



SUPPLEMENTARY AGENDA

Dear Councillor

ORDINARY COUNCIL - WEDNESDAY, 2ND DECEMBER, 2020

I am now able to enclose, for consideration on Wednesday, 2nd December, 2020 meeting of the Ordinary Council, the following reports that were unavailable when the agenda was printed.

Agenda No Item

6. **Minutes of the Emergency Committee (Pages 3 - 4)**

Minutes of the Emergency Committee held on 5th June 2020
Minutes of the Emergency Committee held on 18th November 2020 – to follow

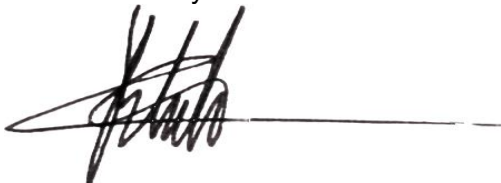
7. **Public Questions (Pages 5 - 6)**

9. **Committee Chairs Reports and Members Questions (Pages 7 - 40)**

10. **Notices of Motion (Pages 41 - 42)**

12. **Constitution Working Group (Pages 43 - 100)**

Yours sincerely



Chief Executive

Encs

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01/12/20



Minutes

Emergency Committee Wednesday, 18th November, 2020

Attendance

Cllr Hossack (Chair)	Cllr Lewis
Cllr Parker (Vice-Chair)	Cllr Mynott
Cllr Aspinell	Cllr Nolan
Cllr Barrett	Cllr Mrs Pearson
Cllr Keeble	Cllr Poppy

Also Present

Cllr Ms Sanders

Officers Present

Greg Campbell	-	Director of Environment
Philip Drane	-	Director of Planning and Economy
Laurie Edmonds	-	Senior Economic Development Officer
Zoey Foakes	-	Governance & Member Support Officer
Amanda Julian	-	Director of Law and Governance and Monitoring Officer
Rob Manser	-	Revenues and Benefits Manager
Jacqueline Van Mellaerts	-	Director of Corporate Resources
Jonathan Stephenson	-	Chief Executive
Steve Summers	-	Chief Operating Officer

573. Apologies for absence

There were no apologies – all members were present.

574. Minutes of the previous meeting

The minutes of the Emergency Committee meeting held on 5th June 2020 were signed as a true record.

575. Local Restrictions Support Grants

The Additional Restrictions Grant was announced on 31 October 2020. The report outlined how Brentwood Borough Council would locally administer this discretionary scheme, aimed at businesses that have been adversely impacted by the national and Local Covid Alert Level (LCAL) restrictions imposed to prevent the spread of Covid-19.

The committee was asked to delegate authority to the council's Director of Corporate Resources to finalise and implement the Additional Restrictions Grant Scheme and supporting discretionary funds as outlined in the policy.

Members were in support of this and after a full discussion, Cllr Hossack **MOVED** and Cllr Parker **SECONDED** the recommendations in the report. A vote was taken and it was **RESOLVED UNANIMOUSLY** that:

Members were asked to:

R1 Approve the Additional Restrictions Grants (ARG) Scheme attached as Appendix A of the report.

R2 The committee delegates authority to the Director of Corporate Resources (Section 151 Officer), in consultation with the Leader, to administer the Additional Restrictions Grants and is authorised to make technical scheme amendments in line with Government guidance.

Reason for recommendation

To allow the Council to have an Additional Restriction Grant scheme in place in order to process and administer Grants as quickly as possible to businesses who qualify during COVID-19.

576. Urgent Business

There were no items of urgent business.

The Chair closed the meeting at 7.27pm.

Agenda Item 7

Committee: Ordinary Council	Date: 2 December 2020
Subject: Public Questions	Wards Affected: All
Report of: Jean Sharp	Public
Report Author/s: Name: Jean Sharp Telephone: 01277 312655 E-mail: jean.sharp@brentwood.gov.uk	For Information

In accordance with the Council's Constitution, a member of the public resident within the Borough may ask a maximum of two questions relating to the business of the Council providing notice has been received by 10.00am two working days before the relevant meeting.

In light of the current restrictions due to the pandemic, members of the public are not allowed to enter the Town Hall therefore may attend Council meetings and put their questions remotely. Alternatively, they may request that their questions are put to the relevant Member by the Deputy Mayor at an Ordinary Council meeting.

Every question asked pursuant to rule 11.1 of the Constitution shall be put and answered without discussion but the Member to whom the question has been put may decline to answer. An answer may take the form of a direct oral answer at the Council meeting or where there has been insufficient time to research an answer, a written answer will be sent to the questioner. Time for all questions from members of the public shall be restricted to 15 minutes in total. At the expiration of that period of time, any questions which have not been asked shall be answered in writing and the answer placed with the minutes.

Mrs Pat Smith had submitted two questions:

1. Regarding the Covid19 pandemic and support for vulnerable people in Brentwood:

Given that social care has been subjected to huge cuts by central government and as a result many vulnerable and disabled Essex people have been priced out of basic care, by Essex County Council - what are Brentwood Council's areas of responsibility to such people in Brentwood during the Covid19 pandemic, especially during lockdown, and in what ways did the council ensure that everybody was reached and their basic needs were met?

2. Regarding Residents Questions at Ordinary Council: If part of a residents question is missed out when it is read to the Leader and Councillors in the chamber (in public), or the Leader does not answer the question properly, or if the questioner has been misunderstood or is misrepresented in the answer, should the Resident be granted a right of reply, to set the record straight, to be published in the subsequent minutes of that meeting?

Mr Will Russell had submitted two questions:

1. Brentwood Council have a responsibility to maintain a safe environment in our open spaces. There is growing concern that some dog walkers do not have their dog fully under their control.

Whilst the law is specific about the penalties, many are not aware of the fines or what is considered a dog not under control. Many Brentwood residents suffer from cynophobia and are fearful of using our outside spaces.

Will Brentwood Council liaise with Essex County Council to raise awareness of this situation either by signage on dog waste bins, their publications or on their websites?

2. Over the last couple of months I have witnessed unsafe parking outside Thorndon Country Park and Weald Country Park. Whilst lockdown is encouraging the use of these parks there is growing concern for the dangers this irresponsible parking is causing.

Will Brentwood Council Liaise with Essex County Council to find a solution for this dangerous situation?

Ms Susan Kortlandt had submitted two questions:

1. What progress has been made in negotiations with the mobile 'phone companies re the siting of new masts near Brentwood Station and when will these be installed?
2. I understand that the Brentwood Centre is likely to be re-opened soon, which is very welcome. Can you tell me how this will affect organisations which have items stored in the centre?

Agenda Item 9

Committee: Ordinary Council	Date: 2 nd December 2020
Subject: Chairs' Reports and Members' Questions	Wards Affected: All
Report of: Jean Sharp	Public
Report Author/s: Name: Jean Sharp Telephone: 01277 312655 E-mail: jean.sharp@brentwood.gov.uk	For Information

In accordance with the Council's Constitution a brief written report by each committee Chair covering their area of responsibility is provided for Members' information at each Ordinary Council meeting.

Any Member may ask a Chair a written or oral question on

- (a) any matter included in a Chair's written report; or
- (b) any matter in relation to which the Council has powers or duties or which affects the Council's area and which falls within the area of responsibility of the Chair's committee.

The period allowed for Chairs' reports, written and oral questions and answers will not exceed 60 minutes without leave of the Deputy Mayor.

Appendices to this report (To follow)

- Appendix A: Audit and Scrutiny Committee
- Appendix B: Community and Health Committee
- Appendix C: Environment, Enforcement and Housing Committee
- Appendix D: Planning and Licensing Committee
- Appendix E: Policy, Resources and Economic Development Committee

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Appendix A

Committee(s): Ordinary Council	Date: 2 nd December 2020
Subject: Chairs report for Audit and Scrutiny Committee	Wards Affected: All
Committee Chair: Cllr Charles Nolan	
Report of: Jacqueline Van Mellaerts, Director of Corporate Resources	For Information

Statement of Accounts 2019/20

In the previous chairs report at the last Ordinary Council, members were advised that the Unaudited (Draft) Statement of Accounts 2019/20 and Annual Governance Statement was approved by Audit & Scrutiny on 28th July by the revised deadline of 31st August. The minutes of this meeting have been reviewed and the recommendations clearly state the unaudited accounts were approved.

Members were also advised that External auditors EY LLP are scheduled to commence the audit on 21st September and complete on 31st October 2020. For Local Authorities the publication date for audited 2019/20 accounts has moved from 31st July to 30 November 2020, because of COVID-19.

The latest Audit & Scrutiny Committee took place on 24th November, in order to adhere to the revised publication deadline. The Audit Results Report has been received from EY and a presentation was made on their findings.

At the time of writing the report the auditors have raised some outstanding matters that need to be completed before the audit opinion can be given. Subject to satisfactory completion it is expected to issue an unqualified opinion. The auditors also advised their audit opinion, subject to consultation, is likely to emphasise the following:

- Valuation of investment properties and other land and buildings valued using market data – We expect to include an “emphasis of matter” paragraph to draw users attention to the Council’s valuer’s material uncertainty disclosure in Note 38 of the accounts. This is not a modification to the audit report.
- Going concern – given the significance of the Covid-19 pandemic on the financial operations and financial management of the Authority we have been required to complete additional procedures in respect of Going Concern and assess management’s disclosure covering the Council as a single entity and also in respect of its wholly owned subsidiary. Depending on our review of that information and responses there may be an impact on our audit report for 2019/20. Once we have obtained and reviewed the Council’s assessment and proposed disclosure, our final audit report will be subject to internal consultation with our professional practice directorate.

There were a number of adjusted differences that will be updated by management in the final statement of accounts, and two unadjusted differences that will not be corrected by management.

Internal Audit Progress

The following reports have been finalised since the last committee and were reported to Audit and Scrutiny Committee on 24th November 2020 against the 2020/21 plan.

- Performance Management & Formal Complaints (Substantial/Moderate)
- Sickness Absence (Substantial/Limited)
- Corporate Strategy (Substantial/Moderate)
- Fraud Risk Assessment (N/A – advisory)

Risk Management & Strategy

The Committee regularly review the councils strategic and operational Risk Registers.

On the Strategic Risk Register the committee noted that one new risk had been added, one risk had increased and three risks had reduced. All other risk scores remained the same.

Of the high-level operational risks, one score had increased and two transferred to the strategic register. The other six risks scores remained the same from the last Committee in July.

Scrutiny Work Programme

In the previous chairs report, members were advised that the chair also suggested to the committee that they consider reviewing the first year of the Council's Housing repairs and maintenance contract with axis. A presentation was given by axis at the last committee and a working group has been added to the programme. Regular feedback from LDP and Performance and Complaints workings groups were reported.

Appendix B

Committee(s): Ordinary Council	Date: 2 nd December 2020
Subject: Chairs report for Community and Health Committee	Wards Affected: All
Committee Chair: Cllr Cliff Poppy	
Report of: Kim Anderson, Partnership, Leisure and Funding Manager	Public
Report Author: Name: Kim Anderson, Partnership, Leisure and Funding Manager Telephone: 01277 312500 E-mail: kim.anderson@brentwood.gov.uk	For Information

Christmas events

Due to the government guidance the Council's Christmas event programme will be delivered virtually. The Community Services team are looking at pre-recording some content to be broadcast on 3rd December, together with a virtual countdown of the switching on the Christmas lights. There is Nutcracker trail in Brentwood, Shenfield and Ingatestone for families to follow with a chance to win a Nintendo Switch. All the Nutcrackers have been sponsored by local businesses and the hope is that it will encourage footfall to the three High Streets.

Community Support Network

Weekly meetings are taking place with the Community Support Network. The requests for support are generally reducing, as have the number of volunteers with people returning to work. A couple of the Community Help hubs are looking at longer term support. Doddinghurst are looking at joining up with Deal Tree Health Centre and the local schools to provide a wellbeing focus. There is still a need for telephone befriending services especially for the elderly. Lighthouse Furniture project has seen a very high demand in the last three weeks both in donation and sales of furniture. There is a watching brief with the group on any rise in referrals with expectation that demand for support is likely to increase in the run up to Christmas. A festive Can in the van initiative is planned for 4 December to support the local foodbank, Daily Bread Café and Manna Meals.

Health and Wellbeing Strategy

Members noted the revised Health and Wellbeing Board Strategy and that the Council will look at implementing a Health in all Policies on 20 October Community and Health Committee.

The Community Trailer has been branded and a programme of community engagement is being developed.

Brentwood Leisure Trust and Brentwood Centre re-opening

As Members will be aware the Brentwood Centre has gone into liquidation and the insolvency practitioner was formally appointed on 6 November.

The Council is looking to open the Centre on 5 December which will be part of phased re-opening of the Centre. It is proposed that Phase 1 will see the Swimming Pool and the International Hall open. The Gym will be temporarily moved into the International Hall together with some dedicated space for group exercise sessions.

The International Hall is also being used as a mass vaccination venue for approximately 12-13 weeks. It is expected that the facility will be able to deal with up to 40 people per hour.

Play Area Strategy

The Junior phase of King George's Playing Fields play area design has been agreed and the works are due to start this winter. The second phase of the Hutton Recreation consultation has been completed with over 180 responses. These will inform the final design and once agreed these will be shared with members. Works on this play area are due to start this winter and be completed by Spring 2021.

Grow Your Own

There are 100 people participating in the Grow Your Own initiative across Brentwood. The project has been commissioned by the Council to support the health and wellbeing of our most vulnerable residents. Participants have received free home growing packs and are supporting one another through peer groups, with the opportunity of gaining some qualifications to support re-employment. Those taking part have mental health illnesses, are carers, have physical or learning disabilities and are in receipt of income benefits. A legacy project has developed with the sea cadets who will be taking part in a seed swap project. A local school is taking part with vulnerable pupils and one of our sheltered housing schemes is joining as a small group. We are looking to see how we can continue to develop the appetite for the project. Thanks to local voluntary groups who have supported the delivery and storage of the packs.

Let's Create Art Packs

The Council has received a grant of £1000 from the Royal Opera House Bridge which has been match funded by Countryside and Usborne books to create 200 free arts resource packs for children and young people to increase access to creative learning opportunities. The packs will be stuffed with fantastic arts and crafts materials for children to make their own decorations or cards for Christmas and older recipients will benefit from high quality art pencils, pens, sketch books and paints. Thanks to Usborne, each child will receive an arts activity or history book. Let's Create is the Arts Council England's current strategy to provide equal access to high quality creative learning opportunities for all. Children and young people receiving the packs will be referred by local community hubs and children's services, and will be either a young carer, from a low-income or single-parent family, or have a long term health condition. Packs will be distributed in December, in time for Christmas.

Appendix C

Committee(s): Ordinary Council	Date: 2 December 2020
Subject: Chairs Report for Environment, Enforcement and Housing Committee	Wards Affected: All
Committee Chair: Cllr Maria Pearson	
Report of: Dan Cannon - Community Safety Manager Tracey Lilley - Director of Housing and Enforcement Greg Campbell - Director of Operations	Public
Report Author: Name: Greg Campbell, Director of Operations Telephone: 01277 312738 E-mail: greg.campbell@brentwood.gov.uk	For Information

New Recycling Scheme

The new Recycling Scheme went live on the 3rd August 2020 and will be entering in its 17th week when this Ordinary Council is held.

The new Blue Mini Bags have been offered to those who receive an assisted collection, to those who have had their communal bins changed over in flats and we have also communicated the availability of these sacks to Brentwood Access Group and are available on request through our website.

Mini White Bags still to be delivered to the Council and same process will be undertaken when they arrive. jean

Communication continues to ensure key messages are getting through and the number of calls to the contact centre on the new scheme have reduced steadily over the last four weeks. This is in parallel with the number of emails and enquiries generated which too have fallen.

A performance review report will be tabled to the next Environment, Enforcement and Housing Committee and moving forward Performance Measure will be reported to Audit & Scrutiny regularly from 2021/2022

The Great British September Clean

Brentwood Borough Council supported the Great British September Clean and we can confirm that:

- There were over 30 litter picks, gloves, hi-viz vests and equipment given out
- There were over 30 bags of litter generated and collected

Those who took advantage of the offer were informed that they were welcome to retain the equipment and carry on any voluntary picks throughout the year. One example of this is the Walter Boyce Centre, Warley.

Building Control

Building Control re-commenced onsite inspections on 8th June 2020 after lockdown. In the interim we undertook virtual inspections and received photographic/video evidence to assess works undertaken with officers working remotely.

On our restart we only undertook external inspections initially, however more recently we have been visiting sites for internal inspections also. These surveys are being accomplished using strict health and safety precautions and guidelines.

Meanwhile Building Control staff have been communicating via TEAMS meetings and socially distanced conversations at the depot.

We recently commenced the redevelopment work on the ex-Brentwood Police Station site and Boyles Court in Dark Lane which are changing the sites use to dwellings. Ongoing works are progressing with regards to the King Georges playing field Pavilion along with numerous other applications for development within the Borough and beyond via our Local Authority Building Control (LABC) Partnership Authority Scheme.

Service Provision Since Lockdown 2nd November

Following the most recent announcement by government that the Country would again go into lockdown from the 2nd November for 4 weeks. This followed the local move into Tier 2 for most local authorities across Essex apart from Thurrock and Southend.

During this period all services have continued to function and measures previously in place have been reviewed to ensure staff and residents safety. Regrettably, There have been more reported cases of contact with confirmed Covid case within front line operatives than the first lockdown, which has caused some staff to isolate for 14 days. This has required temporary agency staff to be employed to cover the short fall. The frontline service has not been impacted to a level that any service has needed to be suspended, however, we are monitoring the situation closely and may at some point need to follow the contingency plan if these cases rise to a level that requires action. Some minor services (deliveries, fly posters, etc) may take slightly longer to deliver as statutory services will take precedence.

As per the first lockdown there has been a knock-on effect to some services, in particular litter. The Council are working hard to combat this by reviewing the amount of times some bins are emptied and further to deter people from throwing litter on the ground a new Poster Campaign that will inform public of the cost to the council and residents will launch soon

Community Safety & Enforcement

Now that we have entered a second lockdown, we are expecting another spike in ASB. There has been some excellent work by the CSP and Essex Police to deter anti-social behaviour in our green areas and car parks, as well as dedicated operations to deal with anti-social driving and drug smoking in public places. CCTV are continuing to monitor the situation and images/indexes are being shared with local schools, Essex Police and Enforcement to ascertain IDs so further action can be taken.

After a 300% increase in reports of ASB during the lockdown period, reports are beginning to level out, but we are expecting another spike and are preparing for this. Our officers are still undertaking joint patrols alongside Essex Police and partner agencies to monitor our hotspot areas and help deter both Housing and Community ASB. This involved visiting areas where drug use is prominent and where young people congregate anti-socially. Door knocking in blocks where reports were high also took place. This proved successful and intelligence gained for both Community Safety and Essex Police. The main complaints have revolved around noise, neighbour disputes and cannabis use.

The team are now working with the COVID Task Force highlighted later in this update.

In addition, in order to improve communication and information exchange the team have been working on designing a set of infographics which can be updated monthly and be used to not only keep Members informed but also used through social media to keep the public informed of positive action taken.



Corporate Enforcement & Dedicated Patrols

Alongside the regular patrols by the Enforcement Team they also undertake 7 dedicated out of hours patrols a month, this works out to be approximately 90 hours a month. The team have supported SEPP during evening patrols tackling parking in the Town Centre and daytime patrols in other key locations including Railway Square, Doddinghurst, Hutton and Pilgrims Hatch. Since July the Council have signed a Service Level Agreement with SEPP was signed and our officers are now able to give out PCNs on behalf of SEPP in hotspot and dangerous areas.

Another key part of our role is to be visible to reduce potential incidents but also reassure communities. Patrols undertaken for the reporting period include those on foot and in our dedicated enforcement vehicle.



Police Operations

The team have supported Essex Police on multiple operations including drug raids and high visibility operations. The team continue to work with Essex Police tackling a wide range of issues and supplying important intelligence. The most recent raid was in relation to Modern Day Slavery, Trafficking and Cultivation.

A warrant was executed at an address in Hutton and a large cannabis grow was found. Essex Police seized over 400 plants, of which 85 of them were fully grown and ready to harvest. The grow was estimated to be worth around £100k. 1 male was arrested for the production of a controlled drug (class b) and it is thought he was being forced to work at the premise.

Engagement Days

Throughout the year the Community Safety Partnership alongside Neighbourhood Watch and Corporate Enforcement engage with the public. Unfortunately, due to COVID-19 these ground to a halt until restrictions were lifted. However, this has not stopped a strong social media presence from the CSP, NHW and all our other partners, promoting the stay safe message. Since the middle of August, engagement days have begun and engaging with the public shall flourish again. The engagement days which revolve around a topic such as fire safety, fraud, senior safety, Essex Community Message System and more will continue to be scheduled throughout the year. These engagement days will not only be in the libraries, Baytree Centre, High Streets (Brentwood, Shenfield and Ingatestone) but will also take place in some of our rural areas, such as Navestock and Doddinghurst. The hope is as more restrictions are lifted, we will be accompanied by other agencies, such as Essex Police, Essex Fire and Rescue and more.

Due to the implementation of a second lockdown we have halted temporarily. However, this gives us time to work with our partners and to create a Community Safety Engagement plan which will involve working with hard to reach areas and visiting those hard to reach communities.

CCTV

CCTV have continued to provide a 24-hour monitoring service despite losing a significant number of operators due to COVID 19 and shielding/isolation.



We have a new operator in place who is embedding into the team and positive feedback has been received from Essex Police for one operator who has assisted in locating individuals wanted for various offences.

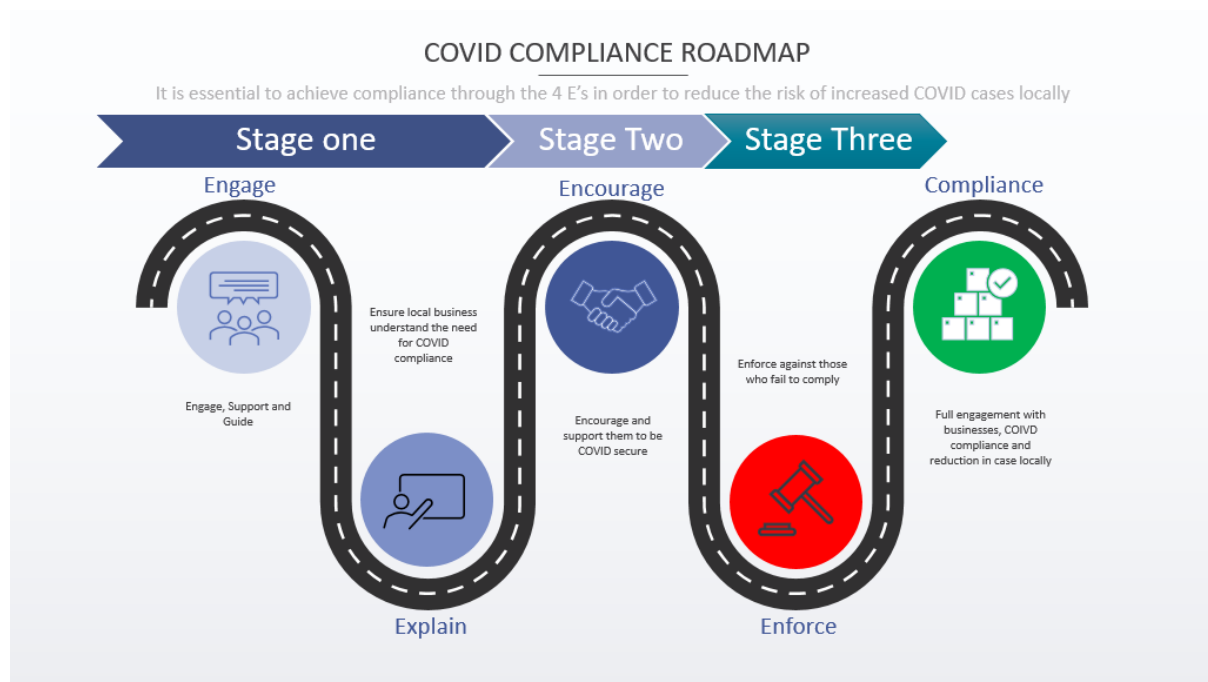
COVID Task Force

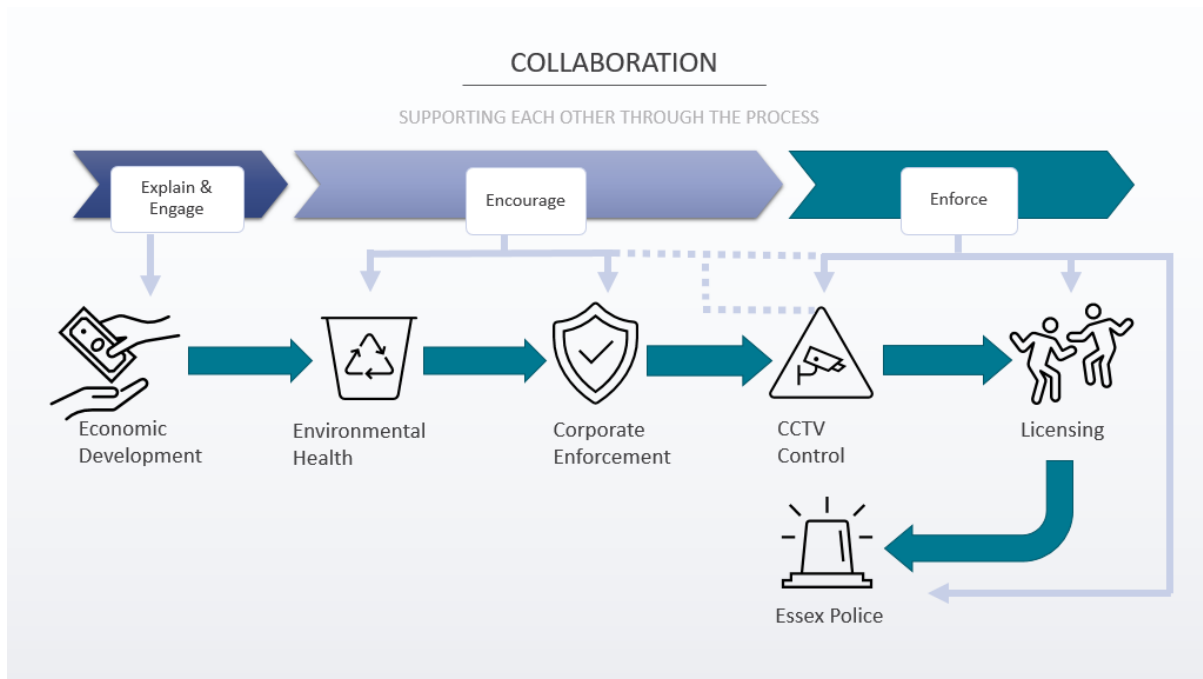
To improve our response in terms of compliance and enforcement of COVID the Director for Housing & Enforcement has been designated Exec Lead Officer for COVID.

A COVID Task Force has been established bringing together service areas across the Council in a unique and highly effective collaboration. Officers from Licensing, Environmental Health, Economic Development and Enforcement now work alongside each other and partners including Essex Police on our response to COVID compliance.

Officers meet twice weekly and have formulated a Lockdown Patrol Schedule and Briefing document which details hotspot locations, intelligence and patrol plans in place which include Essex Police working alongside officers carry out daily patrols (including some evening and weekends) responding to complaints of COVID breaches and compliance issues in relation to business premises.

Below are some slides detailing the work of the team.





The team have had some early successes including positive engagement with business owners and when necessary issuing Fixed Penalty Notices and other enforcement action.

Housing

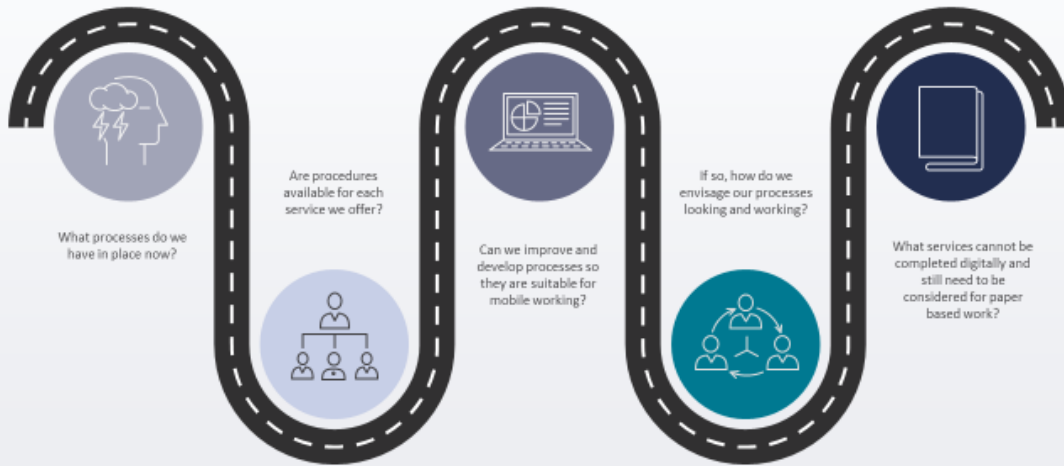
The housing team continue to evolve whilst continuing to deliver frontline services and adapting processes to better deliver services in a different way. Several staff losses have been experienced which has caused some service delivery issues but has in the main been picked up by existing staff to their credit.

We are passionate about continuing our journey to improvement despite the challenges we face with COVID and have begun the housing transformation programme.

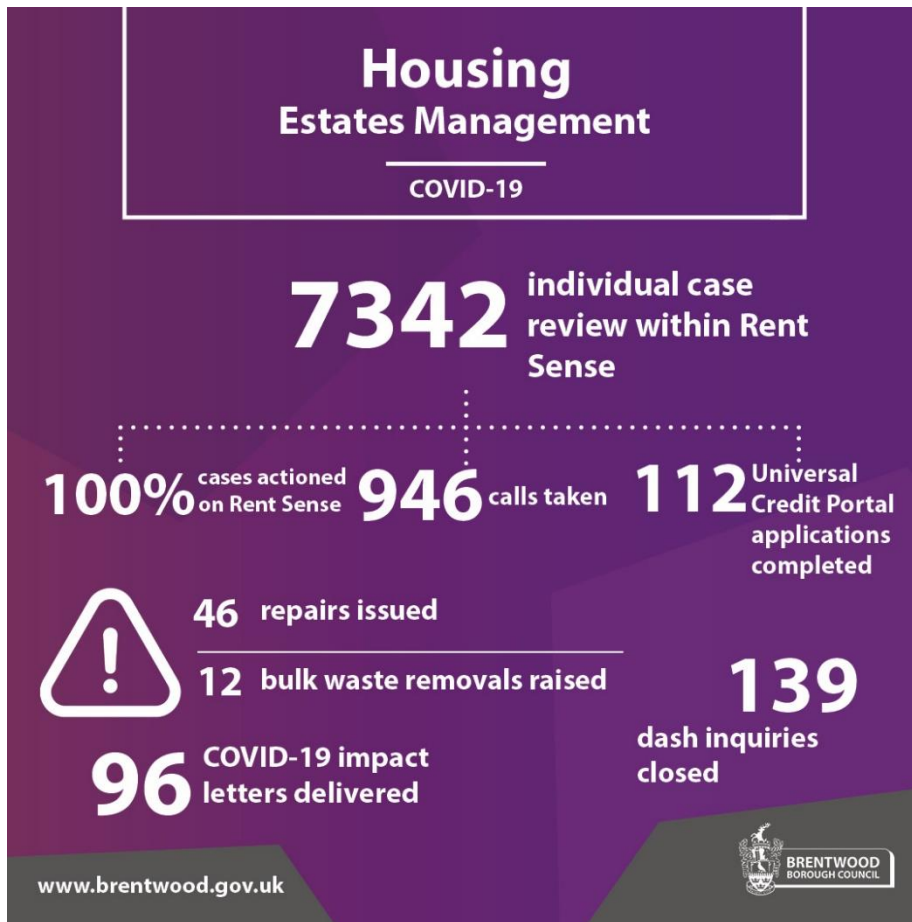
We have developing a suite of roadmaps to assist with improvement identification and then improved workflow. Our aim is to achieve service improvement, effective performance management, streamlined processes and ultimately improve customer experience. Below is some detail of our plans

ROADMAP

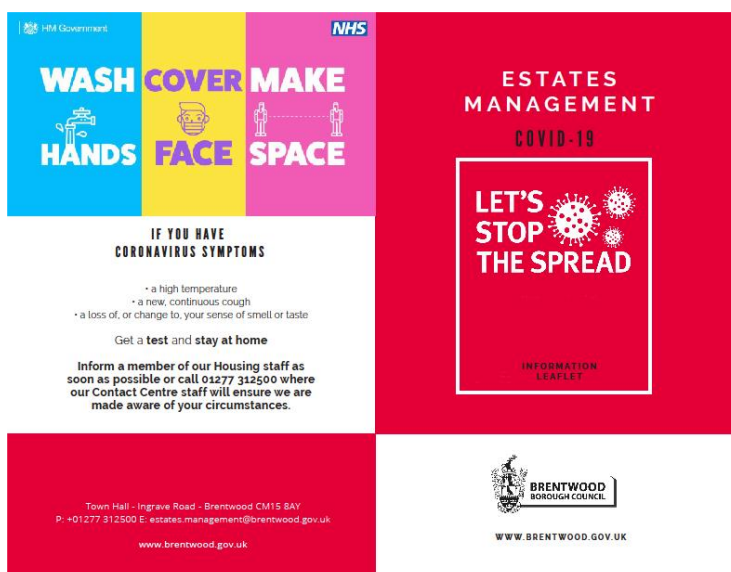
FIRST, WE NEED TO UNDERSTAND WHERE WE ARE AS A SERVICE AND THEN WE CAN DECIDE HOW TO IMPROVE



To further detail the work of the team we have also produced some helpful infographics which we will make available monthly moving forward.



The team have also developed a series of leaflets which will be issued to residents next week. There are three separate versions covering Estates, Sheltered and Housing Needs.



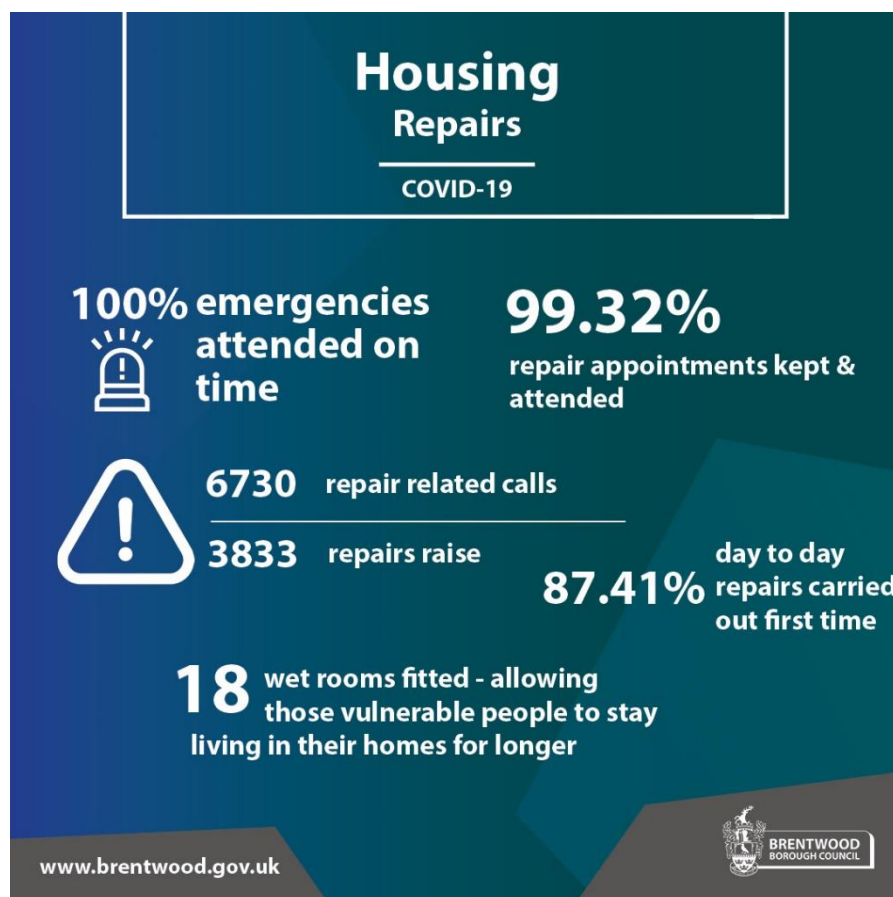
Repairs

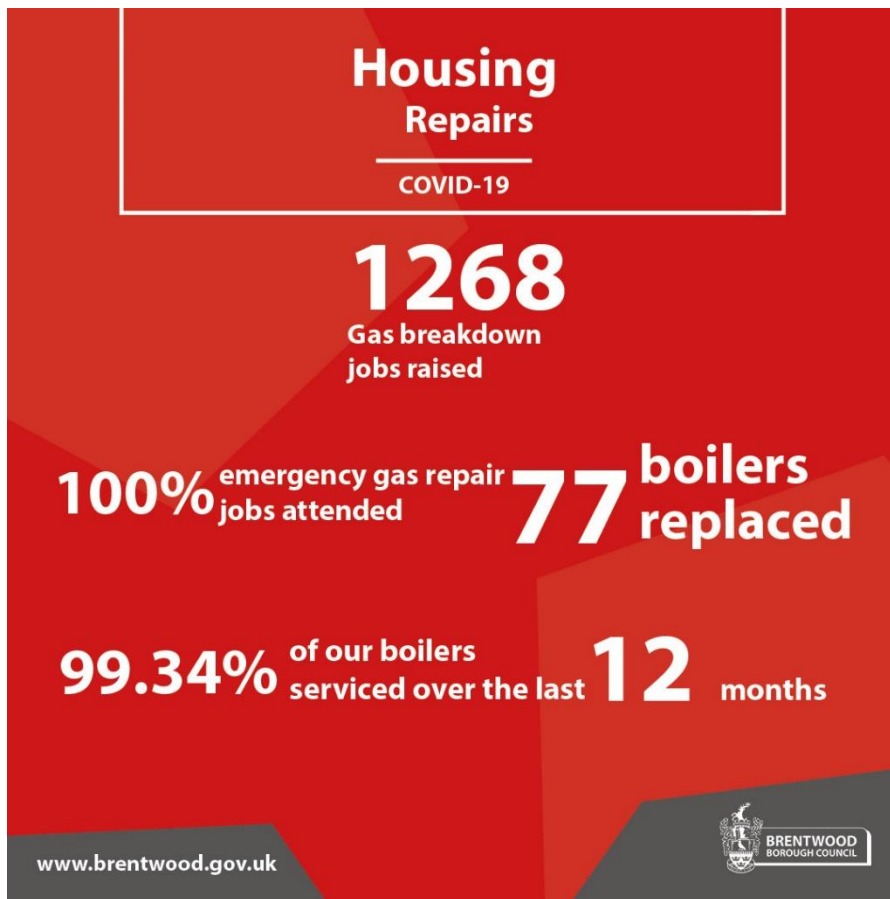
The repairs team have continued to work towards our safety-first approach to ensure Axis can deliver a full repairs service as safely as possible now restrictions particularly given the winter months and the current lockdown restrictions. This has all been in the backdrop of replacing the entire repairs team to ensure we have permanently employed staff and therefore reducing the expenditure on contractors.

As with other teams there has also been a drive to improve our practices to best adapt to the changing landscape and recovery.

We continue to work with keystone to develop and train officers on 3 modules which will fundamentally change the way in which the repairs team manage major works and planned works projects as well as providing a risk management feature for Fire Risk Assessments and water hygiene management in line with the HSE requirements.

Launched our Safety First Approach in partnership with Axis https://issuu.com/axiseurope/docs/brentwood_repairs_safety_explainer?fr=sMWMYOTE1MjgxNDE





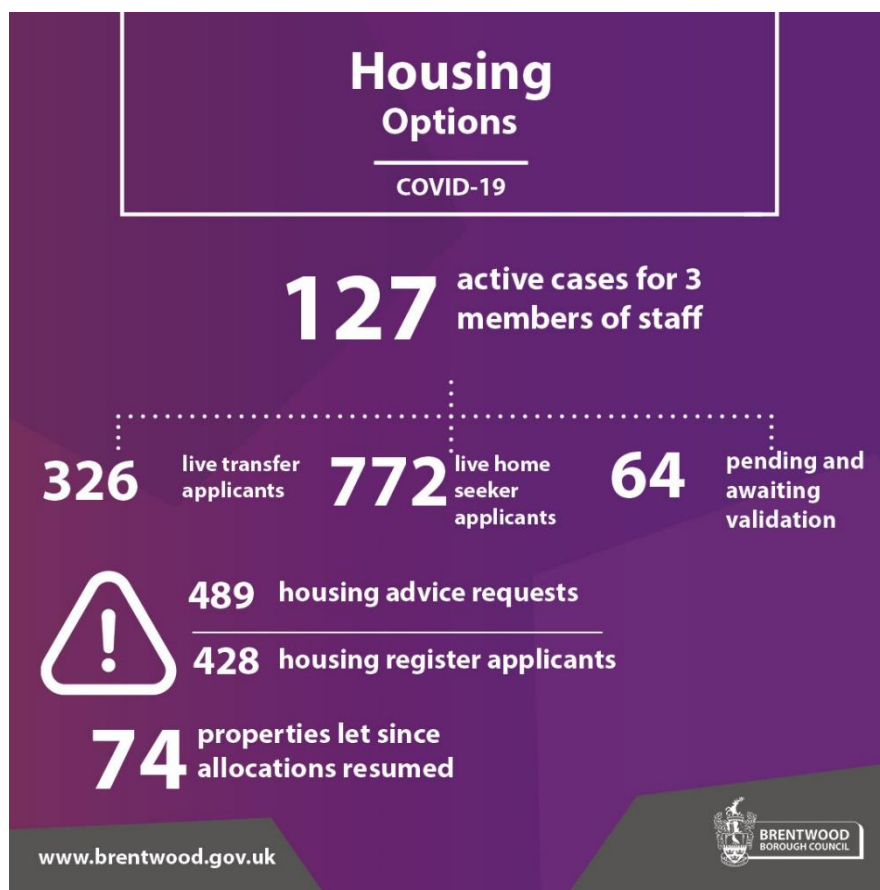
Housing Needs

Officers have worked incredibly hard since the onset of the pandemic in ensuring those most vulnerable were supported. They have had to change their whole way of working and deal with an increase in approaches. In just one day they can receive up to 14 separate approaches for support.

A common theme across the whole service is the officer's dedication and determination to not only deliver our services but also undertake transformational change at the same time.

Achievements

- Reduction of usage of Temporary Accommodation (35 today) due to more prevention work being carried out by officers
- More Home visits being carried out adhering to social distancing which have prevented Homelessness and identified fraudulent Homeless claims
- Sign-ups being made within Borough for TA which moves families back from B&B accommodation
- Project team set up to review Locata/CBL system to enhance services
- Review of Allocations Policy underway
- Opened bidding cycles for Council/HA properties
- Provided 4 fully furnished units for the use of an emergency Crash pad for a customer with COVID-19 symptoms



Sheltered Housing & Community Alarms

Sheltered housing has had to completely change the way in which their services are delivered which has caused some anxiety for officers as they have not been able to be on site and visible as much. They continue to make the welfare calls to those most vulnerable and once again have adapted and sought new opportunities to deliver the best service we can to our residents.

There have also been some heart-warming activities and projects undertaken on some of the schemes, as highlighted below.

Achievements

- All compliance safety checks continue to be carried out throughout all sheltered schemes
- 1st Resident newsletter being sent to all Sheltered Residents
- All staff are now back on site providing a socially distancing service
- Joint venture with CVS to carry out a makeover of Quennell Way communal gardens
- Floor standing hand sanitisers installed at entrance doors to in-house schemes
- Community Alarms continue to provide an excellent front line service.
- Quick response provided to customers experiencing alarms equipment issues

Housing Sheltered
COVID-19

Sheltered Officers provide a front line daily service to vulnerable residents within the sheltered schemes

400 calls a month to vulnerable and lonely residents

10 safeguarding referrals made to social care

70 resident support plans carried out

New monthly residents magazine distributed

Installed hand sanitising units and the Covid track and trace QR code throughout all our Sheltered schemes

New weekly programme of misting throughout all Sheltered schemes which enables residents to have confidence of a safe environment

www.brentwood.gov.uk

BRENTWOOD BOROUGH COUNCIL

Strategic Housing Development

The Strategic Housing Development Team (SHDT) are coordinating a tiered programme to accelerate the delivery of affordable quality housing with the Borough, this is currently entitled the Strategic Housing Development Programme (SHDP). Detailed and structured sessions with members will be coordinated within the next few months at this embryonic stage and a detailed communication strategy with residents will be an integral part of the programme.

The extent of the programme (SHDP) covers not only that of new development in respect of longer-term delivery but extends to an ambitious quantum of urban renewal, including improvements to existing stock, public realm, open space and other buildings within the environs of development.

The SHDP will seek to deliver a programme of new Council homes on existing Council owned sites over a 7-year period. Phase 1 is aimed at achieving at least 100 new homes.

The programme has so far assessed 19 sites for the delivery of new Council homes and have commissioned further capacity studies on 9 sites.

Brookfield Close has been identified as the first potential development site which seeks to deliver 61 'in occupation' net carbon zero homes. A dedicated website has been set up and consultation with residents began this week. Further information can be found at www.brookfieldclosehutton.co.uk

In parallel to the above, a rolling programme is being coordinated; largely but not exclusively, this entails actioning 'quick win' sites and producing feasibility studies for medium term delivery. Coram Green Townhouses approved by Planning Committee last year are an example of this.

Achievements

- Tender has been issued for the construction of 3 town Houses and parking for the Whittington Road/Coram Green site (Barnston Way)
- The engagement of ARK consultancy is complete. This is specialist support for the Strategic Housing Development Team to develop the Housing Strategy, support the build programme site and review existing S106 contributions whilst upskilling existing staff.
- A BBC Project lead has been appointed in tandem with ARK to ensure a collaborative approach and the project is led by BBC from ground level.
- Engaged a Project Lead for new development sites which include Four Oaks, Ingleton House, Barnston Way and Brookfield Close
- Arrangements underway for a forum/workshop for RP's in the area and form closer links particularly around pending development sites

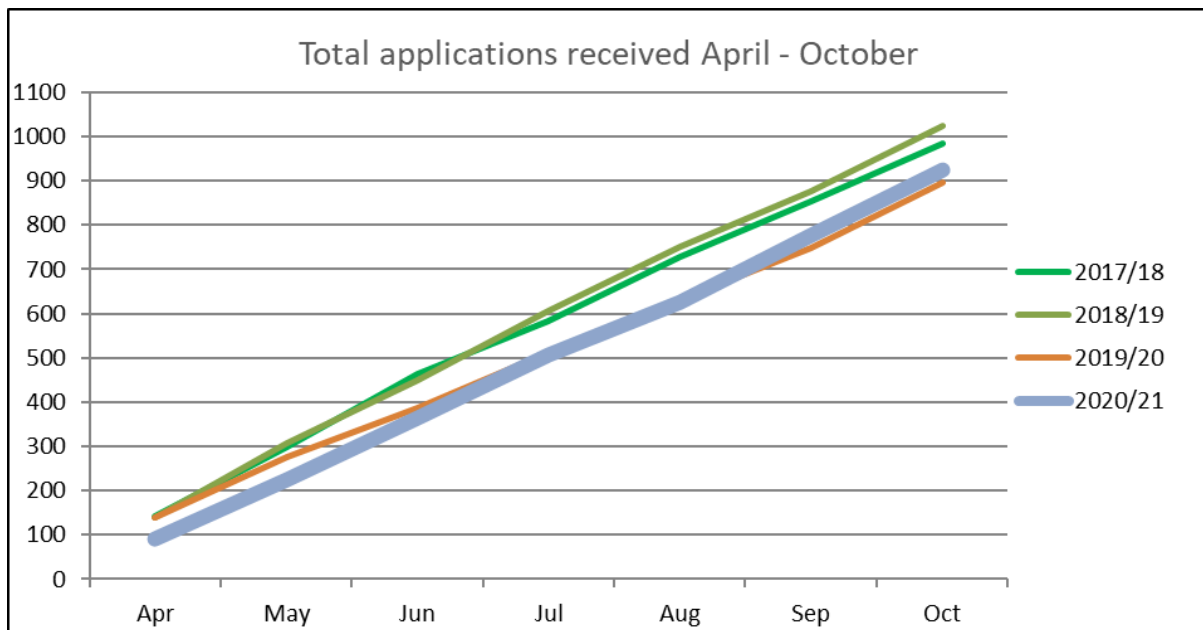
Appendix D

Committee: Ordinary Council	Date: 2 December 2020
Subject: Chairs report for Planning and Licensing Committee	Wards affected: All
Committee Chairman: Cllr Jon Cloke	
Report of: Phil Drane, Director of Planning and Economy	Public
Report author/s: Name: Phil Drane, Director of Planning and Economy Telephone: 01277 312500 E-mail: philip.drane@brentwood.gov.uk	For information

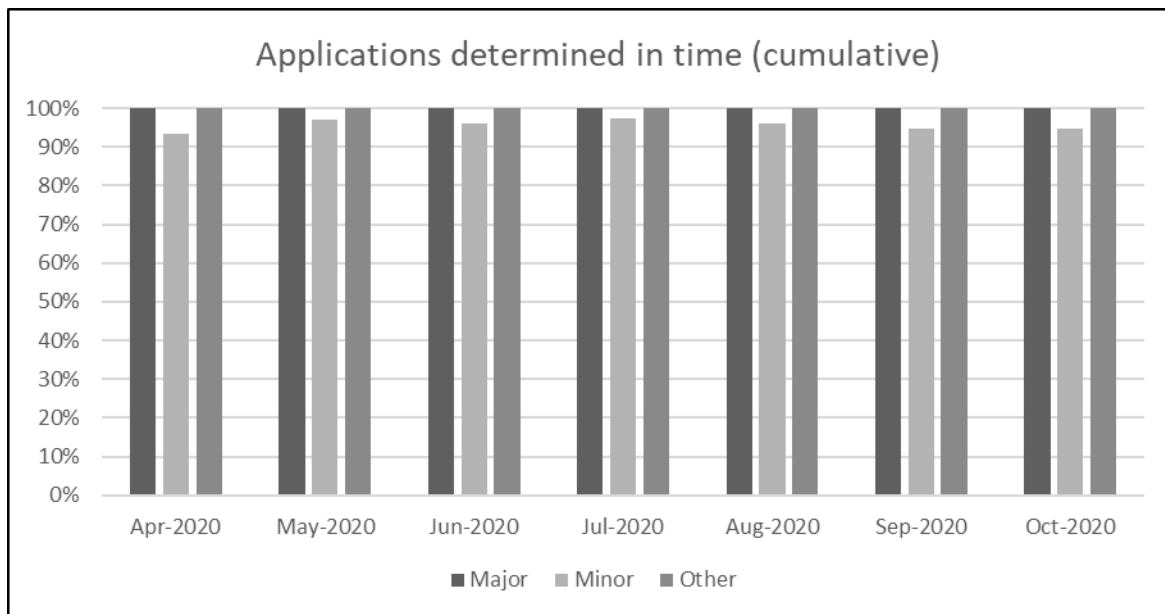
PLANNING DEVELOPMENT MANAGEMENT

Applications

As has been previously reported, the effects of the COVID-19 Coronavirus pandemic have been felt by the authority, for example in the number of applications received which fell significantly in April and May. However, using the broadest measure, i.e. relating to all types of applications, levels had rebounded by mid-summer and for October the cumulative total for the financial year so far was 27 more than the number received to the end of October last year (see chart below). The number of applications in the narrower measure of applications (FUL, LBC etc) was nine up on the same period last year. This recovery in numbers has been felt nationwide. Fee income varies from month to month; the October figure is slightly down on last year though ahead of projections.



For several years now, the percentage of planning applications decided within the statutory time periods has remained at around the highest levels recorded for the department (see chart below).



Ways of working due to COVID-19

Officers have been working from home in the main since mid-March due with limited entry to the office. Pre-application and other meetings have been held online. As national restrictions eased over summer, site visits were undertaken when necessary and where safety could be assured. Site notices have been placed on site through a mixture of officer visits and help from applicants. However, due to recent changes in national guidance staff are again mostly working remotely with a presumption against site visits and face to face meetings unless deemed necessary. The Planning and Licensing Committee has held four online meetings via Microsoft Teams, which have worked well.

Appeals

As regularly reported in this briefing, the Secretary of State operates a 'quality' assessment of planning decisions. Like the measures for speed, these are assessed as two types – Majors and 'non Majors'. The measure assesses the number of allowed appeals as a percentage of all applications of that type determined by the planning authority in the previous two years. Effectively this assesses the decision failure rate, what the Government may consider to be poor or bad decisions. The threshold for concern is 10 percent, i.e. the loss rate should not exceed this level.

Currently three major appeals have been lost in the qualifying period that ends in December 2020. The applications relating to those appeal cases were determined in 2018 (1) and 2019 (2). If no additional Major appeals are lost this year the number will stay below the threshold. The one loss relating to the application determined in 2018 will fall out of the calculation for the next two-year period, April 2019 to March 2021, the two losses relating to applications determined in 2019 will remain part of that calculation.

Looking at appeals on a more basic allowed/dismissed level, the number and percentage of appeals lost were lower than in previous years, despite a rise in

appeal cases. However, this is not the measure that the Government considers to be important.

Decision making

Since October 2019, of 23 applications determined by the committee, 11 have been contrary to recommendation. Six of those applications were recommended for approval but refused, five with recommendations for refusal were approved. A further application for listed building consent was refused on officer advice as the associated planning application had been refused contrary to recommendation.

Apart from the divergence in views between officers and the committee inferred by this performance, it creates difficulties for officers having been involved in pre-application discussions and recommending approval to applications that are subsequently refused. It is acceptable in principle for the committee to disagree with an officer recommendation, particularly where matters are finely balanced, though it would be expected to be a rare occurrence. However, difficulties arise when decisions are not soundly made, involve subjective judgements or disagree with evidence provided by an applicant where there is nothing of a similar weight offered in return. Where decisions are refused contrary to recommendation, applicants often decide to appeal and tend to be successful. Unless refusals are clear, soundly based and defensible they are difficult to defend. As indicated above, the outcome of appeals relating to Major developments is especially important. The appeals relating to Ewing House, Regent House and the former Blood Centre (Crescent Drive), referred to above were all recommended for approval, refused by the committee and allowed at appeal.

Telecoms Masts

Regarding the ongoing issue of poor or no mobile phone signal for certain networks in areas of Brentwood, the committee was presented with an update on 14 October 2020. Information has been published on the Council's website to help explain the situation to residents and businesses, from the perspectives of the Council as local planning authority and the requirements of mobile network operators.

Since that update, the Council is working with the relevant operators to identify temporary solutions using Council-owned land if necessary. The temporary provisions are outside the planning process and under general permitted development. The offer has been made to work together on more permanent solutions through the planning process.

PLANNING POLICY

Local Development Plan

An update on the Local Plan examination is provided in the Policy, Resources and Economic Development Committee chairs report.

Ingatestone and Fryerning Neighbourhood Plan

Ingatestone and Fryerning Parish Council has recently published their draft Neighbourhood Plan for consultation. On 11 November 2020, the Planning and

Licensing Committee approved a high-level response on behalf of the Council detailing points of process and consistency with the emerging Local Development Plan. The neighbourhood plan sets out policies on housing; design; heritage; economy; transport; environment; and wellbeing, leisure and community facilities. This is Regulation 14 (pre-submission) stage according to relevant legislation.

Following the Regulation 14 consultation, all comments will be reviewed by the parish council and a decision made as to what, if any changes and additional evidence is needed to support the plan. Once this has been completed, then the Neighbourhood Plan is submitted to the Council as local planning authority (Regulation 15), along with a range of required documents/evidence.

The Council is responsible for publishing the documents on its website and carrying out a six-week consultation as required by Regulation 16. Following the Regulation 16 consultation the Neighbourhood Plan will be submitted to an Independent Examiner Service to oversee the examination hearing sessions.

The local planning authority bears the cost of the examination, in accordance with Regulation 18. The Neighbourhood Plan examination hearing sessions can range between one to two months depending on the complexity of the Neighbourhood Plan and the comments received during the consultations. The Independent Examiner will issue a decision following the completion of the Neighbourhood Plan examination hearing sessions consisting of one of three decisions:

- The Neighbourhood Plan should proceed to a Referendum;
- The Neighbourhood Plan should proceed to a Referendum, subject to certain amendments; or
- The Neighbourhood Plan does not proceed.

Provided the Neighbourhood Plan can proceed to a referendum (Regulation 20), the Council is responsible for co-ordinating and paying for all residents within the parish to be able to vote on whether the Neighbourhood Plan should be adopted. Provided a majority vote (50% +1 individual) is received then the Neighbourhood Plan will be adopted and form part of the development framework for deciding planning applications within the Neighbourhood Plan area.

LICENSING

The Licensing Team has seen a rise in the number of applications that are being received under the Licensing Act 2003 after the lull during the business shutdown due to the COVID-19 pandemic. This is in contrast with the applications to renew Hackney Carriage and Private Hire licences that have seen a decrease since lockdown. The government has now introduced Guidance for Taxi Licensing which will impact on the Council's policies, this process will be updated and be subject to public consultation.

The Council recently successfully defended an appeal in the magistrates court, supporting the decision of the Licensing Sub-Committee to revoke a taxi driver licence based on complaints and behaviour.

Managing the implications of the Coronavirus Restriction Regulations has meant a busy time for the team, with changes to the regulation and guidance on a frequent basis. Compliance has generally been good across the borough, although we are working closely with partner agencies to focus on those businesses that are not following guidance.

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Appendix E

Committee(s): Ordinary Council	Date: 2 December 2020
Subject: Chairs report for Policy, Resources and Economic Development Committee	Wards Affected: All
Committee Chair: Cllr Chris Hossack	
Report of: Name: Greg Campbell, Director of Environment Telephone: 01277 312738 E-mail: greg.campbell@brentwood.gov.uk Name: Amanda Julian, Director of Law & Governance and Monitoring Officer Telephone: 01277 Tel: 01277 312705 E-mail: amanda.julian@brentwood.gov.uk Name: Phil Drane, Director of Planning and Economy Telephone: 01277 312610 E-mail: philip.drane@brentwood.gov.uk	For Information

Local Development Plan

The LDP examination process continues. Initial questions were received from the appointed inspectors in May 2020. Throughout July to September several documents have been published in response to those questions, in the form of examination notes and topic papers. The following matters have been published on the Council's website as part of the examination (www.brentwood.gov.uk/examination):

Matter	Document	Published
Legal compliance (duty to cooperate and other matters)	Supplementary information to the Duty to Cooperate Statement and examination note	24 July
South Essex JSP	Examination notes	
Retail		
Historic environment		
Open space	Topic papers	28 August
Sustainability Appraisal process		
Dunton Hills Garden Village		
Gypsies and Travellers		
Housing need		
Housing supply	Examination notes	
Affordable housing		
Housing standards and mix		
Employment		

Matter	Document	Published
Transport infrastructure		
Air quality		
General matters		
Spatial strategy	Topic papers	4 September
Green Belt		
Use classes order	Examination note	

Moving forward, more information is to be published in response to inspectors' questions about minor modifications to policy wording. We expect to hear from the inspectors soon about timeframes for next steps, including receipt of the Matters, Issues and Questions, and examination hearing sessions.

Hearing session date and time		Matters and issues
Week One (1-4 December 2020, plus reserve day)		
Tuesday 1 December 2020	Morning session (09:30)	Opening statement from the Inspectors followed by Council statement Matter 1: Legal and procedural requirements Issue 1: Duty to cooperate (Question 1) Issue 2: Other legal and procedural requirements (Questions 2-13)
	Afternoon session (14:00)	Matter 2: Spatial strategy Issue 3 (Questions 14-23)
Wednesday 2 December 2020	Morning session (09:30)	Matter 2 continued
	Afternoon session (14:00)	Matter 3: Green Belt Issue 4: Principles of releasing land from Green Belt (Questions 24-29)
Thursday 3 December 2020	Morning session (09:30)	Matter 4: Housing needs and requirement Issue 5: Overall housing needs and requirement (Questions 30-34) Issue 6: Affordable housing (Questions 35-38)
	Afternoon session (14:00)	Matter 5: Employment needs and requirement Issue 7 (Questions 39-42)
Friday 4 December 2020	Morning session (09:30)	Matter 6: Dunton Hills Garden Village Issue 8 (Questions 43-54)
	Afternoon session (14:00)	Matter 6 continued
Friday 11 December 2020	Morning session (09:30)	Reserved
	Afternoon session (14:00)	Reserved
Week Two (2-5 February 2021)		
Tuesday 2 February 2021	Morning session (09:30)	Matter 7: Site allocations Issue 9

Hearing session date and time		Matters and issues
		<p>Matter 7a: Site selection methodology (Questions 68-71)</p> <p>Matter 7b: Site allocations – general questions (Questions 72-76)</p> <p>Matter 7c: Site allocations – Brentwood town (Questions 77-80)</p>
	Afternoon session (14:00)	Matter 7d: Site allocations – Shenfield (Questions 81-84)
Wednesday 3 February 2021	Morning session (09:30)	Matter 7e: Site allocations – Urban neighbourhoods (Questions 85-89)
	Afternoon session (14:00)	<p>Matter 7f: Site allocations – Large villages (West Horndon and Ingatestone) (Questions 90-92)</p> <p>Matter 7g: Site allocations – Rural villages (Kelvedon Hatch and Blackmore) (Questions 93-94)</p>
Thursday 4 February 2021	Morning session (09:30)	Matter 7h: Site allocations – other employment sites (Questions 95-100)
	Afternoon session (14:00)	Matter 6: Dunton Hills Garden Village – continuation and specific policy details (Questions 55-67)
Friday 5 February 2021	Morning session (09:30)	Matter 6 continued
	Afternoon session (14:00)	Matter 6 continued
Week Three (9-12 February 2021, plus reserve days)		
Tuesday 9 February 2021	Morning session (09:30)	Matter 8: Housing Provision Issue 10 (Questions 101-118)
	Afternoon session (14:00)	Matter 9 Gypsies, travellers and travelling showpeople accommodation Issue 11 (Questions 119-127)
Wednesday 10 February 2021	Morning session (09:30)	<p>Matter 12: Infrastructure (transport, connectivity, community and communications) Issue 12</p> <p>Matter 12a: Transport (Questions 152-159)</p>
	Afternoon session (14:00)	Matter 12b: Other infrastructure (Questions 160 - 169)
Thursday 11 February 2021	Morning session (09:30)	<p>Matter 10: Employment land provision Issue 13 (Questions 128-138)</p> <p>Matter 11: Retail provision Issue 14 (Questions 139-151)</p>

Hearing session date and time		Matters and issues
	Afternoon session (14:00)	<p>Matter 13: Environment Issue 15</p> <p>Matter 13a: Strategic policies and future proofing (Questions 170-172)</p> <p>Matter 13b: Natural environment (Questions 173-176)</p> <p>Matter 13c: Historic environment (Questions 177-187)</p>
Friday 12 February 2021	Morning session (09:30)	<p>Matter 13d: Green Belt and rural development (Questions 188-190)</p> <p>Matter 13e: Promoting a safe, clean and healthy environment (Questions 191-197)</p> <p>Matter 13f: Sustainable construction and resource efficiency (Question 198)</p> <p>Matter 13g: Design and place-making (Questions 199-203)</p>
	Afternoon session (14:00)	<p>Matter 14: Monitoring and viability Issue 15: Is the Plan viable, deliverable and capable of being effectively monitored? (Questions 204-207)</p>
Wednesday 24 February 2021	Morning session (09:30)	Reserved
	Afternoon session (14:00)	Reserved
Thursday 25 February 2021	Morning session (09:30)	Reserved
	Afternoon session (14:00)	Reserved

Dunton Hills Garden Village

Delivery of Dunton Hills Garden Village is a key part of the LDP strategy. Community co-design engagement took place over the summer to inform detailed design guidance being prepared. This guidance will be brought to Policy, Resources and Economic Development Committee before it is published for public consultation. Resources are currently being prioritised on the LDP examination.

Economic Development Strategy

The Place Audit for Brentwood, Shenfield and Ingatestone was brought to Policy, Resources and Economic Development Committee in September. Several recommendations are made in the document. To consider these, alongside recommendations made in the Economic Development Study (March 2020), and prioritise objectives to be set in the emerging Economic Development Strategy, it was agreed that a workshop be set-up to identify High Street priorities. This took place on Monday 5 October 2020 with PRED committee members and representatives from Brentwood Business Partnership, Brentwood Chamber, and Ingatestone & Fryerning Parish Council.

A key output of the work agreed by PRED Committee in September 2020 was to pursue better marketing initiatives to attract more people to the area. A series of marketing workshops have been organised, led by local businesses, to inform the work. The discussions are intentionally business-led. Outcomes will inform the emerging Economic Development Strategy, and also work to commence a new Parking Strategy.

A working group will consider the points raised on Parking with a view that any outcomes or suggestions from this work will assist to form the specification that will be put together to work with a consultant in order to develop a long term parking strategy for the Borough

This working group will consider and provide thoughts on those issues raised within the Place Audit, including but not limited to:

- The exploration of mixed use solutions for car parking spaces;
- Implement a consistent car park timing system;
- Provide electric charging points and favourable options for eco cars;
- Invest in signage to assist in parking availability;
- Provide consistency across borough in times for stopping; and
- Explore implementation of new systems like Automatic Number Plate Recognition.

Remembrance Day

The mark the fortnight leading up to Armistice Day. The Deputy Mayor, Cllr Olivia Sanders together with members of the Royal British Legion, Major Paul Herlihy – 124 Transport Squadron, Group Leaders of Brentwood Borough Council and the Chief Executive, Jonathan Stephenson were present at a small ceremony to raise the Flag of Remembrance and to say a few words to remember those who lost their lives in conflict.

The Town Hall building was illuminated red until 11th November 2020.

Due to the recent COVID19 lockdown restriction which began on 5th November 2020, plans for the private church services with a small congregation were suspended following Government Guidance.

Father Mark North, Vicar of St Thomas Church kindly carried out the Remembrance Day Service as planned with no congregation and this was streamed live via Facebook for residents of the Borough to view.

No official wreath laying took place at the War Memorial on Remembrance Sunday. However, residents did gather at the Memorial in their own private acts of Remembrance.

Following the church service six dignitaries were invited to private wreath laying ceremony in the grounds of the St Thomas' Church. Wreaths were also laid by church wardens for the units not able to attend due to the restriction. This was also streamed live.

The wreaths remained at the Church Memorial until Wed 11th November 2020, these were taken to the War Memorial in Middleton Hall Lane and re-laid by Members of the Royal British Legion prior to 11.00am silence.

Virtual activities to mark Remembrance Day were available on the Council's Facebook.

Member's Interests

With regards to the Motion at Ordinary Council in January, moved by Cllr Tumbridge and Seconded by Cllr Hossack.

We have reviewed the current Member's Interest Form, however the completed forms are unable to be edited. Therefore, a new process will be put in place to update Members Register of Interests forms.

A new template is being put together which when completed by the Member will be uploaded to the website as usual. This will be a word document to help make future amendments. This will be which will be PDF protected before being uploaded.

Members can request to update their Register of Interests form - their current form will be sent to them by Democratic Services - this version will allow for any necessary amendments and when returned to Democratic Services will be uploaded to the website.

An updated version will be required from all members annually - this will be after May elections to capture all new members information at the same time.

Members are reminded that their Register of Interests form should be updated and amended when any changes occur that are relevant within the form. Your revised Member's interest in this format have been circulated to Members to update.

Constitution Working Group

Constitution Working Group have met on four occasions since April, to ensure the Council Constitution is constantly reviewed.

At the first meeting back in July 2020, a workplan was agreed by the Members of the working group on the work required in areas of the Constitution, mainly around the Planning Code of Good Practice/Chapter, Emergency Committee and Delegated Authority.

A consultation with Members of the Planning and Licensing was undertaken on the Planning Code/Chapters. This work is now complete, and a report is before members this evening.

Remote Meetings

With the country starting its second lockdown on 5th November 2020, the council has reverted back to fully remote meetings.

Democratic Services and IT officers worked together to ensure that meetings could continue with the facility to live stream during this time.

Councillors were invited to attend drop-in sessions on 10th and 12th November 2020 to discuss any IT issues they may be experiencing and how to apply corporate backgrounds.

On 18th November 2020, the Council held their second Emergency Committee to enable the Council to administer the Local Restrictions Support Grant aimed at businesses that have been adversely impacted by the national and Local Covid Alert Level (LCAL) restrictions imposed to prevent the spread of Covid-19, which needed urgent approval.

The committee/council meetings will continue remotely, until Government Guidance enables the return to Hybrid meetings.

Canvass

Final preparation is being undertaken for the publication of the Revised Register on electors on 1st December 2020. The canvass was conducted under the new legislation whereby data held on the electoral register was initially matched against the Department of Work & Pensions & local data sets at the onset of the annual canvass in July.

Only households where a match was not consistent with these data sets were required to respond to the request of confirming or altering the information on the electoral register.

The new Canvass Reform Legislation has allowed the flexibility to change processes at short notice and conduct the exercise with the flexibility that has been required to meet the challenges of the canvass.

Further work will continue after publication to maintain the accuracy of the register and encourage ongoing registration.

Legal Services

The position of legal services manager will shortly be advertised. This will be the first role, in establishing a small in-house team, to be filled. The plan is to, once appointed, to involve the successful candidate in filling the other roles. It is envisaged that this will occur whilst the successful candidate is working a notice period.

Information Governance

A new IG group of officers has been set up to ensure that policies, procedures and guidance documents are kept up to date and in line with legislation. There will be an inaugural meeting to set out a project plan. The appropriate reports will be brought to PRED, as the project progresses.

Committee: Ordinary Council	Date: 2 nd December 2020
Subject: Notices of Motion	Wards Affected: All
Report of: Jean Sharp – Governance and Members Support Officer	Public
Report Author/s: Name: Jean Sharp - Governance and Members Support Officer Telephone: 01277 312655 E-mail: jean.sharp@brentwood.gov.uk	For Decision

Summary

Six Notices of Motion have been submitted in accordance with Rule 3 in Part 4.1 of the Constitution - Council Procedure Rules and are listed in order of the date received.

Motion 1 Received 11/11/2020 @ 19:12

Proposer Cllr Nolan

Seconder Cllr Hossack

Whilst recognising the primary focus of effort should be on getting the Brentwood Centre and our Community Halls back up and running for the benefit of the customers that use these facilities. At the appropriate time, this council resolves to produce a 'lessons learned' report following our former relationship with the BLT and to use this to further inform the considerations we have already given to operating models as part of our Leisure Strategy work to date.

Motion 2 Received 11/11/2020 @ 20:30

Proposer Cllr Poppy

Seconder Cllr Hossack

I would like to ask that the CEO, and the MO review the policy of placing members as trustees on outside bodies. As part of the work of the Constitution Working Group (CWG).

Motion 3 Received 16/11/2020 @ 07:44

Proposer Cllr Bridge

Seconder Cllr Mrs Pearson

This Council notes that its vehicle licencing policy was last updated in 2005. With developments in car technology, this means many modern hybrid and electrical vehicles cannot be licenced by officers as they do not directly meet the requirements of the existing policy. Therefore, this council resolves to update the policy, with a report on a new policy to be presented to a future Licensing Committee meeting, which would allow officers to exercise their discretion on these vehicles.

Motion 4 Received 16/11/2020 @ 08:17

Proposer Cllr Chilvers

Seconder Cllr Aspinell

As plans move forward towards the re-opening of the Brentwood Centre, this Council resolves to take the opportunity to upgrade, where necessary, the Centre's disability access facilities and fire safety measures to meet the requirements of any new legislation that has come to pass since the Brentwood Centre was opened.

Motion 5 Received 16/11/2020 @ 08:17

Proposer Cllr Kendall

Seconder Cllr Mrs Davies

This Council resolves to undertake an audit of the decision making under the lease arrangements and Management Agreement between the Brentwood Trust and the Council. The report to include an analysis of the records available to the officers or that are in the public domain. The report to be bought to Audit and Scrutiny by 31 March 2021.

Motion 6 Received 16/11/2020 @ 08:17

Proposer Cllr Haigh

Seconder Cllr Lewis

This Council resolves that before it enters into any further non-disclosure agreements relating to income generating projects, the agreements are disclosed to, and discussed by, all elected members prior to execution. It is imperative moving forward that elected members have full knowledge and understanding of any such agreements to protect the interests of investing residents of this Borough.

Furthermore, this Council believes that in dealing with the responsibilities of investing residents' monies, a full and open understanding of the risks and rewards of any proposed investments within the boundaries of pre-agreed strategic policies and an agreement by members is a matter of priority.

Committee: Ordinary Council	Date: 2 December 2020
Subject: Constitution Working Group	Wards Affected: All
Report of: Amanda Julian – Director of Law and Governance and Monitoring Officer	Public
Report Authors: Name: Claire Mayhew – Corporate & Democratic Services and Deputy Monitoring Officer Telephone: 01277 312741 E-mail: claire.mayhew@brentwood.gov.uk	For Decision

SUMMARY

The purpose of this report is to update Members on the present review of the Constitution.

Under Section 9P of the Local Government Act 2000, the Council is under a statutory duty to keep its Constitution under constant review ensuring its content is kept up to date.

Monthly reviews of the Council's Constitution take place with the Council's Monitoring Officer and the Members of the Constitution working Group (CWG).

This report sets out several proposals for the revision of the following chapters/paragraphs within the Council's Constitution:

- Chapter 3, Part 3.1 – Powers and Delegations 2.10 Emergency Committee (Appendix C)
- Chapter 5, Part 5.2 – Planning Code of Good Practice/Planning Chapter (Appendix A & B)
- Delegation(s) to staff – Telecommunications Networks (Appendix F)
- Proposed addition of paragraph 12.2 (e) and Proposed change to Chapter 4 Rules of Procedure (Appendix D)

The cross-party Constitution Working Group (CWG) were consulted on the proposed changes required. The attached appendices reflect the significant and detailed contributions from the Working Group Members.

RECOMMENDATION/S

Members are asked to:

- R1. To agree the amendments made to the Planning Code of Good Practice and Planning Chapter and adopt them within the Council's Constitution set out in Appendices A and B.**

- R2. To agree the permanent inclusion of Chapter 3 at 2.10 the Emergency Committee (Section 40 Standing Orders) within Constitution as set out in Appendix C.**
- R3. To agree that Delegated Authority be given to the Director of Planning and Economy and appropriate officers to determine planning applications relating to Telecommunications Networks within the Borough.**
- R4. To adopt the proposed addition of paragraph 12.2 (e) and Proposed change to Chapter 4 Rules of Procedure within the Constitution as shown in Appendix D.**

INTRODUCTION AND BACKGROUND

1. The Council Constitution governs the way the Council operates and how decisions are made.
2. The Council is responsible for monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect (Article 12.1(a) Duty to Monitor and Review the Constitution).
3. Subject to certain exceptions changes to the Constitution are only effective if approved by Full Council. Normally changes will only be considered by Full Council following a report and recommendation from the Constitution Working Group or the Audit & Scrutiny Committee ("Member body") and having received advice from the Monitoring Officer, (Article 12.1(c)). The Monitoring Officer may submit a report direct to Full Council in any case where his/her advice is not accepted by the Member body (Article 12.2(f)).
4. The Members of the Constitution Working Group have met on three occasions since April to consider a workplan (Appendix F) which consists of Planning Code of Good Practice/Chapter, Scheme of Delegations, Modern Code of Conduct, Council Procedures Rules Chapter and the Emergency Committee.

Planning Code of Good Practice/Planning Chapter

5. One of the areas identified for immediate review was the Council's planning procedures to make sure that they comply with the current law, best practice in relation to the declaration of interests by Members, predetermination and bias and other wider planning considerations.

6. Following earlier consideration of the draft Member's Planning Code of Good Practice/Chapter by the Constitution Working Group, it has been substantially revised in the light of comments received. It has been shortened, made much clearer and up to date, both in style and in relation to revisions which are necessary since the passing of the Localism Act 2011. In relation to changes made to declarations of interests and the Code of Conduct.
7. Planning is a complex area, Members have an essential role to play in the planning system, they need to act reasonably and fairly in a way that ensures public confidence in the planning system. The revised Members Planning Code of Good Practice provides updated guidelines to the standards of conduct expected of Members within a planning context, and to ensure that all planning decisions are made openly, impartially, with sound judgement and for justifiable planning reasons.
8. The draft revised Members Planning Code of Good Practice/Chapter (Appendix A & B) draws upon guidance issued by, amongst others, the Local Government Association and Royal Town Planning Institute.
9. The draft revised Members Planning Code of Good Practice/Chapter were presented to the members of the Constitution Working Group on 1st July 2020.
10. Members of the Constitution Working Group together with the Members of the Planning and Licensing Committee were asked to submit any comments on the draft Planning Code of Good Practice/Chapter by 10th September 2020 to the Monitoring Officer. Comments received were discussed by CWG and the Monitoring Officer and Director of Planning and Economy, please see Appendix A and B.

Emergency Committee

11. At an Extraordinary Council meeting held on 29 April 2020, it was approved that under - Section 40 Standing Orders, an Emergency Committee was established during the unprecedented times to ensure that the Council can continue to operate and make the decisions needed.

12. Cllr Dr Barret moved an amendment to the recommendation which was approved: -

“To agree to include the Emergency Committee within the Council Constitution at Chapter 3 at 2.10 and to agree the changes of the Council’s Rules of Procedure at Part 4 of the Constitution as set out in Appendix D and that these changes will be reviewed at the Ordinary Council (should it convene as planned) on 7th October 2020”.

13. A review of the Emergency Committee was undertaken by the CWG. The Emergency Committee has met twice since April 2020, however, they believe that the committee works appropriately during an emergency and therefore, has concluded that the Emergency Committee should be adopted within the Council Constitution in coincide within Section 40 Standing Orders.
14. The Emergency Committee Terms of Reference are attached at Appendix C to this report.

Delegated Authority – Telecommunications Networks

15. Members considered a report on telecommunications prior notice applications recommending delegated authority be given to determine these (Item 410, Planning and Licensing Committee, 11 March 2020, Appendix E). The committee resolved that delegated authority was acceptable in principle, but because a change was required to the constitution that this should be considered by the Constitutional Working Group in order that it could be correctly progressed.
16. The report referenced the details of how development proposals of this type are dealt with through the Planning decision-making process and the timeframes involved. Due to the length of time between validation of the application and presenting it to committee, there is greater risk that some of these applications will go out of time and be 'permitted' by default even where their siting and/or appearance are unacceptably harmful. Delegating powers to officers makes this less likely. This is the basis for other prior notifications being determined under delegated powers within the constitution, and it is proposed that this approach should be extended to telecommunications prior notifications.
17. As part of the roll out of 5G it is likely that there will be an increase in applications for new sites, replacement masts and equipment on existing sites. This is likely to mean that there will be more prior notification applications presented to the committee if they are not determined under delegated powers.

18. Article 12 Addition of paragraph 12.2 (e) and proposed change to chapter 4 rules of procedure in Appendix D. These proposed changes to Article 12 are being suggested so that any Member may request CWG to look at particular parts of the Constitution. Also, to clarify the wording in paragraph 3.10 of Part 4 of the Constitution to read as paragraph 8.3.4, regarding the duration of speeches.

ISSUE, OPTIONS AND ANALYSIS OF OPTIONS

19. A Council's constitution must by law contain a copy of the Council's current standing order, a copy of the Council's Member's Code of Conduct and such other information as the Secretary of State may direct and such other information that the Council considers appropriate.
20. The purpose of the Constitution is already set out in Article 1.3 of the current Constitution.
21. Any constitution should be designed to better facilitate actions, so the at the Council can deliver its expressed vision and its relative and often interrelated corporate priorities.

REASONS FOR RECOMMENDATIONS

22. Section 37 of the Local government Act 2000 required that the Council has in place a document, known as its Constitution, which should be regularly reviewed.
23. The delegation of powers for determining telecommunications development proposals will make it less likely that these applications will go out of time without a decision being made, thereby reducing risk.

CONSULTATION

24. The Constitution Working Group together with the members of the Planning and Licensing committee were consulted on the proposed changes to the revised Members Planning Code of General Practice/Chapter attached as Appendix A and B to this report.

IMPLICATIONS

FINANCIAL & RISK IMPLICATIONS

Name & Title: Jacqueline Van Mellaerts, Director of Corporate Resources (Section 151)

Tel & Email: 01277 312500/ jacqueline.vanmellaerts@brentwood.gov.uk

25. The are no direct financial implications from this report. Resources to fund the changes to the constitution have been managed within the Council's existing budget.

LEGAL IMPLICATIONS

Name & Title: Amanda Julian, Director of Law & Governance (Monitoring Officer)

Tel & Email: 01277 312500 /amanda.julian@brentwood.gov.uk

26. Local Government Act 2000 Section 37(1) requires a Local Authority to prepare and keep up to date a Constitution. Article 12 of the Constitution provides that a report of the Constitution Working Group should be bought to Ordinary Council with recommendations on the changes required.

ECONOMIC IMPLICATONS

Name & Title: Phil Drane, Director of Planning & Economy

Tel & Email: 01277 312500/ philip.drane@brentwood.gov.uk

27. The Council is committed to growing the local economy. A clear governance process for determining planning applications aids the role of the local planning authority when supporting economic growth. Enabling the installation of infrastructure that local businesses are reliant on, such as telecommunications equipment, is an important part of the business environment. Provided proposals are consistent with planning policies and other aspects of the planning process, the Council should look to expediate the decision-making process for the swift determination of telecommunication prior notification applications.

Equality and Diversity Implications

Name/Title: Kim Anderson, Partnerships, Leisure & Funding Manager

Tel/Email: 01277 312634/kim.anderson@brentwood.gov.uk

28. The local authority should have due regard to the Equality Act 2010 and in particular Section 149 The Public Sector Equality Duty in the exercise of its functions.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

Background Papers

None

Appendices to this report

Appendix A – Revised Members of Code of Good Practice

Appendix B – Revised Planning Chapter

Appendix C – Emergency Committee – Terms of Reference

Appendix D – Amendments to the Constitution - Proposed addition of paragraph 12.2 (e) and Proposed change to Chapter 4 Rules of Procedure

Appendix E – Report & Minutes of 11th March – Planning & Licensing Committee (Telecommunications Masts)

Appendix F – Constitution Working Group Workplan 2020/2021

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PART 5.2 - MEMBERS' PLANNING CODE OF GOOD PRACTICE

1. INTRODUCTION

- 1.1 The basis of the planning system is the consideration of private proposals against wider public interests. The key purpose of the planning system is to control development in the public interest.
- 1.2 The aim of this Code of Good Practice is to facilitate good decision making in the planning process and ensure that there are no grounds for suggesting that a decision has been biased, partial or not well founded.
- 1.3 Your role as a Member of the Local Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable planning reasons.
- 1.4 This Code of Good Practice applies to Members at all times when they are involved in the planning process. This includes when taking part in Planning Committee meetings or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It also applies to planning enforcement matters or site specific policy issues.
- 1.5 This Code is drafted in terms of what you should do and what you should not do. If you have any doubts about the application of this Code to your own circumstances you should try to seek advice early, from the Monitoring Officer or one of the legal team, and preferably well before any meeting takes place. However, it is better to seek advice late in the day than not at all.

2. RELATIONSHIP TO THE MEMBERS' CODE OF CONDUCT

- 2.1 First, apply the Rules in the Members' Code of Conduct. These must be always be complied with.

- 2.2 Then apply the Rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
- 2.2.1 the Council at risk of proceedings on the legality or maladministration of the related decision;
 - 2.2.2 yourself at risk of either being named in a report made to the Audit and Scrutiny Committee or Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Monitoring Officer;
 - 2.2.3 yourself at potential financial risk if the council suffers a challenge due to your non observance of these Rules; and
 - 2.2.4 if the non-observance involves a breach of the Disclosable Pecuniary Interest Regulations, you could be prosecuted.

3. WHERE YOU HAVE AN INTEREST IN A PLANNING MATTER

- 3.1 An interest could arise if it is your own application or the application of a family member; a close friend or associate of yours; or that of a company or organisation with which you are closely involved. In some situations, your interest could amount to a Disclosable Pecuniary Interest; in other cases it may be one where you could reasonably be said to be at risk of bias (see below).
- 3.2 Whilst you are able to discuss your application with officers in advance of committee in the same way that a member of the public can, you should disclose the existence and nature of your interest at all relevant meetings, including informal meetings or discussions with officers and other Members. Your interest should be disclosed at the beginning of the meeting and not just at the commencement of discussion on that particular matter, unless you do not realise that you have an interest beforehand.
- 3.3 Where your interest is a disclosable pecuniary interest:
- 3.3.1 unless you have been granted a dispensation beforehand, don't participate, or give the appearance of trying to participate, in the making of any decision on the matter by the Planning Authority;
 - 3.3.2 don't try to represent ward views, get another Ward Member to do so instead;

- 3.3.3 don't get involved in the processing of the application; and
 - 3.3.4 never seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Member. This would include, where you have a disclosable pecuniary interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- 3.4 When you have an interest, you should notify the Monitoring Officer in writing of the existence and nature of your interest and note that:
- 3.4.1 this notification should be sent no later than submission of the application where possible;
 - 3.4.2 the application ~~will~~ **must** always be reported to the Committee for decision and not dealt with by officers under delegated powers; and
 - 3.4.3 it is advisable that you employ an agent (either a planning consultant if one is involved or another person) to act on your behalf on the application to deal with officers and to carry out any public speaking at Committee.
 - 3.4.4 **See paragraph 2.1 – Planning Chapter- Immediate Family Members**
- 3.5 Whilst you are not prevented from seeking to explain and justify an application in which you have a disclosable pecuniary interest to an appropriate officer the Code places limitations on you in representing that application. You may address the Committee after being granted a dispensation but only to make a presentation in the same manner than would apply to a normal member of the public, after which you must leave the room- including the public gallery- whilst the meeting considers it.

4. PREDETERMINATION, PREDISPOSITION AND BIAS

- 4.1 Bias (or apparent bias which is more usual) is where your interests are such that a member of the public might reasonably think that these will affect your view of the public interest – so for example where a planning application in front of the committee is from a family member or close associate of yours. Predetermination is a form of bias. Whilst you are able to express a view (predisposition), you should not make up your mind, or appear to have made up your mind (predetermination) on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning committee and after hearing the officer's presentation and evidence and arguments on both sides.
- 4.2 Do not speak and vote on any proposal where you are pre-determined. You do not have to withdraw, but you may prefer to do so. Where you are predetermined but take part in a decision you will put the Council at risk of a finding of maladministration and also of a risk of legal challenge on the grounds of there being a danger of bias or pre-determination or a failure to take into account all relevant factors. In some circumstances you may yourself face a claim if your behaviour led to the challenge.
- 4.3 Where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal, you are likely to be seen as predetermined. (This involves more than a matter of Membership of both the proposing and Planning Committees, but is where through a significant personal involvement in preparing or advocating the proposal you will be, or may be perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- 4.4 You are able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the Parish Council **or been part of pre-application discussion as a Ward Member** for example, or are both a Borough and County Councillor), provided:
- 4.4.1 the proposal does not substantially effect the well-being or financial standing of the consultee body;
- 4.4.2 you make it clear to the consultee body that:

- (a) your views are expressed on the limited information before you at that point;
- (b) you are clear that you are reserving judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, until it comes before the Committee and you hear all of the relevant information; and
- (c) you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
- (d) you disclose the personal interest regarding your Membership or role when the Committee comes to considers the proposal.

4.5 If you are unable to comply with 4.4 above but are present at the Planning Committee you should explain to the Committee that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged the matter elsewhere, so that this may be recorded in the minutes.

4.6 You may exercise separate speaking rights as a Ward/Local Member -(this is granted by the Procedure Rules via the consent of the Chair) where you have represented your views or those of local electors in a way which could be said to make you pre-determined (not pre-disposed), but only where you do not have a disclosable pecuniary interest.

4.7 Where you wish to speak in these circumstances:

- 4.7.1 advise the Monitoring Officer or Chair that you wish to speak in this capacity before commencement of the item;
- 4.7.2 remove yourself from the Member seating area for the duration of the item;
- 4.7.3 ensure that your actions are recorded and that if required you have been granted a dispensation to speak in accordance with the Members' Code of Conduct; and
- 4.7.4 do not vote on the matter.

5. CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS

5.1 This paragraph 5, must be read in conjunction with paragraph 6.

5.2 Refer those who approach you for planning, procedural or technical advice to officers.

5.3 Report to the ~~Planning Officer~~ **Case Officer** or Monitoring Officer any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

5.4 Don't agree to any meeting with applicants, agents, developers or groups of objector, but speak to the ~~Planning Officer~~ **Case Officer** where you feel that a formal meeting would be useful in clarifying the issues, and ask the ~~Planning Officer~~ **Case Officer** to organise it and be present. The Officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

5.5 ~~Otherwise:~~

5.5.1 **Follow the Rules on lobbying (see Paragraph 6 below); and**

5.5.2 ~~Consider whether or not it would be prudent in the circumstance to make notes when if or when contacted (it usually is)~~

5.6 Don't attend a planning presentation unless an officer is present and/or it has been organised by officers.

5.7 Ask relevant questions at any presentation for the purposes of clarifying your understanding of the proposals.

5.8 Remember that the presentation is not part of the formal process of debate and determination of any subsequent application,

5.9 Be aware that a presentation is a form of lobbying and so you must not express any strong view or state how you or other Members might vote as this could be classed as predetermination.

6. LOBBYING OF COUNCILLORS MEMBERS

- 6.1 Remember that your overriding duty is to the whole community not just to the people in your ward and you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 6.2 Explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, you cannot express an intention to vote one way or another or express such a firm point of view that it amounts to the same thing.
- 6.3 Do not accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum and that its acceptance is promptly registered in accordance with the rules on gifts and hospitality. You may also want to consider reporting offers of gifts and hospitality which are made to you which you refuse.
- 6.4 Pass on any lobbying correspondence you receive to the Monitoring Officer at the earliest opportunity, and inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches.
- 6.5 Inform the ~~Planning Officer~~ **Case Officer** of any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- 6.6 Unless you have a disclosable pecuniary interest, you will not have predetermined or breached this Planning Code of Good Practice through:
 - 6.6.1 listening or receiving viewpoints from residents or other interested parties;
 - 6.6.2 making comments on proposals to residents, interested parties, other Members or appropriate officers, provided they do not amount to predetermining the issue and you make clear you are keeping an open mind;
 - 6.6.3 seeking information through appropriate channels such as the ~~Planning Officers~~ **Case Officer**; and

6.6.4 being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that you are expressing the opinion or ward/local view, but you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

6.7 Be careful of joining or representing an organisation whose primary purpose is to lobby to promote or oppose particular planning proposals. If you do, you will probably be unable to vote on the matter due to predetermination or bias, and you may have an interest which should be declared under the Code of Conduct.

6.8 This does not apply to general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society. Where you are a member of such a group you should disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal

6.9 Do not excessively lobby fellow Members or attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

6.10 Do not decide or discuss how to vote on any planning application at a political group meeting, or lobby any other Member to do so. Political group meetings should never dictate how Members should vote on a planning issue as these are decided upon material planning considerations.

7. SITE VISITS (REFER TO PLANNING CHAPTER)

7.1 Site visits are an opportunity to seek information and to observe the site.

~~8.2 Do not request a site visit unless you feel it is strictly necessary because:-~~

7.2 When an application is being determined by committee a site visit could be beneficial if:-

7.2.1 particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the

absence of a site inspection (increasingly unlikely given the technology now available); or

7.2.2 there are significant policy or precedent implications and specific site factors which need to be carefully addressed.

7.3 Try to attend site visits organised by the Council where possible. All information gained from the site visit is reported back to the Committee, so that all Members making the decision have the same information.

7.4 Whilst you should ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection, you should not listen to representations from any party, with the exception of the Ward Member(s), whose address must focus only on site factors and site issues. If you are approached by the applicant or a third party on a site visit, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.

7.5 Don't Members **must not** enter **a private application** site ~~which is subject to a proposal other than as~~ **unless** part of an official site visit, even in response to an invitation, as this may give the impression of bias.

8. ENGAGEMENT WITH OFFICERS

8.1 Don't put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the ~~Development Management Manager,~~ **Case Officer**, which may be incorporated into any Committee report).

8.2 Only discuss proposals, outside of any arranged meeting, with the **Case Officer** ~~who are authorised by their Head of Service to deal with the proposal at a Member level.~~

8.3 To seek clarification, Members should engage with Case Officers by arrangement, unless urgent.

8.4 Remember that officers must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily so far as ~~Planning Officers~~ **Case Officers** are concerned with the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views,

opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

9. DECISION MAKING

- 9.1 Decisions ~~must~~ **shall** be made in accordance with the Development Plan unless material considerations indicate otherwise. The Planning Officers report will indicate what the material planning considerations are and it is only these factors that you must consider when deciding on an application.
- 9.2 If you request a proposal to go before the Committee rather than be determined through officer delegation, your reasons will be recorded and repeated in the report to the Committee.
- 9.3 If you feel there is insufficient time to digest new information or that there is simply insufficient information before you relevant to the material considerations raised, request that further information be provided. If necessary, defer the decision until such time as that clarification has been made.
- 9.4 Don't vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- 9.5 If you are proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan you must clearly identify your reasons for doing so and understand the material planning considerations that justify this. These reasons must be given prior to the vote and will be recorded. If officers advise you that any reasons that are being put forward are not material planning considerations it is very difficult to justify any decision based on them, and it could give rise to the Council being challenged. You may be called to justify a decision against officer recommendation through giving evidence in the event of a challenge to them by way of an appeal or judicial review.

10. TRAINING AND REVIEW

- 10.1 You must attend the mandatory planning training prescribed by the Council before you participate in the planning committee meetings.
- 10.2 Try to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plan and so will assist you in carrying out your role properly and effectively.

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PLANNING COMMITTEE – CHAPTER

(a) Terms of Reference of the Planning Committee

Council has determined that the Planning Committee shall be constituted and shall have delegated authority for the discharge of Council's functions as set out below:

PLANNING COMMITTEE	
Appointed by: The Council under Section 102 of the Local Government Act 1972	Number of elected Members: 12
Chair and Vice-Chair appointed by: The Council	Political proportionality: The elected Members shall be appointed accordingly to Political proportionality.
Quorum: 4	
Code: <ol style="list-style-type: none"> 1. The Planning Committee Procedures in Part B of this Chapter. 2. Code of Practice for Members and Officers – Planning Application, in Part D of this Chapter. 	
Terms of Reference: <ol style="list-style-type: none"> 1. To determine planning and associated or related application for the use or development of land or application for listed building and conservation area consent, to take enforcement or other action, or generally to control the use and development of land. The applications to be considered by the Planning Committee are set out at Part B. 2. To keep under review and make minor alterations as necessary to the Committee's procedures. 3. Without prejudice to the generality of the foregoing, this delegation included the functions as set out in column (1), paragraph A of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, and all legislation appertaining to planning contained in the Planning Acts including changes introduced by the Localism Act 2011 and the Growth Acts and any amendments thereto. 	

Part B – Planning Committee Procedures

1. Interpretation

- 1.1 Subject to paragraphs 1.2 and 1.3 below, these procedures shall be interpreted in accordance with the Council's Constitution.
- 1.2 "Chair" include, in addition to the Vice-Chair any Members of the Planning Committee elected to Chair a particular meeting.
- 1.3 "Application" means and application for the planning permission and associated or related application for the use or development of land or applications for listed building and conservative area consent or applications otherwise within the terms of reference of the Committee.
- 1.4 "~~Planning Officer~~ "Case Officer" means the planner assigned to process the application (and associated or related applications), usually from the Development Management Team, ~~Leader~~ in place to advise the Planning Committee on them, or someone authorised by him/her to act on his/benefit.
- 1.5 "Senior Officer means the Chief Executive/Head of Paid Service, Director/Senior Leadership Team, or Development Management Team Leader employed by Brentwood Borough Council

2. Applications to be considered by the Planning Committee

- 2.1 The following application will be considered by the Planning Committee:
 - (a) Applications that the ~~Planning Officer~~ Case Officer considers to have significant policy or strategic implications, including departures from the approved development plan which would require referral to the Secretary of State;
 - (b) All applications by or behalf of the Authority in accordance with provisions of the Town and Country Planning General Regulations;
 - (c) All applications by or on behalf of Members, Senior Officer or Officer employed in the Authority's Planning Service (including immediate family ~~close relatives~~ of such Members or Officers).
 - (d) If a Member of the Planning Committee who is party to a request made under 2.1 (d) for an application to be considered by the Planning Committee subsequently declares a disclosable pecuniary interest in that application, the item will be withdrawn from the agenda and dealt with by Officer under delegated authority.

3. Planning application validation list

- 3.1 The Case Officer shall prepare weekly a list of applications (“Application Validation List”) that will indicate which are to be considered by the Planning Committee and which are likely to be determined by Officers under delegated powers authority.
- 3.2 The Planning Applications Validation list will be circulated to all Members of the Council and Parish Council once a week by email.

4. Enforcement functions

- 4.1 The decision on whether or not to pursue or vary enforcement action against any breach of planning control is delegated to the Senior Officer.
- 4.2 Enforcement decision and alleged breaches are reported in line with the Council’s approved Enforcement Plan, which may be amended from time to time.

5. The public addressing the Committee

- 5.1 The Planning Committee may allow objectors, supporters, applicants/planning agents, parish council, other formally constituted bodies (e.g. amenity/residents associations) and also owners of premises subject to enforcement action, or their agents to address the Committee.
- 5.2 The rules for the conduct of the public in addressed the Committee are set out at Part C of this Chapter.

6. How decision are taken at meetings

- 6.1 The normal procedure is:
 - (a) The Chair takes the item in order listed on the agenda
 - (b) The ~~Planning Officer~~ Case Officer introduces the item, clarifying any issues as necessary
 - (c) Speaker in opposition (if any) addresses the Committee in accordance with Part C – 3 minutes
 - (d) Speaker in support (if any) addresses the Committee in accordance with Part C – 3 minutes
 - (e) Other bodies (e.g. amenity/residents associations) (if any) address the Committee in accordance with Part C – 3 minutes
 - (f) Applicants or agent/representative (if any) addresses the Committee in support in accordance with Part C – 3 minutes

- (g) Ward Member (if any) address the Committee in accordance with Part C – 3 minutes
 - (h) Parish Council (if any) addresses the Committee in accordance with Part C – 3 minutes
 - (i) Any Member of the Committee who has disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with the Member's Code of Conduct will withdraw immediately after speaking
 - (j) The Committee may seek clarification of those who have spoken on any issued raised in their address
 - (k) The ~~Planning Officer~~ Case Officer shall address any issues resulting from the procedure set out in Rule 6.1 (a) to ~~(g)~~ (f) above and the Committee may put questions to the ~~Planning Officer~~ Case Officer
 - (l) The Committee then debates the matter and does not hear any additional representative or comment from the public or non-Committee Members, but may seek further clarification from Officers. Officers may also advise the Committee on relevant planning matters.
- 6.2 When the Chair considers that there has been sufficient debate, he/she will call for a decision. A vote may be taken on the recommendation in the report, once proposed and seconded, or on a motion moved by a Member of the Committee, altering the reports recommendation.
- 6.3 A motion moved by a Member of the Committee that alters the wording of the recommendation of the report must be seconded and be supported by planning reasons for the alteration and those reasons will be set out in the minutes of the meeting.
- 6.4 If the Chair calls for the application to be determined a vote shall be taken on the recommendation as defined in 6.2. If this falls, an alternative motion may be made by any Member of the Committee.
- 6.5 If an alternative motion is moved by a Members of the Committee it must be supported by clear planning reasons and seconded prior to being to the vote. Those reasons will be set out in the minutes of the meeting.
- 6.6 The ~~Planning Officer~~ Case Officer and or the Legal Advisor shall be afforded the opportunity to advise the Committee during the course of debate or any stage of the meeting.

7. Decision contrary to Officer recommendations

- 7.1 The laws required that where regard is to be held to the Development Plan, decision shall be taken in accordance with it, unless material considerations indicate otherwise (Section 38 (6), Planning and Compensation Act 2004).
- 7.2 If the Planning Committee seek to make a decision contrary to the ~~Planning Officer's~~ **Case Officer** recommendation (whether for approval or refusal), the following will apply:
- (a) The mover of the motion should clearly specify the motion including the planning reasons for the departing from the Officer recommendation. Both the reasons and the motion should be put to the Committee orally and in public. Any such motion must be seconded
 - (b) The ~~Planning Officer~~ **Case Officer** should always be given the opportunity to explain the implications of what has been proposed to the Planning Committee in public before any vote is taken
 - (c) If the Planning Committee arguments against the ~~Planning Officer's~~ **Case Officer** recommendation are very clear and substantiated on planning grounds the application shall be determined at the meeting. If not, the application should be deferred to enable the ~~Planning Officer~~ **Case Officer** to draft a further report for the subsequent meeting of the Committee, outlining the implications of making a decision contrary to the ~~Planning Officer's~~ **Case Officer** recommendation. If appropriate, the Legal Advisor's opinion should be sought as to whether a deferral is necessary. The Committee's reasons must be formally recorded in the minutes.
- 7.3 When a planning application has be referred to a future meeting following a resolution of 'mindful to approve' or 'mindful to refuse', contrary to the ~~Planning Officer's~~ **Case Officer** recommendation, then at a subsequent Committee meeting, the ~~Planning Officer~~ **Case Officer** will prepare a further written report that will include the reasons formulated by the Committee for being mindful to ~~grant approve~~ **approve** or refuse permission.
- 7.4 If the Committee is still of the same view, then it will again consider its reasons for ~~granting~~ **approving** or refusing permission, and a summary of the planning reason for the reasons will be given, which reasons must then be formally recorded in the minutes of the meeting. It is important that the justification for the departing from the Officer recommendation that is recorded in the minutes are those reasons given at Committee and in public and that the justification is not subject to later elaboration in the minutes, which is more extensive than the oral presentation.

- 7.5 The Courts have expressed the view that reasons should be clear and convincing. Members must satisfy themselves that where they reach a decision contrary to an Officer recommendation their reasons are substantiated by evidence and that they are able to demonstrate reasonable planning grounds for taking a decision contrary to Officer advice. Where a decision is taken to refuse an application but the Officer recommendation is to approve, the Committee must consider whether any conditions could have allowed the development to have proceeded. In addition, Members should exercise caution in not giving undue weight to any particular consideration.
- 7.6 In instances where the Planning Committee grants approval of an application against Officer recommendation, the ~~Planning Officer~~ **Case Officer** shall draft conditions based on the wording expressed by the Committee to be attached to the approval which shall be agreed in writing with the Chair of the Planning Committee, unless the Committee grants delegated authority to the ~~Planning Officer~~ **Case Officer**. It must be made clear at the Committee which option is taken.
- 7.7 In instance where the Planning Committee refuse an application against Officer recommendation, the detailed reasons for refusal (which shall reflect the minuted reasons provided by the Committee) shall be agreed in writing with the Chair of the Planning Committee, unless the Committee grants delegated authority to the ~~Planning Officer~~ **Case Officer**.

8. Site visit by the Planning Committee

- 8.1 Prior to any meeting of the Planning Committee, the ~~Planning Officer~~ **Case Officer** may be of the opinion that a site visit should be arranged to a site that is the subject of a major application of strategic importance to be considered by the Committee to enable Members to become familiar with the issues to be considered. Any site visit arranged to take place prior to a meeting of the Planning Committee shall be arranged in accordance with Rules 8.6 to 8.9 below and at 09.30am on the Saturday preceding the Committee Meeting.
- 8.2 Occasionally the Committee may defer taking a decision on an item in order to make a site visit. Reasons for a site visit being made shall be recorded in the minutes.
- 8.3 The Committee Members who propose and second a site visit should ensure that they attend the visit or arrange for a substituted Member to attend at 09.30am on the Saturday preceding the Committee Meeting.
- 8.4 Site visits are to be held solely for the purpose of informing the Planning Committee Members by way of visual inspection about the nature of the application. No attempt should be made to make representations or lobby the Committee or individual Members during a site visit.

- 8.5 The planning department will contact the applicant and/or their planning agent to arrange access to the site or premises. Invitations will be sent to the Members of the Committee and Ward Members. Applicants and/or their planning agents and any objectors (or representative or sample of such objectors) shall be informed of the visit. The notification shall contain a brief summary of the procedure to be adopted at the site visit.
- 8.6 The Planning Committee, along with the ~~Planning Officer~~ **Case Officer**, shall carry out the inspection in one group. Planning Committee Members and applicants, agents, objectives and Ward Members present shall not engage in individual discussions.
- 8.7 The ~~Planning Officer~~ **Case Officer** and any other Officer present shall draw to the Committee's attention any relevant features of the site.
- 8.8 Members will not ~~m~~take any decision during the site visit, but may, through the ~~Planning Officer~~ **Case Officer**, ask questions or seek clarification, particularly about the characteristics of the site. Members should refrain from the making comments on the merits of the application during the course of the inspection.
- 8.9 The Case Officer will record the date of the visit, Members present (including non-Members of the Committee) and any other relevant information. A record of the Members present will be included in the minutes of the Meeting.

Part C – Public participation at a meeting of the Planning Committee

1. Introduction

- 1.1 The Council wants to provide the opportunity for the Public and the applicants (or their agents) to speak at the meeting of the Planning & ~~Licensing~~ Committee before Members of the Committee take their decision. Anyone who has written to the Council making representations on a planning application will be contacted by the ~~Development Management~~ **the planning department** upon publication of the relevant agenda and will be advised of the relevant process relating to public speaking (see paragraphs Part C 2.4 and 3.1-3.3).
- 1.2 Upon receipt of a request to speak at the meeting of the Planning & ~~Licensing~~ Committee, the Democratic Service Clerk will organise all such public speaking.

2. Who can speak at a meeting of the Planning Committee?

- 2.1 Only the following may address the Planning Committee:
- (a) In the case of a planning application:
- (i) An objector or their representative
 - (ii) An support or their representative
 - (iii) Other bodies (e.g. amenity/residents associations)
 - (iv) Applicant/Agent or their representative
 - (v) A Ward Member
 - (vi) Parish Council
 - (vii) Any Member of the Committee who has a disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with the Member's Code of Conduct.
- 2.2 Only one person, in addition to a Ward Member, will be invited to speak in support of, or in opposition to, any application of enforcement matter appearing on the agenda for the meeting the Planning & ~~Licensing~~ Committee .
- 2.3 Subject to paragraph 2.2, if a person wishes to speak in objection to an application, the applicant must be allowed to speak. An applicant may speak at a meeting even where there are no objectors or Ward Members wishing to speak.

All requests to speak to a meeting of the Planning & Licensing Committee, including those from Ward Members or those notified under paragraph 1.2, must relate to a matter to be considered at the forthcoming meeting of the Committee and be accompanied by a written statement sufficiently setting out the planning matters the speaker wishes to raise at the meeting.

3. How can I speak at a meeting of the Planning Committee?

- 3.1 All requests to speak including those from Ward Members or those notified under paragraph 1.2, should be received by the Democratic Services Clerk no later than noon two working days prior to the meeting, excluding the day on which the meeting is to be held, (for example, if the Planning Committee is meeting on a Tuesday, the deadline for registration and receipt of a written statement, sufficiently setting out the planning matters the speaker wishes to raise at the meeting, will be 12 noon on the Thursday before the day of the meeting) in one of the following ways:
- (a) In writing, address to the:
Clerk of Planning Committee
Democratic Services
Brentwood Borough Council
Ingrave Road
Brentwood
Essex
CM15 8AY
 - (b) Via a form on the Council's website at: To be inserted
 - (c) By e-mail to: To be inserted
 - (d) If any assistance in registering to speak at the meeting is required, please telephone (01277) 312500.
- 3.2 The Chair of the Planning & Licensing Committee will not normally allow member so the public to speak if they have failed to notify the Council of their wish to do so in one of the ways described above.
- 3.3 Where there is more one request to speak on a particular application and those parties have not agreed amongst themselves who will be the appointed spokesperson, the request made will be the person who notified the Council they wished to speak first.
- 3.4 Where a request is made to speak in opposition to an application the applicant or agent shall have the right to reply to the Committee. A copy of the speaker's written objection will be forwarded to the applicant or their agent and, if they wish to speak at the Committee, the applicant or agent must forward their response, in writing, to the Democratic Services Clerk by noon on the working day before the meeting of the Committee.
- 3.5 Although Democratic Services Clerk will make every effort to advise the applicant/agent where any such notice has been received, it is the responsibility of the applicant/agent to check two working days (excluding the day on which the Committee is to be held) before the application is be considered as to whether or not anyone has registered to speak.

3.6 The Committee will be provided with copies of the written statements, as referred to in Rule 2.4, from all the speakers prior to the meeting and the relevant agenda and reports will be published to the Council's web site at least five working days before the meeting, with a limited number of copies being made available to persons attending the meeting.

3.7 The Chair may agree to accept representations made outside these procedures where there are exceptional circumstance, for example then someone can show that they have been prejudiced by a failure of the Council to follow procedure in this Constitution. The Chair will state the reasons for using his/her discretion in this respect and these will be included in the minutes of the meeting.

4. What happens at the meeting of the Planning Committee?

4.1 Application will usually be taken in the order that they appear on the published agenda. However, the Chair may exercise some discretion to allow for those application subject to public participation to be taken first.

4.2 For any application that are subject to public participation, the order in which registered speakers will be called to address the committee will be as follows:

- (i) An objector or their representative
- (ii) An support or their representative
- (iii) Other bodies (e.g. amenity/residents associations)
- (iv) Applicant/Agent or their representative
- (iv) A Ward Member
- (v) Parish Council
- (vi) Any Member of the Committee who has a disclosable pecuniary interest, speaking after being granted a dispensation to allow him/her to speak in accordance with the Member's Code of Conduct.

4.3 A person who has registered to speak may address the Committee for a period not exceeding 3 minutes. If the time limit is exceeded the Chair will immediately call for an end to the speech.

4.4 If a person who has registered to speak at the meeting does not attend, the application will be dealt with in their absence and will not, for that reason, be deferred.

4.5 No documentation may be circulated, or audio or visual material presented to the Members of the Planning Committee at the meeting.

4.6 The ~~Planning Officer~~ **Case Officer** or the ~~Lawyer~~ **Legal Advisor** advising the Committee, in consultation with the Chair, may disallow any matter which may give offence, deal with confidential or exempt information or otherwise infringe the proper conduct of local government. In such cases, reason for the disallowance will be given.

4.7 If at the start of the meeting, the Committee decided to defer an item to a future meeting, any speaker who have registered to speak prior to the item being deferred will be given first priority to speak when the item is reported back to Committee. In instances, where an application is deferred after speakers have addressed the Committee (for example, to enable a site visit to be undertaken) then when the matter is reported back to Committee there will be no further rights for any party to speak further.

5. What can you speak about?

5.1 Speaker can speak for themselves or on behalf of others. Any representations made should relate only to material planning considerations and not matter that fall outside the remit of the Committee.

5.2 Speakers are asked where possible not to repeat points made by other speakers.

Part D – Planning Code of Good Practice

Latest Code to be inserted here

EMERGENCY COMMITTEE - TERMS OF REFERENCE

PURPOSE

To enable the Council to function in emergency situations when fewer Councillors and /or Officers are available to attend meetings.

The Committee will be convened, as required, as part of the Borough Council's Major Incidents and Emergency Planning process.

The decision to convene the Committee will be made by the Chief Executive through consultation with the Leader and after the Monitoring Officer has assessed the appropriateness of taking a particular report to the Committee. The decision will be recorded on the agenda.

The Agenda will include a Statement of Purpose for the Committee being convened and will record reasons why the decision being sought could not be deferred and there will be a clear statement of what the Committee will be discussing.

Equally a proposal to stand down the Committee will be brought? by the Chief Executive through consultation with the Leader to each Committee, and after obtaining such advice as necessary from the Monitoring Officer or their deputy as appropriate, such proposal to stand down the Committee will be decided by a majority vote of Members at the meeting. All Members of the Council will also have the ability to influence the decision to stand down the committee. This can be undertaken by at least a third of Councillors writing to the Chief Executive and the Monitoring Officer requesting the committee stands down. If this action is taken then the reinstatement of the full committee structure will take place or an Extraordinary Council meeting can be called to debate any other emergency governance models required to enable the Council to function lawfully.

Once the Committee is convened it can take on the role of the delegations afforded to the following Committees; The key Committees are Council, Policy, Resources & Economic Development, Environment, Enforcement & Housing, Community & Health, Planning & Licensing and Audit & Scrutiny. The intention, where possible, is to still undertake Planning & Licensing and Audit & Scrutiny Committees separately when required and appropriate. This will be decided by the Chief Executive through consultation with the Leader. These powers can be in full or in part.

All Members sitting on the Committee will have the appropriate planning and licensing training prior to the consideration of any item, relating to planning and licensing, being presented at this committee.

The Committee will only undertake Audit and Scrutiny decisions that relate to the audit function of the Council and if there is a statutory reason that an urgent decision is needed and the Audit & Scrutiny Committee cannot be convened for whatever reason.

Any decisions made by the Emergency Committee may be subject to the scrutiny of the Audit & Scrutiny Committee when it is next convened.

Officer delegations will remain as per the Constitution.

The Committee will also meet as required and consider the immediate strategic issues for the Borough Council arising from the particular incident, having received reports from the Chief Executive.

The Committee may authorise action affecting any of the Borough Council's functions, if the urgency of the situation demands this, subject to such action being reported, together with the Committee's reasons for acting, to the next meeting of Full Council.

The Committee must ensure that steps are being taken to provide, to members of the public and the press, regular communications on the incident and the action being taken.

- Members of the Committee are to be suitably briefed and prepared to make appropriate statements to the media if required in consultation with the Council's communications manager.
- The Committee should consider the longer-term implications arising from the incident and the impact these may have on the Borough Council.

MEMBERSHIP

The Committee shall consist of 10 named Members of the Borough Council, to include:

- Leader of the Council and Chair of Policy, Resources & Economic Development (who will be the Chairman of this Committee)
- Vice-Chairman of Policy, Resources & Economic Development
- The Chairman of the Community & Health Committee
- The Chairman of the Environment, Enforcement & Housing Committee
- The Leaders of all groups
- Other named Members to achieve a political balance

If there is a change of political balance on the Council, this composition will be recalculated by the Proper Officer and amended accordingly.

Succession arrangements are key and for clarity it is confirmed that formal delegations between Councillors will ensure continuity of the Committee. Substitutes for this committee will be submitted in writing by Group Leaders to the Chief Executive and Monitoring Officer ahead of the first meeting and updated for future meetings where necessary.

QUORUM

The minimum number of Members to transact any business shall be one third (3) of the committee.

PROCEDURES, PROTOCOLS AND PUBLIC SPEAKING

Except as provided below, the Chairman shall be responsible for maintaining order and the effective conduct of business at meetings.

Any Member of the Council can attend and may speak on any issue once, as agreed through the Chairman, in line with the legislation in force at the time.

Members of the public and press will be provided with the means to attend the meeting and have access to agendas, reports and other documents necessary under the legislative provisions current at the time of calling the meeting(s).

QUESTIONS

Members may ask questions to the Chair in the usual way. If the meeting is virtual then the questions will be put in writing via the appropriate text/chat box. The Chair may read the question and provide a written or verbal response as appropriate.

VOTING

When Members are present at the meeting voting will be taken by a show of hands. If Members are not present i.e. remotely using technology, a recorded vote will be taken by the clerk.

In the event of an equality of votes, the Chairman shall have a second or casting vote.

TRAINING

All training requirements for members of the Committee will be ensured to enable them to undertake the delegations afforded to them when undertaking the role of another Committee.

APPENDIX D

Article 12 page 24 of the Constitution

Proposed addition of paragraph 12.2 (e)

Any Member of the Council may, in writing, request that the Monitoring Officer take a proposed amendment to the appropriate Member body for discussion. The appropriate Member body having regard to the advice of the Monitoring Officer (or in their absence their nominated deputy), may determine to make the necessary proposed amendments to Full Council.

Proposed change to Chapter 4 Rules of Procedure

Paragraph 3.10 to be amended as when read with paragraph 8.3.4 creates a conflict.

Current wording 3.10 there will be no time limit for moving and debating motions on notice.

Proposed wording;

Paragraph 3.10 The rules of debate at 8.3.4 of this Constitution apply when moving and debating motions on notice.

For information

Paragraph 8.3.4 below:

Content and length of speeches

(a) The mover of a motion may speak for up to 5 minutes when proposing a motion and also when exercising the right of reply.

(b) The seconder may speak for up to 3 minutes.

(c) No speech by any other member may exceed 3 minutes.

(d) Speeches must be directed to the question under discussion.

8.3.5 When Council is considering its strategic and budgetary framework:

(a) the mover of the motion may speak for up to 15 minutes and for up to 15 minutes when exercising the right of reply;

(b) the seconder may speak for up to 10 minutes;

(c) the Leader of the Main Opposition Group may speak, initially, for up to 10 minutes and for up to 10 minutes prior to the mover's right of reply at the close of the debate;

(d) the Leader of any other political group may speak for up to 10 minutes after the main opposer's initial speech; any member who is not a member of a political group may speak for up to 3 minutes.

(e) No speech by any other member may exceed 3 minutes.

Appendix E

Committee: Planning and Licensing Committee	Date: 11 March 2020
Subject: Telecommunication Prior Notification Applications	Wards Affected: All
Report of: Phil Drane, Director of Planning and Economy	Public
Report Authors: Name: Caroline McCaffrey, Development Management Team Leader Telephone: 01277312603 E-mail: caroline.mccaffrey@brentwood.gov.uk Name: Mike Ovenden, Associate Consultant Planner Telephone: 01277312500 E-mail: mike.ovenden@brentwood.gov.uk	For Decision

Summary

This report seeks approval to delegate powers to officers when determining applications for permitted development prior notifications that relate to telecommunications development proposals. It is good practice to determine applications in a timely manner. The report aims to reduce risk by making it less likely that these applications will be determined out of time.

Recommendation

Members are asked to:

R1. Approve that the Development Management Team Leader is delegated powers to determine prior notification applications for telecommunication proposals.

Main Report

Introduction and Background

1. Planning applications are assessed for compliance with local and national planning policy across the full range of planning considerations. Not all forms of development require planning permission. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) grants permitted development rights (a national planning permission) for a wide range of developments that would otherwise need planning permission from the local planning authority. This is done to reduce the load on planning authorities and 'lift the burden' on householders and other developers to undertake minor developments. It is also a tool that the Government use to make it easier for certain types of development to be carried out, reflecting national priorities.

Some of those rights can be exercised without any involvement of the local planning authority, merely requiring the applicant to comply with the limitations specified in the Order, irrespective of the merits of the development. Some permitted development rights use a hybrid system where the developer must notify the local planning authority prior to carrying out the development to establish whether prior approval is required for certain limited specified details. These include 'larger extensions' to dwellings, some changes of use, agricultural and telecommunications development. The issues open to consideration are significantly less than those considered in planning applications. In the case of telecommunications equipment (e.g. telephone masts and related forms of development), consideration of whether prior approval is required is limited to two issues: 1. the siting of development, and 2. the appearance of development. If it is decided that approval of such details is required, the local planning authority also needs to consider whether the details received are acceptable.

2. The period for determining these prior notification applications is time limited, unlike a planning application. Last year case law held that the 56-day determination period could not be extended even with the agreement of the applicant. A recent decision in the Queen's Bench Division, issued on 31 January 2020, reversed that position, however as with any agreement it needs both parties to agree to extend the time. It cannot be assumed that an extension of time will be agreed, especially in cases where the local planning authority considers a proposal to be unacceptable. If the local planning authority does not notify the applicant of its decision in time (i.e. within the 56-day period or an agreed extension), the development is permitted by default.
3. The Council's constitution requires this type of application to be determined by committee. This contrasts with other forms of prior notification (e.g. erection of agricultural buildings, permitted development changes of use or larger residential extensions), which are delegated to officers. These also have finite determination periods and for that reason are delegated to officers. It is not clear why or when Brentwood Borough Council decided that telecom applications could not be delegated to officers – it may have been related to a particular case(s) or a general concern about this type of application.

Issue, Options and Analysis of Options

4. It is good practice to determine applications in a timely manner and avoids unacceptable development being 'authorised' due to decisions being made out of time. The issue addressed in this report relates to risk reduction – to make it less likely that these applications will be determined out of time. It cannot be assumed that extensions of time will be agreed, and therefore the system for handling these applications should not rely on extensions of time being agreed.

5. In principle a delegated decision can be made on any working day. Where powers are not delegated to officers a decision can only be made at a meeting of the Planning and Licensing Committee. Committee dates are normally fixed at the beginning of the civic year with the Planning and Licensing Committee usually taking place each month. Since the beginning of 2019 two Planning and Licensing Committees have been cancelled, the average gap between meetings was 47 days, the longest being 92 days between 12 March and 12 June 2019.
6. Following receipt of any application, it must be validated, considered by the case officer following a site visit, a report written and then agreed by a senior officer. Reports need to be published five clear working days before a committee. Completing this process within the deadlines associated with the committee cycle and then issuing the decision, all within the limited time available for this type of application, is more challenging than determining under delegated powers. In some circumstances it may be impossible, although the recent refusals determined by committee were issued within time (Items 360 and 361, Planning and Licensing Committee, 30 January 2020). On occasion some cases have been determined by committee and issued well within time, for example the recent Orchard Farm case (item 362) was issued in 29 days. However, this is likely to be the exception.
7. The Government is strongly supportive of telecommunications networks and the significant social and economic benefits they provide to individuals, businesses and other organisations. The Council shares this view and supports the general approach to this type of development. However, on occasions, prior notification applications are submitted that relate to proposals that are unacceptable. Telecommunication companies and their agents can expect a proportion of their proposals to slip through the system and become permitted by default. While it is not good practice to let any such decision go out of time, it is particularly unfortunate when a proposal is unacceptable and would have been refused. The height and visual impact of this type of development can be significant and some sites can be susceptible to damage by this form of development. In the last four cases determined by the committee, members have agreed with the officer recommendation. These covered cases where prior approval was not required and others that were refused, resulting in appropriate decisions according to their circumstances.
8. As part of the roll out of 5G it is likely that there will be an increase in applications for new sites, replacement masts and equipment on existing sites. This is likely to mean that there will be more prior notification applications presented to the committee if they are not determined under delegated powers. Furthermore, 5G operates on the basis of smaller cell sizes (more sites) and

the equipment can be less forgiving of camouflage, screening and discreet siting. This may mean that more applications will be submitted that propose unacceptable siting and/or appearance and so would need to be determined and issued promptly to avoid being permitted by default.

9. Retaining the current system and continuing to require these applications to be determined by committee perpetuates the greater risk that some of these applications will go out of time and be 'permitted' by default even where their siting and/or appearance are unacceptably harmful. Delegating powers to officers makes this less likely. This is the basis for other prior notifications being determined under delegated powers and it is proposed that this approach should be extended to telecommunications prior notifications.

Reasons for Recommendation

10. The reason for recommending the delegation of powers to officers when determining telecommunications development proposals is to make it less likely that these applications will go out of time without a decision being made.

Consultation

11. There has been no consultation carried out with regard to this proposal though it has been discussed informally when considering recent applications.

References to Corporate Plan

12. The Corporate Plan 2020-2025 key priorities include growing the economy, protecting our environment, developing our communities and delivering an effective and efficient council. Dealing with this type of application effectively has a part to play in delivering these priorities.

Implications

Financial Implications

Name/Title: Jacqueline Van Mellaerts, Director of Corporate Resources
Tel/Email: 01277 312829/jacqueline.vanmellaerts@brentwood.gov.uk

13. None directly arising from this report.

Legal Implications

Name/Title: Alastair Lockhart, Planning Solicitor
Tel/Email: 01277 312526/alastair.lockhart@brentwood.gov.uk

14. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) grants permitted development rights (a national planning permission) for a wide range of developments that would otherwise

need planning permission from the local planning authority. Delegated authority is in place for prior notification applications to ensure required timeframes for the determination of the applications can be achieved. If delegated authority for the determination of telecommunications proposals is approved this would require a change to the Council's Constitution.

Economic Implications

Name/Title: Phil Drane, Director of Planning and Economy

Tel/Email: 01277 312610/philip.drane@brentwood.gov.uk

15. The Council is committed to growing the local economy. Enabling the installation of infrastructure that local businesses are reliant on, such as telecommunications equipment, is an important part of the business environment. Provided proposals are consistent with planning policies and other aspects of the planning process, the Council should look to expediate the decision-making process for the swift determination of telecommunication prior notification applications.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

16. None.

Background Papers

None

Appendices to this report

None



Minutes

Planning and Licensing Committee Wednesday, 11th March, 2020

Attendance

Cllr Ms Sanders (Chair)	Cllr Jakobsson
Cllr McCheyne (Vice-Chair)	Cllr Morrissey
Cllr Fryd	Cllr Mynott
Cllr Haigh	Cllr Tanner

Apologies

Cllr Chilvers	Cllr Kerlake
Cllr Keeble	Cllr Tierney

Substitute Present

Cllr Barrett
Cllr Bridge
Cllr Laplain
Cllr Nolan

Also Present

Cllr Foan
Cllr Lockhart
Cllr North
Cllr Hirst
Cllr Poppy
Cllr Mrs Pound
Cllr Parker
Cllr Reed

Officers Present

Zoe Borman	- Governance and Member Support Officer
Philip Drane	- Director of Planning and Economy
Caroline McCaffrey	- Development Management Team Leader
Mike Ovenden	- Associate Consultant Planner
Jean Sharp	- Governance and Member Support Officer
Alastair Lockhart	- Corporate Governance Solicitor
Brendan Johnston	- ECC Highways Strategic Development Engineer
Brooke Pride	- Planning Officer

404. Apologies for Absence

Apologies were received from Cllrs Chilvers, Keeble, Kerlake and Tierney. Cllrs Laplain, G Barratt, Nolan and Bridge were substituting respectively.

405. Minutes of the Previous Meeting

Members **RESOLVED** that the Minutes of the Planning and Licensing Committee meeting held on Thursday 30th January 2020 be approved as a true record.

406. Land South of East Horndon Hall, Tilbury Road, West Horndon, Essex. CM13 3LR - Application No. 19/00315/OUT

This application was reported to committee at the discretion of the Development Management Team Leader as it related to a development of scale which was likely to be of interest to the committee.

The application was deferred by the Planning and Licensing Committee at its meeting on 18 December 2019. The original report was reproduced in its entirety in the agenda and an update was provided at the end in an 'Addendum'.

This was an outline planning application addressing the principle of development with all other matters reserved – i.e. details of access, appearance, landscaping, layout and scale - at this stage. It comprised the demolition of all buildings; construction of new buildings providing 35,000 sqm of class B1b, B1c, B2 and B8 (i.e. research and development, light industrial, general industrial and storage and distribution respectively) floor space and 250 sqm of class A3 (restaurants and cafés) floor space, together with associated vehicle parking, loading, cycle parking and infrastructure.

As an outline application with all matter reserved, specific details of the form of development would be provided at the reserved matters stage if outline planning permission was granted. Nevertheless, an indicative layout plan, parameter plan showing building heights and a plan showing indicative points of access accompanied the application. The former shows 13 new buildings, retention of one existing building. The latter drawing showed all access (at 3 points) being from the Tilbury Road. The current T junction of the A128 and Tilbury Road would be replaced by a roundabout within the existing limits of the highway funded by the developer.

Mr Ovenden, Associate Consultant Planner, presented the application.

The application was recommended for refusal by officers.

Mrs June Palmer was present at the meeting and addressed the committee in objection to the application.

Cllr Foan, Parish Councillor for West Horndon, addressed the committee in objection of the application.

Mr Andrew Tabachnik, the agent for the application, addressed the committee in support of the application.

Following a full discussion Cllr Mynott **MOVED** and Cllr Haigh **SECONDED** a motion to **REFUSE** the application.

A recorded vote was taken and Members voted as follows:

FOR: Cllrs G Barrett, Morrissey, Fryd, Haigh, Laplain and Mynott (6)

AGAINST: Cllrs Bridge, Jakobsson, McCheyne, Nolan, Miss Sanders and Tanner (6)

ABSTAIN: 0

The Chair exercised her casting vote and the motion for **REFUSAL** was **LOST**.

Following a full discussion Cllr Miss Sanders **MOVED** and Cllr McCheyne **SECONDED** that the application be **APPROVED**.

Members voted as follows:

FOR: Cllrs Bridge, Jakobsson, McCheyne, Nolan, Miss Sanders and Tanner (6)

AGAINST: Cllrs G Barrett, Morrissey, Fryd, Haigh, Laplain and Mynott (6)

ABSTAIN: 0

The Chair exercised her casting vote and the motion for **APPROVAL** was **CARRIED**.

Members considered there were very special circumstances:

- The significant economic benefits and sustainability benefits and the absence of an alternative site outweighed the harm identified in the Green Belt
- This development was cited in the emerging Local Development Plan.

As explained at the meeting, due to the nature of the application, the Secretary of State had to be notified of the proposal to grant planning permission, prior to issuing the decision. The Secretary of State responded, confirmed he would not intervene and the application should be determined by the planning authority. The permission has since been issued.

407. 37A Hanging Hill Lane, Hutton, Brentwood. CM13 2HY - Application No. 19/01551/FUL

The application had been referred to the Committee at the request of Cllr Hirst for the following reasons:

Excessive bulk and poor design resulting in detriment to the character of the area and to the amenity of residents in contravention of CP1; previous over-development of the same site had been withdrawn on advice. This application was not sufficiently different. It was hard to see how the existing chalet bungalow could be replaced by two houses without detriment to the neighbourhood and to residents.

This application related to the demolition of the existing chalet bungalow and the erection of a pair of semi-detached two storey dwellings and creation of a new access from the highway.

Ms Pride, Planning Officer, presented the report and the application had been recommended for approval by officers.

Mr Jonathan Inman addressed the committee in objection to the application.

Mr Tom Wiffen, the agent, addressed the committee in support of the application.

Cllr Hirst, Ward Councillor, addressed the committee in objection of the application.

Cllr Reed, Ward Councillor, addressed the committee in objection of the application.

Following a full discussion Cllr Sanders **MOVED** and Cllr Bridge **SECONDED** a motion to **REFUSE** the application.

A recorded vote was taken and Members voted as follows:

FOR: Cllrs G Barrett, Bridge, Jakobsson, McCheyne, Morrissey, Nolan, Miss Sanders and Tanner (8)

AGAINST: (0)

ABSTAIN: Cllrs Fryd, Haigh, Laplain and Mynott (4)

Members **RESOLVED** that the application be **REFUSED** due to the bulk, mass, height of the building and its proximity to the boundaries, the proposal would be an overdevelopment of the site and a cramped form of development. This would be out of keeping with the prevailing pattern of development harmful to the visual amenity of the area, in conflict with Local Plan Policy CP1 (i) and (iii).

408. Land adjacent to Walden, Frog Street, Kelvedon Hatch, Brentwood. CM15 0JL - Application No. 19/01605/FUL

The application was referred to committee at the request of Cllr Poppy.

The application related to the construction of a new detached two storey dwelling with vehicular access and parking on land on the southern side of Frog Street, between dwellings named 'Walden' and '1 Laburnum Cottages'.

The site was 13m wide at the building line - though wider at the front and mostly narrower to the rear - which was wider than Braemar and Walden, though narrower than 1 and 2 Laburnum Cottages. The proposed dwelling would be 8.4 m wide, 7.4 deep and 8.46 tall. It would therefore be approximately half a metre taller than Braemar/Walden and the same height as 1 and 2 Laburnum Cottages though the latter had full hipped roofs. The parking would be to the left of the plot adjacent to Walden and the gardens would be to the front and rear.

This application was recommended by officers for refusal.

Mr Ovenden, Associate Consultant Planner, presented the application.

Mr Chris Loon, Agent for the application, addressed the committee in support of the application.

Cllr North, Parish Councillor for Kelvedon Hatch, addressed the committee in support of the application.

Ward Members, Cllr Poppy and Cllr Parker, also addressed the committee supporting the application.

Following further discussion Cllr McCheyne **MOVED** and Cllr Tanner **SECONDED** a motion to **APPROVE** the application.

A recorded vote was taken and Members voted as follows:

FOR: Cllrs Barrett, Bridge, Fryd, Haigh, Jakobsson, Laplain, McCheyne, Mynott, Nolan, Miss Sanders and Tanner (11)

AGAINST: (0)

ABSTAIN: Cllr Morrissey (1)

Members **RESOLVED** that this application be **APPROVED** subject to:

Standard time for commencement, to be carried out in accordance with approved drawings, removal of permitted development extensions and the 6 highways conditions as requested by the highways authority.

409. Land adjacent to 3 King Edward Road, Brentwood. Application No. 19/01649/FUL

The application was reported to the Planning and Licensing Committee as it had been submitted by the Council and related to Council owned land.

The application related to alterations to the design of a pair of semi-detached dwellings permitted in July 2017. The proposal subject to the current application differed from the 2017 scheme as follows:

- Removal of two under croft parking spaces (one to each dwelling) to become part of the ground floor accommodation of each property
- Use of roof space to provide 'home office' accommodation at second floor level
- Provision of four rooflights to the front and three rooflights to rear elevation
- Gap between proposed building and existing dwelling to east reduced from 1170mm to 1102mm
- Gap between proposed building and existing office to west increased from 1175mm to 1270mm to avoid encroaching on a private right of way

Mr Ovenden, Associate Consultant Planner, presented the application.

The application was recommended for approval by officers subject to certain conditions as outlined in the report.

Cllr Morrissey, Ward Councillor, enquired as to whether additional residents' parking space could be created by moving a post. Officers advised this was a

matter for South Essex Parking Partnership (SEPP) but Cllr Barrett advised that SEPP would not issue residents' permits for new build properties.

Following a full discussion a motion was **MOVED** by Cllr Mynott and **SECONDED** by Cllr Barrett to **REFUSE** the application for alterations to the design.

A recorded vote was taken and Members voted as follows:

FOR: Cllrs Barrett, Bridge, Fryd, Haigh, Jakobsson, Laplain, McCheyne, Morrissey, Mynott, Miss Sanders and Tanner (11)

AGAINST: (0)

ABSTAIN: Cllr Nolan (1)

Members **RESOLVED** that the application be **REFUSED** for the following reasons:

The proposal is unacceptable as it would result in a development that would not make satisfactory car parking arrangements contrary to Policy CP1.

410. Telecommunication Prior Notice Applications

The report sought approval to delegate powers to officers when determining applications for permitted development prior notifications that related to telecommunications development proposals. It was good practice to determine applications in a timely manner. The report aimed to reduce risk by making it less likely that these applications would be determined out of time.

Mr Ovenden, Associate Consultant Planner, presented the report.

Whilst acknowledging the importance of these applications being decided within the given time frame, Members expressed concern that Ward Members would not be given an opportunity to comment, also it was questioned whether by approving the recommendation in the report they were in line with the Council's Constitution.

Following a full discussion the Chair agreed to Cllr Barrett's proposed amendments to the recommendation:

R1. To approve *in principle* that the Development Management Team Leader is delegated powers to determine prior notification applications for telecommunication proposals, *with further consideration for the technical process.*

R2. That this is forwarded to the next meeting of the Constitutional Working Group or Audit and Scrutiny Committee as appropriate for progression.

A motion was **MOVED** by Cllr Sanders and **SECONDED** by Cllr Morrissey to approve the recommendations in the report as amended, a vote was taken by a show of hands and it was **RESOLVED**:

- 1. To approve in principle that the Development Management Team Leader is delegated powers to determine prior notification applications for telecommunication proposals, with further consideration for the technical process.**
- 2. That this is forwarded to the next meeting of the Constitutional Working Group or Audit and Scrutiny Committee as appropriate for progression.**

(Cllr Lapsin declared a non-pecuniary interest by virtue of working for British Telecom).

Reasons for Recommendation

The reason for recommending the delegation of powers to officers when determining telecommunications development proposals is to make it less likely that these applications will go out of time without a decision being made.

411. Dunton Hills Garden Village Update

The National Planning Policy Framework (NPPF) required local planning authorities to produce a Local Plan for their area. Brentwood Borough Council had submitted the Local Development Plan and the Examination-in-Public was underway.

A key part of the Local Development Plan strategy for growth was to deliver Dunton Hills Garden Village. A draft Framework Masterplan Document had been prepared and presented to the Dunton Hills Garden Village Project Delivery Board and was appended to the report as Appendix A.

The masterplan provided a high-level framework for the site. In order to provide more detail, the Council was preparing a Detailed Design Supplementary Planning Document. Both documents would form part of the policy framework for Dunton Hills Garden Village and had involved engagement with stakeholders throughout.

Members thanked officers for their work.

Following a full discussion Cllr Miss Sanders proposed and Members agreed to **note the update provided in the report.**

Reasons for Recommendation

Delivery of Dunton Hills Garden Village has to date involved two key workstreams; site allocation and planning application. The Council has submitted the Local Plan for Examination in Public with allocation of the garden village a key part of the proposed strategy to meet growth needs consistent with local borough character. CEG has been preparing to submit an outline planning application in support of the proposed allocation. Preparation of the Framework Masterplan Document is a key part of ensuring that any future application is consistent with Local Plan policy and prepared in collaboration with the Council and other stakeholders. Presentation of the masterplan to the Dunton Hills Garden Village Project Delivery Board was a project milestone, which has been brought as information to Planning and Licensing Committee. Next steps are provided as information in order that Members can track progress.

412. Urgent Business

There were no items of urgent business.

The meeting concluded at 21:40

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Indicative Plan for Review of Brentwood Constitution – 2020/2021 Municipal Year

Constitution Amendments/Review	CWG	RAG	Committee	Information	Decision	Constitution Reference
Scoping Meeting	1.7.2020		-	Chair and Vice Chair appointed. Chair: Cllr Hossack Vice Chair: Cllr T Barrett Priorities for CWG Workplan		
Emergency Committee Review	1.7.2020 5.8.2020 12.11.2020		Ordinary Council – 2 nd December 2020	As per Cllr T Barrett amendment at extra Ordinary Council 29.4.2020	Report to go to Ordinary Council on 2 nd December	Chapter 3 – 2.10 Part 3.1 - powers and duties of the council and its committees
Scheme of Delegation	1.7.2020 12.11.2020		Ordinary Council in December Full appendix on Delegation Authority to go to Council in new year	Scheme of delegation – Telecommunications Masts to go the Ordinary Council 2 nd Dec 2020.		Appendix A

Appendix F

Planning Code of good Practice	1.7.2020 5.8.2020 10.9.2020 12.11.2020		Ordinary Council – 2 nd December 2020	CWG Members review work already undertaken previous (Circulated 3.7.2020). Comparison of these documents to be circulated to CWG on 17 th August 2020.	Consultation with Planning and Licensing Committee Members on both the Code and the Chapter – feedback required for 7.9.2020. To discuss at CW on 11.9.2020 on any comment received. Working group to be set up to review and amend code/chapter where required. Amendment to Code and Chapter made and draft report presented to CWG 12.11.2020. Report to go to Ordinary Council on 2 nd December 2020.	Chapter 5 Part 5.2
Planning Chapter	5.8.2020 10.9.2020 12.11.2020		As above		As above	Chapter 5 Part 5.2
Consultation – LGA Model Code of Conduct	1.7.2020 5.8.2020 10.9.2020		Ordinary Council in New year	Once modern Code of Conduct wording has been agreed a report will be taken Ordinary Council for adoption. Consultation to LGA deadline.	Report to Ordinary Council in the new year.	Chapter 5, Part 5.1

				To link with Standards Board Waiting confirmation from LGA for report in OC in New Year.		
Council Procedures Rules Chapter	1.7.2020 12.11.2020		Proposed addition of paragraph 12.2 (e) Proposed change to Chapter 4 Rules of Procedure and Paragraph 8.3.4. to go to Ordinary council on 2 nd December 2020.	Referral Process Discuss at the CWG on 1.7.2020 – Referral process for members to ask CWG to consider some parts of the Constitution to be reviewed. Debates on motions 3.2 and 8.3.4. To be added to CWG report for ordinary Council on 2.12.2020		Article 12 Chapter 4, Part 4.1 Paragraph 8.3.4
Creation of a Standards Board	12.11.2020					

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