

**SITE PLAN ATTACHED**

**54 NAGS HEAD LANE BRENTWOOD ESSEX CM14 5NL  
DEMOLITION OF EXISTING DWELLING AND GARAGE AND CONSTRUCTION OF  
A REPLACEMENT NEW DWELLING INCLUDING NEW PATIO.**

**APPLICATION NO: 22/00699/FUL**

<b>WARD</b>	South Weald	<b>8/13 WEEK DATE</b>	7 July 2022
<b>CASE OFFICER</b>	Mrs Carole Vint	<b>Extension of time</b>	
<b>Drawing no(s) relevant to this decision:</b>	3193 L03; 3193 L01;	3193 L02;	3193 S01;

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

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

**1. Proposals**

This application relates to the demolition of an existing dwelling and garage and construction of a replacement new dwelling including new patio. The proposed works would retain three of the existing ground floor external walls, however the proposal would involve significant alterations to the original dwelling, insofar that the original dwelling would be unrecognisable, therefore this application is being determined as a replacement dwelling as per the description.

**2. Policy Context**

The starting point for determining a planning application is the Development Plan, in this case the Brentwood Local Plan 2016-2033. Planning legislation states that applications must be determined in accordance with the development plan unless

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

The Brentwood Local Plan 2016-2033

- Policy MG02 Green Belt
- Policy BE14 Creating Successful Places
- Policy BE13 Parking Standards

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

National Planning Policy and Guidance

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

### **3. Relevant History**

- 21/02098/PN42: Single storey rear and side extension. The proposed extensions would extend 8m beyond the rear wall of the original dwelling, the maximum height of the proposed extensions would be 3.75m and the proposed eaves height would be 4m -Prior Approval is Not Required
- 21/02079/S192: Application for a Lawful Development Certificate for a proposed use or development for a single storey side extension and 2 No. side facing dormers. -Application Permitted
- 21/00465/HHA: Demolition of existing garage. Part single part two storey side extension, two storey rear extension. Loft conversion to include dormers to front and sides, Juliette balcony to rear. Construction of new front porch to include pitched roof. Fenestration and landscaping alterations. -Application Refused
- 18/01372/FUL: Demolition of existing dwelling and construction of replacement dwelling to include Juliette balcony to rear, roof lights to side elevations, dormer to front rear and side, and new front porch with pitched roof. -Application Refused/ Appeal Dismissed

### **4. Neighbour Responses**

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

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

A total of three letters have been received in support of the proposal.

Supporting comments summary:

- Improvement to the area and great asset to the community and to the residents;
- Improve the look of the house and be in keeping with other houses in the road;
- The proposed dwelling will fit in with the surrounding houses

## **5. Consultation Responses**

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

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

### **• 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 does not alter the existing vehicular access to the site and retains adequate room for off-street parking and turning for a minimum of two vehicles, 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. 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.

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.

### **• Environmental Health & Enforcement Manager-**

Noise

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.

#### Contaminated Land

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

#### Asbestos

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

#### Bonfires

No bonfires should be permitted on site.

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

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

- Impact of the proposal on the Green Belt;
- The impact of the proposal on the character and appearance of the area;
- Impact on the living conditions of the occupiers of neighbouring properties;
- Parking and Highway considerations

The site has history, application reference 18/01372/FUL for the demolition of existing dwelling and construction of replacement dwelling to include Juliette balcony to rear, roof lights to side elevations, dormer to front rear and side, and new front porch with pitched roof., which was refused following reasons:

- 1 *The replacement dwelling would be inappropriate development in the Green Belt in that it would be materially larger than the dwelling it replaces and be harmful to the openness of the Green Belt. It would therefore conflict with Brentwood Replacement Local Plan Policies GB1 and GB2 and Chapter 13 of the National Planning Policy Framework (2018) as regards to development in the Green Belt.*
- 2 *There are no matters in support of the application which would clearly outweigh the harm the development would cause through inappropriateness and reduction*

*in openness of the Green Belt, within which the site is located. Therefore, no very special circumstances exist to justify the grant of planning permission for the inappropriate development.*

- 3 *The replacement building would result in an increase in height and bulk, along with the crown roof element would appear out of character with the surrounding area and would result in a dominant and overbearing dwelling, that is considered to have an unacceptable detrimental impact on the visual amenity and the character and appearance of the surrounding area and would be contrary to Chapter 12 of the NPPF, which requires good design and Policy CP1 (i) and (iii) of the Brentwood Replacement Local Plan.*
- 4 *The increase in the built form along the boundaries and the new openings at first floor would have a harmful impact on the occupiers of the neighbouring properties No.'s 55 and 53 Nags Head Lane by way of an overbearing effect, would dominate the neighbouring dwellings and have an unacceptable degree of material overlooking, contrary to Policy CP1 (ii) of the Brentwood Replacement Local Plan.*

An appeal on this refusal was lodged and the appeal was dismissed.

Following the refusal and appeal decision, a further application was submitted, reference 21/004665/HHA for the demolition of existing garage. Part single part two storey side extension, two storey rear extension. Loft conversion to include dormers to front and sides, Juliette balcony to rear. Construction of new front porch to include pitched roof. Fenestration and landscaping alterations, which was also refused for the following reason:

1. *The proposed extensions, due to their size would amount to a disproportionate addition in relation to the size of the original dwelling, representing inappropriate development in the Green Belt that would have materially greater impact on the openness of the Green Belt. The proposal therefore conflicts with Brentwood Replacement Local Plan Policies GB1 and GB2 and Chapter 13 of the National Planning Policy Framework as regards to development in the Green Belt. There are no matters in support of the application which would clearly outweigh the harm the development would cause through inappropriateness and reduction in openness of the Green Belt, within which the site is located. Therefore, no very special circumstances exist to justify the grant of planning permission for the inappropriate development.*

More recently lawful development certificates were sought for extensions and alterations, including single storey side extension, rear extensions, side and rear extension and side facing dormer windows (both sides), which were all considered lawful.

The current application, when compared to the most recent refusal, is identical in terms of design, however, has an increase in the overall depth of the dwelling.  
Green Belt

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

Paragraph 149 of the NPPF states that the Local Planning Authority (LPA) should regard the construction of new buildings as inappropriate in Green Belt with limited exceptions. The supporting statement claims compliance with Paragraph 149d of the NPPF, which is as follows:

- d) The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

The existing building is a modest single storey dwelling with a simple rectangular plan form and gable front and rear, with a small single storey flat roof rear extension. The loft area although boarded, is not converted to habitable accommodation and no staircase exists to the first floor. Positioned one metre to the south of the dwelling lies a detached single garage. Case law (see *Sevenoaks District Council v Secretary of State for the Environment and Dawe (1997)*) has determined that the Inspector was fully entitled to hold that the garage was part of the dwelling, in the sense that it was a normal domestic adjunct, and thus to treat the appeal proposal as an extension to it. The mere fact that the garage is physically separated from the main house does not prevent it from being part of the dwelling and in this case, the garage has been treated as normal domestic adjunct.

Although the NPPF (2021) does not define what would be considered 'materially larger', analysis of existing built form compared with what is proposed and in particular any visual increase that would harm the openness of the Green Belt, are considered to be relevant determining factors. Calculations below are taken from the applicants supporting statement.

	Existing	Proposed
Footprint approx.	89 square metres	152 square metres
Volume	400 cubic metres	775 cubic metres

The existing building (drawing S03A) comprises of a gable end dwelling with a maximum eaves height of 2.6 metres and a ridge height of around 6 metres with a footprint of approximately 89 sqm. The width of the dwelling is 7.6 metres and a maximum total depth of 12 metres, including a 2.9 metre flat roof element at the rear.

The proposed replacement building would have a similar front building line with a gable front, with the addition of a pitched roof cross wing gable to the western side and a secondary pitched roof element at the rear, along with dormer additions to the front and both sides. The proposed dwelling would maintain the existing eaves height and have an increased ridge height by 0.6 metres to 6.6 metres.

The overall depth of the main gable element would be increased from 9.1 metres to 14.1 metres, extruding the depth at the rear by 5 metres, resulting in an approximate footprint of 152 square metres, an increase of 71 % compared to the footprint of the existing dwelling and an increase in 94% in the volume.

In comparison, the submitted drawings (L02) quite clearly show a substantial chalet dwelling. When comparing the overall height, bulk, mass and footprint, the proposed building would be materially larger than that of the existing building. It would therefore be inappropriate development in the Green Belt and would not comply with paragraph 149d of the NPPF, which is the same outcome as stated in the supporting statement.

In the previous appeal decision, the Inspector also referred to the exception in paragraph 149g of the NPPF, which is outlined as follows:

*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 Inspector set out the concept of openness of the green belt as being part visual impact. The proposal also does not relate to affordable housing and therefore the last bullet can be discounted.

The overall size and mass of the proposed dwelling would be significantly different to the existing buildings and would be visible from the green belt. Therefore, the proposal would have a greater impact on the openness of the Green Belt than the existing development and it would not comply with the exception listed under paragraph 149g. Accordingly, it would not preserve the openness of the Green Belt. The proposal is, therefore, inappropriate development in the Green Belt. Inappropriate development, by definition, is harmful and contrary to Chapter 13 of the NPPF (2021) and Policy MG02 of the Brentwood Local Plan.

Other considerations

The applicants statement points to the permitted development opportunities that could be built to extend the existing dwelling without the need for planning permission and asserts that these should be 'taken into account'.

However, the Framework clearly indicates that replacement buildings are inappropriate development if they are materially larger than the *existing* building. Where permitted development should be taken into account as a fall back position, there needs to be a very real and likely prospect that they would be built. Furthermore where permitted development is not more harmful to the Green Belt than the proposed development it is unlikely to justify permitting the inappropriate development. Moreover, the supporting statement makes reference to the permitted development schemes not making efficient use of the building layout, with the rear extensions resulting in a substantial footprint, and therefore there is not a high probability that these works would be undertaken.

The permitted development extensions would result in predominately single storey side extensions to both sides and to the rear, with dormer additions to the roof on both sides of the main gable. Although the permitted development extensions would have a greater footprint than what is proposed, officers consider that if the extensions were to be built instead of the proposed scheme, they would be less harmful than the development proposed here, in terms of visual impact. Even if the fall back position were judged to be a realistic possibility it does not justify the approval of the application proposal.

The supporting statement makes reference to a 2018 decision on a property within the locality. This application was assessed under the different criteria of the NPPF as is related to an extension to a dwelling – the test being disproportionate to the original dwelling - not a replacement dwelling – where the test is materially larger than the existing dwelling.

No other considerations have been put forward that would constitute 'very special circumstances' to clearly outweigh the harm that the development would cause to the Green Belt.

#### Design and Character and Appearance of the Area

The application site is on the northern side of Nags Head Lane and is occupied by a detached single storey dwelling, a commercial MOT centre is located to the rear and open fields opposite the site. The street scene is mainly characterised by detached dwellings, two storey and chalet dwellings. To the west lies a pair of two storey semi-detached dwellings, that have a forecourt parking area between the application dwelling, creating the appearance of openness to the west of the site. The application dwelling is set back and down from the road frontage and has off street parking for approximately 6 vehicles.

The proposed main gable would maintain the front building line, eaves height and increase the ridge height by 0.6 metres to 6.6 metres. A pitched roof cross wing would



be positioned on the western elevation and have a pitched roof element added at the rear, along with dormer additions to the front and both sides. The proposed dwelling would result in a greater depth and width than that of the existing dwelling, with the overall depth of the main gable being increased from 9.1 metres to 14.1 metres, extruding the depth at the rear by 5 metres.

The roof would maintain the existing gable design, with the insertion of dormer additions that are considered to be a subsidiary additions, are set in from the side walls of the property and below ridge height. A pitched roof open fronted porch would be positioned off centre at the entrance.

The size and siting of the proposed works are not dissimilar to the surrounding dwellings. The area has a mixed overall character and as such the design is acceptable. No objection is therefore raised to the design of the proposal in terms of Chapter 12 of the NPPF 2021, which requires good design or Policy BE14 of the Brentwood Local Plan.

#### Impact on Living Conditions

In relation to overlooking, the existing dwelling does not have any window openings at first floor level in the side elevations. The proposed openings would be positioned 2.4 metres from the boundary with No. 53 and 5.7 metres from the boundary with No. 55. These dormer windows would serve secondary windows to the bedrooms, these windows could be conditioned to be obscure glazed and non-openable above a height of 1.7 metres from floor level to prevent any degree of overlooking.

With respect to overbearing impact, given the distance to the adjacent dwelling No. 55, there would be no significant loss of privacy nor would the extensions appear overbearing. However, in relation to No. 53, with the existing staggered building lines, the majority of the proposal would extend beyond the rear elevation of No. 53. The overall increase in bulk of the dwelling by 5 metres, positioned approximately 1.5 metres from the north eastern boundary, it is considered that the proposal would result in an overbearing impact to the residential amenity of the occupiers of No. 53 Nags Head Lane, which would be contrary to Policy BE14 of the Brentwood Local Plan.

#### Living Conditions

The floor plan indicates that all rooms will be served by adequate windows providing light, ventilation and outlook and that a reasonably sized garden is retained. No objection is raised on this basis.

#### Parking and Highway Considerations

There is ample off street parking provided within the proposed layout. No objection is raised on this basis.

## Conclusion

The proposed development constitutes inappropriate development in the Green Belt and would harm the openness of the Green Belt, by way of a replacement building with one materially larger than the one it replaces. The applicant has not demonstrated very special circumstances to justify permission for inappropriate development in this case.

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

## 7. **Recommendation**

The Application be REFUSED for the following reasons:-

R1 Inappropriate development in the green belt

The replacement dwelling would be inappropriate development in the Green Belt in that it would be materially larger than the dwelling it replaces and have a greater impact on the openness of the Green Belt than the existing development. The proposal would therefore conflict with Brentwood Local Plan Policy MG02 and Chapter 13 of the National Planning Policy Framework (2021) as regards to development in the Green Belt.

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

R2 Overbearing impact upon the neighbouring amenity area

The increase in the built form along the north eastern boundary, would result in an overbearing impact upon the residential amenity area of the occupiers of No. 53 Nags Head Lane, which would be contrary to Policy BE14 of the Brentwood Local Plan.

### Informative(s)

1 INF05

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

2 INF20

The drawing numbers listed above are relevant to this decision

3 INF25

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

<https://www.brentwood.gov.uk/planning-advice-and-permissions>

*BACKGROUND DOCUMENTS*

**DECIDED:**

