

SITE PLAN ATTACHED

04. LAND WEST OF NORTH DRIVE HUTTON ESSEX
CONSTRUCTION OF FOUR DETACHED DWELLINGS
APPLICATION NO: 14/01190/FUL

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|---|---------------------------------|-----------------------|--------------------------|
| WARD | Hutton East | 8/13 WEEK DATE | 28.11.2014 |
| PARISH | | POLICIES | NPPF NPPG CP1 GB1 GB2 |
| CASE OFFICER | Charlotte Allen | 01277 312536 | |
| Drawing no(s) relevant to this decision: | 1705/1; 1705/2; 1705/3; 1705/4; | | |

This application was referred by Cllr Hossack from Weekly Report No 1668 for consideration by the Committee. The reason(s) are as follows:

This application was referred by Councillor Hossack for the following reasons based upon the three reasons for refusal proposed:

Reason 1 – Encroachment and detracting from GB openness. This application is on a land locked piece of GB designated land that is surrounded on all 4 sides by existing development. A belt by any description is an area that surrounds an existing residential area. This small piece of land in no way surrounds or forms part of the 'belt', as such encroachment cannot be argued, it is absolutely infill and does not penetrate into the open GB. There is no argument of 'openness' at this location for the reasons stated, it is an unsightly and problematic land locked piece of scrub that happens to be our GB area for reasons I cannot understand, given the existing all around development.

'Harm of the Greenbelt' the existing use of this land as a builders yard is harm enough not only in terms of GB but also in terms of community nuisance and its continual burden on our enforcement department.

R2 - 'the proposal would detract from the character and appearance' - that is the general idea. The character and appearance of this area is of no merit or visual amenity. It is already a detracting by nature.

R3 - 'biodiversity' - I do not believe that there is any argument here for biodiversity, species habitat or ecological value, again I cite the existing use as a builders yard, with frequent movement of heavy vehicles with high particulate emissions. Actually I believe the proposal presents an opportunity to build in diversity and reduce harmful traffic and disturbance.

Further comments:

The single objection mentioned in the report is I presume the one submitted by Hutton Preservation Society? I have subsequently discussed this application with HPS and they have now seen the issues and withdrawn their objection.

Furthermore, all residents adjoining the application site are in favour of development both to improve the appearance of the area and eradicate the on-going nuisance and enforcement situation. We must not forget that this piece of GB land can be legally used as a builders yard but not for residential, which to my mind is an illogical situation that has left a legacy of problems and complaints that BBC Planning regularly intervene in and have done for a significant amount of time, as your report indicates.

I have actually collected a petition of support which I thought had been submitted some months back?

Update since publication of Weekly List 1668

An additional letter of objection has been received which makes the following comments:

- We like the openness of this area which is supported by the Green Belt restrictions to the north of Rayleigh road and the plot-land restrictions to the south.**
- The site is largely Green Belt with just a small fraction used for a landscape contract business.**
- Do not consider that the application identified any special reasons that would make it acceptable to change the local landscape from Green Belt to urban.**
- Some inaccuracies within the submitted documents.**

1. Proposals

North Drive is a no through road that runs north from Rayleigh Road within the loosely-knit settlement of Haverings Grove. The application site mostly comprises a roughly square area of land on the west side of North Drive beyond the ends of the rear gardens of the properties facing Rayleigh Road. It also includes a rectangular area extending to the west of that land. The site lies to the north of the Seventh Day Adventist Church and opposite the Kingdom Hall. Most of the site is undeveloped and covered in scrubby grass. There are a number of trees both within the site and along its boundaries. The rectangular area in the south west corner of the site

supports a low building which is used in conjunction with a yard area (see planning history). The building and yard are accessed along an un-metalled track within the site alongside its southern boundary.

Permission is sought to develop the site with four detached two-storey dwellings with their upper floor rooms mainly accommodated within the roof space and lit by dormer windows. The site is proposed to be accessed via a centrally-placed road running at right-angles to North Drive. Two of the dwellings would lie to the north of the road and one to the south with the fourth house fronting the proposed turning head at the end of the road. It is proposed that each dwelling would have a pitched roof double garage and log store. It is indicated that the buildings would be finished in a combination of brickwork and render with clay or concrete roof tiles.

The site is bounded by a drainage ditch on the North Drive frontage but there is no indication as to how this would be treated and no details are provided of the site access as it crosses the ditch line. The application includes a tree survey, an ecology report and a soils report.

2. Policy Context

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and is now a material consideration in planning decisions. The weight to be given to it will be a matter for the decision makers planning judgement in each particular case. This Framework replaces all the national planning guidance documents as stated in the NPPF, including Planning Policy Guidance Notes and Planning Policy Statements. Notwithstanding this, the NPPF granted a one year period of grace for existing adopted Local Plan policies which has now ended, but, the NPPF advises that following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The National Planning Practice Guidance (NPPG) is a material consideration in the determination of this application.

GB1 - New Development

GB2 - Development Criteria

CP1 - General Development Criteria

3. Relevant History

- 11/00007/S191: Certificate Of Lawfulness To Determine Whether:
- 1) Area Edged Blue - Use For Storage And Contractor's Yard Has Begun More Than 10 Years Ago And Has Been Continuous And
- 2) Area Edged And Hatched Brown - Construction Of Access Was Completed More Than 4 Years Ago. -Application Refused
- 12/00073/FUL: Change of use of existing building for storage of materials and machinery associated with landscape business, retention of access/area,

associated landscaping. -Application Refused. The appeal was allowed for the retrospective change of use of the existing building for the storage of materials and machinery associated with landscape business and access area (Appeal ref: APP/H1515/A/12/2176065) The Inspector considered that the re-use of the building, hardstanding and access road were not inappropriate development, being within paragraph 90 of the NPPF. Parking for two vehicles was allowed, but a condition was imposed prohibiting outdoor storage or display of equipment, plant, goods, materials or waste. The Inspector did not consider the adjoining open area.

- A High Court injunction by consent dated November 2013 applies to the open area adjoining the building requiring the removal from the area of pea shingle, earth bunds, tarmacadam and concrete fragments and building rubble and sowing the ground with seed mix approved by the Council as Local Planning Authority
- 14/00600/FUL: Construction of four new detached dwellings -Application Withdrawn

4. Neighbour Responses

One objection - this is green belt land. Conditions of current permission are not being complied with as regards the number of vehicles stored on the land, land is being used for infill resulting in raised ground levels and the diversion of surface water runoff, concern about flood risk as water course at rear of Rayleigh Road houses has been omitted from this application.

5. Consultation Responses

- **Highway Authority:**

No response at the time of writing this report

- **Environmental Health & Enforcement Manager:**

No response at the time of writing this report

- **Arboriculturalist:**

No response at the time of writing this report

- **Natural England:**

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

The Wildlife and Countryside Act 1981 (as amended)

The Conservation of Habitats and Species Regulations 2010 (as amended)

Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites - no objection

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

Protected species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at consultations@naturalengland.org.uk.

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the

National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Impact Risk Zones for Sites of Special Scientific Interest

Natural England has recently published a set of mapped Impact Risk Zones (IRZs) for Sites of Special Scientific Interest (SSSIs). This helpful GIS tool can be used by LPAs and developers to consider whether a proposed development is likely to affect a SSSI and determine whether they will need to consult Natural England to seek advice on the nature of any potential SSSI impacts and how they might be avoided or mitigated. Further information and guidance on how to access and use the IRZs is available on the Natural England website.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

- **Design Officer:**

No comments at the time of writing this report

6. Summary of Issues

Green Belt

Haverings Grove is separated from the built up area of Hutton by open countryside. It is not a defined settlement in the Brentwood Replacement Local Plan (RLP) and it is washed over by the Green Belt. However the frontage properties on the north side of Rayleigh Road (Numbers 554 to 664) are identified, in RLP Policy GB4, as an established frontage of ribbon development. The application site lies to the north of the frontage properties and is therefore subject to the local and national policies that apply in the Green Belt. The National Policy for Green Belts appears in Part 9 "Protecting Green Belt Land" of the National Planning Policy Framework. The Framework indicates that openness is one of the essential characteristics of Green Belts and paragraph 80 sets out the five purposes of the Green Belt.

The Framework indicates that within Green Belts inappropriate development is harmful and should not be approved except in very special circumstances. With a

few exceptions the construction of new buildings in the Green Belt is inappropriate development. These exceptions are set out in Paragraph 89 of the Framework and paragraph 90 indicates certain other forms of development that are not "inappropriate" in the Green Belt. Paragraph 89 Indicates that the replacement of a building may not be inappropriate provided that the replacement building is not materially larger than the existing building. It also indicates that the redevelopment of previously developed sites may not be inappropriate provided that the new development would not have a greater impact on openness and the purposes of including land in the Green Belt than the existing development.

The proposed houses would replace the existing storage building but they would be materially larger and used for a different purpose. The building and yard in the south western part of the site would fall within the Framework definition of previously developed land (PDL). The building has an access and hardstanding which the appeal decision of October 2012 has already considered. There is a condition prohibiting external storage. In view of the High Court injunction, the view is taken that the remainder of the site cannot be regarded as PDL.

The definition of PDL is as follows: *Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision has been made for restoration through development control proposals; land in built up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously- developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.*

The application site is considered to comprise two areas: the existing building and its access and hardstanding considered in the October 2012 Appeal Decision letter, (20% of the whole site area) and the open area outside the curtilage of the existing building (80%of the site)

Even if the whole site was considered to be PDL the proposed dwellings would have a significantly greater effect on openness than the existing building and four new houses here would represent an encroachment of development into the Green Belt beyond the established frontage development. This would conflict with one of the purposes of the Green Belt. For the reasons set out above the proposal would not fall into the categories of development that may not be inappropriate as indicated in paragraph 89 of the Framework. It would therefore be inappropriate development.

Although adopted some years before the Framework the aims of the general Green Belt Policies (GB1 and GB2) within the Brentwood Replacement Local Plan (RLP) are consistent with those of the Framework and therefore they still carry weight. The

RLP has no policies that would enable the development of dwellings in the Green Belt unless they were essentially required for agriculture.

The proposal would result in the removal of the existing building; however the proposed dwellings and garages would have a significantly greater effect on openness than that building. The proposal would therefore conflict with one of the fundamental objectives of the Green Belt.

Green Belt - other matters

The applicant agrees that the proposal would be inappropriate development in the Green Belt and sets out a number of matters to be weighed in the Green Belt balance which are considered as follows:-

The Council cannot currently identify sufficient land for housing that would satisfy the requirements of the Framework and the four houses proposed would make a small contribution to the land available for development. The applicant argues that the shortfall in housing land in the Borough is a "very special circumstance". However a recent (6 October 2014) revision to the on-line Planning Practice Guidance (Paragraph: 034 Reference ID: 3-034-20141006) made it clear that when taking decisions in respect of proposals in the Green Belt an unmet need for housing is unlikely to outweigh the harm to the Green Belt such as to constitute very special circumstances justifying inappropriate development within the Green Belt.

The applicant argues that the site has no intrinsic merit and that the proposal would improve its appearance. However the site has the merit of openness which is fundamental to the Green Belt. Whilst the main part of the site is overgrown it is considered that this does not detract from its edge of countryside location. The existing building is a matter of fact; however when granting permission for it the Inspector commented that it was not a prominent or readily visible feature. The proposed buildings would be significantly more prominent and would result in the loss of mature trees on the site. It would result in an urbanization of the site that would be at odds with its character.

It is acknowledged that there are buildings around the application site, but this is the case for any number of undeveloped areas within the Green Belt. The applicant indicates that the proposal would result in additional planting on the road side boundary and that there is scope for the widening of North Drive. North Drive is outside the application site and the proposal as submitted gives no indication of how these objectives would be achieved.

The applicant indicates that the removal of the existing use would be of benefit to nearby residents; however in granting retrospective permission the Inspector considered that any potentially adverse effects could be controlled by conditions. A nearby resident indicates that conditions imposed on the permission are not being complied with; however there is no condition limiting the number of vehicles stored on

or visiting the site at any time. Any issues arising from the breach of conditions would not justify the grant of permission for inappropriate development.

Paragraph 81 of the Framework indicates that local planning authorities should look for opportunities to improve damaged and derelict land; however this must be seen in the context of all Green Belts and whilst the site has become overgrown it is not considered that its condition justifies that description. The removal of the business use may be of limited benefit to nearby residents and the proposal would result in the site being "tidied up" which some may regard as an improvement. However the proposed housing would materially change and detract from the character of the land resulting in an urbanization of this edge of countryside site.

Conclusions on Green Belt

The proposal would be inappropriate development that would materially detract from openness and represent an encroachment of development into the countryside. It would therefore conflict with RLP Policies GB1 and GB2 and the objectives of the Framework as regards development in the Green Belt. The other matters argued in support of the proposal are noted but it is considered that they do not clearly outweigh the harm to the Green Belt and therefore very special circumstances to justify inappropriate development in the Green Belt do not exist.

Non Green Belt matters

The application site is within an open area on the edge of the built-up frontage. Four dwellings here would extend the urban influence along the Drive and would represent an erosion of the countryside on the edge of the built up frontage. The encroachment of development would detract from the intrinsic character of the countryside around the more built up area and would conflict with one of the objectives of the Framework.

Much of the site has been neglected and become overgrown; however it supports a number of mature trees, most notably a group of willow trees on the road frontage, one in the centre of the site and two in the north west corner. The tree survey identifies and classifies the trees on the site and in its immediate vicinity and indicates root protection areas. The Tree Survey and Tree Constraints Plan (TSTCP) was completed about three months after the date of the site layout drawing and there is no indication that the contents of the TSTCP have been taken into account when preparing the proposal. The proposal includes no indication of the relationship between the trees and the proposed development (buildings, ground works, drainage etc) and therefore the full implications of the proposal are not explicit. The layout drawing includes a diagrammatic indication of some of the trees on the site, some of which roughly coincide with trees indicated on the tree survey drawing but this is of limited value. Based on the layout drawing it appears that most if not all of the mature trees within the site would be removed.

The ecology report indicates that the habitats on the site are of moderate ecological value and specifically indicates that some of the broadleaved trees in the east of the site are ecologically valuable and should be retained if possible. The report also indicates that the site may be used by foraging bats, and that the area provides good foraging habitats for grass snakes, slow worms and lizards. The ecology report indicates that the scrub and boundary hedgerows will be used by nesting songbirds. The report indicates that there are opportunities to offset the loss of habitat by planting on the developed site and that measures can be taken during site clearance and construction to mitigate the effect of the proposal on animals. It concludes that there would be no realistic potential for the development to result in significant ecological impacts to any valued ecological receptors.

The NE standing advice indicates that adders, grass snakes, common lizards, slow-worms, smooth snakes and sand lizards are protected by law. It indicates that in most cases harm should be avoided by adjusting the planned work. If disturbance or damage to their habitats cannot be avoided harm may be reduced by restoring habitats or providing compensatory habitats. The Ecological Site Appraisal Report (ESAR) post dates the layout drawings by six months and there is no indication that the recommendations within the ESAR have in any way informed the layout. The ESAR indicates that the "zone of influence" of the proposed development was walked over; however it states that the interior of the site is overgrown with dense weed and scrub and access to the centre of the site was not possible. It goes on to indicate that the inaccessible areas accounted for a small proportion of the site. However this judgement is not consistent with the habitat map which indicates that the overgrown scrub areas comprise the majority of the site including the sites of three of the proposed dwellings and the access road. Nevertheless the ESAR indicates that the tall ruderal element (the inaccessible area) is a good foraging habitat for grass snakes, slow worms and lizards; however there is no evidence that any surveys have been carried to establish the presence of these species on the site.

The application site is not designated for its ecological value; nevertheless the Framework indicates that the planning system should minimise impacts of development on biodiversity and where possible provide net gains in biodiversity. In the absence of a full survey the proposal provides incomplete information on the species currently present on the site and there is no indication that the proposed development has been designed to minimise its impact on biodiversity.

The elevations of the proposed dwellings would be dominated by overlarge bulky dormers and ill-proportioned gables. Whilst of secondary importance in this case it is considered that the dwellings would be of a poor design having no architectural merit. The proposed houses would be sufficient distance from any other dwellings to prevent any adverse effect on living conditions.

Conclusion

The proposal would be inappropriate development in the Green Belt which would detract from openness. The proposal would materially detract from the character and appearance of the area and would conflict with RLP Policy CP1. The proposal does not fully address the effects of the development on the trees and other habitats within the site and does not consider the measures to be taken to accommodate drainage ditches that border the site. The other matters raised by the applicant in support of the proposal do not clearly outweigh the Green Belt harm and do not outweigh the other harm that has been identified. Very special circumstances do not exist to justify inappropriate development in the Green Belt and the application should be refused permission.

7. Recommendation

The Application be REFUSED for the following reasons:-

R1 U09013

The proposal would be inappropriate development in the Green Belt as defined by the National Planning Policy Framework (The Framework). It would detract from the openness of the Green Belt and would represent an encroachment of development into the Green Belt countryside. The proposal would therefore conflict with Brentwood Replacement Local Plan Policies GB1 and GB2 the objectives of which are fully consistent with the objectives of the Framework as regards development in Green Belts. The Framework indicates that within Green Belts inappropriate development is harmful and should not be approved except in very special circumstances. The Framework goes on to indicate that "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. The considerations set out by the applicant do not clearly outweigh the harm to the Green Belt arising from this proposal and it follows that the "very special circumstances" needed to justify the approval of inappropriate development in the Green Belt have not been demonstrated.

R2 U09014

The proposal would detract from the character and appearance of this edge of built-up-area location in conflict with Policy CP1(i) of the Brentwood Replacement Local Plan and one of the core planning principles set out in the Framework which indicates that the intrinsic character of the countryside should be recognized.

R3 U09015

The proposal fails to demonstrate that the development has been designed to minimise its impact on biodiversity and the proposal would therefore conflict with paragraph 109 of the Framework which indicates that the planning system should

minimise impacts of development on biodiversity and where possible provide net gains in biodiversity.

Informative(s)

1 INF05

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

2 INF20

The drawing numbers listed above are relevant to this decision

3 INF25

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

BACKGROUND DOCUMENTS

*Appeal Decision 26 October 2012
High Court Injunction*

DECIDED: