

SITE PLAN ATTACHED

**70 ORCHARD LANE PILGRIMS HATCH BRENTWOOD ESSEX CM15 9RE**

**CONSTRUCTION OF REPLACEMENT DWELLING**

**APPLICATION NO: 22/01202/FUL**

<b>WARD</b>	Pilgrims Hatch	<b>8/13 WEEK DATE</b>	18 October 2022
<b>PARISH</b>		<b>POLICIES</b>	BE02, BE04, BE05, BE07, BE11, BE12, BE13, BE14, HP06, NE01, NE09
<b>CASE OFFICER</b>	Mr Daryl Cook	<b>APPLICANT</b>	Mr. Garry Woods
<b>Drawing no(s) relevant to this decision:</b>	02/D;		

**This application has been referred by Cllr David Kendall for the following reason(s):**

***The adjoining neighbours life is detrimentally affected by the development. It is overbearing, it effects the light in their lounge and the height of the building is unbalancing the adjoining property.***

N.B. The adjoining neighbour is No.72 Orchard Lane.

## **1. Proposals**

Planning permission is sought for the construction of a replacement dwelling at 70 Orchard Lane, Pilgrims Hatch.

Planning permission was granted for an identical scheme under an application for householder extensions, reference 21/01870/HHA dated 18/2/2022. However, following an Enforcement investigation, the Council have been made aware that the existing dwellinghouse has been substantially demolished and the construction works would constitute the creation of a new dwellinghouse<sup>1</sup>.

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<sup>1</sup> See Case Law: *Arnold v SSCLG [2015]* and *Oates v SSCLG [2018]*

## **2. Policy Context**

National Planning Policy Framework 2021 (NPPF)

National Planning Practice Guidance (NPPG)

National Design Guide (NDG)

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

- Policy BE02 Water Efficiency and Management
- Policy BE04 Managing Heat Risk
- Policy BE05 Sustainable Drainage
- Policy BE07 Connecting New Developments to Digital Infrastructure
- Policy BE11 Electric and Low Emission Vehicle
- Policy BE12 Mitigating the Transport Impacts of Development
- Policy BE13 Parking Standards
- Policy BE14 Creating Successful Places
- Policy HP06 Standards for New Housing
- Policy NE01 Protecting and Enhancing the Natural Environment
- Policy NE09 Flood Risk

The Brentwood Local Plan 2016-2033 was adopted as the Development Plan for the Borough on 23 March 2022. At the same time the Brentwood Replacement Local Plan, August 2005 (saved policies, August 2008) was revoked.

## **3. Relevant History**

- 20/01452/HHA: Two storey side and rear extension to chalet bungalow, two dormer windows to the front elevation, a front porch and fenestration alterations.  
– Application Refused
- 21/00065/HHA: Single storey rear and two storey side extension incorporating rear dormer, add two front dormers with new front porch and fenestration alterations. – Application Refused
- 21/01870/HHA: Demolition of existing single storey rear extension and construction of a side/rear flat roof extension, a hip to gable roof alteration with

front and rear dormer window to include x1 roof light to front elevation. -  
Application Permitted

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

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

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

This application has been advertised by way of neighbour notification. At the time of writing this report, no neighbour representation has been received for this application.

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

- **Highway Authority-**

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

The proposal includes a replacement dwelling. The existing vehicle accesses will be utilised and adequate room for two off-street parking spaces is retained within the curtilage, therefore:

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

- **Environmental Health & Enforcement Manager-**

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

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.

No bonfires should be permitted during construction.

Any asbestos containing materials within the existing buildings should be removed by an appropriately licensed contractor before demolition commences.

## **6. Summary of Issues**

The starting point for determining a planning application is the Development Plan, in this case the Brentwood Local Plan 2016-2033. Planning legislation states that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant material considerations for determining this application include the NPPF and NPPG. Although individual policies in the Local Plan should not be read in isolation, the plan contains policies of particular relevance to this proposal which are listed in section 2 above.

The principle of the layout and form of the proposed building has previously been considered to be satisfactory following the grant of permission under reference 21/01870/HHA. There are no material differences between that scheme and the one proposed here; demolition of the existing dwellinghouse has already taken place. When considering the merits of the proposals under the householder extension scheme, the following assessment was made in respect of design and neighbour amenity (parking was also considered to be acceptable):

### Design:

*In terms of design, concern has previously been raised in respect of the extension of a first floor element outside the existing footprint of the building i.e., towards the side of the building and the reduction in spatial quality along this edge through the additional scale and size of the enlargement. The proposal has been amended to exclude the first floor side addition which is now replaced with a wraparound (mostly) flatted roof. Only one dormer window is proposed on the principal roofscape and the rear dormer window has been offset from both side walls following amendments during the life of the application.*

*Whilst the area is generally characterised by hipped roofs, the presence of a flatted roof profile at ground floor is considered to limit the bulk along this corner plot and retain a spatial quality around the site. **The design is considered to be acceptable and is not considered to result in adverse harm to the character and appearance of the area.***

### Neighbour Amenity:

*An Officer site visit has been undertaken at the neighbouring dwelling, No.72 at their request. Whilst the concerns of the neighbouring dwellinghouse occupiers have been taken into consideration, the enlargement at ground floor to the rear*

*would be of a (mostly) flat roof, offset from the boundary and project approximately 3m beyond the rear wall of the neighbour consistent with the limits afforded to homeowners under permitted development i.e., where a ground floor rear/side extension could be constructed in the absence of planning permission.*

*Notwithstanding, the neighbour has previously benefitted from a rear conservatory and consequently, **it is considered that, as a result of the height, size, design and position of the extensions, the development would not cause a material impact to the amenity of the occupiers of any neighbouring property by reason of dominance, loss of sunlight, loss of daylight, loss of privacy or loss of outlook.***

The situation here is that there has been a substantial amount of demolition of previous parts of the building which has necessitated in the need for a new application to be submitted for the creation of a new dwellinghouse. It is not possible for the applicant to implement the previously approved permission in these circumstances, therefore there is no fallback position under permitted development referenced to above, but in any event, the proposed development was then, and is now, considered to be acceptable.

A revised drawing (02 rev D) has been submitted during the lifetime of the application to ensure consistency with the previously approved development (i.e., amending the width of the rear dormer window to ensure it is set in from the flank wall).

The referral reason alludes to the height of the building, but there is no ridge height increase proposed and thus whilst there is an elongation of the building's form (gable end), this is consistent with extensions and alterations within the immediate vicinity. As such, the resulting building is considered acceptable in terms of design and the effect on the living conditions of adjoining and other nearby occupiers.

Nevertheless, it is recommended that a condition is attached to any permission removing some 'permitted development' rights automatically conferred to new dwellings, which will provide the Council with opportunity to manage future development that may result in harm to neighbours living conditions.

### **Other Matters**

The Brentwood Local Plan has been adopted since the previous approval, which is a material consideration in the determination of this planning application. To ensure compliance with the new planning policies for the creation of a new dwellinghouse, conditions are recommended to comply with the new policies within the development plan.

The Environmental Health department have recommended conditions, but the nature of the development scheme is not considered to necessitate those suggested. An informative is brought to the applicant's attention.

The Highway Authority have recommended conditions, but the nature of the development scheme is not considered to necessitate those suggested. No vehicular crossover or alterations are proposed (per the form) and the gardens which are adjunct to the Highway are logical areas for building materials to be stored.

## **Conclusion**

The proposed development, for the reasoning outlined above, is considered to be compliant with policies BE02, BE04, BE05, BE07, BE11, BE12, BE13, BE14, HP06, NE01, NE09 of the BLP and the aims and objectives of the NPPF and NDG. Therefore, the proposed development is recommended for approval.

## **7. Recommendation**

The Application be APPROVED subject to the following conditions:-

1 DRA01A Development in accordance with drawings  
The development hereby permitted shall not be carried out except in complete accordance with the approved documents listed above and specifications.

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

2 All new external work and finishes and work of making good shall match existing original work adjacent in respect of materials used, detailed execution and finished appearance except where indicated otherwise on the approved drawings.

Reasons: In order to safeguard the character, appearance and visual amenity of this area and for the avoidance of doubt.

3 The flat-roof of the single-storey elements hereby permitted shall in no way be used as a balcony or raised platform accessed from any fenestration opening of the dwelling.

Reason: To prevent undue overlooking of neighbouring windows and private amenity areas and to safeguard the character and appearance of the area.

4 The proposed building shall not be occupied until details of:

- measures to ensure that the building does not exceed 110 litres per person per day;

- measures to provide wastewater infrastructure capacity;
- measures to achieve lower water consumption rates and to maximise futureproofing;
- measures to demonstrate the development would not have an adverse impact upon the sewerage network; and
- measures to improve water quality and protect the quality and functioning of existing water courses/groundwater.

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

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

5 The proposed residential dwelling shall not be occupied until details and specifications of waste and refuse storage facilities serving the building have been submitted to and approved in writing by the local planning authority. These facilities shall be well integrated into the development ensuring they are of an appropriate scale, secure and appropriately ventilated whilst avoiding 'bin blight'. Development shall be carried out in strict accordance with the approved details.

Reason: in order to provide appropriate facilities in association with the residential use of the building(s) and in order to safeguard the character and appearance of the area.

6 Prior to first residential occupation of the dwelling, a report and accompanying scaled drawing shall detail where the space and infrastructure for electric vehicle charging/plug-in points is to be provided for the future occupants of the dwelling. The documents shall detail the type, design, scale, location and include manufacturers information as a minimum and shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the charging points shall be fully operational prior to first occupation. The starting point for determining the number of charging/plug-in points to be operational at the point of occupation shall be the approved Document S of the Building Regulations unless otherwise agreed in writing by the local planning authority.

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

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

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

8 Prior to any development above slab level of the proposed building, a report, showing the sustainable drainage features that have been incorporated into the development, shall be submitted to and approved in writing by the local planning authority. The sustainable drainage features shall be fully installed in accordance with the approved details prior to first occupation.

Note: Householder/Minor developments are expected to incorporate private features which can include, but not limited to, water-butts, cisterns, water-barrels, permeable paving, rainwater harvesting systems and rainsave planters. These facilities shall be proportionate to the quantum of development and be well integrated into the development ensuring they are of an appropriate scale and location.

Reason: the site is located within a critical drainage area as identified within the policies map and individual measures are required to mitigate flood risks in accordance with policies BE05, BE14 and NE09 of the Brentwood Local Plan.

9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), no development falling within Schedule 2, Part 1, Class A of that Order shall be carried out without the prior grant of specific planning permission by the local planning authority.

Reasons: In order to safeguard the character and appearance of the area and in order to provide the LPA an opportunity to manage further work that would impact on the living conditions of the nearby occupiers.

#### Informative(s)

1 INF01

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

2 INF04

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

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

4 INF15



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

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The Development Management Team can be contacted by the applicant and their team by email: [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

The developer is reminded that under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence. Therefore, the applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway.

#### 5 INF21

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### 6 INF29

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

#### 7 INF31

The developer is reminded of the provisions of the European Regulation: EN 13724 for Post Boxes, specifically that the midpoint of the main slot should be between 700mm and 1700 mm in height. Further information may be viewed at: <https://www.cwu.org/wp-content/uploads/2018/02/European-Regulation-EN13724-for-Post-Boxes.pdf>

#### 8 INF32

When carrying out building work, you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction which shall be complied with. Notwithstanding, the developer is reminded to ensure compliance with the requirements of the Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior

permission is sought where it is required, the Authority may serve a notice on the site/works setting out conditions of permitted work under section 60 of the Act. British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory Order as the accepted guidance for noise control during construction work. An action in statutory nuisance can be brought by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.

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

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

#### *BACKGROUND DOCUMENTS*

#### **DECIDED:**