

**SITE PLAN ATTACHED**

**CLAY HALL DAYS LANE PILGRIMS HATCH BRENTWOOD ESSEX CM15 9SJ**

**CONSTRUCTION OF FOUR DETACHED DWELLINGS**

**APPLICATION NO: 22/00559/FUL**

<b>WARD</b>	Pilgrims Hatch	<b>8/13 WEEK DATE</b>	23.06.2022
<b>PARISH</b>		<b>Ext. Of Time</b>	TBC
<b>CASE OFFICER</b>	Brooke Pride		

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

AHUB2202001-26; AHUB2202001-27; AHUB2202001-29;  
AHUB2202001-30; AHUB2202001-31; AHUB2202001-10;  
AHUB2202001-11; AHUB2202001-14; AHUB2202001-15;  
AHUB2202001-16; AHUB2202001-17; AHUB2202001-18;  
AHUB2202001-19; AHUB2202001-20; AHUB2202001-21;  
AHUB2202001-22; AHUB2202001-23; AHUB2202001-24;  
AHUB2202001-25; AHUB2202001-3; AHUB2202001-4;  
AHUB2202001-5; AHUB2202001-6; AHUB2202001-7;  
AHUB2202001-9; AHUB2202001-14; AHUB2202001-26;  
AHUB2202001-1; AHUB2202001-2; PLANNING STATEMENT;  
AHUB2202001-13; AHUB2202001-12

**The application is reported to the Planning and Licensing committee in accordance with the requirements of the Council's constitution.**

**1. Proposals**

Planning permission is sought for the demolition of storage buildings and the erection of four houses.

**Site Description**

The application site is located on the north side of Days Lane. The site outlined in red comprises of a dwelling the occupation of which was tied to a previous planning permission. The condition to tie the occupation has been removed by the granting of planning permission reference 21/01519/FUL. The dwelling is located close to the entrance with ancillary buildings, the lawful use of which is a mixture of storage and

the keeping of horses, closer to the middle of the site, with a large riding arena to the north of the site. As the site is at a lower level than the adjacent highway have a low and the character of this part of the green belt is derived from the semi rural setting including the low density and low visual impact of the buildings and their typology.

The site is served by two access points; one leads to the dwelling and stable buildings and the other to the storage building and smaller stable building. The site comprises of large amounts of hard standing with minimal landscaping. To the north of the site is open countryside. The entirety of the site is washed over by the Green Belt.

## **2. Policy Context**

The Brentwood Local Plan 2016-2033

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

- National Planning Policy and Guidance
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Policy BE02 Water Efficiency and Management
- Policy BE04 Managing Heat Risk
- Policy BE07 Connecting New Developments to Digital Infrastructure
- Policy BE11 Electric and Low Emission Vehicles
- Policy BE13 Parking Standards
- Policy BE14 Creating Successful Places
- Policy MG02 Green Belt
- Policy HP06 Standards for New Housing

## **3. Relevant History**

- 01/00561/FUL: Change of Use to a dwelling for occupation by equestrian worker – Application Permitted
- 14/00006/FUL: Rebuilding of derelict outbuilding/stables adding additional roof storage (Retrospective) – Application Refused

- 16/00826/FUL: Replacement of existing buildings, open sided timber frame Dutch barn to be multi purpose use of hay/straw/carriages storage, internal stables and storage of rugs and harnesses (Retrospective) – S70C Decline to Determine
- 16/01540/FUL: Construction of open fronted horse drawn carriages store, hay and straw storage, roof space storage for rugs harness and costumes/hats.- Application Permitted
- 20/00702/FUL: Demolition of existing storage buildings and construction of one detached dwelling. – Application Permitted
- 20/00764/FUL: Redevelopment of riding school and stables to provide three dwellings. – Application Permitted
- 21/01519/FUL: Removal of conditions 2 (Occupancy) and Variation of condition 3 (Restriction of domestic curtilage) of application BRW/561/2001 (Change of Use of Existing building to a three bedroom dwelling for occupation by an equestrian worker) – Application Permitted
- 21/01554/FUL-Discharge of Section 106 agreement attached to planning permission 01/00561/FUL – Current Application
- 21/01557/FUL: Proposed relocation of storage building – Application Refused

#### **4. Neighbour Responses**

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

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

No neighbour representations were made on this application.

#### **5. Consultation Responses**

- **Arboriculturalist-** No comments received
- **Highway Authority-**

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

The Highway Authority will protect the principle use of the highway as a right of free and safe passage of all highway users.

The proposal would encroach on and obstruct a Public Right of Way (PRoW) Footpath as explained in the notes below, therefore:

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

1. As far as can be determined from the submitted plans, the proposed development

would encroach on and obstruct a Public Right of Way footpath no.101 (Brentwood).

2. The proposal if permitted would set a precedent for future similar developments which is detrimental to the safety of all highway users.

The proposal is therefore contrary to the Highways Act 1980 and policy DM1 and DM11 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Notes:

The application includes the demolition of equestrian and agricultural buildings, subdivision of the site and construction of four dwellings. The Highway Authority do not object to the principle of the development. However, the highway record has been examined and it has been confirmed that part of the Public Right of Way Footpath no.101 Brentwood runs through the site.

PRoW:

It is understood that the applicant has made initial enquires with Essex Highways regarding the process required to extinguish the section of the public footpath that runs through the site.

The applicant will be required to apply for an Order either under the Town and Country Planning Act S257 or the Highways Act 1980 S118. This process includes various consultations, and the outcome is not guaranteed.

Therefore, until such time as an Order is confirmed, the Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PRoW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no 101 (Brentwood) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The applicant should seek confirmation of the route of the Public Right of Way from ECC Highway Records. For more information on this service please follow this link: <https://www.essexhighways.org/highway-schemes-and-developments/adoptions-and-land/highway-status-enquiries.aspx> and please contact [highway.status@essexhighways.org](mailto:highway.status@essexhighways.org) who will be able to provide details. The Highway Authority may consider a revised proposal that excludes any development on the PRoW or a renewed application if and when the existing PRoW is formally extinguished

- **Public Rights Of Way-** see section PRoW
- **Environmental Health & Enforcement Manager-**

## Noise

I 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.

I would also recommend the submission of a Construction Environmental Management Plan (CEMP) 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 demolition 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.

## Contaminated Land

I would recommend completing a Phase I assessment to understand if contamination onsite is likely. If contamination is suggested onsite, a Phase II report and remediation would be required and submitted to the Local Planning Authority before development begins.

## **6. Summary of Issues**

The starting point for determining a planning application is the Development Plan, in this case the Brentwood Local Plan 2016-2033. Planning legislation states that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant material considerations for determining this application are the National Planning Policy Framework 2021 (NPPF) and National Planning Practice Guidance (NPPG). Although individual policies in the Local Plan should not be read in isolation, the plan contains policies of particular relevance to this proposal which are listed in section 4 above.

### Green Belt

#### Principle

The aims and objectives of Local Plan policy MG02 are in compliance with the National Planning Policy Framework, Chapter 13. This sets out that the Government attaches great importance to the Green Belt; inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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 (paras 147 & 148). 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 serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

However, paragraph 145 of the NPPF sets out a limited list of development that can be acceptable subject to meeting other criteria. Most relevant to this proposal is :

- (g) Limited infilling or the partial or complete redevelopment of previously developed land whether redundant or in continuing use (excluding temporary buildings) which would: -

-not have a greater impact on the openness of the Green Belt than the existing development ; or

-not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

No affordable housing is proposed and the second point can therefore be discounted. It is considered that the site falls within the definition of previously developed land. The policy test as to whether the proposal is inappropriate development is therefore reliant on it not having any greater impact on the openness of the Green Belt compared to the existing situation.

#### Openness and purposes of including land in the Green Belt

There is no official measure to assess openness and the NPPF even in its revised form does not suggest a method to compare existing and proposed development or judge openness. This issue was addressed to some degree in National Planning Practice Guidance (001 Reference ID: 64-001-20190722) published in late 2019. That guidance is based on caselaw and indicates that assessing the impact on openness:

“requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects – in other words, the *visual impact of the proposal may be relevant*, as could its volume;

- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- the degree of activity likely to be generated, such as traffic generation.”

It is to be noted that this is guidance rather than policy but it gives examples of matters which ‘may need to be taken into account’ which it makes clear are not all embracing or necessarily excludes other matters.

As openness is a visual quality normally considered to be the lack of buildings, officers consider the most appropriate method to assess new build elements to be a visual comparison of the massing, spread and position of existing and proposed buildings.

The existing lawful buildings v proposed buildings :

To the southwest of the site the access leads to two buildings one (labelled building 4) a modest stable range for four horses, dual pitched roof and 3.5 metres in height the second building (labelled building 2) is part flat roof at 3.7 metres high and part dual pitch roof at 5.4 metres in height.

Set within the northeast part of the site is a long stable range (building 3) with a mixture of roof designs pitched and lean-to style roof with a maximum height of 3 metres and 30 metres wide. The car port (building 6) which serves the main dwelling is put forward within the redevelopment of the site, however this is a modest two bay car port extending 4 metres in height and set between the commercial unit and the existing dwelling on site.

The existing buildings are of a modest scale, and as indicated on the existing street scene drawing, sit well within the semi rural context and setting. The proposed development would result in a significant increase in the mass as a result of the increase in height compared to the existing buildings with all four proposed dwellings at 6 metres in height which is double the height of the stable range and an average of a 60% increase in height compared to the remaining buildings.

Submitted Plan No. AHUB2202001-13 shows the areas of proposed hardstanding and landscaping. The existing site is predominantly hardstanding with little landscaping and grassed areas. The proposed hardstanding will be within existing areas of hardstanding and the development proposed will be within the existing areas of hardstanding.

A massing model has been provided to show the existing and proposed development, plan AHUB2202001-3D. The massing model helps to show the visual and spatial impact of the proposed development on the openness of the Green Belt. The model clearly shows the significant increase in bulk compared to the existing development due to the increase in height and volume. This will result in the proposed development having a greater impact upon the openness of the Green Belt than the existing buildings.

The building to the rear of the existing dwelling is discounted as set out within the refusal of application 21/01557/FUL, separate enforcement action will be taken.

It should be noted that comparing numerical data for footprint, floorspace and volume has no policy basis and can be misleading; however such comparisons can assist when considering volume, meaning massing. The comparisons are set out below:

	Footprint (sqm)	Volume (cubic metres)	Height (m)
Existing	437.7	1280.82	3.0 (lowest)
Proposed	337.4	1509.56	6

These figures differ from that put forward by the applicant who included both an existing dwelling to be retained and a further building that does not benefit from a lawful status.

The increase in terms of volume would be 18%, and the increase in height compared to the lowest height of building within the site is 200%. The proposed massing model shows that the proposed development would be set further forward than the existing building and not within a similar location, they would be more prominent within the thoroughfare and Green Belt setting.

The proposal has been submitted following pre-application advice which clearly stated that the argument put forward for the dwellings would only be partially visible from the road as the site level drops as you access into the site would not justify the increase in scale and height of the development. The assessment of impact upon the Green Belt is not based on what is visible from the public realm but the increase of development both visually and spatially.

The increase in scale, height and spread of the proposed development compared to the existing lawful build form would have a greater impact on the openness of the greenbelt than the existing situation and as such conflict with para 145 (g). It would therefore be inappropriate development within the Green Belt. It would therefore rely on 'very special circumstances' to clearly outweigh the harm identified.

### Design, Character and Appearance

The proposed dwellings are similar in terms of their design features with gable designs and oak framed porches. Plot 1 proposes an oak framed porch, front gable with a glazed feature and dormer style window to the front and rear. Plot 2 proposes a single storey dwelling with a vaulted ceiling and rear gable glazing feature. Plot 3 proposes an oak open porch with dormers to the front and rear as well as a gable feature to the rear with feature glazing. Plot 5 proposes a gable feature to the front with full height glazing.



A material palette has been submitted with natural wood, timber feature, red/brown colours, multi-red brickwork which is considered acceptable. Overall, the design of the development is appropriate for its setting.

The proposed design and material palette is considered to be acceptable for the semi-rural location of the site. The development, subject of condition, will not have an unacceptable detrimental impact on visual amenity or the character and appearance to the surrounding area therefore the proposal is compliant with policy BE14 of the Local Plan.

### Residential Amenity

The site is formed around a central commercial unit which is not with the ownership of the applicant. The proposed dwellings would not lead to a harmful impact upon the existing commercial unit as residential development already exists around within the area. The environmental health team have been consulted and do not consider the existing commercial unit to result in harm to the existing residential use or proposed level of residential use on the site and proposed an internal noise condition to be achieved to ensure the quality of living conditions for any future occupiers.

The most immediate neighbour is Crow Green Farm, which converted the building closets to Clay Hall into residential accommodation. Plot 5 will be closets to the neighbouring dwelling, set back from its rear building line. As shown on drawing AHUB2202001-26 the section of plot 5 is not of a scale, nor will it have a fenestration that will result in a detrimental impact upon the living conditions of the adjacent neighbours by way of loss of privacy, loss of light, overbearing impact or general disturbance from the development itself.

The proposed development is suitably distanced as to not amount to any overbearing impact, loss of light or outlook or create any undue overlooking or loss of privacy to the adjacent occupiers. The proposed development is compliant with policy BE14 of the local plan.

### Living Conditions

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

All dwellings proposed and existing will be provided over 100sqm of private amenity space which is considered a guidance amount within the Essex Design Guide for dwellings of this size. All dwellings will be provided with an unoverlooked amenity area and good quality living conditions. The internal space of each bedroom and internal floor space also complies with the minimum standards set out within the DCLG.

## Parking and Highway Considerations

No objections have been received on the re-use of the two existing accesses into the site which are either side of the commercial unit, and all dwellings including the existing will be provided with at least two off street parking spaces which accords with the current parking standards. Therefore, the proposal complies with policy BE13 of the local plan.

## Public Right of Way

Chapter 8 Para. 100 of the NPPF states that planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provides better facilities for users.

Pre-application advice was sought prior to the submission of the current application which highlighted as before within the previous application of 20/00764/FUL that the public right of way that crosses through the site as shown on the block plan should be kept open and accessible within any development submitted. The information provided was not considered and the proposed development clearly is set on top of the public right of way obstructing any future access. No permission has yet been granted by PROW authority nor permission in principle.

Objection has been raised on the basis the development would encroach on and obstruct a Public Right of Way footpath no.101 (Brentwood), and if permitted could set precedent for other developments to be permitted detrimental to the safety of all highway users by prevent access.

The application includes the demolition of equestrian and agricultural buildings, subdivision of the site and construction of four dwellings. The Highway Authority do not object to the principle of the development. However, the highway record has been examined and it has been confirmed that part of the Public Right of Way Footpath no.101 Brentwood runs through the site.

Comments have also been received from PRow department and confirmed the applicant is required to apply for an order which involves various consultations before development can be permitted and cannot be dealt with as a planning condition as this would be at the heart of the planning application put forward. Therefore, until such time as an Order is confirmed, the Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PRow is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no 101 (Brentwood) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The proposal conflicts with para.100 of the NPPF as the proposal does not protect or enhance the public right of way No.101 nor does it provide better facilities. The proposal

obstructs the PRow and therefore contrary to the Government's aims and objectives set out within Chapter 8 of the NPPF.

### Trees and Landscaping Considerations

Drawing AHUB2202001-13 shows the changes to the hard standing areas to be turned to grassed areas. No details of the proposed landscaping have been included so would be conditioned to provide further planting to the rear of the site. Informal discussion with the arboricultural officer confirms there is no concern to the ecology of the site nor harm to the surrounding trees and landscaping.

### Noise and Contamination

The site is within a rural area with predominantly residential surrounding the site. There is a nearby commercial unit, which is for the repairing of vehicles and used during the day time hours. No objection has been raised on the basis of surrounding noise.

The site is a former riding yard and arena with potential contamination and therefore a phase I contamination report has been requested as a condition if the application is to be approved.

### Sustainability Considerations

In order to ensure the proposal provides compliance with the sustainability policies aims and objectives, conditions are recommended. The new local plan requires developments to be more sustainable, meeting the building regulation requirements and minimising heat risk and therefore conditions will be attached if the application is to be approved requiring the dwellings to provide electric car charging points and waste water management.

The proposal is considered to comply with the aims and objectives of policies BE02, BE04, BE07 of the BLP.

### Planning Balance

In the newly adopted Local Plan the Council's record of housing delivery is such that the tilted balance be invoked, however the policies in the framework in so far as they relate to the Green Belt, provide a clear reason for refusing the development proposed, presumption in favour of sustainable development does not apply.

The site also has a 'fall back' position for the construction of:

20/00702/FUL: Demolition of existing storage buildings and construction of one detached dwelling. – Permitted 11.09.2020

20/00764/FUL: Redevelopment of riding school and stables to provide three dwellings.  
– Permitted 14.08.2020

The extant permissions hold material weight in determining this application. The current proposal is for the re-development of the site as a whole instead of two separate developments. The extant permissions allowed for one dwelling within the location of building 2 and 4 which was of a chalet style dwelling and larger in scale as the buildings were taller within this area of the site. The development is located where building 3 was modest in scale, single storey dwellings with low ridges and set near to the existing built form. The proposed development was set back from the public realm within the site and would not result in more harm to the openness of the Green Belt than the existing built form.

The current proposal spreads development across the site away from the existing built form and would have a greater impact upon the openness of the Green Belt than the current situation and extant planning permissions.

There would be associated social and economic benefits although some of these would be limited by virtue of time and the scale of the proposal. But these benefits would be insufficient to outweigh the conflict with the development plan as a whole.

### Conclusion

The proposal represents inappropriate development in the Green Belt by virtue that it is more harmful to the openness of the Green Belt than the existing situation. Extant permissions would have a less harmful impact and are considered not to be inappropriate development. As such, no very special circumstances exist that outweigh the harm identified.

## **6.0 RECOMMENDATION**

The Application be REFUSED for the following reasons:-

1

The proposed development represents inappropriate development within the Green Belt as it would have a greater impact on the openness of the Green Belt than the existing development, as a result of its scale, height, spread and mass. The proposal will result in a material reduction in the openness of the Green Belt. As such, the proposed development is contrary to National Planning Policy Framework 2021 paragraphs 149 and 150 and planning policy MG02 of the Local Plan. Other matters that may weigh in favour of the proposed development have been considered, but singularly and collectively they do not clearly outweigh the harm to the Green Belt. Therefore 'very special circumstances' to justify inappropriate development in the Green Belt do not exist.

2

The proposed development results in an obstruction of a Public Right of Way No.101 Brentwood with no confirmed Order to remove or divert the PRow. The proposed development is contrary to Chapter 8, Para.100 of the National Planning Policy Framework 2021 which requires PRow to be protected and enhanced.

Informative(s)

1

The drawing numbers listed above are relevant to this decision

2

The following development plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: BE02, BE04, BE07, BE11, BE13, BE14, MG02, HP06; National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

3

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. Further advice may be sought from the Local Planning Authority via the pre-application service prior to the submission of any revised scheme. 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:**