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| SITE PLAN ATTACHED |
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**LAND ADJ WALDEN FROG STREET KELVEDON HATCH BRENTWOOD ESSEX
CM15 0JL**

**CONSTRUCT DETACHED TWO STOREY DWELLING HOUSE, COMPLETE WITH
GARDEN, PARKING AND VEHICULAR ACCESS**

APPLICATION NO: 19/01605/FUL

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| WARD | Brizes & Doddinghurst | 8/13 WEEK DATE | 09.01.2020 |
| PARISH | Kelvedon Hatch | Extension of time (if applicable): | 13.03.2020 |
| CASE OFFICER | Mr Mike Ovenden | | |
| Drawing no(s) relevant to this decision: | 19-101/01; 19-101/02A; 19-101/03A; 19-101/04B; 19-101/05; | | |

This application is referred to committee at the request of Councillor Poppy.

- Infill. Can't in all honesty reject on basis of Green belt.

1. Proposals

This application relates to the construction of a new detached two storey dwelling with vehicular access and parking on land on the southern side of Frog Street, between dwellings named 'Walden' and '1 Laburnum Cottages'. The site is 13m wide at the building line - though wider at the front and mostly narrower to the rear - which is wider than Braemar and Walden, though narrower than 1 and 2 Laburnum Cottages. The proposed dwelling would be 8.4 m wide, 7.4 deep and 8.46 tall. It would therefore be approximately half a metre taller than Braemar/Walden and the same height as 1 and 2 Laburnum Cottages though the latter has full hipped roofs. The parking would be to the left of the plot adjacent to Walden and the gardens would be to the front and rear.

2. Policy Context

The Development Plan: Brentwood Replacement Local Plan 2005

- Policy CP1 General Development Criteria
- Policy GB1
- Policy GB2

- Policy T2 New Development and Highway Considerations
- Policy T5 Parking – General

Emerging Local Development Plan (LDP) to 2033:

The Brentwood Replacement Local Plan 2005 remains the development plan and its policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the National Planning Policy Framework (NPPF). Due weight should be given to them, according to their degree of consistency with the NPPF – the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given.

The emerging Local Development Plan went through Pre-Submission (Publication Draft) Stage (Regulation 19) consultation early in 2019 with a further focused consultation, following revisions to the detailed wording of some of the proposed housing allocations, ending on 26 November 2019. At Ordinary Council on 22 January 2020 the Council resolved to submit the plan to the Planning Inspectorate on behalf of the Secretary of State (Regulation 22). Submission of the Local Plan took place on Friday 14 February 2020. An Examination in Public is likely to be held in mid 2020, subject to timetabling by the Secretary of State. Provided the Inspector finds the plan to be sound, it is projected that it could be adopted by the Council in late 2020 or 2021.

As the emerging plan advances and objections become resolved, more weight can be applied to the policies within it. At this stage there are outstanding objections to be resolved, nevertheless, the Plan provides a good indication of the direction of travel in terms of aspirations for growth in the Borough and where development is likely to come forward through draft housing and employment allocations. While submission of the Local Plan is a further step in progress towards adoption, as the plan has yet to be inspected through an Examination in Public it is still considered that it currently has limited weight in the decision making process.

National Policy

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

3. Relevant History

- 18/00400/OUT: Outline application to construct 2 semi detached houses (All Matters Reserved) -Application Refused for the following reason:

R1 The proposal represents inappropriate development in the greenbelt, unjustified by any very special circumstances and notwithstanding the few details provided in this outline application would be likely to adversely affect the spacious character and local distinctiveness of this section of Frog Street,

contrary to policies CP1, GB1, GB2 of the Brentwood Replacement Local Plan 2005 and the National Planning Policy Framework.

4. Neighbour Responses

- As with the last application on the site there are no special circumstances that justify building a new property on green belt land
- Would set a precedent for further applications
- Street is becoming more congested and without pavements is not a safe street to walk along
- The proposal shows on site parking but residents often don't use them – either as inadequate spaces are available or on street parking is easier
- the site is described as 'unkempt and overgrown' as the owner has allowed it to become to and is not a valid reason to develop it
- application contains errors relating to the age of Laburnum Cottages and one wonders what other errors there are in the blizzard of 'facts' in the application
- in the past there have been issues relating to foul sewage that lead to the involvement of the Council, water company and former MP Eric Pickles

5. Consultation Responses

- **Parish Council:** We feel that this would be an ideal fill in between already developed land.
- **Highway Authority:** A site visit has been undertaken and the information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal includes a new vehicular access which is located to the west of the site frontage, this will afford the access the maximum available visibility splays across highway land. Adequate off-street parking is included and the new front fence will be located behind the highway boundary, therefore from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following conditions:
 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-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 Policy DM1.

2. Prior to first occupation of the development and as shown in principle on planning drawing 19-1-1/02A B, the new vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3 metres and shall be provided with an appropriate vehicular crossing of the highway verge.

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 DM1.

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

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

4. There shall be no discharge of surface water from the development onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

5. Prior to first occupation the cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered 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.

6. 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 policies DM9 and DM10. The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

6. Summary of Issues

The starting point for determining a planning application is the development plan, in this case the Brentwood Replacement Local Plan 2005. 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 2019 (NPPF), National Planning Practice Guidance (NPPG) and the planning history of the site. 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.

Green Belt

The site is in the greenbelt which washes over the locality. This is shown on the map that accompanies the local plan. There is no proposal to remove the site from the greenbelt in the emerging LDP. The committee will be aware that the government attaches great importance to the greenbelt. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Greenbelt is a spatial designation not a qualitative one, therefore the requirement to protect openness applies just as much to less attractive areas of greenbelt as to attractive countryside. Policies GB1 and GB2 aim to control development but support a limited range of development, subject to being appropriate to the greenbelt and protecting its openness. These policies are broadly consistent with the NPPF, but where there is a difference between it and the development plan, the NPPF, which is newer than the development plan, takes preference. The later document is a more up to date and concise statement of greenbelt policy.

Proposals for new buildings in the greenbelt are inappropriate development unless they are within a limited number of circumstances. Two that may be relevant to this proposal are in the NPPF para 145 i.e:

- (e) limited infilling in villages
- (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

The proposal does not relate to affordable housing so the last bullet point of 145(g) can be discounted.

With regard to 145(e) 'limited infilling in villages' there are two strands to this issue – whether the proposal represents infilling and whether the site is within a village. The terms 'limited infilling' and 'village' are not defined in the NPPF and there is a need to consider the *facts 'on the ground'*.

With regard to infilling, a working definition commonly used is a gap in an otherwise substantially built-up frontage. The width of this site is similar to those properties to each side. While there are a few dwellings to each side – four to the east and five to the west with some spaces in between, it does not amount to a substantially built-up frontage. The character on this side of the road is more spacious than the greater number of close knit terraced properties on the other side of the road to the west. For these reasons it is considered that the site is not an infill plot. The applicant has taken issue with this definition, but it is a widely accepted definition and has been applied previously on this site and elsewhere and as a definition has been quoted in appeal decisions.

The other component of the phrase *limited infilling in villages* is the term 'village'. In this regard the application site is not contained within a defined settlement boundary and the greenbelt notation washes over the site. What is more there is a clear visual break between a recognised village such as Kelveden Hatch and the appeal site. The site is away from the services required on a day to day basis. Therefore, the facts on the ground in this case are that the appeal site does not lie within a village for planning policy purposes. Consequently, the proposal does not meet the definition of limited infilling in villages. This is the same view as taken at the time of the last application which was refused.

The appellant has taken issue with this view and has sought to draw comfort by importing a definition for built up area from the Census/Magic Maps. This has no planning basis. Other claims are based on postal address, the existence of a 'village pond', various references to village in an assortment of documents. The applicant refers to the core of Kelveden Hatch being within 1 Km, The Shepherd PH 975m away and bus stops being closer to the site. The applicant has selectively quoted the planning report for the last (refused) application and in doing so has contrived the position that the last decision relied on whether the site was within a defined development limit as a definition of village. Furthermore, the applicant then refers to a court of appeal decision that indicates that this is not determinative of the matter. The applicant then proceeds to say that the courts have held that the judgement is to be based on the facts 'on the ground' which is the very same phrase used in the planning report for the last application and reproduced above. The applicant refers to a case in Epping Forest District. Such cases are rarely useful in planning applications as they are chosen selectively, provide no context and planning decisions do not operate on the basis of precedent. Applications are determined on their own merits not those of other applications.

With regard to 145(g) infilling that would not have greater impact on the openness of the Green Belt than the existing development, the first part relating to infilling has been addressed above. Furthermore the erection of the dwelling shown on the application, approximately 8.5 m tall, filling most of the width of the site, would have a greater impact on the openness of the Green Belt than the existing clear site. On that basis the proposal does not comply with this exception either. The applicant has not put forward a case on this exception which may or may not indicate acceptance that 145(g) does not support the proposal.

As the proposal does not fall into one of the exceptions listed in paragraph 145 of the NPPF, the proposal would be inappropriate development as defined by the Framework.

Very special circumstances

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

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

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

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

The applicant has not demonstrated very special circumstances that individually or collectively overcome the harm to the greenbelt to at least the threshold required in paragraph 144 above. On that basis it is inappropriate development and approval of the proposal would be contrary to the NPPF.

Character, appearance and residential amenity

Policy CP1 is supportive of development proposals provided they protect the character and appearance of the surrounding area, protect the amenities of neighbours, are of a high standard of design and have satisfactory access and parking and can be accommodated by local highway infrastructure.

Part of the character of the area comes from its rural situation within the greenbelt and therefore development that harms the greenbelt would harm the character of the area and to that extent be contrary to Policy CP1. However, the design of the proposal is of satisfactory design, and would utilise vernacular design elements and materials – simple pitched roof and materials could be controlled by condition. It would not affect the amenities of its neighbours for example by overlooking or material loss of sun light or daylight and have satisfactory access and parking and can be accommodated by local highway infrastructure. Those aspects of the proposal would not be contrary to Policy CP1 and the highway and parking matters not contrary to policies T2 or T5.

Five year land supply

The committee will be aware that the Council cannot demonstrate a five year housing land supply and that planning decisions relating to new dwellings should reflect the contribution such development would make to achieving that. However, the NPPF lists specified protected areas, such as greenbelt, that are not subject to this permissive approach as protection of the greenbelt provides a strong reason for restricting development itself. Therefore, the contribution to housing land supply does not provide a justification for approving inappropriate development in the greenbelt.

Other matters raised in representations

Representations refer to on site parking but comment that it might not be used. Sufficient parking has been shown on the site plan in accordance with adopted standards and the development would not be reliant on street parking. Parking on the highway cannot be controlled under the planning system and there is no evidence that the proposal would necessarily bring it about or that if it did occur it would any more harmful than may happen at other local dwellings. The highways authority has not objected to the proposal.

The 'unkempt and overgrown' state of the site is not a justification for development and alleged errors relating to the age of Laburnum Cottages are not material to this application. The applicant proposes to connect to a sewer that runs along Frog Street and there is no evidence of surface or foul drainage issues that would themselves prevent a dwelling being erected here.

7. Recommendation

The Application be REFUSED for the following reasons:-

R1 The proposal represents inappropriate development in the greenbelt and would detract from the openness and spacious character of this section of Frog Street. No very special circumstances have been identified that individually or collectively clearly outweigh the harm to the greenbelt and other harm, and the proposal is contrary to policies CP1, GB1, GB2 of the Brentwood Replacement Local Plan 2005 and the National Planning Policy Framework.

Informative(s)

1 INF05 Policies

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1, GB1, GB2, T2, T5, National Planning Policy Framework (NPPF) 2019 and NPPG.

2 INF20 Drawing Numbers (Refusal)

The drawing numbers listed above are relevant to this decision

3 INF23 Refused No Way Forward

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

BACKGROUND DOCUMENTS

DECIDED: