

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	NH	06/09/2023
Planning Manager / Team Leader authorisation:	JJ	06/09/23
Planning Technician final checks and despatch:	JJ	06/09/23

**Application:** 23/00854/FUL **Town / Parish:** Great Bentley Parish Council

**Applicant:** Mr Robin Drysdale

**Address:** Jasmine Place The Green Great Bentley

**Development:** Demolition of existing brick wall and proposed new boundary treatment

### **1. Town / Parish Council**

Great Bentley Parish Council Not commented on this application

### **2. Consultation Responses**

Essex County Council  
Heritage  
30.08.2023

The application is for demolition of existing brick wall and proposed new boundary treatment.

The proposal site is Grade II Listed Jasmine Place, located in a prominent position along the Village Green within the Great Bentley Conservation Area. Together with adjoining Grade II Listed Jasmine Cottage, is part of the eighteenth-century phase of development within the Great Bentley settlement.

This section of the Green, with Station Road and Plough Road defining the South-West corner and the buildings forming the historic core along the edges, is mostly unchanged since the late 18th Century in terms of road layout and boundary position. The proposal for moving the existing boundary of Jasmine Place would therefore involve a change to this historic pattern which would result in some kind of impact on the significance of Jasmine Place and the Conservation Area as designated heritage assets.

However, it is noted that the existing wall is a 1950s reconstruction of the previous boundary wall, therefore the proposal would not involve the loss of any historic fabric. The historic boundary line would somehow be visually retained and marked by landscaping and planting.

As the proposal would not involve any additional built form and the site would still be retained as an open space, the open character of the setting of Jasmine Palace and the views towards and from the Green would not be affected and the continuity between the proposal site and Station Road/the Green would be unchanged.

The proposal site is mostly used as a car park and is currently unkept and in a state of disrepair. The proposed redevelopment has

ECC Highways Dept  
14.07.2023

therefore the potential to represent an improvement which would contribute to preserve and enhance the character or appearance of the Conservation Area, as per Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Overall the proposal is therefore not considered to affect the special interest of the listed building and the character and appearance of the Conservation Area.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. There should be no obstruction above ground level within a 2.0-metre-wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage and retained free of obstruction above 600mm at all times.  
Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

2. As indicated in the supporting information, no unbound material shall be used in the surface treatment of the vehicular access throughout.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

3. The vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 4.6 metres (equivalent to 5 drop kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate vehicular crossing.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

4. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

5. The proposed works particularly the construction work associated with the newly formed access, drainage and kerbing adjacent to the revised garden area must be agreed and carried out subject to arrangements made with the Development Management Office (SMO1) contact email details in the informative at the foot of the page.

Reason: In the interests of highway safety in accordance with policy DM1.

*Officer comment – the above suggested requirement is covered by other, non planning legislation and it is therefore not necessary or reasonable to impose a condition to secure this requirement. Instead an informative will be included to advise the applicant to make contact with the relevant body (should planning permission be granted).*

6. The proposed new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

2: No works shall commence until such time as a Highway Boundary Plan has been obtained from ECC Highway Records to establish the line of the highway boundary to the front of the dwelling. Email address: [Highway.Status@essexhighways.org](mailto:Highway.Status@essexhighways.org)

3: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Tree & Landscape  
Officer  
25.07.2023

The land to which the application relates is a broadly triangular parcel of land to the front of Jasmine Place. The land has a metalled surface and appears to be being used primarily for the parking of cars.

There is a large Sycamore tree in the front garden of the host property close to the existing front boundary wall. The tree makes a significant positive contribution to both the character and appearance of the conservation area and has high amenity value. Roots of the tree are likely to be growing beneath the existing hard surfacing.

Should planning permission be likely to be granted the applicant should provide a method statement showing how the roots of the tree will be protected from harm that may be caused during the removal of the existing hard surfaces and the setting out of the land as garden. In this regard it is likely that the health or viability of the tree will not be compromised if tree roots are not damaged when the surfacing is removed.

In terms of the impact of the proposal on the local landscape character it appears that a reduction in the area of land used for parking car and the enlargement of the existing garden will be likely to have a positive impact on the public realm.

Should planning permission be likely to be granted then details of the proposed soft landscaping should be secured by a planning condition.

### **3. Planning History**

04/00809/TCA	Crown reduce 1 Sycamore (to rear of barn) by 25% and crown lift one Sycamore at front of property.	Approved	24.05.2004
08/00742/LBC	Conversion of existing attached outbuilding and garden room extension.	Refused	31.07.2008
08/00888/FUL	Conversion of existing attached outbuilding and garden room extension.	Refused	31.07.2008
08/01404/FUL	Conversion of existing attached outbuilding and garden room extension.	Approved	26.11.2008
08/01456/LBC	Conversion of existing outbuilding and new garden room.	Approved	28.11.2008
09/00410/FUL	Erection of Garden Room.	Approved	10.06.2009
09/00411/LBC	Erection of Garden Room.	Approved	10.06.2009
11/00629/TCA	1 No. Sycamore - rear garden - crown lift to 5 metres	Approved	14.07.2011
17/00383/FUL	Change of use from a garage to a gift shop, with the addition of two internal doors.	Approved	18.05.2017
17/00384/LBC	Change of use from a garage to a gift shop, with the addition of two internal doors.	Approved	18.05.2017
20/00736/TCA	T1, Sycamore - Fell. T2, Sycamore - Reduce crown by 1.5/2 metres and remove one limb. T3, Sycamore - Reduce crown by 1.5/2 metres.	Approved	06.07.2020

### **4. Relevant Policies / Government Guidance**

**National:**

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

**Local:**

*Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)*

SP1 Presumption in Favour of Sustainable Development

SP7 Place Shaping Principles

*Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)*

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PPL8 Conservation Areas

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

Essex County Council Car Parking Standards - Design and Good Practice

**Status of the Local Plan**

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

**Neighbourhood Plans**

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

**5. Officer Appraisal (including Site Description and Proposal)**

**Site description**

The application site relates to Jasmine Place, which is a two storey Grade II listed building located within the settlement development boundary of Great Bentley and within the Great Bentley Conservation Area. The application site comprises of an open area of hard standing adjacent to the semi detached dwelling Jasmine Place and the Great Bentley Cricket Club building.

## Proposal

Planning permission is being sought for the demolition of existing brick wall and proposed new boundary treatment.

It is noted that the applicant has served a Certificate D certificate as the owner of the land is unknown.

## Assessment

The main considerations for this application are:

- Principle of development
- Design and Appearance (including impact on heritage assets)
- Impact on neighbouring amenities
- Trees and Landscaping
- Highway Safety
- Other considerations
- Conclusion

### 1. Principle of development

The application site is located within the defined settlement development boundary of Great Bentley as identified within the Local Plan. The proposal relates to extensions/additions to a residential dwelling and therefore the principle of development is considered to be acceptable subject to the detailed policy considerations as discussed below.

### 2. Design and Appearance (including impact on heritage assets)

The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness.

Policy PPL8 seeks to preserve or enhance the character or appearance of the Conservation Area. Policy PPL9 states that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric.

The development does not involve any built form and is limited to hard and soft landscaping only, which would maintain the openness of the area. The proposal involves the removal of the existing hardstanding surface with half to be turfed and enclosed by a timber bollard and rope fence. The other half is to form a new concrete block driveway in block paving to match the existing. The brick wall boundary line to Jasmine Place will be replaced by planting.

The proposed works are located to the front of the Grade II Listed building, Jasmine Place and adjoining Grade II Listed Jasmine Cottage, which are both part of the eighteenth-century phase of the development within the Great Bentley settlement.

ECC Place Services have been consulted on this application and have stated that the existing wall is a 1950's reconstruction of the previous boundary wall, therefore the proposal would not involve the loss of any historic fabric. The historic boundary line would be visually retained and marked by landscaping and planting.

As the proposal would not involve any additional built form and the site would still be retained as an open space, the open character of the setting of Jasmine Palace and the views towards and from the Green would not be affected and the continuity between the proposal site and Station Road/the Green would be unchanged.

Overall, the proposal is therefore not considered to affect the special interest of the listed building and the character and appearance of the Conservation Area. The proposed works will also create a visual improvement to the area.

### 3. Impact on neighbouring amenities

NPPF, Paragraph 17, states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Policy SPL 3 states that all new development must meet practical requirements, it must be designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents.

Due to the nature of the proposed works, it is not considered that the development would impact on the residential amenity of the neighbouring properties.

### 4. Trees and Landscaping

The tree and landscaping officer has been consulted on this application and has concerns over the removal of the existing hard surfaces and the impact this will have on the protected tree, the tree and landscaping officer has asked for a method statement. No trees are proposed to be removed as part of the application and instead of asking for a method statement as a pre commencement condition (which is considered to be unreasonable given the scale and minor nature of the works and the fact that the tree is protected by virtue of its location in a conservation area), a condition will be imposed to ensure that the tree cannot be lopped, topped, felled, have roots severed or to be uprooted without the prior written approval of the local planning authority. In terms of the proposal on the local landscape character it appears that a reduction in the area of land used for parking car and the enlargement of the existing garden will be likely to have a positive impact on the public realm

### 5. Highway Safety and Parking

Paragraph 110 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of this policy are carried forward within Policies SPL3 and CP1. Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development.

Essex Highway Authority have been consulted on this application and have stated that they have no objections subject to conditions relating to visibility splays, no unbound materials, vehicular access, no discharge of surface water, construction work agreed with ECC Highways DM team and new boundary treatment.

The site will provide hardstanding to accommodate parking, it is considered that the proposed area can accommodate parking in line with Essex Parking Standards.

### 6. Other considerations

The application description was amended to remove elements which did not require planning permission. The scope of the works is still within the description provided.

Great Bentley Parish Council have not commented on this application.

3 letters of objection have been received stating the following concerns:

- Area used historically as extra parking provision and by a mobile food outlet

*The ownership of the land is unknown and therefore the applicant has submitted a certificate D ownership certificate and undertaken the correct advertisements for this application. Unfortunately, we cannot take the previous use of the land into consideration when determining this application.*

- The area is on a blind bend and allows cars to pass

*Essex County Council Highways have been consulted and have no objections subject to conditions.*

- Concerns over emergency vehicle access

*Essex County Council Highways have been consulted on this application and have raised no objections to the proposed works and the impact it would have upon emergency vehicles.*

- Concerns that neighbouring property was not consulted

*In response to this concern, only neighbouring properties which lie adjacent to the application site (the red line plan) are notified directly by a neighbour notification letter. A site notice was also erected on 17th July 2023 outside of the application site to inform members of the public of the proposed works.*

## **6. Recommendation**

Approval - Full

## **7. Conditions**

### **1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT**

CONDITION: The development hereby permitted shall be begun not later the expiration of three years from the date of this permission.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

### **2 APPROVED PLANS & DOCUMENTS**

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

- Block Plan - Scanned 19 Jun 2023
- Landscaping Plans - Scanned 30 Aug 2023

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.



#### NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

### 3 COMPLIANCE - HIGHWAYS VISIBILITY SPLAYS

CONDITION: There should be no obstruction above ground level within a 2.0-metre-wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the new access is first used by vehicular traffic and retained free of obstruction above 800mm at all times.

REASON: To ensure vehicles exiting the access would have sufficient visibility to enter the public highway safely and vehicles on the public highway would have sufficient warning of a vehicle emerging in order to take avoiding action.

#### NOTE/S FOR CONDITION:

It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

### 4 ACCESS MATERIAL

CONDITION: The access/s hereby approved shall have a bound material surface and shall be laid out for a minimum distance of 6 metres from the edge of the carriageway prior to first use. The bound material as implemented shall then be retained thereafter.

REASON: In the interests of highway safety to prevent hazards caused by loose materials on the highway.

#### NOTE/S FOR CONDITION:

Carriageway is the part of a road intended for vehicles rather than pedestrians normally define by kerb if available or edge of a bound surface. It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the

public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

## 5 COMPLIANCE - BOUNDARY PLANTING

CONDITION: Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay and retained free of obstruction above 600mm at all times.

REASON: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

## 6 COMPLIANCE REQUIRED: TREE PROTECTION

CONDITION: For 10 years following from the commencement of development, none of the existing trees on the site as shown on the approved drawings shall be lopped, topped, felled, have their roots severed or be uprooted without the prior written approval of the Local Planning Authority. Any trees felled, uprooted, dying or being seriously damaged as a result of actions taken without such prior written approval shall be replaced in the next planting season (October - March inclusive) in the same siting with others of similar size and species.

REASON: To enable existing landscaping to be protected and retained in the interests of visual amenity.

## 8. Informatives

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

No works shall commence until such time as a Highway Boundary Plan has been obtained from ECC Highway Records to establish the line of the highway boundary to the front of the dwelling. Email address: [Highway.Status@essexhighways.org](mailto:Highway.Status@essexhighways.org)

On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

<b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b>	YES	NO
<b>Are there any third parties to be informed of the decision? If so, please specify:</b>	YES	NO