

SITE PLAN ATTACHED

LEGH COTTAGE HORSEMAN SIDE NAVESTOCK ROMFORD ESSEX RM4 1DN

DEMOLITION OF EXISTING BUILDING. CONSTRUCTION OF TWO DETACHED DWELLINGS WITH ASSOCIATED PARKING AND AMENITY AREAS.

APPLICATION NO: 23/00480/FUL

WARD	Brizes & Doddinghurst	8/13 WEEK DATE	14 June 2023
PARISH	Navestock	Ext of time	tbc
CASE OFFICER	Ms Brooke Pride		
Drawing no(s) relevant to this decision:	881-01; 881-02; 881-03; 881-04; 881-05; 881-09; PLANNING STATEMENT;		

This application has been referred to committee following a request from Navestock Parish Council. When submitting its request, the Parish Council said the following:

- The design of the dwellings are sympathetic to the rural setting.
- The proposed dwellings are not inappropriate development in this area of the Parish where the property in question is nestled in between 5 traveller sites.
- These 2 well designed dwellings will not impact on the openness of the greenbelt, but in fact will enhance an area where greenbelt policies and its openness have been ignored by those who have purchased the surrounding land.
- Its position offers accessibility to nearby amenities by car.

1. Proposals

Planning permission is sought for the demolition of a single storey storage building and construction of two detached, two storey dwellinghouses, with associated parking and gardens.

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 At the same time the Brentwood Replacement Local Plan, August 2005 (saved policies, August 2008) was revoked.

- Policy MG02 Green Belt
- Policy MG03 Settlement Hierarchy
- 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 Vehicle
- Policy BE12 Mitigating the transport impacts of a proposal
- Policy BE13 Parking Standards
- Policy BE14 Creating Successful Places
- Policy HP06 Standards for New Housing

National Planning Policy and Guidance

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

3. Relevant History

- 20/01182/S191: Application form for a Lawful Development Certificate for an existing use or operation or activity including those in breach of a planning condition for the use of a storage building and workshop for domestic purposes. – Not Lawful/Appeal Allowed -
- 20/00283/S191: Application form for a Lawful Development Certificate for an existing use or operation or activity including those in breach of a planning condition for the use of a storage building for domestic purposes. – Not Lawful
- 21/00359/FUL: Siting of mobile home for period of three years (retrospective) – Refused
- 23/00980/PNCOU – Prior Notification Class Q for the conversion of existing agricultural storage building to one dwellinghouse – Refused on the basis that the building concerned was not used as an agricultural unit on 20th March 2013 – Appeal in progress

4. Neighbour 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/>

Six neighbouring properties were notified. No comments received

5. Consultation Responses

- **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 principal use of the highway as a right of free and safe passage of all highway users. The proposal will result in intensification of an unsuitable vehicle access and the access is not provided with the required vehicular visibility splays 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. The applicant has failed to demonstrate that an appropriate visibility splay in accordance with the current standards could be achieved at the proposed vehicular access. The proposal would therefore lead to a substandard access onto Horseman Side resulting in an unacceptable degree of hazard to all road users to the detriment of highway safety.
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 policy DM1 and DM3 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Notes:

The site currently features an existing dwelling and barn for personal use and two existing vehicle accesses. The proposal includes the subdivision of the site, removal of the barn, and creation of two additional 4-bed dwellings. Off-street parking spaces and a shared turning area are included for the two dwellings.

The western access is to be utilised but would now serve two additional individual dwellings, which constitutes an intensification in use of the access which currently has limited visibility.

Access:

Horseman Side is classified as a Secondary Distributor Road in Essex County Council's Development Management Route Hierarchy. The function of such a route is to carry traffic safely and efficiently between substantial rural populations and on through built-up areas. The Highway Authority will protect the function of Secondary Distributors by, amongst others:

- v. Requiring improvements to existing substandard accesses.

Any new or intensified vehicular access on any road is required to demonstrate that visibility splays can be provided in accordance with the appropriate highway standards. The proposed vehicle access to the development site is located on Horseman Side where the speed limit is 60mph. In this instance the visibility splays must comply with the Design Manual for Roads and Bridges (DMRB) which means 215 metres in each direction, as measured from and along the nearside carriageway, from a setback of 2.4m from the carriageway edge.

The visibility splays for the vehicular access must be clear to ground and are only acceptable where they pass over land in the applicant's control and / or over highway land. The applicant has not provided evidence that this is achievable.

The applicant can seek a highway boundary plan 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 / or email highway.status@essexhighways.org who will be able to provide details.

The Highway Authority may be able to consider a revised proposal with reduced visibility splays should the applicant be able to provide evidence that observed 85th percentile speeds are lower than the advertised speed limit. This would need to include the following:

i i. Details of the access, complete with the provision of a Transport Statement to include a speed survey according to DMRB's 'CA 185 Vehicle Speed Measurement' document.

(A suitably qualified service provider with properly calibrated vehicle speed measuring equipment must carry out the survey.)

i ii. A plan showing appropriate visibility splays and the speed measurement location point must be appended to the speed survey results.

The outcome of the survey would determine the exact visibility splays required for the measured vehicle speeds.

- **Environmental Health & Enforcement Manager -**

Noise and Dust considerations:

A suitable Construction Environmental Management Plan will need to be drafted, submitted and agreed by the local Planning Authority. This plan must take into account (amongst other environmental matters) controls relating to dust suppression, noise and potential contaminated land issues.

Matters to be taken into consideration should include:

- o Provisions made for the control of construction, demolition and vehicle noise emanating from the site. These provisions could include physical and/or administrative measures.
- o Control of dust from construction and demolition activities.
- o To reduce disturbance to nearby properties, Environmental Health would recommend restricting construction and demolition 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 considerations:

A condition should also be imposed that requires the developer to draw to the attention of the planning authority the presence of significant unsuspected contamination encountered during redevelopment.

Should contamination be found that was not previously identified during any stage of the application hereby approved or not considered that contamination shall be made safe and reported immediately to the local planning authority. The site shall be assessed and a remediation scheme shall be submitted for approval by the Local Planning Authority. Such agreed measures shall be implemented and completed to the satisfaction of the Local Planning Authority prior to the commencement of any development of the site.

- **Parish Council-**

Navestock Parish Council supports the above application for two detached dwellings with associated parking and amenity areas.

The design of the dwellings is sympathetic to a rural setting and are not considered to be inappropriate development in this area of the Parish.

The small development will not impact on the openness of the Green Belt and its position offers accessibility to nearby amenities.

Therefore, Navestock Parish Council fully support this application.

6. Summary of Issues

The application site is in a rural area, on the southern side of Horseman Side. It is partly occupied by the main dwellinghouse 'Legh Cottage' and ancillary buildings within its residential curtilage of Legh Cottage. These would remain. The site includes a storage building and an area of grassland within the applicant's ownership, but outside of what is considered to be the residential curtilage - as confirmed within the Planning Inspectors report of an appeal against the refusal of a Certificate of Lawfulness (reference 20/01182/S191 & APP/H1515/X/21/3277546). The application red line on the location plan contains a total area of approximately 1.5 hectares.

Regarding the above appeal, it established the lawfulness of the building now proposed to be replaced, which was erected without the necessary planning permission. The appeal was allowed because the Inspector considered that the building had been in situ for more than 4 years and therefore was immune from Enforcement action. That is the sole issue for lawful development certificates relating to existing developments. Therefore, the building does not benefit from planning permission but is 'lawful'.

The existing building is an L shaped unit single storey building of an industrial appearance. As such, the Council accepts that part of the site is considered to constitute previously developed land (PDL). However, it should be noted that the wider area labelled 'playing field' on the submitted site location plan 8814-01 is considered not to be previously developed land.

It is also noted that the submitted block plan 8814-02 incorrectly plots the existing building in its relationship to the main dwelling and conflicts with the position shown on drawing 8814-01.

The Development Plan

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 2 above.

Green Belt

Policy MG02 indicates that national policy relating to the green belt will be applied in the borough. Chapter 13 of the NPPF relates to the protection of Green Belt land. Paragraph 137 states that the Government attaches great importance to Green Belts and the protection of its essential characteristics – its openness and permanence.

Green Belt is a spatial designation not a qualitative one, therefore the requirement to protect openness applies just as much to attractive countryside as to less attractive areas of Green Belt. Paragraph 147 states that where development is considered to be inappropriate, this is by definition harmful to the Green Belt and should not be approved except in very special circumstances (VSC). However, VSC will not exist unless the potential harm is clearly outweighed by other considerations, and any other harm resulting from the proposal, is *clearly* outweighed by other considerations (*officers' emphasis*).

The NPPF stipulates that new buildings are inappropriate development in the Green Belt, unless one of a short list of quoted exceptions in paragraph 149. Of those listed, the most relevant to this proposal is 149(g) i.e:

“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 does not relate to limited infilling, nor is affordable housing provision proposed. Therefore, the second bullet point can be discounted.

It is considered that part of the site the site is previously developed land, and therefore para 149 (g) may be relevant, although it is not accepted that the entire site as depicted in drawing 8814-01 is previously developed land (PDL).

Green Belt Openness

Openness has a spatial and visual quality, normally considered to be the lack of buildings. Paragraph 149g (NPPF) quoted above implicitly requires a comparison between current and proposed developments. The applicant has quoted footprint, floorspace and volume. The submitted numerical data indicates that the volume and floor space of the proposed development would be less than the existing building. As stated in similar reports there is no statutory basis for relying on such figures, they are potentially misleading and are a poor proxy for judging openness. For example, it ignores the point that the proposed buildings are more than twice the height of the existing one.

Officers consistently advise that the appropriate method to assess a proposal in comparison with an existing development is a visual comparison of the massing/silhouette, spread and position of existing and proposed buildings. This approach follows that in the National Planning Practice Guidance (NPPG) which is based on case law.

No massing study or model has been provided to illustrate the comparison between the existing and proposed development. A visual overlay using the submitted (inaccurate) block plan indicates that the proposed development would extend to the west of site. Notwithstanding the gap between the buildings the overall spread of the buildings would be detrimental to the openness of the Green Belt. Importantly the existing building are

described by the applicant as having an eaves height of 2.3 metres and ridge height of 3.92m. The proposed dwellings would be two storey buildings and their dimensions scale from submitted plans at 8.5 metres ridge height and 5.0 eaves.

The proposal fails the test of Local Plan Policy MG02 and NPPF policy and would have a greater effect on openness. As such, it is inappropriate development in the Green Belt. In order to grant planning permission, very special circumstances would need to exist to clearly outweigh the other harm of the development.

Design, Character and Appearance

The two dwellings replicate each other, a two storey dwellinghouse with a central oak framed porch, with no details of materials, however these could be sought through planning condition.

The proposed development is of an urban form and appearance, with no reference to local farmstead and rural typologies, varied roof lines, and articulation within its form. The proposed development has not considered the local context of the site, the siting is derived from the existing dwellinghouse and urban in its form, with no architectural detailing or finesse, there is also a lack of reference to the rural character of the area. The appearance of the dwellings is of a generic farmhouse and residential estate typologies. However, the design is not offensive. However, in eroding the openness of the site it would detract from one of the characteristics of the locality which is openness and to that extent fail to comply with Policy BE14. While the Parish Council's justification for the application to be determined by committee implies a criticism of other developments in the locality, it would not be correct to conclude that the area has lost its openness and as indicated above the proposed development in comparison to the existing development would further detract from it.

Impact upon Neighbour Amenity

The proposed dwellinghouses' location and relationship with the existing development 'Legh Cottage' is not considered to give rise to overlooking or loss of privacy. The dwellings are well distanced and set away from existing residential development on the site and would not result in an overbearing impact. The dwellings include no first floor side facing windows and the proposal would not lead to a material noise or general disturbance effect detrimental to the amenities of neighbours.

Living Conditions

The proposed buildings are to comply with the nationally described space standard (2015). Bedrooms would be provided with adequate floor areas, ventilation, light and outlook. There is no inter-looking between the two plots and proposed boundary treatments will provide each dwelling with a private amenity space unoverlooked.

In terms of amenity areas, the Essex Design Guide (EDG) advises that suitable space are required to be private for the purposes of domestic activities. Here, the proposal would provide adequate areas for such purposes for each dwellinghouse.

Sustainability Considerations

The proposal includes solar panels within the rear slopes of the roof space and very limited information is provided in the design and access statement on how the proposed buildings have a sustainable approach, however it is considered that the aims of the Councils sustainability policies could be sought through condition and therefore the scheme is considered to be compliant with policies BE02, BE04 and BE07 of the BLP.

Trees and Landscaping

The development area is open land with no nearby mature or protected trees. The proposal does include additional planting and boundary treatments which details can be sought through condition.

Parking and Highway Considerations

Horseman Side is classified as a Secondary Distributor Road in Essex County Council's Development Management Route Hierarchy. The function of such a route is to carry traffic safely and efficiently between substantial rural populations and on through built-up areas. The Highway Authority requires improvements to any existing substandard accesses which development is proposed to use or alter. The access is required to demonstrate that visibility splays can be provided in accordance with the appropriate highway standards. The existing access is located on Horseman Side a 60 mph road and the visibility required from the access is 215 metres in each direction which is measured from a setback of 2.4 metres from the carriageway edge.

The visibility splays for the vehicular access must be clear to ground and are only acceptable where they pass over land in the applicant's control and / or over highway land. The highway authority has assessed the splays from the existing access and the required splays cannot be achieved.

The proposed development results in an intensification of the use of the existing access which has limited visibility and would therefore lead to a substandard access onto Horseman Side resulting in an unacceptable degree of hazard to all road users to the detriment of highway safety; in conflict with local policy BE12.

Policy BE11 requires the provision of, as a minimum, the space and infrastructure for electric vehicle charging / plug-in points for occupants and visitors to the application site in order to reduce pollution and climate change impacts. This is a key requirement for a large-scale transition to electromobility envisioned within the plan. A condition to this effect could be imposed.

Other Matters

No neighbour objections were received for this application, and supporting comments received from the Parish Council, however the development as assessed within the report would result in inappropriate development in the Green Belt.

Green Belt Balance

The applicant while noting that the previous local plan was revoked in March 2022 has nevertheless quoted its policies.

Very special circumstances need to clearly outweigh the harm to the Green Belt by reason of inappropriateness (para 148, NPPF). This is a much higher threshold than an 'on balance' judgement. Within the design and access statement point 4.5 states that a very special circumstance exists because the proposal would have limited material visual impact upon the surrounding area and the development will result in a considerable reduction in volume, floor space, height and visual impact.

The applicant claims very special circumstances thereby accepting that the proposed is inappropriate development. If that were not the case, there would be no need to consider very special circumstances. As the decision maker, the Council, needs to decide whether the matters put forward by the applicant are individually or collectively clearly outweigh the harm to the green belt and all other harm and if it does not reach that threshold are not considered 'very special circumstances'.

The applicant has not really addressed this issue, though has commented that "the proposal would result in a considerable reduction in volume, floorspace, height and visual impact in the green belt". Some matters in this list are self evidently not true – for example relating to height – and others are addressed above. It is claimed that "the current proposals would have a limited material visual impact on the surroundings", though not explained how this is the case given the greater spread and height of the proposed buildings. Further it is claimed "A very special circumstance therefore exists in this instance that would outweigh the harm by inappropriateness" and "The principle of development in this case is therefore acceptable.", both without further explanation. With regard to Sustainability the applicant says "The houses would incorporate a number of carbon neutral features" but without explanation.

Officers consider that very special circumstances do not exist to clearly outweigh the identified harm.

Conclusion

The proposed development, for the reasoning outlined above, is considered to be contrary to policies MG02 and BE14 of the BLP and the aims and objectives of the NPPF. Consequently, the proposed development is recommended for refusal.

6.0 RECOMMENDATION

The Application be REFUSED for the following reasons:-

1 Inappropriate development within the Green Belt

The proposed development by virtue of the spread and volume of built form would amount to inappropriate development within the Green Belt and constitute urban sprawl therefore failing to safeguard the countryside from encroachment. The proposed development would have a greater impact upon Green Belt openness than the existing development and is contrary to policy MG02 of the Brentwood Local Plan and the aims and objectives of the National Planning Policy Framework. There are no very special circumstances identified that clearly outweigh the harm to the openness or character of the Green Belt and all other harm which would arise from this development.

2 Highway dangers

The proposed vehicular access is not provided with the required vehicular visibility splays and would therefore lead to a substandard access onto Horseman Side resulting in an unacceptable degree of hazard to all road users to the detriment of highway safety; in conflict with local policy BE12.

Informative(s)

1 Relevant policies

The following development plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: BE02, BE04, BE07, BE11, BE13, BE14, HP06, MG02, MG03 National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

2 INF20 Drawing Numbers (Refusal)

The drawing numbers listed above are relevant to this decision

3 INF24 Refused With Way Forward

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>

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>