

**SITE PLAN ATTACHED**

**07. CARLYNNE CHILDERDITCH LANE LITTLE WARLEY ESSEX CM13 3EE**

**DEMOLITION OF EXISTING DWELLING AND EXISTING CAR PORT AND THE  
ERECTION OF A REPLACEMENT DWELLING AND CAR PORT**

**APPLICATION NO: 14/00718/FUL**

<b>WARD</b>	Warley	<b>8/13 WEEK DATE</b>	20.08.2014
<b>PARISH</b>		<b>POLICIES</b>	NPPF NPPG CP1 GB1 GB2 GB6 T2 C8 C5
<b>CASE OFFICER</b>	Mr Martyn Earl		01277 312588
<b>Drawing no(s) relevant to this decision:</b>	7835 100 00; 7835 300 01; 7835 200 00; 7835 201 00; 7835 402 02; 7835 403 03; 7835 401 02; 7835 400 03; 7835 404 02; 7835 401 03 Including basement;		

This application was referred by Cllr Tee from Weekly Report No 1656 for consideration by the Committee. The reason(s) are as follows:

1. On the Green belt issue I believe that the new build is not harmful to the openness and the character, design and appearance is an improvement on the existing 1930s suburban looking house.
2. This site already has consent to replace the existing house with a HUF House but the exchange rate of the Euro has made that development too expensive. This application is a first choice the second choice being permitted development which is larger and out of character in this rural scene.
3. The applicant has demonstrated that the new build will be better insulated, green, efficient and sustainable.

**Update since publication of Weekly List 1656**

**None**

## 1. Proposals

Proposed demolition of existing dwelling and detached car port and erection of a replacement dwelling with three bedrooms and attached garage, and car port. The proposed dwelling would also have a basement area.

The proposed dwelling would have a footprint of around 10.55m x 12m (excluding attached garage) and a height of 8.65m. The main two storey element of the building would be two storey in height with flat roofed single storey elements attached.

The detached car port would measure 6.35m x 7.25m and 4.35m in height with a pitched roof.

The materials to be used to construct the external surfaces of the buildings would consist of render and timber cladding for the walls.

A new vehicular access would be created adjacent to and to replace that which exists which would require the removal of planting along the roadside boundary of the site for a length of around 3m.

The proposed dwelling and car port would be in the same position as the existing dwelling and car port. The proposed dwelling would be of modern design with low energy consumption. A patio would wrap-around the new dwelling to the rear and side. There is reference to a retaining wall in the immediate vicinity of the proposed dwelling around the majority of the dwelling.

The application has been accompanied by a Planning Statement in which reference is made to the Certificate of Lawfulness which exists for extensions to the property (reference 13/00687/S192) which, if constructed, would increase the floor area of the existing dwelling to 238sq.m. It is stated that the permitted scheme 'offers few benefits, only that it provides much needed additional floorspace'. The agent also suggests that the existing dwelling lacks any architectural interest or features, and that the proposed extensions are unsympathetic to the surrounding area. The proposed replacement dwelling would have a total floor area of 204sqm.

The agent considers that the proposal is sustainable development in accordance with the NPPF and that, whilst the proposal does not accord with the Council's policies, there are very special circumstances to overcome those issues.

With reference to the NPPF's requirement for Councils to meet the full and objectively assessed needs for market and affordable housing, it is suggested that the Council's Green Belt policies and the Green Belt boundary is out-of-date and inconsistent with NPPF guidance. The agent considers that the proposal accords with the NPPF and so there is a presumption in favour of the grant of planning permission.

Reference is also made to the NPPF in terms of design (section 7) and it is stated that the proposed design is described as innovative and exemplary.

The agent does not consider that the proposal is inappropriate development in the Green Belt but a number of matters are referred to in support of the proposal in case the Council disagrees:-

1. the 'fallback' position is for extensions which would not be integrated with the existing dwelling particularly given the roof design of the extensions - the proposed dwelling would be a significant improvement
2. the replacement dwelling will emit up to 5.5 times less carbon dioxide than a conventional build during the construction process alone. The new dwelling would include an airtight envelope, would be constructed almost entirely of wood and is likely to include under-floor heating, rainwater and grey water recycling and photovoltaic panels. The applicant wishes to use a German company, Meisterstuck Haus, who build airtight homes that require very little energy to heat and cool them.
3. the applicant will almost undoubtedly be constructed if their current scheme is unsuccessful due to the need for maximum additional floorspace - they have submitted previous applications to extend their property which proves there is a need.

## **2. Policy Context**

### National Planning Policy

National Policy for Green Belts is within Chapter 9 of the NPPF. Paragraph 88 stipulates that 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, is clearly outweighed by other considerations.

In paragraph 89 of the NPPF it advises that new buildings in the Green Belt are inappropriate development unless they replace an existing building and the new building is in the same use and not materially larger than the one it replaces.

The National Planning Practice Guidance (NPPG) is a material consideration in the determination of this application.

### Local Plan Policies

GB1 (New development) refers to the need for very special circumstances to justify proposals which are inappropriate in the Green Belt.

GB2 (Development Criteria) refers to the need to proposals not to harm the openness of the Green Belt or conflict with the purposes of including land in the Green Belt . The Policy also requires account to be taken to public rights of way, existing landscape features and the location of any building in respect of the surrounding landscape and adjoining buildings.

Policy GB6 states that the replacement of permanently occupied dwellings in the Green Belt will only be allowed subject to certain criteria being met.

-where the existing dwelling has been extended by less than 37sq.m, the floor area of the replacement dwelling will be no larger than 37sqm above the original habitable floor space.

-the visual mass of the replacement dwelling should be no greater than that of the existing dwelling. Where the existing dwelling is a bungalow it should be replaced with a bungalow

-any replacement dwelling will be expected to be located in the position of the existing dwelling except where the Local Planning Authority consider and an alternative siting to be more appropriate.

-applications will also be considered against the criteria set out in Policy GB2

CP1 (General Development Criteria) Requires development to satisfy a range of criteria covering the following considerations: Character and appearance of the area; Residential amenities; Access; Highway safety; Environmental protection; and the Natural and Historic Environment.

T2 (New Development and Highway Considerations): requires an assessment of the impact of the proposal on the transport system and that a proposal complies with current Country Highway Authority guidance.

### **3. Relevant History**

- 90/00949/FUL: Two Storey Extension At Rear And Alterations To Roof  
-Application Permitted
- 05/01043/FUL: Demolition Of Existing Porch And Erection Of Replacement Porch At The Front, Single Storey Extensions At The Side, Alterations To The Fenestration And Roof Incorporating Two Dormer Windows Together With Detached Double Garage At The Side -Application Permitted
- 07/00520/FUL: Demolition Of Existing Dwelling And Erection Of 3 Bedroom Two Storey Dwellinghouse Incorporating Basement Accommodation -Application Refused
- 07/01031/FUL: Demolition Of Existing Dwelling And Erection Of 4-Bedroom Two Storey Dwellinghouse Incorporating Basement Accommodation -Application Permitted

- 10/00023/EXT: Extension Of Time Application For Planning Application Brw/1031/2007 Approved On 10th December 2007 - Demolition Of Existing Dwelling And Erection Of 4-Bedroom Two Storey Dwellinghouse Incorporating Basement Accommodation. -Application Permitted
- 13/00687/S192: Two storey rear extension, single storey side extension and two storey front extension. -Application Permitted
- 14/00251/FUL: Demolition of existing dwelling and existing car port and the erection of a replacement dwelling and car port. -Application Refused

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

A site notice was displayed at the site but no letters of notification were sent out as the site has no immediate neighbours. No letters of representation have been received.

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

- **Highway Authority:**

The Highway Authority would not wish to raise an objection to the above application, subject to the following conditions being attached to any approval, given the previous approval, the existing dwelling and its vehicle access and the area to be available for parking within the site, will comply with Brentwood Borough Council's adopted parking standards, for the proposed dwelling.

1. No unbound material shall be used in the surface treatment of the proposed parking area within 6 metres of the highway boundary. Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety.

2. The relocated vehicle access shall be constructed at right angles to the carriageway in Childerditch Lane in accordance with the submitted drawings and the terms, conditions and specification of the Highway Authority, Essex County Council. Reason: To ensure that vehicles can leave the highway in a controlled manner in the interest of highway safety.

3. The development shall not be occupied until the site's redundant vehicle access has been permanently closed in accordance with the terms, conditions and specification of the Highway Authority, Essex County Council. Reason: To ensure the appropriate removal of the access in the interests of highway safety.

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

Background

The previous application was refused on the following grounds

The proposed replacement dwelling would be materially larger than the one it would replace and, therefore, be inappropriate development in the Green Belt. As a result of

the size and bulk of the proposed dwelling, the development would also reduce the openness of the Green Belt, conflict with the purposes of including the land within the Green Belt and harm the character and appearance of the area. The proposal would, therefore, be contrary to the NPPF (section 9) and Policies GB1, GB2 and GB6 of the Brentwood Replacement Local Plan.

None of the matters put forward on behalf of the applicant, either alone or in combination, would amount to very special circumstances which clearly outweigh the harm the development would cause by reason of inappropriateness, loss of openness and harm to the character and appearance of the area

The difference between this application and the last is that the overall floor area created would be smaller by 78sqm and there would not be windows added at basement level. The design of the current proposal when compared with the previous no longer includes a single-storey projection on the south-western elevation.

#### The application site

The application site is located within the Metropolitan Green Belt and within a Special Landscape Area on the western side of Childerditch Lane with no immediate neighbouring properties. There is a roadside hedge which adjoins the application site boundary and extends beyond the application site in both directions. The site accommodates a modest, two storey property. Ground levels vary across the site increasing gradually in south to north and west to east directions. The existing dwelling is of traditional design being of a regular footprint with pitched roofs, projecting bay windows and a chimney. The dwelling is roughly centrally located within the site with the vehicular access and car port located in the south-eastern corner of the site. The northern part of the site is used as a garden.

The main issues which require consideration as part of the determination of the application are the impact of the development on the Green Belt, its impact on the character and appearance of the area, which is part of a Special Landscape Area, and any impact on highway safety. Given the distance to the nearest neighbouring property, it is considered that the proposal would have no impact on the amenity of the occupiers of any other property.

Planning permission was granted for a replacement dwelling at the site (most recently under application reference 10/00023/EXT) but this planning permission has now lapsed.

#### Impact on the Green Belt

Policy GB6 of the Local Plan does not in its entirety comply with the National Planning Policy Framework as it restricts the floor area of replacement dwellings to be no larger than 37sqm above the original habitable floorspace. However, the same Policy does set out that the visual mass of any replacement should be no greater than that of the

existing. Paragraph 89 of the NPPF only considers the replacement of a building within the Green Belt to be appropriate development, provided the new building is in the same use and not materially larger than the one it replaces. As such this Policy is still considered to be relevant in the determination of this application.

The proposed dwelling would be similar to the existing dwelling in that it would be mainly two storey in height with a similar ridge height at 8.65m, and would be in the same position as the existing dwelling. However, the habitable floor space of the proposed dwelling would be around 204sq.m. compared to the habitable floorspace of the existing dwelling being 134sq.m. (which includes around 35sq.m. of habitable floorspace previously added). Unlike with the previous application 14/00251/FUL the basement level is not being included in the floor area calculations as it would be below the ground level and there are no windows that are proposed to serve it. This means it would not be considered habitable floor space and would be used as a cellar and utility room.

The proposed replacement dwelling would be within the same use as the existing dwelling but would be materially larger. As a result, it is considered that the proposed development would be inappropriate development in the Green Belt and cause substantial harm by reason of its inappropriateness, contrary to Policies GB1 and GB6. Given the increase in size and bulk of the dwelling, it is considered that the proposal would also cause harm through a reduction in the openness of the Green Belt and conflict with the purposes of including the land within the Green Belt, contrary to Policy GB2. However, it is considered that the other requirements of Policy GB2 would not be contravened by the proposal (the effect on public rights of way, the need to preserve or enhance existing landscape features (see below) and satisfactory location with respect to surrounding landscape and any adjoining buildings).

#### Character and Appearance

The proposed dwelling would be of a modern design, however, it would be generally two storey in height with a pitched roof and the external materials proposed would be satisfactory.

However, as a result of the increased scale, mass and bulk of the proposed dwelling compared to that which currently exists, it is considered that the proposal would cause some harm to the character and appearance of the area due to there being additional built form within a rural local, contrary to the NPPF (paragraph 17), NPPG and Policy CP1 (criterion i and iii).

With respect to the Special Landscape Area, as the dwelling proposed would replace one which exists in the same location, it is considered that the impact of the proposed development on the Special Landscape Area would not be significant, in compliance with Policy C8.

The proposal would require the removal of a section of roadside vegetation but it is considered that this would cause minimal harm as new planting could be required by condition to replace that lost, in compliance with Policy C5.

### Highway Safety

The Highways Officer has raised no objections to the proposal subject to the imposition of conditions. Based on this advice, it is considered that the proposal would not harm highway safety, in accordance with the NPPF, and Policies CP1 (criteria iv and v) and T2.

### The Green Belt Balance

As the development would be inappropriate development in the Green Belt, very special circumstances would need to exist which clearly outweigh the harm caused through inappropriateness and all other harm (in this case, a reduction in the openness of the Green Belt, conflicting with the purposes of including the land within the Green Belt and harm to the character and appearance of the area).

The property was previously extended in 1990 at two-storey to the rear, but no copy of the plans is available. On the drawings submitted with the planning application in 2005 it was outlined that the extension covered 35sqm over both floors. The proposed replacement dwelling would be 103% bigger than the original (as built). The original property was a modest detached two-storey dwelling and the proposed dwelling would be more than double the size. Therefore the proposed replacement dwelling is disproportionate to the original property and materially larger and as such conflicts with both national and local Green Belt Policies.

Reference has been made on behalf of the applicant to the 'fallback' position of the extensions to the existing building which could be carried out as permitted development.

The habitable floorspace of the existing dwelling is in the region of 134sq.m. (including existing extensions) and the height of the existing dwelling is a maximum of (approx.) 8.6m. It is the view of the agent the extensions the subject of the Certificate of Lawfulness (13/00687/S192), if constructed, would add in the region of 123sq.m. of additional habitable floorspace to the existing dwelling. The agent also states that the footprint of the proposed dwelling would be 48sq.m. greater than that which exists and 18sq.m. smaller than that which would exist if the permitted development rights confirmed under 13/00687/S192 are utilised.

It is considered that a convincing case has not been made that the applicant would carry-out these extensions if their current proposal did not gain planning permission. This is because the agent in their supporting statement sets out that the permitted development offers few benefits only providing much needed additional floor space. Although the works approved under the Certificate of Lawful development could be



considered a 'fall back' position, the likelihood of 13/00687/S192 being implemented would be questioned given that permission was granted under 07/01031/FUL some nine years ago for extensions to the property but which was never implemented. Furthermore, whilst not ideal, it is not considered that the appearance of the extended dwelling would be materially more harmful to the character or appearance of the local area than the replacement dwelling proposed and so this matter does not justify planning permission being granted for the replacement dwelling proposed.

The Council's approach in assessing planning applications within the Green Belt and the application of Policy GB6 of the Local Plan has been supported in a recent appeal decision at Belle Vue, Brook Lane, Doddinghurst 13/00588/FUL (APP/H515/A/13/2207427). This other application was for a replacement dwelling which was to be significantly larger than original. The inspector took the view that the development was to be significantly over the threshold set out in GB6 and as such judged to be "disproportionate as a consequence".

Officers are not convinced that the 'fallback' scheme granted under a Lawful Development Certificate would be implemented. This view is supported in a recent appeal at Belle Vue, Brook Lane, Doddinghurst 13/00588/FUL. In the appeal decision the inspectorate wrote:

"Reference is also made to the erection of a possible extension to the existing bungalow previously approved through a Certificate of Lawful Development. This could increase the dwelling to some 311 square metres. I accept that the scale of this possible extension is considerable, that the form of development shown in that approved scheme is not of a particularly high quality, and that it would not appear to make best use of the site for occupiers by re-positioning the dwelling as currently proposed. Nevertheless, on the basis of the limited evidence before me as to the final practicality of this scheme, I remain unconvinced that there is a significant probability that such an alternative scheme would be implemented under the terms of the Certificate should this appeal fail. This limits the weight to which I attach to this consideration as a fallback position"

The appeal decision at "Belle vue" has been made using the same National and Local Planning Policies as those current in place. There are a number of similarities between the two applications and the approach taken by Officers is the same as that taken by the Inspector. In both cases, what could be achieved under a Certificate of Lawful Development is not of a high quality and would not appear to make the best use of the site for the applicants. As was the case in the recent appeal, it has not been possible to demonstrate significant probability that such an alternative would be implemented and it should be noted that some seven years have passed since permission was given to rebuild the dwelling at Carlyne but this has never been implemented. The Inspector gave limited weight to the fall back position and the Officers have applied the same approach with regards to this application.

Very special circumstances

The submitted planning statement sets out how the NPPF has a presumption in favour of development and amongst others cites paragraphs 14 and 49. Whilst the Council would not dispute the objectives of the NPPF it would question the application of Paragraphs 14 and 49 to this particular case. The reason for this is that in Paragraph 14 it cites that development that accords with development plan policies should be approved. For the reasons as set out in this report the proposed development does not accord with Policy and the current Policies, although dating from 2005, are still relevant and are not out of date. In terms of paragraph 49, whilst the development relates to a new dwelling on site, there is already a unit on site and therefore there would not be a net increase in the number of housing units and therefore it can not be argued that the development would add to the five year land supply requirement.

The NPPF makes reference to great weight being given in determining applications to outstanding or innovative designs which help to raise the standard of design more generally in the area (paragraph 63). The agent suggests that the proposed dwelling would be innovative and exemplary. However, it is not considered that the proposed design would be outstanding or particularly innovative in which case the design of the proposed dwelling should not be afforded great weight in the determination of this application.

The environmental credentials of the scheme would weigh in favour of the development but, it is considered that they do not amount to the very special circumstances required.

The agent states that the fact that the applicant has made previous planning applications for an increased size of dwelling at the site indicates the need for additional accommodation. The lack of implementation has to be viewed in the context of the economic situation at the time. However, over the nine year period there have been a number of design changes to the works proposed and the total floor area created has also increased. As such the immediate need for the size of the property to be increased has not been clearly demonstrated.

On the basis of the above, it is considered that none of these matters, either alone or in combination, amount to very special circumstances required to justify the development proposed.

## **7. Recommendation**

The Application be REFUSED for the following reasons:-

R1            U08430

The proposed replacement dwelling would be materially larger than the one it would replace and, therefore, be inappropriate development in the Green Belt. As a result of the size and bulk of the proposed dwelling, the development would also reduce the

openness of the Green Belt, conflict with the purposes of including the land within the Green Belt and harm the character and appearance of the area. The proposal would, therefore, be contrary to the NPPF (section 9) and Policies GB1, GB2 and GB6 of the Brentwood Replacement Local Plan.

R2 U08431

None of the matters put forward on behalf of the applicant, either alone or in combination, would amount to very special circumstances which clearly outweigh the harm the development would cause by reason of inappropriateness, loss of openness and harm to the character and appearance of the area.

Informative(s)

1 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: GB1, GB2, GB6, CP1, T2, C8, C5 the National Planning Policy Framework 2012 and NPPG 2014.

2 INF20

The drawing numbers listed above are relevant to this decision

3 INF24

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. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

*BACKGROUND DOCUMENTS*

**DECIDED:**