

**SITE PLAN ATTACHED**

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

**REMOVAL OF CONDITION 4 (PERMITTED DEVELOPMENT RIGHTS FOR EXTENSIONS TO THE DWELLINGHOUSE) OF APPLICATION 01/00561/FUL(CHANGE OF USE TO A DWELLING FOR OCCUPATION BY EQUESTRIAN WORKER)**

**APPLICATION NO: 23/00207/FUL**

<b>WARD</b>	Pilgrims Hatch	<b>8/13 WEEK DATE</b>	17 April 2023
<b>PARISH</b>		<b>Ext. Of Time</b>	TBC
<b>CASE OFFICER</b>	Brooke Pride		
<b>Drawing no(s) relevant to this decision:</b>	AHUB2202001-2; Site Plan; Block Plan; Planning Statement;		

**The application has been referred to the Committee by Councillor Vicky Davies for the following reasons: condition 4 is very restrictive in that it doesn't allow any extensions or any alterations to the external appearance of the host dwelling. The condition is considered unreasonable and fails the test of a condition as set out in the framework and guidance.**

### **1. Proposals**

The application is made under S73 of the Town and Country Planning Act which allows the Local Planning Authority to vary or remove a planning condition on an existing planning permission, in this case condition 4 attached to permission 01/00561/FUL Change of Use to a dwelling for occupation by equestrian worker approved by the Planning Committee on 15 August 2001. The condition required the following:

*Notwithstanding the Town and Country Planning (General Permitted Development Order 1995, or any subsequent re-enacting Order, no extensions whatsoever shall be erected to the building, nor shall any alterations to its external appearance be carried out.*

*Reason: To ensure long-term compliance with the Local Planning Authorities strict policies for control of development in the Metropolitan Green Belt.*

Planning permission has already been refused for the same proposal under Ref: 22/01592/FUL and removed from application 21/01519/FUL. If approved, then extensions and alterations as set out within the limitations of the General Permitted Development Order as amended can be carried out without the specific consent of the Local Planning Authority.

## **2. Policy Context**

National Planning Policy and Guidance

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- National Design Guide (NDG)

Development Plan, Policies and Supplementary Planning Documents

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

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. The following policies are most relevant to this application:

BE14 – Creating Successful Places

MG02 – Green Belt

## **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
- 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
- 21/01557/FUL: Proposed relocation of storage building – Application Refused
- 21/01554/FUL: Alterations of Section 106 agreement attached to planning permission 01/00561/FUL. – 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
- 22/00559/FUL: Construction of four detached dwellings – Application Permitted
- 22/01592/FUL: Removal of Condition 4 (Permitted Development Rights for extensions to the dwellinghouse) of application 01/00561/FUL (Change of Use to a dwelling for occupation by equestrian worker). – Application Refused
- 22/01568/FUL: Removal of conditions; 5(No walls or fences under permitted development), 7(No security alarms or external lighting), 8(No outbuildings under permitted development) and 9(No extensions to the dwellinghouses under permitted development) of application 22/00559/FUL (Construction of four detached dwellings). – Current Application
- 23/00691/FUL: Variation of condition 2 (approved drawings) of application 22/00559/FUL (Construction of four detached dwellings) for plot 1 so that it can be repositioned within the plot and provide an extension to the rear. – Current Application

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

None.

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

None.

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

The nature of the application allows the LPA to approve, refuse or amend condition(s). On such an application the local planning authority shall consider only the question of the condition(s) subject to which planning permission should be granted, and if they decide that planning permission should be granted subject to a condition(s) differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. If they decide that planning permission should not be granted subject to the same condition as those subject to which the previous permission was granted, they shall refuse the application.

The current application is the second submission to remove condition 4 from planning permission 01/00561/FUL. This was refused by the Council on 20 January 2023 for the following reason:

*Condition 4 remains relevant as part of a suite of conditions to prevent inappropriate development within the Green Belt. The condition is reasonable, necessary and precise and removal may lead to disproportionate extensions to the existing dwelling in conflict*

*with local and national policies of restraint resulting in inappropriate development within the Green Belt and harm to the openness of the Green Belt, in conflict with Brentwood Local Plan MG02 and the policies of constraint contained within the National Planning Policy Framework.*

## Background

The justification for the original condition was that the re-use of the building as a dwelling was not inappropriate provided that no further extensions or alterations be made without the express planning permission of the Council. This would allow further development to be managed in a way that would comply with policies of restraint that apply in the Green Belt.

The requirement that restricted occupancy to the dwelling to that of a worker tied to the equestrian business has been removed and the curtilage amended(ref 21/01519/FUL).

Planning permission has recently been granted for the redevelopment of the site to provide four dwellings in replacement of existing structures (ref 22/00559/FUL). In granting permission for the four dwellings, the Committee imposed conditions restricting permitted development extensions to the new houses.

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 type of application are the National Planning Policy Framework (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 discussed below.

## **Green Belt**

The site is located within the Metropolitan Green Belt which washes over the locality. This is shown on the map that accompanies the local plan. 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.

Policy MG02 relates to development in the greenbelt and is therefore relevant to the proposal. In summary it indicates that national policy in the National Planning Policy (NPPF), relating to green belt, will be applied in the borough.

It is therefore necessary to consider whether the condition continues to serve the purpose for which it was intended, the long term preservation of the openness of the green belt, whether it should be amended or whether it should be removed. Permitted development rights are conferred by law. The government has made it clear that whilst councils can withdraw such rights, this should only happen exceptionally and where it is necessary. Blanket withdrawals of permitted development rights will rarely be necessary or reasonable and this applies equally within the Green Belt.

However, each decision on such matters is fact, dependent, in particular as regards the development concerned, the original building and its reuse. In this instance, it is not a new building, but was approved contrary to green belt policy and mitigated by the addition of conditions, i.e. limit the occupancy and removal of permitted development. The occupancy condition has since been deleted.

Since the original permission, a further material consideration is the approval of planning permission 22/00559/FUL. Drawing no. AHUB2202001-12 shows the approved layout.

That permission has new houses plotted on either side of the application house. If the application were to be approved without amendment, not only could additional development be added which would extend built form into the green belt, it would provide opportunity for unneighbourly development that could directly adversely affect the future living conditions of those occupiers.

This would conflict with adopted local plan policy MG02 and the NPPF which seeks to ensure that extensions to building should not result in disproportionate additions and should not harm the openness of the Green Belt.

For these reasons, the condition is reasonable and necessary for the continued protection of the Green Belt.

The condition in question does not prevent all future extensions or additions to the dwelling but allows the Council to manage the impact on the openness of the Green Belt.

The condition is considered still necessary, reasonable and precise; and without would lead to substantial extensions and roof alterations which if built to the maximum allowed under permitted development would result in disproportionate additions and inappropriate development and impact upon the openness of the Green Belt.

## **7. Recommendation**

### **REFUSAL:**

1

Condition 4 remains relevant to prevent disproportionate additions to the existing dwelling in conflict with local and national policies of restraint resulting in inappropriate development within the Green Belt and harm to the openness of the Green Belt, in conflict with Brentwood Local Plan MG02 and the policies of constraint contained within the National Planning Policy Framework.

### **Informative(s)**

1 INF20 Drawing Numbers (Refusal)

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: BE14, MG02; 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 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**

*All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:*

<https://www.brentwood.gov.uk/-/applicationsviewcommentandtrack>