

**SITE PLAN ATTACHED**

**LAND ADJACENT TO 1 HUGH CHAPPINGTON HOUSE MAGPIE LANE LITTLE  
WARLEY BRENTWOOD ESSEX CM13 3DZ**

**CONSTRUCTION OF 3 ALMSHOUSES ADJACENT TO 3 EXISTING ALMSHOUSES.**

**APPLICATION NO: 21/01004/FUL**

<b>WARD</b>	Warley	<b>8/13 WEEK DATE</b>	28 July 2021
<b>CASE OFFICER</b>	Mr Mike Ovenden	<b>Extension of time</b>	24 Sept 2021
<b>Drawing no(s) relevant to this decision:</b>	06 REV E; 03 REV D; 04 REV C; 11 REV C; 016 REV C; 12 REV C; 10 REV C;		

This application has been referred to committee at the request of Councillor Haigh for the following reasons:

- 1) The Hugh Chappington Charity has served the poor and needy of Little Warley for 300 years.
- 2) The site from 1720 had been a Poor House, from 1840 -1912 a School, from 1912-1969 accommodation and then in 1969 with the request and finance from Brentwood Council the present Alms Houses were built.
- 3) The Charity has the encouragement of The Charity Commissioners to use their capital and financial support of The Alms-houses Association.
- 4) They embrace the policy with Local Authorities and The Alms houses Association for small developments in the Green Belt
- 5) They are developing on the foundations of the old farm barns rather than impact on the frontage of Magpie Lane
- 6) There is a need and demand for low rent social housing and they are fulfilling the aims of the charity to give relief in need.
- 7) They have 100% support from the village community and the Village Hall Committee. Their Alms Houses are an integral part of the village community and an important part of what holds us together as a village entity.
- 8) This development will be very beneficial for those in need and it cannot be built anywhere else.
- 9) In all the circumstances, these facts amount to very special circumstances which individually and collectively clearly outweigh any harm to the green belt which this development might cause.

## **1. Proposals**

This application relates to the erection of a single storey, pitched roof building to provide 3 one bed dwellings. The building would have an approximately rectangular footprint, 23.7m long, by 10.3 m wide, 2.5 to eaves and 6.7 to ridge. The building would be adjacent to a similar block, though end on to the road, with vehicular access and parking to the east and small gardens to the west. The materials would be brown/red multi stock brick, some vertical tile hanging, with brown concrete plain tiles on the roof.

To the rear and west is open countryside.

## **2. Policy Context**

Brentwood Replacement Local Plan 2005

- Policy CP1 General Development Criteria
- Policy GB1 New Development
- Policy GB2 Development Criteria
- Policy H10 Affordable Rural housing
- Policy T2 New Development and Highway Considerations
- Policy T5 Parking

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, later in the year. The plan was submitted to the Planning Inspectorate in February 2020. The Examination in Public hearing sessions opened in December 2020, concentrating on strategic matters, with hearings on more detailed matters held in February and March 2021, as set out in draft timetabling by the Secretary of State. The Inspector asked for more information on some issues and further hearing sessions took place in July 2021. Provided the Inspector finds the plan to be sound, it is projected that it could be adopted by the Council towards the end of 2021 or early 2022.

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 the examination is a further step in progress towards adoption, because the plan has yet to complete its progress through the 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**

- 20/00741/FUL: Construct 3 almshouses with new vehicular access and layout parking -Application Withdrawn

### **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/>

- As previously stated, this is an excellent idea
- To add three more Hugh Chappington charity dwellings would add diversity and much needed affordable accommodation in a wonderful setting.
- The three occupiers of the existing bungalows take huge pride in their homes and gardens; they look after each other; are fully engaged in village life
- I hope you are able to approve the application

### **5. Consultation Responses**

The full version of each response can be viewed on the Council's website via Public Access at the following link:

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

- **Housing Services Manager -**

I can confirm that Housing Services would support the provision of new affordable housing in the area subject to a S106 agreement and nominations agreement to be applied in accordance with the Council's current or emerging Allocation's Policy. This would be to ensure that this development would increase the supply of affordable and good quality housing provision within the Borough to ease the burden on the Councils waiting lists and reduce and effectively homelessness.

Having reviewed the current proposals, the reference to 'affordable housing' is limited and it is unclear at present how this would effectively provide additional affordable housing to ease the burden on the waiting lists.

It is not unusual that parishes have additional local connection requirements above that of the Council's Allocations Policy which is something we could incorporate into any future nomination agreement. However, we would be unable to agree that the priority for allocation is restricted solely for existing residents of the Little Warley area to free up existing family homes. Due to the lack of supply in this area it would be unlikely to contribute to the provision of additional affordable housing.

In terms of the location, although there is little or no public transport links currently, we acknowledge that the majority of applicants requiring affordable housing do have access to their own transport so this would not be an issue for Housing Services.

Currently, we have 1072 applicants who are registered on the Council's housing waiting lists. 747 applicants are on the housing register and 328 current tenants are on the Council's transfer list. The breakdown of bedroom need is as below.

<b>Bedroom need</b>	<b>Homeseeker</b>	<b>Transfer</b>
1	368	109
2	266	112
3	112	97
4	0	7
5	1	0
<b>Total</b>	<b>747</b>	<b>328</b>

- **Planning Policy -**

Brentwood has a historical shortfall of affordable housing. The table below outlines the borough's affordable housing delivery over the last five years.

<b>Year</b>	<b>Affordable Housing Units Completed</b>	<b>Percent of Total Housing Completions</b>
2020/21	0	0%
2019/20	40	20%
2018/19	2	0.81%
2017/18	52	26%
2016/17	22	14.6%

This shortfall is predominately a result of the fact that the borough is a green belt authority and currently does not have an up to date adopted Local Plan. The 2005 Local Plan required developments of 20 or more dwellings to provide affordable housing, however in recent years very few developments have met this threshold, therefore not

requiring affordable housing. The Council submitted the emerging Local Plan for consideration for adoption in February 2020. The Local Plan hearing sessions are currently ongoing and are expected to conclude on 29th July 2021. It is anticipated that the emerging Local Plan once adopted will be able to address the borough's affordable housing needs.

<b>Size and tenure of all affordable housing required up to 2033</b>						
Tenure	% Split	Indicative Size				
		1-bed	2-bed	3-bed	4+-bed	Total Size
Affordable Rent / Social Rent	86%	31%	24%	19%	26%	100%
Other forms of affordable housing	14%	28%	36%	24%	12%	100%
Total Tenure	100%					

- **Arboriculturalist** – none received
- **Environmental Health & Enforcement Manager-**

No adverse comments or conditions required. Suggest informatives.

- **Highway Authority-**

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

The existing vehicle access shall be reduced in width.

Adequate shared parking and turning facilities are included for the dwellings, therefore from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions requiring the reduction in width of the existing western vehicle access and reinstatement to full height of redundant highway verge: a condition requiring the vehicular access to exclude unbound material and the provision of cycle parking facilities; identify areas within the curtilage to receive and store building materials.

- **Bats - Mrs S Jiggins** – None received
- **EBPG**

The Group currently has no record of any badger setts on the proposed site, nor any setts close enough to be at any direct risk from these proposals..

We do not believe that the mitigation proposed within the Preliminary Ecological Appraisal goes far enough and would recommend the additional measures be added as conditions to any planning permission granted.

Although ecological surveys can be broadly considered valid for a duration of two years some ecological factors, such as the presence of badgers and/or badger setts, can change within shorter timescales. With this in mind, standing guidance from the Badger Trust regarding development surveys states that these should be no more than 12 months old. The Preliminary Ecological Survey which accompanies this application is dated 14th May 2020 with the field survey taking place on 22nd April 2020. As a consequence, we would consider the survey to be out of date in so far as it relates to badgers.

Therefore, whilst we accept that the sett building opportunities offered by the application site are sub optimal, we recommend that a further badger survey is conducted by a suitably qualified ecologist as close as practicable, and no earlier than three months, before the commencement of the proposed works with this survey enforced by way of additional planning condition. Works in this context should include any clearance of the scrub identified within the existing ecological survey and any such clearance should be undertaken sensitively and under ecological supervision. Works should cease immediately should any badger setts be found and additional mitigation measures proposed as necessary.

- **Essex Wildlife Trust** – none received.

## **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 2021 (NPPF) and National Planning Practice Guidance (NPPG). Although individual policies in the Local Plan should not be read in isolation, the plan contains policies of particular relevance to this proposal which are listed in section 2 above.

### **Green Belt**

The site is in the greenbelt which washes over the locality and continues some distance from the site. 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 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, and 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 exceptions list in the NPPF. Two exceptions may be relevant to the proposal and are considered below.

*“149(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 is not infilling – the site is not one of restricted width in an otherwise substantially built up road frontage – a commonly used definition of an infill plot. There is no built up frontage here and there is no further string of development to the west, or other than units 1-3, anything to the east.

The glossary to the NPPF defines Previously Developed Land (PDL) as *“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”*

The Design and Access Statement contains a terrestrial photograph and aerial photograph indicating a building (referred to as Poorhouse Farm barns) on this site in the past, though that appears to have been removed many years ago. As described, these appear to have been agricultural buildings which are excluded from the development of PDL. In any event, those buildings have long since been removed and any parts of the building that remain – the ecological survey refers to ‘old foundations of a barn that is no longer in place’ - have blended into the landscape, subsumed by the self set immature trees and brambles. For these reasons the site is not considered to be

previously developed land. The proposal does not comply with paragraph 149(g) and represents inappropriate development in greenbelt.

The applicant has referred to NPPF 149(f) which has some relevance to the proposal:

- limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites).

If the development met this requirement, it would be an acceptable form of development in the green belt. Compliance is considered below.

### Affordable Housing

On the application form the dwellings are referred to as Almshouses, the box in question 16 referring to dwellings for 'social, affordable or intermediate rent' has been ticked. The Housing officer advises "Having reviewed the current proposals, the reference to 'affordable housing' is limited and it is unclear at present how this would effectively provide additional affordable housing to ease the burden on the waiting lists."

In discussions with the applicant, it has been confirmed recently that the applicant is willing to enter a S106 agreement to control the future occupation of the units as affordable dwellings.

Policy H10 concerns the provision of affordable rural housing. It is phrased so that all criteria i) to ix) must be met in order to be acceptable. These are assessed below, first the text of the policy, then an assessment **in bold**.

*In very special circumstances the development of small scale low cost rural housing may be permitted in the green belt where all the following criteria are met:*

*1) the site is either within the confines of an existing settlement or, exceptionally, occupied by an existing use and/or building, the redevelopment of which would have no greater impact than that existing on the openness of the green belt and the purposes of including land in it.*

**Though there are three alms houses to the east of the site and a few dwellings on the opposite side of the road, the site cannot be considered to be in a settlement and is not within one defined in the development plan. The proposal does not relate to the reuse or replacement of existing buildings. The remains of the permanent structure or fixed surface structure that may previously been on the site have blended into the landscape. The proposal would have a greater impact on openness than its currently open form. The proposal does not comply with this criterion.**

*ii) there is a demonstrable local, social and economic need in the short and longer term*

**Through a combination of the information provided by the applicant, Housing Manager and Policy officer it is considered that there is a demonstrable local, social and economic need for affordable housing. However, the emerging local plan aims to meet the Borough's affordable housing needs during the plan period. On the basis of the intentions of the emerging local plan, meeting needs is not reliant on sites like this being developed. The proposal does not comply with this criterion.**

*iii) no other suitable alternative accommodation is available within the built up area*

**No information has been provided to demonstrate any other sites that have been investigated. The site appears to have been chosen as it is under the control of the applicant. The proposal does not comply with this criterion.**

*iv) satisfactory safeguards exist through a section 106 agreement to limit occupancy to local needs in perpetuity*

**A S106 agreement is the normal way to ensure that affordable housing is retained into the future. The applicant has confirmed willingness to enter into such an agreement in compliance with this criterion.**

*v) such accommodation being provided to those local households not able to afford on the open market to rent or buy a dwelling of sufficient size in the borough*

**This would be the justification for the S106 agreement to ensure the benefit is passed on to qualifying future occupiers and would be part of the reason for making the proposal acceptable in planning terms. The applicant has confirmed willingness to enter into such an agreement in compliance with this criterion.**

*vi) such accommodation being restricted to the following categories of person:*

- 1) existing local residents requiring separate accommodation, or*
- 2) people whose work provides an important and necessary local service, or*
- 3) close relatives of existing local residents who have a demonstrable need to either support or be supported by them*

*(In the context of this policy "local" is taken to refer to a parish or ward, or in exceptional circumstances adjacent parishes/wards.)*

**This would be assured through a S106 agreement. The applicant has confirmed willingness to enter into such an agreement in compliance with this criterion.**

*Furthermore, any development would need to comply with the following criteria:*

*vii) the proposal would not have an unacceptable detrimental impact on other persons enjoyment of the countryside*

**The proposal would reduce the openness of the land and have a detrimental impact on the enjoyment of the countryside commensurate with the small scale of the proposal. This harm would need to be outweighed by the benefits of the proposal.**

*viii) the proposal complies with policy H14*

**This policy relates to the density of development and seeks to avoid low or wasteful use of land. The proposal for three small dwellings with modest gardens and parking would be an appropriate density – notwithstanding green belt issues - in compliance with this criterion.**

*ix) applications will be considered against the criteria set out in Policy GB2*

**Policy GB2 is broadly comparable to NPPF green belt policy which is considered above. The proposal does not comply with this criterion.**

The policies in the 2005 plan were written in the context of national policy operative at the time – including PPG2 Green Belts and PPG3 Housing. These were superseded in March 2012 by the original NPPF and policy has evolved further since then. However, Policy H10 remains the relevant policy in the Development Plan and the general approach to protecting the greenbelt remains and is addressed in the previous section above. The Policy contains a requirement that all its criteria be met and as indicated above, the proposal does not meet this requirement.

A previous application was submitted last year, recommended for refusal and subsequently withdrawn. There have been some discussions between the case officer and applicant to see whether the objections could be overcome, however while aspects have been overcome, the overall objections remain.

Therefore, the proposal does not comply with Policy H10 and consequently does not comply with 149(f). As the proposal does not fall into one of the exceptions listed in paragraph 149 of the NPPF, the proposal would be inappropriate development as defined by the Framework.

The Housing Services Manager and Planning Policy officer have confirmed that there is an affordable housing need in the borough, including for 1 bedroom units. Housing advises that the applicants wish to restrict occupation, through its own procedures, solely for existing residents of the Little Warley area would be overly restrictive. Were the development acceptable in overall planning terms, this would need to include a

nominations agreement as part of a legal agreement which could take account of local connections, though it would be broader than proposed by the applicant.

### Character, appearance and residential amenity

Policy CP1 is generally 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, with regard to the impact on living conditions of neighbours there is no particular reason to believe that the proposal would necessarily harm the reasonable amenity of neighbours in units 1-3 for example by overlooking or material loss of sun light or daylight. The design and materials of the proposal relate well to the existing units. Those aspects of the proposal would not be contrary to Policy CP1. Matters relating to highways and parking are considered below.

### Highways and parking

The proposal has been revised since the last application, to which the highways authority objected, due to the location of parking on land that formed part of the public highway. This issue has been designed out and the Highways authority no longer objects. The provision of one space for each of the one bed units complies with adopted standards. The proposal therefore complies with policies T2, T5 and that part of CP1 relating to highways and parking.

The site is distant from most day to day services and while it is possible for dedicated pedestrians and cyclist to travel by means other than private cars, the latter is likely to be the default mode of transport most of the time. Planning policy attempts to locate developments close to services in order to reduce the need for private car use, but in a recent appeal decision an Inspector considered driving short distances to nearby services to be acceptable for occupiers of a small residential development. Applying the same approach, this aspect of the proposal is not ideal but acceptable.

### Standard of accommodation

The Development Plan includes a standard for the size of accommodation for one bedroom units of 40 sqm. The Department for Communities and Local Government March 2015 Technical Housing Space Standards (THSS) contains a more up to date set of standards that require single bedroom accommodation to be at least 50 sqm unless for single person occupancy. While these more recent standards have not been

adopted by the Council and therefore they do not carry the weight of development plan policies or supplementary local guidance, nevertheless the THSS give an indication of what the Government considers is a good standard of accommodation. These units meets the standard.

#### Five year land supply and housing delivery

The Council cannot demonstrate a five year housing land supply and delivery rates are low. National policy in general terms is 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.

The delivery of affordable housing in the borough is also low. The Policy team advises that this is predominately a result of the borough being a green belt authority and not having an up to date adopted Local Plan. However the emerging Local Plan once adopted will be able to address the borough's affordable housing needs.

#### Very special circumstances

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

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

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

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

The D&A statement provides a brief and general high level reference to one of the overall NPPF objectives but doesn't develop it further and it provides a brief aspirational paragraph of background. None of this amounts to very special circumstances that meets the threshold contained in paragraph 148 above.

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 148 above. On that basis it is inappropriate development and approval of the proposal would be contrary to the NPPF.

#### Other matters raised in the application

The applicant comments about existing and proposed vegetation, potential ecological enhancement and measures to address any on site contamination but these are largely neutral in the planning balance and would not overcome the harm identified above. The support identified in representations, or as reproduced as part of the design and access statement, is noted but does not overcome the planning issues identified.

### **7. Recommendation**

The Application be REFUSED for the following reasons:-

R1 U0041601

The proposal does not meet any of the exceptions to new building in the green belt listed in the Framework and therefore represents inappropriate development. It would cause harm to the openness of the Green Belt and the spacious character of this section of Magpie Lane. Very special circumstances that individually or collectively clearly outweigh the harm to the greenbelt and other harm, have not been identified and the proposal is contrary to policies CP1, GB1, GB2 and H10 of the Brentwood Replacement Local Plan 2005 and the National Planning Policy Framework.

#### Informative(s)

1 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1, GB1, GB2, H10, T2, T5, National Planning Policy Framework (NPPF) 2021 and NPPG 2014.

2 INF20

The drawing numbers listed above are relevant to this decision

3 INF23

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