume, mass and bulk as a result of the extension would also be substantial. Furthermore, in line with the wording of the NPPF paragraph 149 (c) exception to inappropriate development should be assessed in line with extensions to the 'original' building; the later 20th Century additions to be removed are not considered original and therefore are not included in the assessment. Therefore, the extension to the original building in terms of floor area would be much greater in percentage terms than the 140% net increase provided by the applicant.

As set out in the NPPG (paragraph 001 ref ID 64-001-20190722), other factors that may be taken into account when considering the potential impact of development on openness are spatial and visual aspects. Although no massing comparisons between the existing and proposed buildings are submitted, it is clear that the proposed development would result in an extension that would be disproportionate to the original building. The proposed development would therefore not meet exception criteria 149 (c).

In relation to exception criteria 149 (g) the correct test is whether the development would have a greater impact on the openness of the Green Belt than the existing development as no affordable housing is proposed. The existing development includes the single storey extensions which are present on the site.

In terms of its spatial impact on the Green Belt the development would have a greater impact than the existing development. It is acknowledged that the existing extensions are raised out of the ground to a significant degree which affects their mass and scale, however it is clear from comparing the existing and proposed plans submitted in support of this application that the proposed extensions would be larger in terms of their

footprint and height.

Heron Court is set in landscaped grounds which include a deep tree screen along some of the boundaries. This has the effect of screening the existing extensions from wider views and would have a similar screening effect on the proposed development. Furthermore as part of the development the site would be levelled and the extensions set lower than the existing ground level which will ensure they appear lower than the existing main building (non designated heritage asset) and help reduce the visual impact of the proposal. No Landscape and Visual Impact Assessment has been submitted in support of this application, however it was evident from a site visit that any views of the development from a wider setting would be limited, although glimpsed views would likely be possible during the winter months as at least part of the existing landscaping is deciduous. The extension would also be visible from the entrance to the application site and in the setting of Heron Court itself. It is therefore considered that the development would have a visual impact on the Green Belt.

Overall, it is considered that the proposal would have a greater impact on the openness of the Green Belt than the existing development amounting to inappropriate development in the Green Belt contrary to policy MG02 of the adopted Brentwood Local Plan.

#### Design, Scale and Effect on Heritage Assets

Part of the environmental role of sustainable development as referred to in the NPPF, is that the planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The National Design Guide is also relevant to the consideration of this application and illustrates the Government's priorities for well-designed places.

Policy BE14 of The Brentwood Local Plan seeks to ensure that all development proposals meet high design standards and deliver safe, inclusive, attractive and accessible places. As the application site is located within the setting of heritage assets Policy BE16 is also relevant to the consideration of this application

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the character or appearance of the conservation area. Similarly, policy BE16 of the adopted Brentwood Local Plan states that great weight will be given to the preservation of a designated heritage asset and its setting and that development proposals that affect non-designated heritage assets should seek to preserve and wherever possible enhance the asset and its setting.

Heron Court is a building of merit, designed in the Arts and Crafts style within the Herongate Conservation Area. The building contributes positively to the character and appearance of the Conservation Area and is on the adopted Local Heritage List for Brentwood (IUD H-HC) '*Substantial Tudoresque art and crafts detached residence dating back to 1860 but remodelled after 1970 with substantial modern development to the South. Currently Heron Court Residential Home*'

To the side and rear of the building there are later accretions (C20th) these are not significant or worthy of retention nor are they highly visible, resulting in a neutral impact on Conservation Area.

The Historic Buildings and Conservation Officer has been consulted on this application and the full response is included within section 4 of this report. This proposal is very similar in architectural design and layout to refused application 18/00099/FUL and appeal A (noted in planning history section 3 of this report) although it is of a reduced overall height being two storey instead of three. This planning history carries significant weight in consideration of this application, and it is worthy of note that whilst this application was refused partially due to harm to the character and appearance of the Conservation Area this reason for refusal was not defended at appeal and the Inspector stated "*The Appeal A proposals would not be harmful to the Conservation Area...*"

This current proposal is for a reduced version of the development sought under 18/00099/FUL (Appeal A) and the Historic Buildings and Conservation Officer comments that in conservation terms there is a betterment to the scheme and its reduced massing. Further advice is given stating that:

*"It was most evident from my site inspection, the host building is not conducive to the efficient, functional and practical needs of the care home, particularly given the specialist care which is offered here; indeed it would be counterproductive to attempt to rationalise the internal spaces within this host Arts and Crafts building to meet the needs of the current occupiers, potentially resulting in a loss of significant fabric and architectural detail, which could not be resisted given the building has no statutory protection.....softer pitched sculptural shapes with a more subordinate materiality; such contrasts in shape and detail with the use of vertical timber is complementary to context and not seeking to challenging the strong architectural style of Heron Court at its inception, nor is the proposed design trying to replicate the host building.*

*Whilst an architectural contrast of this nature may be viewed as 'at odds' with the host building, it is quite the contrary. Such contemporary contrasting extensions and buildings in Conservation Areas and indeed at Listed Buildings, if executed well with the highest quality of materiality and detailing, will actually serve to enhance the setting and significance of the host building, acting as a counterpoint back to the original and most important architecture in the curtilage, in this case, Heron Court..... I find the design*

*intent proposed here refrains from an overambitious narrative and offers a neutral contrast.*

*In respect of Urban Design, the courtyard design approach I find to be informed by an architectural narrative based on evidence around courtyard design and dementia care, this has benefits in terms of an improved quality of life for future occupiers and maintains the historic building clearing it from the current later and harmful accretions.”*

It is therefore considered that in both heritage and design terms the development meets the requirements of the NPPF as well as adopted local plan policies BE14 and BE16. Full details of materials and detailing could be successfully dealt with via planning conditions.

### Parking and Highway Considerations

The proposal will utilise the existing access and the number of parking spaces on site would increase from 9 to 23. At the time of the site visit it was noted that parking is not formally designated at present and therefore it may be possible for more than 9 cars to be parked on the site.

In terms of parking policy BE13 relates to parking standards and advises that development proposals must take account of the Essex Parking Standards – Design and Good Practice (2009) or as subsequently amended. Any proposals which make provision below these standards should be supported by evidence detailing local circumstances that justify deviation from the standard.

In terms of C2 care homes the adopted parking standard is expressed as a maximum with no minimum standard. It is noted that parking and highway access is a matter that has been raised in several letters of representation, however neither of the two previous applications were refused on parking and highway grounds and this application seeks a lower number of additional bed spaces with the same overall number of parking spaces proposed. Whilst there is a new adopted local plan the parking standards remain the same as when the previous applications were considered and material considerations in this regard have not changed.

ECC Highways have also been consulted on this application and have advised that the proposals entail the continued use of an existing access and there is no record of any safety issues with that or the junction where Heron Court meets Brentwood Road in the most recent 5 year period. The proposals also include an increase in car parking provision to 23 spaces, which represents a notable improvement to the existing number of spaces per room ratio. ECC Highways therefore have no objection subject to conditions.

It is therefore considered that there is no basis to object to the proposal on parking and highway safety grounds subject to appropriate conditions. A condition is also recommended to ensure the provision of EV charge points.

## Residential Amenity

The existing building on site is used as a C2 use care home which is generally deemed to be an acceptable use within residential settings in terms of noise and disturbance. The proposal would result in an intensification of this use due to the proposed increase in bed numbers, however due to the positioning of the proposed extension to the south away from neighbouring properties the proposal would not result in any materially harmful impacts towards the living conditions of occupiers of properties to the north of the site.

## Landscape and Ecology

Paragraph 174 of the NPPF states that *“Planning policies and decisions should contribute to and enhance the natural and local environment by; (amongst other things) minimising impacts on and providing net gains for biodiversity.”*

Policy NE01 of The Brentwood Local Plan deals with the protection and enhancement of the natural environment seeking biodiversity net gain where possible.

The layout of the proposed development creates new opportunities for additional landscaping within the formed internal courtyard. The proposal has minimal impacts on existing trees with no significant trees having to be removed. An arboricultural impact assessment has been submitted as part of the application as well as detailing of hard and soft landscaping intent within the proposed lower ground floor block plan (PA02). The Council’s arboricultural consultee has raised no objection to the proposal subject to conditions requiring an arboricultural method statement to be submitted and agreed prior to works starting on site.

An ecology report also accompanies the application which advises that evidence of bats using the site as well as breeding birds were found. In relation to bats the report states that *“The building inspection shows that the buildings to be demolished are in use by small numbers of common species of bats that is likely to result in the permanent loss of BLE and pipistrelle roosts, The Bat mitigation guidelines (English Nature, 2004) assesses such a roost as being of ‘Low conservation significance’. Such an impact would be of a minor negative impact at a local level.”*

The loss of these bat roosts would require a European Protected Species Mitigation licence and full details of this can be dealt with via a condition. The Council’s consultee has advised that additional surveys would be required to inform a EPS licence application and conditions should be attached in relation to this as well as external lighting to demonstrate how light spill of suitable habitat will be avoided. Similarly impact upon breeding birds can also be dealt with via a condition.

The submitted ecology report includes a section on enhancement opportunities, and in line with policy NE01 and the NPPF full details of biodiversity enhancements could be dealt with via a planning condition.

Overall subject to appropriate conditions it is considered that the proposed development is acceptable in relation to ecology and landscaping.

### Air Quality

The purpose of Local Plan Policy NE08 (Air Quality) is for development to meet national air quality standards and identify opportunities to improve air quality or mitigate local exceedances and impacts to acceptable legal and safe levels.

An Air Quality Assessment report has been submitted in support of this application. The air quality report concludes that *“The nearest monitoring location and estimated background pollutant concentrations indicate that air pollutant concentrations are low and therefore air quality is not a concern at the development site. In addition, no significant impact of the development in terms of additional traffic generation is expected.”* On this basis there is no objection to the proposal on air quality grounds and no conditions are considered necessary in relation to this matter.

### Flood Risk and Drainage

The application site falls within the lowest flood risk area, Flood Zone (FZ) 1, and is at low risk of flooding. Based on the NPPG flood risk vulnerability and flood zone compatibility table the development is considered ‘appropriate’ in this low risk flood zone. The development satisfies the Sequential Test based on the site falling within Flood Zone 1.

A small section of the site is at low risk of surface water flooding based on the gov.uk flood risk maps. Due to the size of the extension the application has been supported by a Flood Risk Assessment which advises that *“The proposed surface water strategy is collect all surface run-off via a private pipe network which will convey via gravity to the low point of the site in the southeast corner of the development, where surface water will be attenuated via a crate system up to and including the 1in100 year + 45% climate change.”* And *“All flows will subsequently discharge to the existing pond which in turn connects to the adjacent watercourse which mimics the existing drainage regime of the site.”*

ECC Suds have been consulted on this application and advise that they have no objection to the proposal subject to conditions.

### Very Special Circumstances and Public Benefits of the Development

As the development would be inappropriate development in the Green Belt, it is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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 onus is on the applicant to demonstrate that very special circumstances exist to overcome the harm that has been identified.

The applicant has provided a suite of documents in support of the application which seeks to demonstrate that Very Special Circumstances exist including a Planning Statement, Design and Access Statement, Fit for Care? Report, and Consultancy and Needs Assessment Report (and updated Addendum).

These reports consider the existing care provision at Heron Court, the care provision in the surrounding area, the need for additional care home spaces and the commercial viability of the development. The main arguments (summarised) put forward are:

- The urgent need to improve the Heron Court Care Home. There are significant shortfalls within Heron Court in relation to the quality of accommodation it is able to offer including inadequate room sizes, lack of en-suite facilities and inadequate communal spaces. Heron Court now falls a long way short of current market standards. Whilst the physical care currently provided at the home is rated by the Regulator as being of a good quality, as evidenced by the most recent inspections by the Care Quality Commission, the facilities significantly limit life quality of residents' lives. They restrict the degree to which complex health and social care needs can be safely met and could jeopardise the safety of residents and staff.
- Quantitative and qualitative need for additional care beds in the catchment area. Within the 8km catchment area there is currently registered capacity for 1,084 residents within care homes which indicates an estimated shortfall of 190 care beds. Taking into consideration the increase in demand and the 280 additional bed spaces from the 4 consented planning permissions identified, indicates a shortfall of 109 care beds by 2032.
- Improvement in the character and appearance of Heron Court, a non-designated Heritage Asset. Great care has been exercised in terms of providing for a form of development that is not only functional and fully fit for purpose but also enhances the character and setting of the original Heron Court building (a non-designated heritage asset) and conserves or enhances the character of Herongate Conservation Area (a designated heritage asset). The proposal therefore complies with the statutory duty at S72 of the Planning (Listed Building and Conservation Areas) Act 1990.
- The proposed development is the minimum necessary to achieve the benefit in terms of the existing facilities. The 55 bed scheme is submitted as the minimum viable position for Runwood Homes PLC. The 55 bed scheme produces a loss on paper of -£150,000. The loss of 150K is modest and relative to the build cost scale of £8.4m, effectively making the 55 bed scheme neutral for planning valuation purposes, particularly given current economy fluctuations. Runwood would continue with the development as a balance of outcomes against planning policy, the result creating the best outcome for standards and the site. The 55 bed scheme naturally becomes the minimum required for viability and



commercial reasons whilst it fits the requirements to be the maximum scheme for the purposes of Green Belt impact and presenting the minimum level of development.

The arguments put forward by the applicant are very similar to those presented under the recent appeals considered by the Inspector. Each one will be considered, alongside the conclusions reached by the Inspector with the recent appeals.

#### The urgent need to improve the Heron Court Care Home.

Within the recent appeal decision, the Inspector stated:

*“In regard to the existing quality of accommodation at Heron Court, the Council describes this as far from ideal and acknowledges that the development would provide benefits in terms of, amongst other things, larger rooms with ensuite facilities. My observations at the site visit were that the existing residents have to endure cramped rooms with limited washing facilities, shared bathrooms and common spaces of restricted size and shape. Opportunities to access the gardens were also constrained by the changes in levels. There is no doubt that the privacy and dignity of the elderly residents is compromised by the existing arrangements.”*

*In summary the additional bed spaces and the significant improvement in the quality of accommodation which would arise from either the Appeal A scheme or the Appeal B scheme, represent significant benefits in favour of the development.”*

This position has not changed since the Inspectors appeal decision. The current accommodation within Heron Court does not meet the relevant standards and it is not disputed that there is a clear need for improvement. This would provide significant benefits for residents of the Care Home as well as staff working within the Care Home.

#### Quantitative and qualitative need for additional care beds in the catchment area.

Within the recent appeal decision, the Inspector stated:

*“There is no dispute between the main parties that there is a need for additional care home places in the Council’s area and the appellants have presented a compelling case to demonstrate that a point has been reached where the fulfilment of this need is becoming critical in order to ensure that appropriate facilities are available to an increasingly ageing population.”*

Since the previous applications were determined the position has changed in that consent has been granted for four further care homes within the catchment area of Heron Court (taken as 8km), although it is understood that none have yet been built. It should be noted that not all of these care homes are within the Brentwood Borough and the 8km catchment area covers part of Thurrock and Basildon. It was also however evident from the information submitted that approximately half the existing residents of

Heron Court came from outside the 8km catchment area that is generally accepted for care homes.

In terms of these additional consents this does result in the potential for the need in further care home spaces being reduced in the short term (should all be built), however in the longer term even with all being built there would still be a shortfall in places due to the projected increase in the elderly population within the catchment area. The elderly population within the Catchment Area currently stands at some 33,200 persons, and this figure is set to increase to circa 35,194 over the next five years and to circa 37,873 by 2032. It is therefore evident that there is still a need for additional care home places within the catchment area.

The Council has also had an updated South Essex Housing Needs Assessment (June 2022) which indicates a decrease in the need for additional bedspaces within Brentwood as a whole (not specifically the catchment area for Heron Court) due to extant permissions granted for C2 development that have not yet been built. However, there is still a need for further bedspaces, this has just been reduced from 494 to 289 (2020 – 2040).

Overall, it is considered that there is still a need for additional care home beds within the catchment area of Heron Court and more widely within Brentwood Borough. Whilst the situation may have improved since the previous appeal was determined, this is as long as the four care homes with extent consent within the catchment area get built. The provision of additional care home spaces still therefore weighs in favour of the application.

#### Improvement in the character and appearance of Heron Court

Within the recent appeal decision, the Inspector stated:

*“Both appeal proposals take the form of a linked courtyard layout and would result in the removal of extensions to Heron Court which, it was agreed at the hearing, have at best a neutral effect on the Conservation Area. Notwithstanding the concerns which I have regarding the design of the Appeal B Scheme, the potential to improve the appearance of Heron Court within the site by adopting a concept which provides accommodation in a linked as opposed to attached way would be an improvement. Given that the Council consider Heron Court to be worthy of inclusion on their local list, this amounts to a significant consideration in favour of both Appeals.”*

This remains a significant consideration in favour of this application. Heron Court is now on the local list and the Heritage and Conservation Officer notes that *“the courtyard design approach I find to be informed by an architectural narrative based on evidence around courtyard design and dementia care, this has benefits in terms of an improved quality of life for future occupiers and maintains the historic building clearing it from the current later and harmful accretions.”*

The proposed development is the minimum necessary to achieve the benefit in terms of the existing facilities.

Within the recent appeal decision, the Inspector stated:

*“The Council raised concern in its submissions and at the Hearing regarding the Financial Appraisal (the FA) which was commissioned by the appellants on the basis that it concerned a 55-bed scheme and not the 65-bed scheme as proposed. The FA establishes that a smaller 55-bed scheme would be viable, and it has not been updated to relate to the 65-bed scheme. This raises an important point in terms of whether the development is the minimum necessary to achieve the benefits which derive from it.”*

And within the conclusion:

*“The harm arising from inappropriate development in the Green Belt, which attracts substantial weight, and the benefits of the development to which I attribute significant weight is finely balanced in this case. However, I have also been unable to establish that the scale of development which is planned is the minimum necessary to achieve the benefit in terms of the improvement of the existing facilities, which reduces the weight which I attach to that benefit. This has the effect of shifting the balance towards a conclusion that the other considerations do not clearly outweigh the harm that I have identified. It follows that the very special circumstances necessary to justify either the Appeal A development or the Appeal B development do not exist.”*

In support of this application a Consultancy and Needs Assessment Report by Pinders dated August 2022 has been submitted as well as an Addendum Consultancy and Needs Assessment Report dated May 2023 which was submitted in response from some initial officer feedback. These documents provide financial summary of the current care home operating accounts as well as a viability assessment for various models including a 45, 50, 55, 60, and 65 bed scheme alongside refurbishment of the existing care home only.

Previous applications have not been supported by such detailed viability reports as the current submission. Pre-application discussion was had with the applicant prior to the submission of this application and as part of these discussions an earlier version of the Consultancy and Needs Assessment Report by Pinders was submitted to officers for consideration. This report was independently assessed by Dr Andrew Golland who was instructed via ECC to assess the viability of the proposed scheme and come to a fair assessment on whether or not the scheme needs to proceed on the basis of the proposed number of bedrooms (55). This report advised that *“I believe that there is a considerable degree of agreement in the figures presented by Pinders and those produced by myself. In this respect it looks a sound assessment and one which the Council should accept.”*

The Dr Golland report accepted the viability position of the existing operation as set out in the Pinders report. In terms of the viability of the 55 bed scheme it was accepted

that it was only marginally viable, with risks that costs could increase, an observation was made that the increase in unit numbers did not appear to improve the viability of the development in terms of numbers. It must however be remembered that the scheme will bring about substantial benefits in terms of accommodation standards which will assist in the long term viability of the care home.

The updated Pinders report submitted with this application, and the addendum report essentially makes the same case, with updated information (through the passage of time). From these reports it is clear that the neutral point in the relationship between cost and value enhancement is between 55 and 60 beds with an improving relationship as the scheme size increases and, conversely, a deteriorating relationship as the scheme size reduces. At 55 beds the August 2022 Pinders report finds a slight negative relationship between cost and value of the 55 bed scheme of -£150,000 and the May 2023 addendum finds a slightly increased negative relationship of -£375,000 (due to updated figures). It is clear therefore that a 55 bed scheme is the minimum necessary to achieve the benefits which derive from it. It is acknowledged that both Pinders report show a slight negative relationship at a 55 bed scheme, however the agent has advised within the planning statement that:

*“The 55 bed scheme produces a loss on paper of -£150,000. The loss of 150K is modest and relative to the build cost scale of £8.4m, effectively making the 55 bed scheme neutral for planning valuation purposes, particularly given current economy fluctuations.*

*Runwood would continue with the development as a balance of outcomes against planning policy, the result creating the best outcome for standards and the site. The 55 bed scheme naturally becomes the minimum required for viability and commercial reasons whilst it fits the requirements to be the maximum scheme for the purposes of Green Belt impact and presenting the minimum level of development.”*

Overall, it is considered that the evidence submitted is sufficiently detailed and robust to demonstrate that the scheme as presented is the minimum necessary to achieve the benefit in terms of the improvement of the existing facilities as well as additional bed spaces. This is a matter that is afforded significant weight.

#### Conclusion on Very Special Circumstances and Public Benefits of the Development

From the above assessment it is clear that there is significant benefits from the scheme in terms of improving the accommodation quality and quality of life for both residents and staff. Furthermore there is clearly an identified need for further C2 bed spaces which this development will help to fulfil. The additional bed spaces and the significant improvement in the quality of accommodation represent significant benefits in favour of the development.

The proposal would also improve the appearance of Heron Court within the site by adopting a concept which provides accommodation in a linked as opposed to attached

way. Given that Heron Court is included on the local list, this amounts to a significant consideration in favour of the application.

Lastly the applicant has demonstrated that the development sought is the minimum necessary to achieve the above noted benefits of the scheme. On this basis it is considered that above considerations outweigh the harm to the Green Belt and very special circumstances exist in this case.

### Other Considerations

During consultation the NHS as primary healthcare provision on behalf of the Mid and South Essex Integrated Care System (ICS) advised that the proposed development is likely to have an impact on the services of the surgeries which operate within the vicinity of the application site and it is expected that these impacts should be assessed and mitigated.

The NHS advise that the capacity of primary healthcare facilities in the area of the proposed development is already below the recognised standards of provision for the existing population and additional population growth in the area resulting from new development would add to the deficit and so would be unsustainable if unmitigated.

The NHS therefore requests that the sum of £4,500 be secured through a planning obligation in the form of a S106 agreement is linked to any grant of planning permission in order to increase capacity. In the absence of such mitigation the development would impose an unsustainable burden on local healthcare services.

The proposed financial contribution meets the relevant tests as set out within the NPPF and is therefore included within the recommendation on this submission.

It is noted that Essex County Fire and Rescue advise that consideration must be given to how fire/emergency service vehicular access along the approach road into Heron Court will be maintained to avoid it being used for overspill parking by staff and visitors. They state that provided the parking of vehicles is given due consideration then they have no objection to the proposal and more detailed observations on access and facilities for the Fire Service will be considered at Building Regulations consultation stage. As noted earlier in this report the proposal will increase the number of car parking spaces from around 9 to 23 which represents a notable improvement to the existing number of spaces per room ratio and on this basis no objection is raised.

### 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.*”

In relation to the economic objective the proposal would generate employment during the construction period as well as increase staffing levels and employment in the longer term at heron Court.

Socially the proposal would significantly improve the accommodation standards for residents and staff as well as help assist in meeting an identified need for additional C2 bed spaces within the Borough.

Environmentally the proposed extension is considered to be of a high standard architecturally that will assist in improving the appearance of Heron Court which is a non-designated heritage asset. Furthermore conditions can be used to ensure that there is no harm to biodiversity and that ecology/biodiversity enhancements are sought where possible.

The application has also been supported by a Planning Stage Energy & Sustainability Statement as well as BREEAM Pre-Assessment report. The BREEAM Pre-Assessment report identifies that Brentwood Council has specified that an ‘Excellent’ rating should be achieved. This is in accordance with Brentwood Local Plan 2016-2033 Council Strategic Policy BE01: Carbon Reduction and Renewable Energy. The report indicates that the development achieves 70.95% which is just over the threshold for excellent rating.

Policy BE01 states “*New Non-residential development will be required to achieve a certified ‘Excellent’ rating under BREEAM New Construction (Non-Domestic Buildings) 2018 scheme, or other equivalent standards.*”

This proposal relates to the extension of a C2 use, which is a residential institution use and therefore does not need to meet BREEAM Excellent rating as it is a residential use (albeit not C3 residential). It is considered that there is no policy basis to require BREEAM Excellent in this case.

Policy BE01 does require all major development to achieve at least a 10% reduction in carbon dioxide emissions above the requirements of part L Building regulations, and where possible, to provide a minimum of 10% of the predicted energy needs from renewable energy.

The Planning Stage Energy and Sustainability Statement advises that “*The development has been designed to exceed Building Regulation Target Emission Rate (TER), conducted from the Part L baseline model, by 52.01%, through excellent building fabric, passive design, future proofed heating and hot water strategy and renewable technologies.*” And “*Furthermore, there is an on-site energy demand figure of*

*approximately 199,963.45kWh/year. To ensure that a minimum of 10% of this energy demand is provided via renewable means, a large photovoltaic array (25.48kWp) has been proposed. This will ensure a 11.85% reduction in energy use via renewable means.”*

It is clear that the requirements of policy BE01 will be met and this can be controlled through a planning condition. The exact location of the solar panels can also be dealt with via a planning condition as the plan attached to the Planning Stage Energy and Sustainability Statement is not sufficiently clear.

Overall, it is considered that the development will represent sustainable development as set out within the NPPF as well as according with the policies within the adopted Local Plan.

### Conclusion

This current submission has been submitted with the aim of addressing previous reasons for refusal and the conclusions reached by the Inspector in the recent appeal decisions. As detailed in the above assessment section of this report it is considered that this current proposal has addressed previous reasons for refusal as well as the conclusions reached by the Inspector in dismissing the recent appeals.

There are significant benefits from the scheme in terms of improving the accommodation quality as well as from the increase in C2 bed spaces. The proposal would also improve the appearance of Heron Court within the site by adopting a concept which provides accommodation in a linked as opposed to attached way. Given that Heron Court is included on the local list, this amounts to a significant consideration in favour of the application. Lastly the applicant has demonstrated that the development sought is the minimum necessary to achieve the above noted benefits of the scheme. On this basis it is considered that above considerations outweigh the harm to the Green Belt and very special circumstances exist in this case.

Overall, it is considered that the proposal would represent sustainable development as defined within the NPPF and in line with the Development Plan the Planning Committee should resolve that it would have approved subject to a S106 legal agreement in relation to the NHS contribution sought and subject to the conditions listed below.

### **7. Recommendation**

The Planning Committee resolve that they would have **APPROVED** the application subject to the completion of a **S106** agreement and to the following conditions:-

#### HEADS OF TERMS OF ANY SECTION 106 AGREEMENT

- Payment of £4,500 to mitigate impact of development upon local GP Services.

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

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

2. The development hereby permitted shall not be carried out except in complete accordance with the approved plans and documents listed above.

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

3. No development works above slab level, excluding demolition works, shall take place until full details of all the materials to be used in the construction of the external surfaces, including windows and doors, of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure the use of appropriate high quality materials in the construction of the development in accordance with policies BE14 and BE16 of the adopted Brentwood Local Plan.

4. No electricity, gas, water meter boxes, antennae (roof level) or extraction vents shall be fixed to the façade of the development hereby permitted unless first agreed in writing with the Local Planning Authority. All soil and waste plumbing shall be run internally and shall not be visible on the exterior unless otherwise agreed in writing with the Local Planning Authority.

Reason: In order to safeguard the character and appearance of the development and wider area in accordance with policies BE14 and BE16 of the adopted Brentwood Local Plan.

5. The development hereby permitted shall only be used for residential care home purposes as defined within Class C2 of the Schedule to the Town & Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) and for no other purpose.

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

6. No development shall take place, including any ground works or demolition, until a Construction Method 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:

- the parking of vehicles of site operatives and visitors
- a waste management plan (including excavated soil)
- details of measures to minimise noise and vibration during construction and demolition
- measures to control the emission of dust and dirt during construction
- loading and unloading of plant and materials
- site set-up including arrangements for the storage of plant and materials used in constructing the development
- wheel and underbody washing facilities
- hours of works

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and to minimise the impact of the construction of the development upon the environment.

7. Notwithstanding the details shown on the Proposed Site Plan, the proposed development shall not be occupied until such time as the whole vehicle parking area, including a minimum of 3 parking spaces for the mobility impaired given the nature of the development, have been hard surfaced, sealed and formally marked out. The vehicle parking areas and associated turning areas shall be retained in this form at all times. Each parking space shall have minimum dimensions in accordance with current parking standards. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority. Full details of the revised layout is to be submitted to and approved by the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining roads does not occur in the interests of highway safety and that appropriate parking is provided in accordance with policy BE13 of the adopted Brentwood Local Plan.

8. Prior to first occupation of the development hereby permitted, a report and accompanying scaled drawing(s) shall detail where the space and infrastructure for electric vehicle charging/plug-in points is to be provided. The documents shall detail the type, capacity/charge rate, design, scale, location and include manufacturers information as a minimum and shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the charging points shall be fully operational prior to first occupation of the development hereby permitted.

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

9. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facilities shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy BE13 of the adopted Brentwood Local Plan.

10. No development shall take place, including any ground works or demolition, until a copy of the results of additional survey work undertaken in relation to bats as well as a copy of the licence from Natural England in relation to the bat roosts that will be impacted by the works has been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in accordance with the agreed licence.

Reason: To safeguard protected species in accordance with policy NE01 of the adopted Brentwood Local Plan.

11. Prior to the first use/occupation of the development hereby approved, details of all external illumination of the site including the luminance and spread of light and the design and specification of the light fittings shall be submitted to and approved in writing by the local planning authority. All illumination within the site shall be retained in accordance with the approved details. There shall be no other lighting of the external areas of the site.

Reason: To ensure the use of appropriate light fittings, minimise the potential for light pollution and demonstrate how light spill into suitable wildlife habitat will be avoided in accordance with policies BE14, BE16 and NE01 of the adopted Brentwood Local Plan.

12. No development shall take place until an arboricultural method statement has been submitted to, and approved in writing by, the Local Planning Authority. The development shall then be carried out in accordance with the arboricultural method statement as approved.

Reason: To ensure appropriate protection to trees in accordance with policy NE03 of the adopted Brentwood Local Plan.

13. Full details of the provision and subsequent retention of both hard and soft landscape works on the site shall be submitted to and approved in writing by the local planning authority prior to any works occurring above ground level at the application site. These details shall include:
  - 1) Details of proposed schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers/densities.

- 2) Details of the planting scheme implementation programme, including ground protection and preparation, weed clearance, stock sizes, seeding rates, planting methods, mulching, plant protection, staking and/or other support.
- 3) Details of biodiversity mitigation and enhancement measures to be incorporated into the soft landscaping of the development.
- 4) Details of the aftercare and maintenance programme.

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of any part of the development hereby approved unless otherwise agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

Hard landscape works

- 5) Details of walls with brick types, construction design and dimensions
- 6) Details of paved surfacing, with materials finishing and edgings
- 7) Details of street furniture, with designs materials and dimensions
- 8) Details of biodiversity mitigation and enhancement measures to be incorporated into the hard landscaping of the development.

The hard landscape works shall be carried out as approved prior to the first use / occupation of any part of the development hereby approved and retained and maintained as such thereafter.

Reason: To ensure the use of appropriate quality materials and appropriate soft landscaping within the development in accordance with policies BE14, BE16 and NE01 of the adopted Brentwood Local Plan.

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

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

15. No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to 2.83l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party/ All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Confirmation of the brownfield rate so that variable rate can be considered.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to provide mitigation of any environmental harm which may be caused to the local water environment in accordance with policy BE05 of the adopted Brentwood Local Plan.

16. Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

17. The applicant or any successor in title must maintain yearly logs of maintenance as agreed under condition 16 which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

18. The development hereby permitted shall not be commenced until the existing pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage and are restored to a fully working condition.

Reason: To ensure that the drainage system implemented at the site will adequately function and dispose of surface water from the site.

19. The development hereby permitted shall be carried out in accordance with the recommendations contained within the Planning Stage Energy & Sustainability Statement by SES dated 18<sup>th</sup> April 2023.

Reason: To ensure the development meets the carbon reduction and construction standards as required by policy BE01 of the adopted Brentwood Local Plan.

20. Notwithstanding the wording of condition 18 and the details contained within the Planning Stage Energy & Sustainability Statement by SES dated 18<sup>th</sup> April 2023 no solar PV panels shall be installed on the development hereby permitted until full details have been submitted to and approved in writing by the local planning authority.

Reason: The details submitted as part of this application are insufficient in this regard.

#### Informative(s)

The proposal represents "inappropriate development" as defined by the National Planning Policy Framework (2021); however the Council considers that there are other material matters sufficient to outweigh the harm due to inappropriateness and any other harm identified and that very special circumstances exist to justify the granting of planning permission.

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.

Attention is drawn to conditions that require the submission and approval of details prior to the commencement of development. Failure to comply with these conditions may result in the planning permission becoming invalid with the possibility of planning enforcement action being taken by the Council.

#### **Essex County Council Highway 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](mailto:development.management@essexhighways.org)

### **Lead Local Flood Authority Informatives**

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk).

Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.

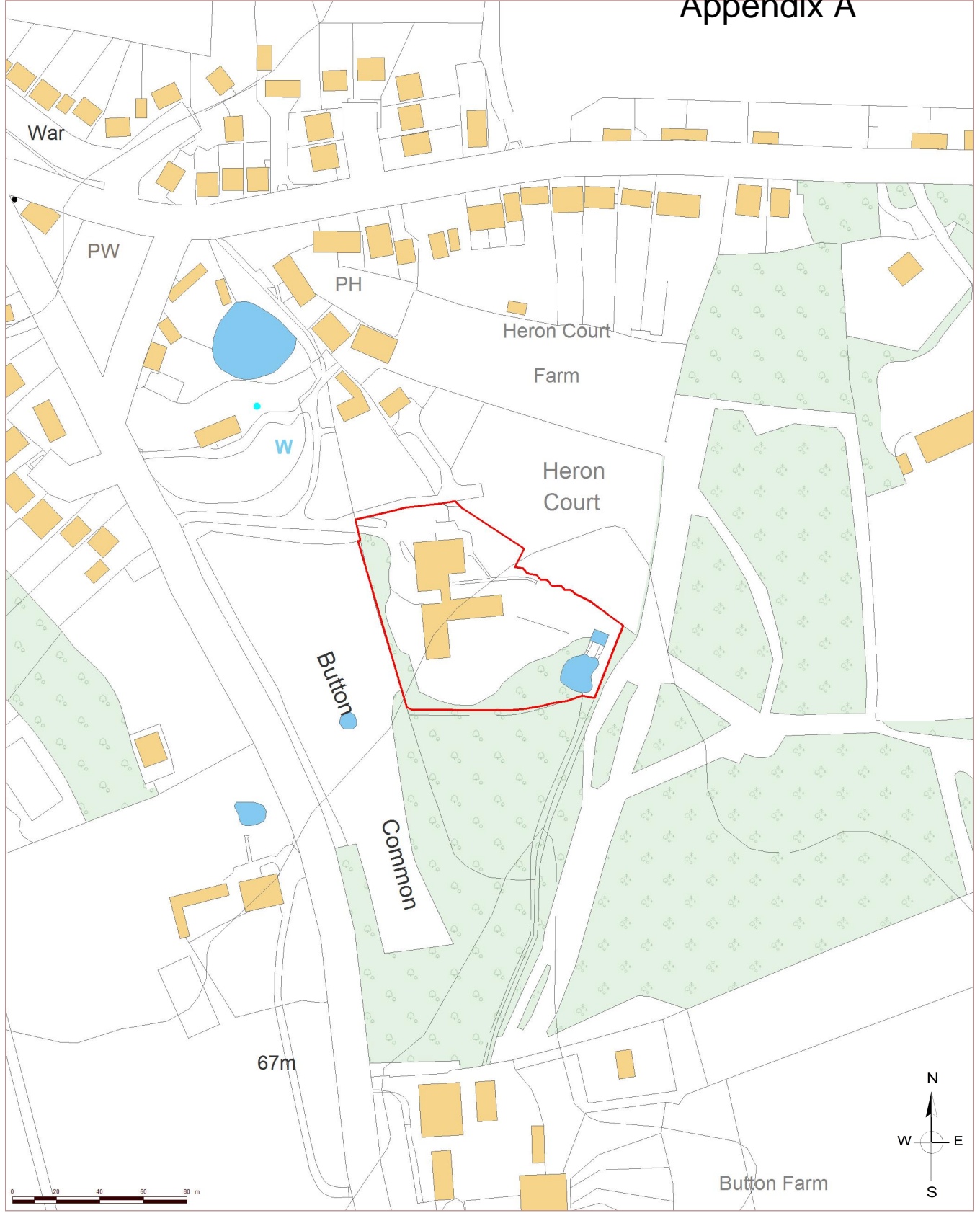
It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

### *BACKGROUND DOCUMENTS*

### **DECIDED:**

Appendix A



Title : Heron Court, 198 Brentwood Road, Herongate, Brentwood, Essex, CM13 3PN

22/01331/FUL

Scale at A4 : 1:2500

Date : 19th September 2023

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



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**PLANNING COMMITTEE  
19 SEPTEMBER 2023**

<b>REPORT TITLE:</b>	<b>Proposed Changes to Permitted Development Rights (July 2023)</b>
<b>REPORT OF:</b>	<b>Phil Drane, Director of Place</b>

## **REPORT SUMMARY**

The Government (Department for Levelling Up, Housing and Communities) is proposing a number of changes with the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended to provide greater flexibility to encourage further residential development. Changes to the right are proposed for the following areas:

- a) Changes to certain permitted development rights that allow for the change of use to dwellinghouses.
- b) Changes to certain permitted development rights that allow agricultural diversification and development on agricultural units.
- c) Changes to certain permitted development rights that allow for non-domestic extensions and the erection of new industrial and warehouse buildings.
- d) Changes to the permitted development right that allows for the temporary use of land to allow markets to operate for more days.
- e) Changes to the existing permitted development right that allows for the erection, extension or alteration of schools, colleges, universities, hospitals, and closed prisons to also apply to open prisons.
- f) The application of local design codes to certain permitted development rights.

The council's proposed response to the consultation is focused on the sections of the right that will likely have an impact on Brentwood borough (Appendix A). General support for some of the changes is proposed. However, concerns are

raised on the potential environmental impacts, in particular for arable land and Green Belt.

## **RECOMMENDATION**

**R1. Approve the response to the consultation on Permitted Development Rights, as set out in Appendix A.**

### **SUPPORTING INFORMATION**

#### **1.0 REASON FOR RECOMMENDATION**

- 1.1 The Government (Department for Levelling Up, Housing and Communities) is proposing a number of changes with the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended to provide greater flexibility to encourage further residential development. The changes proposed in this consultation will have an impact on changes in use classes to help increase residential development allowed through permitted development rights. Concerns have been raised regarding possible loss of businesses along the high street and environmental impacts on agricultural sites where there is typically good quality arable land or designated as green belt.
- 1.2 The consultation response has been limited to those changes that are likely to have an impact within the borough, including the following areas:
- a) New proposals for local planning authorities to produce a design code on a spatial scale to manage some of the proposed changes in the right;
  - b) Greater flexibility for commercial, business and services uses to change to residential;
  - c) New proposal for hotels and boarding houses to change to residential;
  - d) Increased flexibility for betting offices and hot food takeaway to change to residential;
  - e) More relaxed restrictions to allow agricultural buildings to change to residential;

- f) New proposal to allow extensions of rural buildings;
- g) Inclusion of former agricultural buildings no longer on an agricultural unit to benefit from the right;
- h) Mix use developments included within the right;
- i) Possible changes to the prior notification / prior approval required;
- j) Increased extension of floorspace area proposed for businesses, industrial and warehouses; and
- k) Increased number of temporary market days permitted under the right

### **New design code requirements**

- 1.3 To obtain some control over the type and style of development that comes forward as part of the proposed changes to the Permitted Development Right, the Levelling Up and Regeneration Bill is seeking to require local planning authorities to prepare a Design Code at the spatial scale. It is proposed that this will provide developers with further guidance and provide local authorities with greater confidence that development delivered under a permitted development right aligns with the design expectations of the local area. It is expected that local planning authorities will adopt a Supplementary Planning Document (SPD) or include policy requirements on design codes within the local plan. However, the consultation does not address what, if any, transitional arrangements will be put in place to prevent poor quality designed homes from coming forward between when the proposed changes to the permitted development right come into effect and the time it will take local planning authorities to adopt an SPD or local plan.

### **Commercial, business and service use to residential**

- 1.4 The permitted development right currently allows up to 1,500 square metres of Commercial, Business and Service use to change use to residential and the consultation is seeking views on whether this could be doubled or the floorspace requirement removed all together to promote further residential growth. The council has raised concerns that by doubling the amount of floorspace or removing this restriction altogether could have a negative impact on the high street and town and village centres. Therefore, the council has objected to the proposed changes.
- 1.5 The existing permitted development right requires that the premises be vacant for a continuous period of at least 3-months immediately prior to the date of

the application for prior approval. This was introduced to safeguard against businesses being displaced. However, the Department for Levelling Up is proposing to remove this requirement to prevent buildings from being left vacant longer than necessary. The council's consultation response objects to this proposed change as otherwise thriving businesses may be forced to vacate the premises and struggle to find an appropriate, alternative location. This could lead to businesses having no choice but to close.

### **Hotel and boarding houses to residential**

- 1.6 The proposed permitted development rights are seeking to include hotel and boarding houses to benefit from this right. There is general support for this, however it is proposed that the council request that two key restrictions be included:
- a) That there is a clear indication that the existing use is no longer financially viable and every effort reasonable has been made to keep the hotel / boarding house open for a minimum of three months before being able to benefit from this right; and
  - b) Where the number of new dwellings meets the National Planning Policy Framework (NPPF) definition of a 'major development' (10 or more residential dwellings), the development must meet the minimum policy requirement for affordable housing.

### **Betting offices and hot food takeaways to residential**

- 1.7 Business such as betting offices and hot food takeaways are currently allowed to apply for change of use under the permitted development right, provided the floorspace is no more than 150 square metres. The new proposal is seeking to double this from 150 to 300 square metres or remove the maximum allowable floorspace requirement altogether. The council objected to this proposed change due to the potential negative impact this could have on the high street and town and village centres.
- 1.8 The proposal also is seeking to introduce a two-year rolling requirement for betting offices and hot food takeaways to be in business for before being able to benefit from this right. This is generally supported as it provides consistency throughout the regulations.

## **Agricultural buildings to residential and extensions of agricultural buildings**

- 1.9 An existing permitted development right allows agricultural buildings to change to residential use provided it meets a number of requirements as set out in the existing regulations. The current consultation is proposing to make the following changes:
- a) Provide a single maximum floorspace limit to either 100 or 150 square metres;
  - b) Doubling the number of new homes that can be provided from 5 new dwelling to 10 new dwellings; and
  - c) Introduce an overall maximum of 1,000 square metre floorspace changing use, that would include any previously developed under Use Class Q.
- 1.10 Agricultural buildings are typically located on high quality arable land, green belt or near environmentally sensitive habitats. Therefore, the council's consultation response objects to these changes due to concerns these changes will have from an environmental perspective.
- 1.11 At present the permitted development right for the change of use from agricultural building to residential does not allow for any increase to the external dimensions of the original building. The consultation proposes an amendment to allow for rear extensions to the original building during the change of use. It is proposed that extensions would need to be sited to the rear of the original agricultural building with a maximum depth of 4 metres, be single storey in height, could extend the entire width of the existing rear elevation, and would only be permitted where the land has previously been developed. This change is given general support, provided that the area being developed does not result in any environmental harm and the extension allows for the dwelling to meet the most up to date minimum space standards.

### **Former agricultural buildings no longer on an agricultural unit**

- 1.12 Buildings that were once used for agricultural purposes but are no longer on established agricultural units<sup>1</sup> do not currently benefit from the agricultural buildings to dwellinghouses right. The proposal is seeking to extend this right

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<sup>1</sup> An agricultural unit is described as 'agricultural land which is occupied as a unit for the purposes of agriculture, including – (a) any dwelling or other building on that land occupied for the purpose of farming the land by the person who occupies the unit, or (b) any dwelling on that land occupied by a farmworker'.

to agricultural buildings no longer on agricultural units. The same concerns regarding the impacts on high quality arable land, Green Belt, and proximity to sensitive environments as raised above were included in the response.

### **Allowing mixed uses**

- 1.13 The Government is proposing a change to provide more flexibility around the mix of uses that are allowed to operate under the right. At present, while the right allows for change of use to one of the permitted uses and subsequently to another, it only provides for one use at a time. This change would apply to all land uses, including agricultural buildings. Furthermore, the proposal is seeking to double the area from 500 square metres of floorspace to 1,000 square metres of floorspace. Although there is general support in encouraging mix use development, especially where there are complimentary uses on-site, the council objects to the proposal to permit 1,000 square metres of floor space, in particular on agricultural sites where there is likely to be a negative environmental impact as a result of development. The council suggests that if this requirement was to be kept restrictions should be included to prevent this from occurring on land identified as Green Belt and / or other environmental sensitive land uses.

### **Prior Notification / Prior Approval**

- 1.14 The consultation is seeking view on whether the current requirements for change of use of those developments that are 150 square metres or less should be required to continue to obtain prior approval on transport and highway impacts, noise impacts, contamination risks, and flooding risks. It is the council's view that this requirement should remain to ensure the development is located in safe locations. An additional requirement should be included to address potential environmental harm to ensure those sites that could have a detrimental environmental impact cannot benefit from this right.

### **Greater flexibility to extend for businesses on the high street, industrial and warehouses**

- 1.15 Changes to the maximum allowable floorspace are proposed to double for both businesses located on the high street and industrial and warehouses. Permitting businesses on the high street to extend 100% or 200 square metres of floorspace (whichever is lesser) is supported in principle provided there is a restriction in place to ensure this right can only be used for business use only so that businesses have the ability to grow and the right is not misused by shortly after the extension is undertaken its converted to residential.

- 1.16 Concerns regarding industrial and warehouse for non-protected areas to be extended from 1,000 square metres of floorspace or a 50% increase over the original building (whichever is lesser) to 1,500 square metres of floorspace or a 75% increase over the original building (whichever is lesser) were raised due to these type of businesses being located in the green belt. Therefore, the council has objected to this development type being changed to permit a greater floorspace extension.

### **Temporary use of land for markets**

- 1.17 The current permitted development right allows for temporary use of land to be used for markets up to 14-days per annum, in addition to those held by the local authority. The consultation document proposes to increase the number of days permitted to be used for markets. However, does not state the amount of proposed increase by number of allowable days per annum. The council is in support of increasing the number of days permitted as markets play a key role in promoting local growth, create more resilient and thriving centres and supports local businesses.

## **2.0 BACKGROUND INFORMATION**

- 2.1 The Town and Country Planning (General Permitted Development)(England) Order was first introduced in 2015. The last time significant changes were made to the order was in 2021. The Permitted Development Right allows certain types of developments to come forward without planning permission.

## **3.0 OTHER OPTIONS CONSIDERED**

- 3.1 None

## **4.0 RELEVANT RISKS**

- 4.1 None

## **5.0 ENGAGEMENT/CONSULTATION**

- 5.1 The consultation on the Town and Country Planning (General Permitted Development)(England) Order 2015 is open from 24 July until 25 September 2023.

## **6.0 FINANCIAL IMPLICATIONS**

**Name & Title: Tim Willis, Director – Resources (Section 151 Officer)**  
**Tel & Email: 01277 312500 / tim.willis@brentwood.rochford.gov.uk**

6.1 There are no direct financial implications arising from this report.

## **7.0 LEGAL/GOVERNANCE IMPLICATIONS**

**Name & Title: Claire Mayhew, Acting Joint Director – People & Governance (Monitoring Officer)**

**Tel & Email: 01277 312500 / [claire.mayhew@brentwood.rochford.gov.uk](mailto:claire.mayhew@brentwood.rochford.gov.uk)**

7.1 There are no direct legal implications arising from this report.

## **8.0 EQUALITY & HEALTH IMPLICATIONS**

**Name & Title: Kim Anderson, Corporate Manager - Communities, Leisure and Health**

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8.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful;
- b) Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for b) or c) although it is relevant for a).

8.3 The proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

## **9.0 ECONOMIC IMPLICATIONS**

**Name & Title: Phil Drane, Director - Place**

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9.1 The additional flexibility outlined in the Permitted Development Rights proposed in the consultation would impact upon how the council manages development in the borough. The proposal is expected to assist with growth nationally, although at present it is not possible to identify specific local economic implications.

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**APPENDICES**

- Appendix A: Brentwood Borough Council Response to the Department for Levelling Up, Housing and Communities – Proposed Changes to the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended

**BACKGROUND PAPERS**

- The Department for Levelling Up, Housing and Communities – Permitted Development Rights Consultation: [Permitted development rights - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
None	

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# Appendix A

## **Brentwood Borough Council Response to the Department for Levelling Up, Housing and Communities – Proposed Changes to the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended.**

September 2023

1. Brentwood Borough Council notes that the Department for Levelling Up is proposing a number of changes with the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended to provide greater flexibility to encourage further residential development. Although the Council is supportive of encouraging unused and vacant buildings to be brought back into use and provide residential accommodation, there are concerns that the existing proposal will have a negative impact on the environment and too much flexibility has been proposed. This response is limited to those sections of the proposal that are likely to have an impact on Brentwood Borough Council, which is a green belt authority.

### **Design Code on a Spatial Scale**

2. In order to obtain some control over the type and style of development that comes forward as part of these proposed changes, the Department for Levelling Up and Regeneration Bill is seeking to require Local Planning Authorities to prepare a Design Code at the spatial scale. It is proposed that this will provide developers with further guidance and provide local authorities with greater confidence that development delivered under a permitted development right aligns with the design expectations of the local area. Although the Council supports this in principal concerns are raised as to how some of these developments will take place prior to the local authority being able to formally adopt a design code following the implementation of the right. It is highly unlikely local planning authorities will be able to have an SPD or Local Plan in place that will address the design codes on a spatial scale that aligns with the timing of the updated right coming into effect. This leaves a gap where poor quality designed developments could be permitted through the Permitted Development Right. Further consideration is needed for the transitional arrangements to prevent poorly designed developments coming forward while SPD's or Local Plans are being updated.

### **Commercial, Business and Service Use to Residential**

3. The permitted development right currently allows up to 1,500 square metres of Commercial, Business and Service use to change use to residential and the consultation is seeking views on whether this could be doubled or the

floorspace requirement removed all together to promote further residential growth. Although the Council recognises the benefits of allowing businesses that are no longer viable to change use to residential, concerns are raised as to the negative impact on the high streets, town centres, and village centres, by further reducing the employment opportunities for local residents and commercial competition. Doubling the permitted development right or removing the limit all together will only encourage the disbandment or displacement of business in the local area. It is the Council's view that there should not be any changes to the current permitted development rights regarding amount of floorspace that benefits from this right.

4. The existing permitted development right requires that the premises be vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval. This was introduced to safeguard against businesses being displaced. However, the Department for Levelling Up is proposing to remove this requirement to prevent buildings from being left vacant longer than necessary. Brentwood Borough Council disagrees with this view and believes that the requirement for a building to be vacant for a minimum of three months helps to protect businesses from being displaced or forced out of business due to not being able to find another suitable location to operate their business from. Therefore, the Council objects to this proposed change.

#### **Hotel or Boarding House to Residential**

5. Brentwood Borough Council generally supports the proposal of permitting hotels, boarding houses or guest houses (Use Class C1) to dwellinghouses, provided that there is a clear indication that the existing use is no longer financially viable and every effort has been made to keep the hotel, boarding house or guest house open for a minimum of three months, similar to the requirements for other forms of businesses, before being able to change to residential. Without this restriction, the closure of hotels facilities could have a negative impact on local tourism, high streets, and employment.
6. Furthermore, it is likely that the number of residential units that could be accommodated on a hotel or boarding house site would meet the NPPF definition of major development (10 or more residential units). Therefore, a requirement should be included in the right that in order to benefit from this right the development must be policy compliance with the appropriate level of affordable homes based on the local planning authority's Local Plan.

#### **Betting Offices and Hot Food Takeaways to Residential**

7. Businesses such as betting shops and hot food takeaways are currently allowed to apply for change of use under the permitted development right

provided the floorspace is no more than 150 square metres. The new proposal is seeking to double this from 150 to 300 square metres or remove the maximum floorspace altogether. Although the Council recognises some of the benefits in permitting betting shops and hot food takeaways to be converted to residential, concerns are raised as to the negative impact removing the maximum floorspace could have on the high street, town centres, and village centres. These types of shops / services typically play a key role in encouraging footfall to the town and village centres. By doubling or removing the maximum floorspace requirement could therefore have a detrimental effect on the normal high street activities and reduced footfall. Therefore, it is the Council's view that no changes should be made to this permitted development right.

8. The regulations require that a betting or hot food takeaway be in business for a minimum of two years in order to benefit from the permitted development rights. The consultation proposes introducing a two year rolling requirement which requires the building to have been in that use for a continuous period of at least two years prior to the application of prior approval. This is the same approach taken in permitted development right for the change of use from commercial, business, and service uses to residential (Use Class MA of Part 3). The Council supports this approach as it provides consistency throughout the regulations.

### **Agriculture Buildings to Dwellinghouses**

9. An existing permitted development right (Class Q of Part 3) allows agricultural buildings to change to residential use provided it meets a number of requirements as set out in the existing regulations. The current consultation is proposing to remove some of these restrictions and replace it with a single maximum floorspace limit of either 100 or 150 square metres per home. The proposal is also proposing to increase the maximum number of homes that can be developed from 5 to 10. Finally, the consultation is proposing to introduce an overall maximum of 1,000 square metre floorspace changing use, that would include any previously developed under Use Class Q. Concerns are raised to the impact of increasing the size and number of new homes that can be built as part of this proposal. Agricultural buildings are typically located in areas where there is high quality arable land and / or designated as green belt. Therefore, the Council objects to the proposed changes regarding agricultural buildings to dwellings due to the potential environmental harm this type of change of use is likely to cause.

### **Extensions of Rural Buildings**

10. At present, the permitted development right for the change of use from agricultural buildings to residential does not allow for any increase to the

external dimensions of the original building. The consultation proposes an amendment to allow for rear extensions to the original building during the change of use. It is proposed that extensions would need to be sited to the rear of the original agricultural building with a maximum depth of 4 metres, be single storey in height, could extend the entire width of the existing rear elevation, and would only be permitted where the land has previously been developed. The Council is in general support of this requirement provided that the area being developed does not result in any environmental harm.

11. In addition to the above changes to permitting extensions of rural buildings the regulations are seeking to introduce an existing minimum floorspace for 37 square metres to benefit from the right. This proposed size aligns with the minimum threshold in the nationally described space standards. This is generally supported but would suggest that inclusion that the development must meet the most up to date space standards to prevent overcrowding and unsuitable living spaces if the national space standards are changed in the future.

### **Former Agricultural Buildings no longer on an Agricultural Unit**

12. Buildings that were once used for agricultural purposes but are no longer on established agricultural units do not currently benefit from the agricultural buildings to dwellinghouses right (Class Q of Part 3). The proposal is seeking to extend this right to agricultural buildings no longer on agricultural units. The Council raises similar concerns to permitting agricultural building to convert to residential due to the potential negative environmental impacts this proposal could have on arable land, green belt, and other environmental sensitive landscapes. Therefore, the Council objects to this proposed change to the right.

### **Highway Access**

13. Brentwood Borough Council is not the Highway Authority, however the Council, does agree that all existing buildings that are covered by the permitted development rights must be required to have existing suitable access to a public highway to benefit from this right. Further comments regarding what would be considered suitable highway access are deferred to Essex County Council, the highway authority.

### **Allowing Mix Use – Amount of Floorspace that can Change Use**

14. The Department of Levelling Up is proposing a change to provide more flexibility around the mix of uses that are allowed to operate under the right. At present, while the right allows for the change of use to one of the permitted

uses and subsequently to another, it only provides for one use at a time. This change would apply to all land uses, including agricultural buildings. Furthermore, the proposal is seeking to double the area from 500 square metres of floorspace to 1,000 square metres of floorspace. Although there is general support in encouraging mix use development, especially where there are complimentary uses on-site, the Council objects to the proposal to permit 1,000 square metres of floor space, in particular on agricultural sites where there is likely to be a negative environmental impact as a result of development. The Council suggests that if this requirement was to be kept restrictions should be included to prevent this from occurring on land identified as green belt and / or other environmental sensitive land uses.

### **Prior Notification / Prior Approval**

15. The consultation is seeking view on whether the current requirements for change of use of those developments that are 150 square metres or less should be required to continue to obtain prior approval on transport and highway impacts, noise impacts, contamination risks, and flooding risks. It is the Council's view that this requirement should remain to ensure the development is located in safe locations. An additional requirement should be included to address potential environmental harm to ensure those sites that could have a detrimental environmental impact cannot benefit from this right.

### **Supporting Businesses and the High Street through Greater Flexibility**

16. To provide further flexibility and certainty to a range of businesses, changes to the right are proposed to change the existing floorspace limit of extensions or alterations be increased from 50% or 100 square metres of floorspace (whichever is the lesser) to 100% or 200 square metres of floorspace (whichever is the lesser). In principle this new requirement is supported provided that there is a restriction preventing this space then being converted into residential and is used for business spaces only. Without a restriction that prevents the space being converted to residential shortly after the extension has been completed will negatively impact on a business's ability to grow. This could lead to the misuse of this part of the right. Furthermore, further restrictions are needed to ensure this part of the right only applies to those businesses located in high streets, town and village centres on previously developed land only to prevent inappropriate development in the green belt.

### **Industrial and Warehouse Extensions**

17. Similarly, to the proposal to double the allowable floorspace for business and high streets, the consultation includes a proposal to permit industrial and warehouse extensions to extend the current floorspace thresholds in non-

protected areas to be increased from 1,000 square metres of floorspace or a 50% increase over the original building (whichever is lesser) to 1,500 square metres of floorspace or a 75% increase over the original building (whichever is lesser). Although the Council acknowledges that some industrial and warehouses require space to grow their business operations, typically these businesses are located within the green belt and near other environmentally sensitive parcels of land. Therefore, the Council objects to this change due to the potential environmental harm that could be caused by permitting this.

### **Markets – Temporary Use of Land**

18. The Council agrees that markets are one of the tools which can boost local growth, create more resilient and thriving centres and support local businesses. At present the right permits 14 calendar days a year for markets (in addition to those held by the local authority). There is no specific number of days proposed in the consultation, other than to state this to be increased. The Council would be in support of increasing the number of market days beyond the current right of 14 days.



## **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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