

SITE PLAN ATTACHED

**07. WYNBARNES FARM 148 CHELMSFORD ROAD SHENFIELD ESSEX CM15
8RT**

CONSTRUCTION OF 2 DETACHED DWELLINGS AND GARAGES.

APPLICATION NO: 15/00024/FUL

WARD	Shenfield	8/13 WEEK DATE	09.04.2015
PARISH		POLICIES	NPPG NPPF CP1 GB1 GB2 T2 LT4 H10
CASE OFFICER	Caroline McCaffrey	01277 312603	
Drawing no(s) relevant to this decision:	PO1A; PO2A; PO3B; PO4A; PO5A;		

1. Proposals

The application site comprises a roughly rectangular area of land on the north side of Chelmsford Road between the detached house at No 148 and the semi-detached pair at No's 150 and 152. The site has a road frontage of about 36m and extends back just over 30m from the hedgerow that marks the back edge of the footpath cycleway alongside the Chelmsford Road carriageway.

Permission is sought to construct a handed pair of two detached dwellings. Each house would have three floors of accommodation with the top floor being within the roof space and lit by roof lights in all of the roof planes. The drawings indicate that the houses would have five bedrooms (one en suite) together with a lounge, kitchen/day room, dining room, two studies and two bathrooms. A pitched roof building is proposed between the houses with provision for a single garage for each dwelling. A block-paved parking and turning space is indicated at the front of the plots with the houses sharing a new access from Chelmsford Road.

It is indicated that the dwellings would be finished in facing brick to match the adjacent cottages with plain tiled roofs.

The application is accompanied by letters of support from Hutton Football Club and Essex County Football Association and a drawing indicating a proposal to develop land to the north east of No 152 Chelmsford Road as playing fields; however that proposal does not form part of the planning application.

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.

Local Plan Policies

CP1 - General Development Criteria.

GB1 - New Development (in the Green Belt).

GB2 - Development Criteria (in the Green Belt).

H10 - Affordable Rural Housing

LT4 - Provision of Open Space in New Development

T2 - New Development and Highway Considerations

3. Relevant History

- : - None

4. Neighbour Responses

None.

5. Consultation Responses

- **Highway Authority:**

The Highways Authority raises no objection to the additional access

- **Anglian Water Services Ltd:**

No reply at time of writing report.

- **Essex & Suffolk Water:**

We will have no objection to the proposed development of two detached dwellings and garages.

We would advise you that our existing apparatus does not appear to be affected by the proposed development. We will give consent to this development on the condition that a metered water connection is made onto our Company network for each new dwelling for revenue purposes.

Should you require any further information, please do not hesitate to contact us.

- **Arboriculturalist:**

There are no details of trees on site, these need to be provided along with mitigation strategy- AIA, AMS, TPP, also will all construction operations be within red line eg storage of materials, plant if not off-site trees which may be affected must be included in the survey

Comment - There are fruit trees on the land but the proposal would not affect trees of amenity value.

6. **Summary of Issues**

Green Belt

The application site lies to the north east of the settlement boundary in the Green Belt 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.

Paragraph 89 Indicates that limited infilling in villages and limited affordable housing for local community needs under policies set out in the Local Plan may not be inappropriate (Bullet point 5). It also indicates (bullet point 6) that the limited infilling or redevelopment of previously developed sites may not be inappropriate provided that the new development would not have a greater impact on the openness of the Green Belt and the purposes of including land within it. A further exception is buildings for agriculture or forestry.

The application site is within a loose-knit frontage of four dwellings (including a semi-detached pair). The term "infilling" is not defined in the Framework but it is generally understood to mean the filling of a small gap in an otherwise developed frontage. It is considered that this interpretation would reflect the Framework objective of preserving openness. The application site is not within a built up frontage and it is considered that the proposal would therefore not amount to infilling. If the site was considered to be infilling it would create opportunities for infilling on each side which would result in a consolidation of the frontage and an encroachment of the settlement into the Green Belt. It is considered that the proposal does not satisfy the criteria of bullet point 5.

The application site is described by the applicant as part of the long established residential curtilage of the Farmhouse at No 148. Private residential gardens outside built-up areas are not excluded from the Framework definition of "previously developed land" (PDL). The site is distinct from the garden area immediately around the house and does not have the character of a domestic garden; however this application is not a vehicle for the determination of its lawful use and this report is written on the basis that it is part of the curtilage of a permanent structure (the dwelling at No 148).

Whilst the site falls within a developed curtilage it is not occupied by any buildings and there is no evidence to indicate that it has been in the past. The Framework definition of PDL indicates that it should not be assumed that the whole of the curtilage of PDL should be developed. Taking account of the character of this land it is considered that it cannot be reasonably assumed that the proposal would amount to the redevelopment of PDL.

If the view was taken that it was the redevelopment of PDL consideration must be given to its effect on the Green Belt. There can be no doubt that the proposed dwellings would materially detract from openness and they would represent an encroachment of residential development into the Green Belt, thereby conflicting with one of the purposes of including land in the Green Belt. For these reasons the proposal does not satisfy the criteria of bullet point 6 in paragraph 89.

The proposal is not for affordable housing and, if it was, it would not comply with the provisions of Policy H10. The proposed dwellings are not for agriculture or forestry.

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 replacements or essentially required for agriculture, neither of which is the case here.

For the reasons set out above the proposal would not fall into the categories of development that may not be inappropriate in the Green Belt as indicated in

paragraph 89 of the Framework. It would therefore be inappropriate development. It would cause further harm to the Green Belt by materially detracting from openness.

Character and appearance

The settlement boundary marks a sharp divide between the urban area of Shenfield and the open Green Belt countryside. Whilst the dwellings incorporate some of the features the nearby properties their overall height and bulk would consolidate the built up frontage giving it a more urban character. The repetition of the built form resulting from the handing of identical buildings would be incongruous in this informal frontage and would further detract from the character and appearance of the area. The proposal would represent a bulky and prominent development that would unacceptably detract from the character of the countryside around the built up area. The proposal would conflict with RLP Policy CP1 and one of the objectives of the Framework which indicates that the intrinsic character of the countryside should be recognised.

Highways issues

No response

Open space contributions

RLP Policy LT4 indicates that new residential development should make provision for public open space that is made necessary by and is fairly and reasonably related to the proposed development. Appendix 5 of the RLP indicates that developers of sites of less than 20 units would normally be required to make a financial contribution towards a range of local play facilities (but not playing fields). It would therefore be reasonable to expect the applicant to undertake to make such payments as part of a pool of funding for play facilities.

However recent government policy as set out in a ministerial statement by the Minister of State, Department for Communities and Local Government (Brandon Lewis) (Included as a revision of on-line Planning Practice Guidance on 27 February 2015 Paragraph: 012 Reference ID: 23b-012-20150227) indicates that tariff style planning obligations (section 106 planning obligations) should not be sought from small scale development and that contributions should not be sought from residential developments of 10 units or less (or 5 units in designated rural areas). A requirement to make a contribution in this case would be contrary to government policy and should not therefore be sought.

Other considerations

The applicant points out the proximity of local schools and services and public transport links and it is not disputed that the site is in a sustainable location. However these considerations are not sufficient to outweigh the harm to the Green Belt.

The Council cannot currently identify sufficient land for housing that would satisfy the requirements of the Framework and the two houses proposed would make a small contribution to the land available for development. However the 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. It is considered that there is no reason why this approach should not apply to this proposal.

Related matter

The applicant draws attention to a proposal by Hutton Football Club to develop land to the north east for pitches, together with changing rooms and parking. The design and access statement indicates that the provision of the football pitches is reliant on the outcome of the planning application for the dwellings as it is intended that the profit from the sale of the dwellings would go towards the layout of the football pitches.

The development of the land for pitches requires planning permission and no application has been submitted. The land falls outside the application site for the houses and the pitch proposal has not been the subject of publicity or consultation. It is therefore not appropriate to make any comment on that proposal in considering the current application.

The applicant indicates that there would be a financial link between the application proposal and the proposed pitches but no formal undertaking has been made to make a financial contribution. It is essential that when determining the application the Committee is clear about the potential linkage between the developments.

The Framework makes it clear that planning obligations should only be sought where they meet all of the three tests set out in paragraph 204. Those tests require that requirements of obligations are:-

- o necessary to make the development acceptable in planning terms
- o directly related to the development; and
- o fairly and reasonably related in scale and kind to the development

There is no requirement for a development of this nature to fund playing fields; either public or for a private club as proposed here. A planning obligation requiring the proposed dwellings to make a contribution to the proposed pitches would

therefore not be directly related to or necessary to serve the dwellings. The amount of funding proposed to be used to support the pitches is not indicated and therefore an informed judgment as to whether it would be reasonably related in scale cannot be reached. However it is considered unlikely that any substantial amount would be "reasonably related". In short a requirement for the proposal to make a contribution towards the proposed pitches would fail to satisfy two of the tests and would be likely to fail all of them.

If planning permission was to be granted for the development the beneficiary of any profits could of course make a contribution to a local organization; however this cannot be reasonably required through the planning process and therefore could not be guaranteed.

CIL Regulation 122 provides that when making a planning decision it is unlawful to take account of a planning obligation that does not meet the three tests in Paragraph 204 (see above). A requirement for a planning obligation requiring contributions towards the playing pitches would therefore be both directly in conflict with government policy and would be unlawful. It is therefore imperative that the Planning Committee gives no weight to this matter when determining the application.

Framework balance and conclusion

The proposal would be inappropriate development that would materially detract from openness. It would also detract from the character and appearance of the area. The Framework indicates that when considering any planning applications local planning authorities should ensure that "substantial weight" is given to any harm to the Green Belt. It goes on to indicate that "very special circumstances" to justify inappropriate development 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 this case it is considered that there are no consideration that clearly outweigh the harm to the Green Belt and the other harm identified above and that very special circumstances necessary to justify inappropriate development do not exist.

It is therefore recommended that the application is refused permission.

7. Recommendation

The Application be REFUSED for the following reasons:-

R1 U09729

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 and identified by local planning authority 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 U09730

The proposal would detract from the character and appearance of the countryside 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 and beauty of the countryside should be recognized.

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, T2, LT4, H10 the National Planning Policy Framework 2012 and NPPG 2014.

2 INF20

The drawing numbers listed above are relevant to this decision

3 INF23

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. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

BACKGROUND DOCUMENTS

DECIDED: