



# Agenda

## Planning and Licensing Committee

Tuesday, 13 October 2015 at 7.00 pm  
Council Chamber - Town Hall

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### Membership (Quorum-4)

Cllrs McCheyne (Chair), Trump (Vice-Chair), Barrell, Carter, Cloke, Keeble, Morrissey, Mynott, Newberry, Reed, Tee and Wiles

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| Agenda Item | Item                                                                                                                                                                                            | Wards(s) Affected                      | Page No |
|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|---------|
| 1.          | <b>Apologies for Absence</b>                                                                                                                                                                    |                                        |         |
| 2.          | <b>Minutes of the Previous Meeting</b><br>Including the Minutes from the Licensing Sub Committee held on 26 <sup>th</sup> Jan 2015, 29 <sup>th</sup> April 2015 and 10 <sup>th</sup> Sept 2015. |                                        | 5 - 28  |
| 3.          | <b>GARAGES ADJACENT TO 10 ALEXANDER LANE HUTTON ESSEX</b>                                                                                                                                       | Hutton North                           | 29 - 40 |
| 4.          | <b>HIGH POINT BEGGAR HILL FRYERNING ESSEX CM4 0PN</b>                                                                                                                                           | Ingatestone, Fryerning and Mountnesing | 41 - 52 |
| 5.          | <b>LAND TO THE EAST OF WARLEY HALL MAGPIE LANE LITTLE WARLEY ESSEX CM13 3DT</b>                                                                                                                 | Warley                                 | 53 - 62 |
| 6.          | <b>198 - 202 RAYLEIGH ROAD HUTTON ESSEX CM13 1PN</b>                                                                                                                                            | Hutton East                            | 63 - 74 |

7. **Urgent Business**

A handwritten signature in black ink, appearing to read 'P. L. R. B.', with a large, sweeping underline.

Head of Paid Service

Town Hall  
Brentwood, Essex  
05.10.2015

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### Information for Members

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#### Substitutes

The names of substitutes shall be announced at the start of the meeting by the Chair and the substitution shall cease at the end of the meeting.

Where substitution is permitted, substitutes for quasi judicial/regulatory committees must be drawn from Members who have received training in quasi- judicial/regulatory decision making. If a casual vacancy occurs on a quasi judicial/regulatory committee it will not be filled until the nominated member has been trained.

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#### Rights to Attend and Speak

Any Members may attend any Committee to which these procedure rules apply.

A Member who is not a member of the Committee may speak at the meeting. The Member may speak at the Chair's discretion, it being the expectation that a Member will be allowed to speak on a ward matter.

Members requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting.

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#### Point of Order/ Personal explanation/ Point of Information

| Point of Order                                                                                                                                                                                                                                                                                                                                 | Personal Explanation                                                                                                                                                                                                                                                                                                                  | Point of Information or clarification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Procedure Rules or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the point of order will be final. | A member may make a personal explanation at any time. A personal explanation must relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate, or outside of the meeting. The ruling of the Chair on the admissibility of a personal explanation will be final. | A point of information or clarification must relate to the matter being debated. If a Member wishes to raise a point of information, he/she must first seek the permission of the Chair. The Member must specify the nature of the information he/she wishes to provide and its importance to the current debate, If the Chair gives his/her permission, the Member will give the additional information succinctly. Points of Information or clarification should be used in exceptional circumstances and should not be used to interrupt other speakers or to make a further speech when he/she has already spoken during the debate. The ruling of the Chair on the admissibility of a point of information or clarification will be final. |

#### Material for Planning Consideration

The following are among the most common issues which the Planning Committee can take into consideration in reaching a decision:-

- Planning policy such as adopted Brentwood Replacement Local Plan, Government guidance, case law, previous decisions of the Council;
- Design, appearance and layout;
- Impact on visual or residual amenity including potential loss of daylight or sunlight or overshadowing, loss of privacy, noise disturbance, smell or nuisance;
- Impact on trees, listed buildings or a conservation area;
- Highway safety and traffic;
- Health and safety;
- Crime and fear of crime;
- Economic impact – job creation, employment market and prosperity.

The following are among the most common issues that are not relevant planning issues and the Planning Committee cannot take these issues into account in reaching a decision:-

- Land ownership issues including private property rights, boundary or access disputes;
- Effects on property values;
- Restrictive covenants;
- Loss of a private view;
- Identity of the applicant, their personality or previous history, or a developer's motives
- Competition
- The possibility of a "better" site or "better" use
- Anything covered by other legislation.

## Information for Members of the Public

### **Access to Information and Meetings**

You have the right to attend all meetings of the Council and Committees. You also have the right to see the agenda, which will be published no later than 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.brentwood.gov.uk](http://www.brentwood.gov.uk).

### **Webcasts**

All of the Council's meetings are webcast, except where it is necessary for the items of business to be considered in private session (please see below).

If you are seated in the public area of the Council Chamber, it is likely that your image will be captured by the recording cameras and this will result in your image becoming part of the broadcast. This may infringe your Human Rights and if you wish to avoid this, you can sit in the upper public gallery of the Council Chamber.

### **Guidelines on filming, photography, recording and use of social media at council and committee meetings**

The council welcomes the filming, photography, recording and use of social media at council and committee meetings as a means of reporting on its proceedings because it helps to make the council more transparent and accountable to its local communities.

Where members of the public use a laptop, tablet device, smart phone or similar devices to make recordings, these devices must be set to 'silent' mode to avoid interrupting proceedings of the council or committee.

If you wish to record the proceedings of a meeting and have any special requirements or are intending to bring in large equipment then please contact the Communications Team before the meeting.

The use of flash photography or additional lighting may be allowed provided it has been discussed prior to the meeting and agreement reached to ensure that it will not disrupt proceedings.

The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of these activities, in their opinion, are disrupting proceedings at the meeting.

### **Private Session**

Occasionally meetings will need to discuss some of its business in private. This can only happen on a limited range of issues, which are set by law. When a Committee does so, you will be asked to leave the meeting.

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### **Access**

There is wheelchair access to the Town Hall from the Main Entrance. There is an induction loop in the Council Chamber.

### **Evacuation Procedures**

Evacuate the building using the nearest available exit and congregate at the assembly point in the North Front Car Park.



## Minutes

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### Planning and Licensing Committee Tuesday, 1st September, 2015

#### Attendance

|                         |             |
|-------------------------|-------------|
| Cllr McCheyne (Chair)   | Cllr Mynott |
| Cllr Trump (Vice-Chair) | Cllr Reed   |
| Cllr Carter             | Cllr Tee    |
| Cllr Cloke              | Cllr Wiles  |
| Cllr Morrissey          |             |

#### Apologies

Cllr Barrell  
Cllr Keeble  
Cllr Newberry

#### Substitute Present

Cllr Hubbard (substituting for Cllr Newberry)  
Cllr Murphy (substituting for Cllr Barrell)

#### Also Present

|                  |                             |
|------------------|-----------------------------|
| Cllr Foan        | West Hordon Parish Council  |
| Cllr Dicker      | Doddinghurst Parish Council |
| Cllr Kendall     |                             |
| Cllr Parker      |                             |
| Cllr Mrs Davies  |                             |
| Cllr Hirst       |                             |
| Cllr Ms Rowlands |                             |
| Cllr McKinlay    |                             |

#### Officers Present

|                      |                                     |
|----------------------|-------------------------------------|
| Claire Hayden        | Governance & Member Support Officer |
| Karen O'Shea         | Governance & Member Support Officer |
| Gordon Glenday       | Head of Planning & Development      |
| Christine Stephenson | Planning Solicitor                  |
| Charlotte White      | Senior Planner                      |
| Patricia Coyle       | Senior Planner                      |
| Gary O'Shea          | Principal Licensing Officer         |

|                    |                                              |
|--------------------|----------------------------------------------|
| Ashley Culverwell  | Head of Borough, Health, Safety and Localism |
| Brendan Johnson    | Highways Representative                      |
| Philip Drane       | Planning Policy Team Leader                  |
| Caroline McCaffrey | Development Management Team Leader           |

### 111. Apologies for Absence

Apologies were received from Cllr Barrell; Cllr Mrs Murphy was in attendance as a substitute. Cllr Newberry, Cllr Mrs Hubbard was in attendance as a substitute and Cllr Keeble, there was no substitute.

### 112. Minutes of the Previous Meeting

The minutes of the Planning and Licensing Committee held on 21<sup>st</sup> July 2015 were approved and signed by the Chair as a correct record, subject to two amendments by Cllr Carter and Cllr Trump.

Min 101 – Face to Face Direct Charity Collectors

*(Cllr Carter declared a non pecuniary interest under the Council Code of Conduct by virtue of previously working with the PFI Management Media Team).*

Min 103 – 206 Hatch Road, Pilgrims Hatch, Essex CM15 9QN

*A motion was MOVED by Cllr Trump and SECONDED by Cllr Wiles to defer to enable the applicant to provide further technical information, having looked back over the webcast, it was clear that we did not state that the applicant would need to provide that information rather that a further report would come forward to address the Committee's concerns in relation to surface water drainage for the Council's consideration.*

### 113. Review of the Statement of Licensing policy under LA2003

The report on the Licensing Act 2003. (as amended) required that each Licensing Authority produce a Statement of Licensing Policy in respect of each 5 –year period. The report requested that Members considered the draft Licensing Policy for period 2016 -2021 and agreed that it undergo a 12 week consultation. The final adopted policy must be agreed by Ordinary Council and published no later than 31 January 2016.

A motion was **MOVED** by Councillor McCheyne and **SECONDED** by Councillor Mynott to agree the recommendations in the report.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY:**

- 1. The amendments to the Statement of Licensing Policy were approved that it go out to consultation. If no comments are received, the Policy will be forwarded direct to Ordinary Council for adoption. If comments are received, these will be considered by this Committee on 19<sup>th</sup> January 2016, and any further amendments as a result of the consultation will be agreed prior to the Policy being formally adopted by the Council.**

#### **REASON FOR RECOMMENDATION**

The Council must fully consult and publish its revised policy through Ordinary Council. Therefore the compulsory consultation must take place in good time to allow for the full recommended 12 weeks and review of any responses received enabling appropriate consideration as to whether it is appropriate to alter the policy in line with those comments.

The Council must have a policy in place, which should reflect as closely as possible, the current law, Secretary of State Guidance and Government Codes of Practice as this ensures that the Council is able to consistently and effectively carry on its function as the Licensing authority.

There area number of changes and additions to the policy as these reflect the numerous changes over the last five years as the licensing of alcohol, regulated entertainment and late night refreshments under the Act has evolved.

*(As a substitutes of this Committee. Cllrs Mrs Hubbard and Mrs Murphy did not take part in the debate or vote on this item).*

#### **114. Response to Chelmsford City Council's Duty to Co-operate Scoping Report**

The Chelmsford City Council Duty to Co-operate Scoping Report was available for focused consultation from 9 July to 21 August 2015. As a neighbouring local planning authority Brentwood Borough Council has a legal duty to cooperate on planning matters of cross-boundary significance.

The Scoping Report identifies potential cross boundary strategic matters associated with Chelmsford's next Local Plan. It also identifies authorities and bodies that the City Council will need to co-operate with and explains the methods that may be used to engage with these bodies.

The report provided a summary of the Duty to Co-operate Scoping Report aims and sets out Brentwood Borough Council's proposed response. A

response was submitted in August to meet the consultation deadline subject to the approval of Committee.

A motion was **MOVED** by Councillor McCheyne and **SECONDED** by Councillor Trump to agree the recommendation in the report.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY** that:

- 1. The response to the Chelmsford City Council Duty to Co-operate Scoping Report July 2015 consultation as set out in Appendix A of the report was approved.**

**REASON FOR RECOMMENDATION:**

The response set out that Brentwood Borough Council support the approach Chelmsford City Council had taken with regard to the scope of the consultation document. In particular we welcomed setting out co-operation methods to engage with relevant authorities/bodies on each of the strategic matters identified.

Responses to each of the 15 questions be provided, including suggestions for how the Scoping Report could be improved and issues that required further discussion.

The Council will continue to engage with Chelmsford City Council as progress our Local Plans.

**115. Delegation - Certificates of Lawfulness**

On 24 March 2015 the Council received and approved the recommendation in the Modern Planning Service report regarding proposals that focused on the system of delegation of decisions of planning application and enforcement cases.

Following recent staff changes the purpose of this report is to seek delegated authority for the Head of Planning and Development to determine applications made for Certificates of Lawfulness made under Section 191 and Section 192 of the Town and County Planning Act 1990.

Councillor Cloke raised concerns that the Parish Councillors do not know what decisions are being made in regards to the Certificates.

A motion was **MOVED** by Councillor McCheyne and **SECONDED** by Councillor Trump to agree the recommendation in the report.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY** that:



1. **That the Head of Planning and Development be granted delegated authority to determine applications for Certificates of Lawfulness.**

**REASON FOR RECOMMENDATION:**

Given that processing of such applications involve the evaluation of facts based on evidence, and that it is for the applicant to prove, delegated authority is sought for the Head of Planning and Development Committee to determine such applications following obtaining relevant legal advice.

**116. 206 HATCH ROAD PILGRIMS HATCH ESSEX CM15 9QN**

**NEW CHALET DWELLING TO REAR OF 206 HATCH ROAD WITH ACCESS VIA ALDERTON CLOSE**

**APPLICATION NO: 15/00426/FUL**

Mrs Goodwin was present and addressed the committee as a objector to the application.

Mr Hunneybel, the applicant was also present and addressed the committee as a support to the application.

Ward Members expressed their concerns that the local residents were not consulted and the needs for an independent report was required to support this application. A precedent of background garden will be set if the application is approved. The development would increase traffic flow in an extremely narrow cul-de-sac.

A motion was **MOVED** by Councillor Tee and **SECONDED** by Councillor Mynott to refuse the application due to CP1 (iii) and CP1 Section (ii) taking into account CP1 (iii) the area is unsuitable to build a house as it would not fit into the environment or character with the area loss of amenity under Policy H17. It would also present access issues

A vote was taken by a show of hands.

**FOR:** Cllrs Tee, Murphy, Wiles, Cloke, Mynott, Carter, Morrissey and Hubbard (8)

**AGAINST:** Cllrs Reed, Trump and McCheyne (3)

**ABSTAIN:** (0)

**RESOLVED**

That the application be **REFUSED**.

*(Cllr Morrissey declared a non pecuniary interest due under the Council Code of Conduct by virtue of her employment at local Estate Agents).*

**117. THE SURGERY SITE AND LANDINGS OUTINGS LANE DODDINGHURST ESSEX CM15 0LS**

**DEMOLITION OF FORMER DOCTORS SURGERY AND ADJACENT DWELLING KNOWN AS THE LANDINGS AND CONSTRUCTION OF 6 NO. DETACHED DWELLINGS AND 2 NO SEMI-DETACHED DWELLINGS.**

**APPLICATION NO: 15/00267/FUL**

The Chair give permission for Mr Hayes, the agent to speak in support of this application.

Doddinghurst Parish Council spoke in objection to the application on a basis of rural development, this site is better suited for affordable housing. Transport difficulties in the area, car essential.

Cllr Carter requests that the windows that overlook neighbours are installed with opaque glass.

A member of the committee requested guidance on how to deal with direct correspondence relating to planning matters, Planning Solicitor and Head of Planning and Development to advise.

A motion was **MOVED** by Councillor Tee and **SECONDED** by Councillor Carter to approve the application subject to completion of a s106 Agreement to ensure that any financial contribution to meet the affordable housing requirement is fully justified, and an additional condition regarding opaque windows be applied.

A vote was taken by a show of hands.

FOR: Cllrs Carter, Cloke, Hubbard, McCheyne, Morrissey, Murphy, Mynott, Reed, Tee, Trump and Wiles (11)

AGAINST: (0)

ABSTAIN: (0)

**RESOLVED UNANIMOUSLY**

That the application be **APPROVED** subject to a condition S106 Agreement for Affordable Housing contribution.

**118. 6 BOWHAY HUTTON ESSEX CM13 2JX**

**DEMOLISH GARAGE AND CONSTRUCT TWO STOREY SIDE AND FRONT EXTENSIONS AND A PART SINGLE STOREY, PART TWO STOREY REAR EXTENSION. GLASS CANOPY TO FRONT AND**

## **FENESTRATION ALTERATIONS.**

### **APPLICATION NO: 15/00712/FUL**

Mr Pully was present and addressed the committee in objection of the application.

Mr Takar, the applicant was also present and addressed the committee in support of the application.

Cllr Hirst, the Ward Member spoke in objection to the application. Expressing his concerns of the impact on the street scheme and the bulk and overbearing to neighbours of the development. The Member welcomed the officers putting a condition in place relating to obscure glazing to combat overlooking issues.

A motion was **MOVED** by Councillor Reed and **SECONDED** by Councillor Cloke to refuse to application on the following condition; out of character, detrimental to the street scene and loss of amenity under policies H15, CP1 (i) and CP1 (iii).

**FOR:** Cllrs Cloke, Reed, Tee and Wiles (4)  
**AGAINST:** Cllrs Carter, Hubbard, Morrissey, Mynott and Trump (5)  
**ABSTAIN:** Cllrs McCheyne and Murphy (2)

The motion was **LOST**.

A motion was **MOVED** by Councillor Trump and **SECONDED** by Councillor Carter to approve the application subject to the conditions as set out in the officer's report.

A vote was taken by a show of hands.

**FOR:** Cllrs Carter, Hubbard, Morrissey, Mynott and Trump (5)  
**AGAINST:** Cllrs Cloke, Reed, Tee and Wiles (4)  
**ABSTAIN:** Cllrs McCheyne and Murphy (2)

### **RESOLVED**

That the application be **APPROVED**, subject to conditions as set out in the officer's report

1 TIM01 Standard Time - Full

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2 DRA01A Development in accordance with drawings

The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

3 U10578

The brickwork to be used in the construction of the external surfaces of the building hereby permitted shall match those used in the existing building.

Reason: In order to safeguard the character and appearance of the area.

4 U10579

The first floor side windows shall be:- a) glazed using obscured glass to a minimum of level 3 of the "Pilkington" scale of obscuration and b) non-opening below a height of 1.7m above the floor of the room in which the window is installed. The windows shall be installed prior to the first occupation of the building or use of the room of which the window(s) is installed. Those windows shall remain so glazed and non-openable. (Note the application of translucent film to clear glazed windows does not satisfy the requirements of this condition)

Reason: In order to prevent an unacceptable degree of overlooking of nearby residential properties.

5 CON1 Construction Method Statement

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works
- viii. hours of working and hours during which deliveries may be taken at the site

Reason: In the interests of highway safety, visual and neighbour amenity.

**119. POPLAR HALL POPLAR DRIVE HUTTON ESSEX CM13 1YU**

**VARIATION OF CONDITION 25 (PROVISION OF PARKING SPACES AS PER STANDARDS (LISTED BUILDING 80, BOWLING GREEN/LODGE HOUSE 25, PAVILION & PITCHES 40) OF APPLICATION 85/00888/FUL (CHANGING ACCOMMODATION AND CAR PARKING AREAS AND USE OF LISTED BUILDING FOR COMMUNITY PURPOSES) ADDITIONAL PARKING FOR LONG-STAY PARKING, TO INCLUDE PARKING BETWEEN 08.00 AND 19.00, MONDAY TO FRIDAY FOR SEASON TICKET HOLDERS, AND SCHOOL DROP OFF AND COLLECTION.**

**APPLICATION NO: 15/00456/FUL**

Cllr Mrs McKinlay, the Ward Member spoke in support of the application based on the fact that without regulations and being clear about what the restrictions are the Council is in a position where we cannot enforce at all.

A motion was MOVED by Councillor McCheyne and SECONDED by Councillor Trump to approve the application, subject to the conditions as set out in the officer's report.

A vote was taken by a show of hands.

FOR: Cllrs Carter, Cloke, Hubbard, McCheyne, Morrissey, Murphy, Mynott, Tee, Trump and Wiles (10)  
AGAINST: (0)  
ABSTAIN: (0)

**RESOLVED UNANIMOUSLY**

That the application be approved, subject to conditions as set out in the officer's report

1 DRA01A Development in accordance with drawings  
The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

*(Cllr Reed declared a non pecuniary interest under the Councils Code of Conduct by virtue of being a member of the Trustees at Brentwood Leisure Trust, and therefore left the Chamber and did not participate in the discussion or vote).*

**120. BRIGADE HEAD QUARTERS RAYLEIGH CLOSE HUTTON ESSEX CM13  
1AL**

**CHANGE OF USE OF FIRE DEPOT TO TEMPORARY COMMUTER CAR  
PARK BETWEEN THE HOURS OF 07:00 TO 19:00 HOURS MONDAY TO  
FRIDAY DURING THE CONSTRUCTION PHASE OF CROSSRAIL**

**APPLICATION NO: 15/00881/FUL**

Cllr Mrs McKinlay, the Ward Member spoke in support of the application and thanked the Fire Authority and the Cabinet Member of Essex County Council for their support on this application. This site was the most obvious site to take forward in an effort to address the impact on local residents.

A motion was **MOVED** by Councillor McCheyne and **SECONDED** by Councillor Trump to approve the application, subject to the conditions as set out in the officer's report.

A vote was taken by a show of hands.

**FOR:** Cllrs Carter, Cloke, Hubbard, McCheyne, Morrissey, Murphy, Mynott, Reed, Tee, Trump and Wiles (11)

**AGAINST:** (0)

**ABSTAIN:** (0)

**RESOLVED UNANIMOUSLY**

That the application be **APPROVED**, subject to conditions as set out in the officer's report.

**1 TIM01 Standard Time - Full**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

**2 DRA01A Development in accordance with drawings**

The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

**Reason:** To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

**121. Urgent Business**

There were no items of urgent business.

Meeting concluded at 21:40

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## Minutes

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### Licensing/Appeals Sub-Committee Monday, 26th January, 2015

#### Attendance

Cllr Barrett  
Cllr Newberry

Cllr Reed

#### Also Present

Cllr Ms Sanders

#### Officers Present

|                 |                                       |
|-----------------|---------------------------------------|
| Dean Baker      | Senior Planning Enforcement Officer   |
| Steve Blake     | Environmental Health Officer          |
| Dave Leonard    | Licensing Officer                     |
| Jean Sharp      | Governance and Member Support Officer |
| Chris Pickering | Principal Solicitor                   |

#### 407. Appointment of Chair

Cllr Barrett was appointed Chair of the Sub-committee.

#### 408. Quasi-Judicial Function

Members were respectfully reminded that, in determining the matter listed under Minute 409, they were exercising a quasi-judicial function with the civil burden of proof, that the matter would be determined on the facts before the Sub-Committee and the rules of natural justice applied.

#### 409. Licensing Application for Kebab Van - Chequers Pub, Rayleigh Road, Hutton.

The report before Members provided information of an application for a new premises licence in respect of Hutton Best Kebabs, o/s Chequers Public House, Rayleigh Road, Hutton, Brentwood CM13 1PJ.

Members were requested to determine the application having regard to the

operating schedule, the representations received, the Council's Statement of Licensing Policy and the four Licensing objectives.

Each application must be considered on its individual merits and, therefore, no recommendations may be made. However, the available options were:

- i) To grant the application in full on the terms and conditions contained in the operating schedule along with any applicable mandatory conditions;
- ii) To grant the application, modified to such extent as considered appropriate in order to satisfy any relevant representations and to promote the licensing objectives; or
- iii) To reject the application in whole or in part

The Licensing Act 2003 established a single integrated scheme for licensing premises used for the supply of alcohol, regulated entertainment or provision of late night refreshment.

The purpose of the licensing system was the promotion of four licensing objectives:

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

The Sub-Committee took those objectives into account in determining the matters before it, together with the following:

- Guidance Notes on the Conduct of Hearings before the Licensing/ Appeals Committee
- Brentwood Borough Council's Statement of Licensing Policy
- The statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003

This application was received on 14 November 2014 in respect of Hutton Best Kebabs, o/s Chequers Public House, Rayleigh Road, Hutton, Brentwood CM13 1PJ. A copy of the application was before Members.

The premises related to an area on the private car park of The Chequers public house, Rayleigh Road, identified by the applicant as a location to park up a burger/ kebab van and provide late night refreshment. A site map of the location was before Members.

The applicant sought a new premises license for the provision of late night refreshment for the following hours;

23:00hrs-00:00hrs on Sunday-Thursday &  
23:00hrs-01:00hrs the following morning on Friday & Saturday

The application had been advertised in accordance with the Licensing Act 2003 regulations.

Two representations were received from the Responsible Authorities, Planning and Environmental Health, and nine representations were received from local residents, all of which were before Members.

The concerns relating to the licensing objectives were predominantly based on litter nuisance complaints and public safety issues arising from anti-social behavior relating to the extended hours of late night refreshment that attracted people to the residential location. These complaints extended to the smell of food emanating from the van.

The sub-committee considered in detail the reports presented to it and the representations for and against the application. The sub-committee had not taken into account planning, precedent setting or other issues that were raised but which were not related to the licensing objectives and the application for late night refreshments. The sub-committee noted that the objections mainly came down to issues of public nuisance.

The sub-committee was concerned about the location of the kebab van and its clear connection with the public house in whose carpark it was parked. That pub advertised this connection and its patrons clearly used the kebab van. The sub-committee considered that the location of the kebab van prevented the swift dispersal of pub patrons which would lead to unacceptable nuisance to local residents. Retaining pub patrons at the premises to purchase food after they had left the pub would, in the opinion of the sub-committee, lead to unacceptable nuisance. The sub-committee was not satisfied that the proposed conditions put forward by the Council's Environmental Health Officer were sufficient to reduce that nuisance to an acceptable level.

For these reasons, the sub-committee **RESOLVED UNANIMOUSLY** to reject the application for a license to serve late night refreshments and the applicant was advised of their right to appeal against this decision to a Magistrates Court.

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## Minutes

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### Licensing/Appeals Sub-Committee Wednesday, 29th April, 2015

#### Attendance

Cllr Mrs Hubbard  
Cllr Newberry

Cllr Russell

#### Officers Present

Dave Leonard - Licensing Officer  
Chris Pickering - Principal Solicitor  
Jean Sharp - Governance and Member Support Officer

#### 570. Appointment of Chair

Cllr Newberry was appointed Chair of the Sub-committee.

#### 571. Quasi-Judicial Function

Members were respectfully reminded that, in determining the matter listed under Minute 572, they were exercising a quasi-judicial function with the civil burden of proof, that the matter would be determined on the facts before the Sub-Committee and the rules of natural justice applied.

#### 572. Licensing Act 2003 - Application to Vary a Premises License - Papa John's, 106 High Street, Brentwood. CM14 4AP

The report before Members provided information on an application for the variation of the premises license in respect of Papa John's, 106 High Street, Brentwood, CM14 4AP.

Members were requested to determine the application having regard to the operating schedule, the representations received, the Council's Statement of Licensing Policy and the four Licensing objectives.

Each application must be considered on its individual merits and, therefore, no recommendations may be made. However, the available options were:

- i) To grant the application in full on the terms and conditions contained in the operating schedule along with any applicable mandatory conditions;
- ii) To grant the application, modified to such extent as considered appropriate in order to satisfy any relevant representations and to promote the licensing objectives; or
- iii) To reject the application in whole or in part

The Licensing Act 2003 established a single integrated scheme for licensing premises used for the supply of alcohol, regulated entertainment or provision of late night refreshment.

The purpose of the licensing system was the promotion of four licensing objectives:

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

The Sub-Committee took those objectives into account in determining the matters before it, together with the following:

- Guidance Notes on the Conduct of Hearings before the Licensing/ Appeals Committee
- Brentwood Borough Council's Statement of Licensing Policy
- The statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003

This application was received on 10 March 2015 in respect of Papa John's, 106 High Street, Brentwood, CM14 4AP. A copy of the application and a site map were before Members.

The premises was a food take away and provided late night refreshment. The applicant sought to vary the premises license for the provision of late night refreshment for the hours of 23.00hrs to 0300hrs daily.

The application had been advertised in accordance with the Licensing Act 2003 regulations and one representation had been received from the Responsible Authorities: The Environmental Health officer was concerned that there were potential noise and public nuisance issues and there may be a detrimental effect on local residential properties. Details of the objections were before Members, also the response to the objections from the applicant's agent.

The Sub-Committee considered in detail the written and oral submission and evidence provided to it and was impressed with the quality of the application and the range of conditions volunteered. It noted that the objections raised by Environmental Health, while well intentioned, were not supported by evidence.

On balance, the Sub-Committee concluded that the conditions volunteered by the applicant were sufficient to promote the licensing objectives and they were adopted in full as conditions on the license.

The Sub-Committee therefore **RESOLVED UNANIMOUSLY** to grant the variation of the license for late night refreshment as applied for with the conditions summarised in the licensing report on page 9 of the agenda, but listed in full in the application as follows:

1. The premises shall install and maintain a comprehensive CCTV system. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open to the public and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately on request of Police or authorised Council officer. Download or export of CCTV should be in the native file format with the native player.
2. A staff member from the premises who is conversant with the operation of the CCTV system shall be available at all times when the premises is open to the public. This staff member must be able to show the Police or authorised Council officer recent data or footage with the absolute minimum of delay when requested.
3. The premises will employ an SIA registered doorman from 23:00 to 03:30 Monday to Sunday to ensure that customers are aware that the premises operates a strict policy in respect of not tolerating any disorder.
4. A register of security personnel employed on the premises shall be maintained in a legible format and made available to Police upon reasonable request. The register should be completed by the duty manager at the commencement of work by each member of security staff; that security operative should then sign their name against these details. Details recorded should include:
  - Full name
  - SIA badge number
  - Time of commencement of duties
5. Extra staff will be on duty to ensure that there are no delays between taking a customer order and providing a finished product.
6. Experienced staff shall be on duty in the late evening and early morning hours who have been trained in first aid and are also able to assist door staff should the need arise.
7. A manager shall be on duty for the duration of opening from 23:00 to 03:00.
8. An incident log shall be kept at the premises and made available on request to an authorised officer of the Council or the Police, which will record the following:
  - All crimes reported to the venue
  - All ejections of patrons
  - Any complaints received

- Any incidents of disorder
  - Any faults in the CCTV
  - Any visit by a relevant authority or emergency service
9. The premises will subscribe to the Brentwood Town link radio system, enabling them direct contact with other venues and CCTV operators.
  10. Regular testing of the integrated filtering system shall take place to ensure that extraction is not a public nuisance and does not create a public nuisance for neighbours in the near vicinity.
  11. Notices shall be displayed reminding visitors that packaging from PAPA JOHNS products should be discarded responsibly in litter bins.
  12. Notices shall be displayed informing customers that public safety and their support in ensuring their wellbeing is requested.
  13. Notices shall be displayed at the premises encouraging customers to leave the premises quietly and respect the needs of the residents in the area to sleep and peace.
  14. All staff will be trained to ensure that customers waiting for food do so in an orderly and risk free environment. Staff will assist the door staff to ensure that order is maintained within the premises should this be necessary.
  15. Staff will be trained to respond to increases in tension if they occur and to ensure that flashpoints do not occur.
  16. Careful filtering of customers shall take place by door staff to ensure that drunk or rowdy persons cannot gain entry to the premises.
  17. Door staff shall encourage visitors to the premises to leave quietly and proceed away from the High Street to their homes or hotel quietly.
  18. Door staff shall be used at the end of trading to ensure that customers disperse responsibly and do not create a nuisance on the High Street.
  19. Street litter patrols will take place at the end of the evening to ensure that no packaging from PAPA JOHNS products are left on the pavement. Any detritus will be swept and removed.

-----  
The meeting ended at 11.30am.





- Prevention of public nuisance
- Public safety
- Protection of children from harm

The Sub-Committee took those objectives into account in determining the matters before it, together with the following:

- Guidance Notes on the Conduct of Hearings before the Licensing/ Appeals Committee
- Brentwood Borough Council's Statement of Licensing Policy
- The statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003

The application for a premises license was received on 5 August 2015 in respect of Charlie's Deli, 88 High Street, Brentwood CM14 4AP and a copy of the application was before Members. The premises was a delicatessen and provided food and non-alcoholic beverages and the application was for a premises license for the sale of alcohol for the hours of 10.00 to 23.00 hours daily.

The application had been advertised in accordance with the Licensing Act 2003 regulations.

Two valid representations had been made which related to potential public nuisance concerns emanating from the additional hours the applicant intended to operate.

The sub-committee was addressed by the applicant and a representative of the objector and both parties were encouraged to discuss their positions. The applicant heard the concerns of the objector and provided clarification on how he intended to address them, including not starting work in the kitchen until 09:00 and advised that planning permission had been obtained for a commercial ventilation system to assist with kitchen smells and vapour.

The applicant agreed that, in respect of his application, the hours of 10:00 to 18:00 on a Sunday would be fair in the circumstances.

The sub-committee considered in detail the reports presented to it and the representations for and against the application and noted that the objections mainly came down to issues of public nuisance. Upon consideration, the sub-committee **RESOLVED UNANIMOUSLY** to grant the application as applied for, with the following amendments to the agreed conditions set out in full below.

- 1) No drinks or glassware shall be permitted outside the premises at any time
- 2) The licensable hours on Sundays are to be 10:00 to 18:00

Members took the view that the above conditions were necessary in order to meet the licensing objectives, specifically for the prevention of public nuisance.

In addition to the above conditions and as outlined in 5.1 of the report, the applicant had after consultation with the Police stated that:

- The premises shall install and maintain a comprehensive CCTV system covering the internal and external of the premises. It will also cover all entry and exit points enabling full frontal identification of every person entering in any light condition. The CCTV system shall continually record shall continually record whilst the premises is open to the public and during all times when customers remain on the premises. All recordings will be kept in an unedited format for a period of not less than 28 days with time and date stamping. Recording shall be made available immediately upon lawful request of Essex Police or other responsible Authority. Download or export of CCTV should be in the native file format with the native player.
- A staff member from the premises who is conversant with the operation of the CCTV system shall be available at all times when the premises are open to the public. This staff member must be able to show Essex Police or other Responsible Authority recent data or footage with the absolute minimum of delay.
- Alcohol sales shall only be ancillary to a table meal.
- Reasonable and adequate staff training to be carried out and properly documented in relation to;
  - (a) dealing with incidents and prevention of crime and disorder
  - (b) sale of alcohol prior to being allowed to sell alcohol
- All training records will be retained for 12 months and made available to Essex Police or other responsible Authority upon reasonable request.
- No persons under the age of 18 will be permitted to remain on the premises after 22:00hrs
- The premises shall operate a Challenge 25 age verification policy. Failure to produce will result in service being refused.

Acceptable forms of photographic identification include:

- (a) Passport
- (b) Photo card Driving License
- (c) Photographic ID bearing the 'PASS' hologram

All of the recommendations listed in 5.1 of the report (set out above) and the amendments made at the hearing would be converted into conditions on the license granted.

The parties were reminded that should they be dissatisfied with the decision of the licensing sub-committee, they had a right to appeal to the Magistrates' Court.

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SITE PLAN ATTACHED

## 03. GARAGES ADJACENT TO 10 ALEXANDER LANE HUTTON ESSEX

**DEMOLISH EXISTING GARAGES AND CONSTRUCTION OF A ONE BEDROOM, TWO STOREY DWELLING**

**APPLICATION NO: 15/00980/FUL**

|                     |                     |                       |                     |
|---------------------|---------------------|-----------------------|---------------------|
| <b>WARD</b>         | Hutton North        | <b>8/13 WEEK DATE</b> | 02.10.2015          |
| <b>PARISH</b>       |                     | <b>POLICIES</b>       | NPPF NPPG<br>CP1 T2 |
| <b>CASE OFFICER</b> | Mrs Charlotte White | 01277 312536          |                     |

**Drawing no(s) relevant to this decision:** EX01B; EX03; PL01; PL02; PL03; PL04; PL05; A2-01 TOPOGRAPHICAL; DESIGN & ACCESS STATEMENT - REV A;

This application was referred by Cllr Ms McKinlay for consideration by the Committee. The reason(s) are as follows:

The application has been referred to Committee by Cllr McKinlay regarding Highway matters.

### 1. Proposals

Planning permission is sought to demolish the existing garages on the site and to construct a detached, two storey, one-bedroom dwelling. The proposed dwelling has a flat, green roof with PV panels on top. The ground floor will consist of a bedroom, a bathroom and a store area, to include a bike store area and the first floor will include an open plan living area; kitchen, dining and sitting area. There will be a 'hit and miss' staircase to provide access onto the roof for maintenance. A balcony will be provided to the front of the dwelling which will be partly enclosed. A small garden area will be provided at the front of the site which will include an outside utility area to store bins and the rainwater harvesting tank. One parking space will be provided.

### 2. Policy Context

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and is now a material consideration in planning decisions. The weight to be

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

Local Plan Policies

CP1 - General Development Criteria

T2 - New Development and Highway Considerations

### **3. Relevant History**

- 15/00260/FUL: Demolish existing garages and construction of a one bedroom, two storey dwelling. -Application Withdrawn

### **4. Neighbour Responses**

15 neighbour letters were sent out and a site notice displayed. One letter of objection has been received which makes the following comments:

- Similar to 15/00260/FUL which I objected to due to the appearance of the building which was out of character with the surrounding properties.
- Same is true of this application - it will look quite out of place - a ultra-modern design in the midst of traditional properties, including those constructed recently, such as the block of flats immediately opposite the existing garages and the pair of maisonettes alongside 12 Alexander Lane.
- Urge committee to reject the application and encourage the developer to submit a more traditional style of building.

### **5. Consultation Responses**

- **Highway Authority:**

Following an assessment of additional details as submitted with this subsequent application, the Highway authority position remains unchanged as the issues raised previously have not been addressed satisfactorily.

Currently the host dwelling benefits from off-street parking for up to four vehicles within the existing garage site located adjacent to 10 Alexander Lane. The applicant has suggested that there is provision to provide off-street parking for the host dwelling however, the area fronting no. 14 Rayleigh Road is insufficient in depth to accommodate a vehicle without overhanging the highway, causing an

obstruction to pedestrians using the footway to the detriment of highways safety. It is therefore considered that the overall parking provision is inadequate.

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

The proposal if permitted would lead to inappropriate parking practices detrimental to general safety for all highway users. The proposal is therefore contrary to policy DM1 and DM8 contained within the County Highway Authority's Development Management Policies, adopted as county Council Supplementary Guidance in February 2011.

Note: To accord with the Parking Standards design and Good Practice September 2009, which recommends minimum parking provision levels for residential properties, would require the host dwelling to retain two off-street parking spaces and the new dwelling to be provided with one off-street parking space.

NB - Substandard parking at neighbouring properties has no relevance to this application.

**FURTHER COMMENTS EMAIL 30.9.15:**

A vehicle parking parallel to the street within the frontage is discouraged unless it can be demonstrated that a vehicle can access the forecourt of a property at right angles to the carriageway and park safely within the site. A vehicle parking at the property along Rayleigh Road would require more than one manoeuvre over a footway to the detriment of highway and pedestrian safety.

It is essential to highway safety that the car is accommodated to ensure easy access to and from the highway and that it is unlikely that any part of the car will obstruct the footpath, this ensures good design is promoted and inappropriate practice is avoided.

- **Environmental Health & Enforcement Manager:**

No comments received at time of writing report.

- **Environment Agency:**

No objections.

- **Design Officer:**

Thank you for consulting on the above application in respect of Design; please find my advice to assist you in the determination of this application:

This current submission follows a previously withdrawn application (ref: 15/00260/FUL). In terms of design this current submission has not been amended therefore - please refer to my original advice as follows:

Discussion:

Pre-application advice was conducted with regards to the development of this site for residential use. The principal of demolition for the existing concrete panel garages is acceptable in design terms; these structures have little prominence or contribution to the street scene which evidences a mix of dwellings from flatted development at the principal corner adjacent to the development site, through to Victorian cottages and other variations of C20th domestic architecture.

The main considerations in terms of design is the impact of the development to its context, having assessed the submitted information I advise the massing is acceptable; it is evident the modular contemporary style of architecture has been refined in order to consider the mass and scale of the immediate context, this can be attributed to the long period of gestation for design development. The proposals within the scheme clearly have sustainable aspirations, including renewables such as air source heat pump and PV application to roof.

The design intent and the massing proposed within the submission demonstrates Good Design in line with National Policy; it is imperative the design intent is not diluted through a value engineering of details such as materials and fenestration throughout the construction stage; therefore Conditions should be applied in this regard.

In summary I raise no objections on Design grounds and advise the scheme is of Good Design.

- **Arboriculturalist:**

15/00980/FUL in order to fulfil the suggested consideration to the trees adjacent to the site a base data should be submitted plus if the scheme is considered viable by the arboricultural consultant an impact assessment and method statement outlining the specialist construction techniques to be employed.

## 6. Summary of Issues

The application site is located on the western side of Alexander Lane and is currently occupied by a pair of detached garages and a parking area. The site is located within the residential area and as such the main considerations in the determination of this proposal are; the principle of the development, sustainability, design, residential amenity, living conditions, parking and highway considerations and landscaping:

History



Planning permission was recently sought for a very similar development to this hereby proposed which was withdrawn by the applicant prior to be determined, but was recommended for refusal by Officers for the following reason:

The proposal, if permitted would result in the loss of parking to No.14 Alexander Lane, by removing the application site as a parking area available to No.14, resulting in the occupiers of No.14 having no option but to park in front of the dwelling at No.14 which is of an insufficient depth to accommodate vehicles without overhanging the highway, causing an obstruction to pedestrians to the detriment of highway safety contrary to Chapter 4 of the National Planning Policy Framework (NPPF) and Policies T2 and CP1(iv) of the Brentwood Replacement Local Plan 2005.

#### Principle of the development

The site is located in a residential area and as such the principle of developing the site to provide a dwelling is acceptable, subject to other consideration such as the design, impact on neighbours and highway safety considerations.

#### Sustainability

The site is located within a sustainable location; it is located within walking distance of Shenfield Train Station and the shops and services in the Town Centre. The proposal also seeks to utilise renewable energy resources such as solar PV panels on the roof.

#### Design and character and appearance of the area

The proposed dwelling is contemporary in its design. The Council's Design Officer has commented that her original comments in relation to the previous application submitted (ref.15/00260/FUL) are maintained: The Design Officer comments that the principle of demolishing the existing garages is acceptable in design terms. The Design Officer comments that the main consideration in terms of design is the impact of the development to its context. The massing is acceptable and the design intent and massing proposed demonstrates good design. However, it is imperative that the design intent is not diluted and as such conditions are needed in terms of materials and fenestration details. Subject to such conditions, the Design Officer raises no objection to the proposal.

It is considered by Officers that, given the surrounding character of the area, which is mixed, including flats on the opposite side of the road, the proposal would not appear out of keeping with the area. The size, sitting, scale and overall design of the development are considered acceptable and the proposal accords with Chapter 7 of the NPPF and Policies CP1(i) and CP1(iii) of the Local Plan.

#### Residential Amenity

In terms of overlooking, the proposed dwelling's main windows face Alexander Lane which is a space already open to public gaze and the provision of these windows would not therefore result in any undue overlooking or loss of privacy. The rear stairwell window and high-level first floor glazing bands, given their position and height above the floor levels would not result in any undue overlooking or loss of privacy. The front balcony proposed is partially enclosed to the sides, but will be open in part allowing views to each side. However, the land to the south is undeveloped and as such the proposal would not result in any undue overlooking in this regard. To the north, there is an existing dwelling; No.10 Alexander Lane. However, the balcony is located to the front of the site and would overlook the front garden area of No.10 which is already open to public gaze. As such it is not considered that the proposal would result in any undue overlooking or loss of privacy.

A condition is necessary, however, restricting the use of the green roof for maintenance purposes only, to prevent this space being used as an additional amenity space, which would result in undue overlooking to No.10.

In terms of dominance, given the location of the site, the only dwelling that may be adversely affected in this regard is No.10 to the north. The proposed dwelling would not extend significantly beyond the rear wall of No.10 and would not therefore result in any harm in this regard. The proposed two storey element would be located some 3m from the flank wall of No.10. It is noted that there are flank windows in No.10 which may be affected by the proposal, however, given the separation distance proposed, the design of the dwelling with a flat roof, and its relatively limited height it is considered that the proposal would not result in any significant or demonstrable harm to the residential amenity of No.10 in terms of an overbearing impact, dominance or loss of light and outlook.

### Living Conditions

The site backs onto the railway line and as such it is considered necessary to determine whether the future occupiers of the site would be provided with adequate living conditions in this regard and to determine whether the residents would be subject to poor living conditions by virtue of the noise and disturbance from this close proximity of the site to the railway line. In this regard, the Agent comments that noise levels will be controlled with the use of triple glazing. The Agents also refers to the planning applications submitted at No's 10 and 12 Alexander Lane which included a noise assessment and refers to their findings which conclude that levels of noise from the railway line are less than those from the road.

The Council's Environmental Health Officer (EHO) comments are awaited on this application. However, the EHO did provide comments on the previous, very similar application on this site (ref. 15/00260/FUL): commenting that the dwelling lies adjacent to a busy railway track where the occupier will be exposed to noise from

the tracks, but comments that the fact that there are no windows facing the track will help with noise attenuation. The EHO suggests a condition be attached to any grant of consent to ensure noise and vibration levels do not adversely affect the occupiers of the dwelling. Subject to such a condition, no objection is raised on this basis.

The proposed one bedroom dwelling provides a small private amenity area to the front of the site and an additional amenity area by virtue of the balcony proposed. The dwelling is an adequate size for a one-bedroom dwelling and provides a parking space. It is therefore considered that the proposal would provide adequate living conditions for any future occupiers.

### Parking and Highway Considerations

The Highway Authority raised an objection to the previous application on this site (ref. 15/00260/FUL) which resulted in the officer recommendation to refuse the previous application.

With regard to this current application, the Highway Authority has commented that following an assessment of the additional details submitted with this application, the Highway Authority position remains unchanged as the issues raised previously have not been addressed satisfactorily.

The Highway Authority comments that currently the host dwelling benefits from off-street parking for up to four vehicles within the existing garage site located adjacent to No.10 Alexander Lane. The application has suggested that there is provision to provide off-street parking for the host dwelling, however, the area fronting No.14 Rayleigh Road is insufficient in depth to accommodate vehicles without overhanging the highway, causing an obstruction to pedestrians using the footway to the detriment of highway safety. It is therefore considered that the overall parking provision is inadequate.

The Highway Authority therefore conclude that from a highway and transportation perspective the impact of the proposal is not acceptable because, if permitted, the proposal would lead to inappropriate parking practices detrimental to general safety for all highway users.

It is noted that the site is in a highly sustainable location, with Shenfield Train Station and the shops and services in Shenfield within walking distance. It is also noted that the design and access statement indicates that the application site is not used by the occupiers of No.14 and is used by friends and family commuting from Shenfield train station and that the space to the front of No.14 is to be increased with the removal of hedges and low level brick walls.

However, the Case Officer has now undertaken two site visits to this site and has viewed the parking situation at No.14 twice: The first visit in April 2015 revealed that the front of No.14 was being used for parking; with two vehicles parked on the front

of No.14, both of which were overhanging the footpath. During the second site visit undertaken for this application in August 2015, it was apparent that there was one vehicle parked on this site which was also overhanging the footpath.

It is considered that the loss of the application site for parking purposes would increase the need for the residents of No.14 to park in this manner and removes the site as an alternative parking option to them.

It is noted that the applicant suggests works will be undertaken to the front of No.14 to allow a parallel space to be provided. However, the Highway Authority have also raised concerns in this regard, commenting that a vehicle parked parallel to the street within the frontage is discouraged unless it can be demonstrated that a vehicle can access the forecourt at right angles to the carriageway and park safely within the site. A vehicle parking at the property along Rayleigh Road would require more than one manoeuvre over a footway to the detriment of highway and pedestrian safety.

As such, and given the comments of the Highway Authority, it is considered that the proposal would result in unacceptable harm to highway safety and an objection is therefore raised on this basis.

#### Landscaping Considerations

The Council's Tree Officer has commented that in order to fulfil the suggested conditions to the trees adjacent to the site base data should be submitted and an impact assessment and method statement outlining the specialist construction techniques should be employed.

However, the Design and Access Statement submitted considers trees and landscaping, commenting suitable precautions to protect the trees will be undertaken, with raft foundations and piles used rather than traditional trenches, with the initial dig along the boundaries done by hand to establish the location of major roots which will inform the foundation design. As such it is not considered necessary to require the information suggested. The information submitted indicates that the vegetation around the site will be considered and as such it is not considered that any conditions, apart from a landscaping scheme are required in this instance.

#### Conclusion

As outlined above, it is considered that this proposal has not overcome the previous concerns raised to a similar development on this site (ref.15/00260/FUL). The proposal is therefore recommended for refusal as it is considered that the proposal would result in undue harm to highway safety as a result of the loss of the parking spaces, contrary to National and Local Planning Policy. It is not considered that the

provision of an additional dwelling and the matters in support of the application would outweigh the harm identified.

## **7. Recommendation**

The Application be REFUSED for the following reasons:-

R1 U11131

The proposal, if permitted would result in the loss of parking to No.14 Alexander Lane, by removing the application site as a parking area available to No.14, resulting in the occupiers of No.14 having no option but to park in front of the dwelling at No.14 which is of an insufficient depth to accommodate vehicles without overhanging the highway, causing an obstruction to pedestrians to the detriment of highway safety contrary to Chapter 4 of the National Planning Policy Framework (NPPF) and Policies T2 and CP1(iv) of the Brentwood Replacement Local Plan 2005.

### Informative(s)

1 INF05

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

2 INF20

The drawing numbers listed above are relevant to this decision

3 INF23

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

### *BACKGROUND DOCUMENTS*

### **DECIDED:**

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Appendix A



Title : Garages adjacent to 10 Alexander Lane, Hutton

15/00980/FUL

Scale at A4 : 1:1250

Date : 13th October 2015

Brentwood Borough Council  
Town Hall, Ingrave Road  
Brentwood, CM15 8AY  
Tel.: (01277) 312500



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**SITE PLAN ATTACHED**

**04. HIGH POINT BEGGAR HILL FRYERNING ESSEX CM4 0PN**

**DEMOLITION OF EXISTING BUNGALOW AND REPLACEMENT BUNGALOW.**

**APPLICATION NO: 15/00315/FUL**

|                                                 |                                                                                     |                       |                                   |
|-------------------------------------------------|-------------------------------------------------------------------------------------|-----------------------|-----------------------------------|
| <b>WARD</b>                                     | Ingatestone, Fryerning & Mountnessing                                               | <b>8/13 WEEK DATE</b> | 12.05.2015                        |
| <b>PARISH</b>                                   | Ingatestone & Fryerning                                                             | <b>POLICIES</b>       | NPPF NPPG<br>CP1 GB1 GB2<br>C5 C8 |
| <b>CASE OFFICER</b>                             | Ms Sukhi Dhadwar                                                                    | 01277 312604          |                                   |
| <b>Drawing no(s) relevant to this decision:</b> | PL01; PL02; PL03; PL04/A; PL15; PL14; PL06/A; PL14; PL07/C; PL05/B; PL08/D; PL13/B; |                       |                                   |

This application was referred by Cllr Sleep for consideration by the Committee. The reason(s) are as follows:

On the grounds that the application is to demolish the unattractive air raid shelter bungalow and replace it with a bungalow, which together with permitted development rights is on a very similar footprint. I see no NPPG or BBC policy reasons to refuse the application particularly as it retains a much needed bungalow on the site. The Design Officer recommends approval and the Parish Council have no objections.

**1. Proposals**

Permission is sought for the demolition of the existing bungalow and garage and a replacement new dwelling and garage.

The proposed new dwelling is broadly rectangular shaped with maximum dimensions of 17m wide, a length of 10.25m and a maximum height of 2.8m high to the ridge of the slightly undulating roof. A basement area is also proposed.

Vehicular access will remain as existing. The new garage is positioned 8m further north wards (rear) into the site. It measures 7m wide by 7.5m long with a maximum height of 3.15m to the top of its flat, angled roof.

The proposed materials include a mixture of brickwork and render to the walls, high performance felt to the roof and full length double glazed aluminium fenestration.

The application is accompanied by an Arboricultural report which states that no trees will need to be felled to accommodate the proposal although some shrub specimens will need to be removed.

## **2. Policy Context**

The National Planning Practice Guidance (NPPG) was published by the Government on 6 March 2014. The Guidance supports the National Planning Policy Framework and provides users of the planning system with a specific body of advice and reference. All decisions upon planning applications must now have regard to NPPG as a material consideration.

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

Paragraph 14 of the NPPF sets out that there is a presumption in favour of sustainable development ; in decision making, this means approving proposals that accord with the development plan without delay, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefit or; specific policies within the Framework indicate that development should be restricted.

Chapter 9 of the Framework sets out the policy criteria for protecting the Green Belt; the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence.

Paragraph 89 states that a Local Planning Authority should regard the construction of new buildings as inappropriate in Green Belt with some exceptions. The replacement of a building provided the new building is in the same use and not materially larger than the one it replaces.

As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Chapter 7 of the NPPF Requiring Good Design makes clear that good design is a key aspect of sustainable development. Design policies should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area. Permission should be refused for development of poor design.

The development plan is the Brentwood Replacement Local Plan adopted in 2005.

Local Plan Policy CP1 (General Development Criteria) requires that development should

- (i) Not harm character and appearance of an area;
- (ii) Not harm neighbouring residential amenity;
- (iii) Be of an acceptable design;
- (iv) Raise no significant parking or highway issues; and
- (v) Not give rise to pollution

Relevant Green Belt policies are:

Local Plan Policy GB1 (New Development); planning permission will not be given except in very special circumstances, for development which is inappropriate to a Green Belt.

Local Plan Policy GB2 (Development Criteria); development should not conflict with the purposes of including land within the Green Belt, nor should it harm openness. Consideration will also be given of the effect on public rights of way; the impact on existing landscape features and whether it is satisfactorily located in respect of the surrounding landscape and any adjoining buildings.

### **3. Relevant History**

- 14/00414/S192: Single storey side extension and single storey rear extension -Application Permitted
- 14/00280/PN42: Single storey rear extension. The proposed extension would extend 8m beyond the rear wall of the original dwelling, the maximum height of the proposed extension would be 2.6m and the proposed eaves height would be 2.5m. -Prior Approval is Not Required

### **4. Neighbour Responses**

Letters were sent to occupants of adjoining and nearby properties. A site notice was also displayed. At the time of the writing of this report 1 response had been received. The issues raised are as follows: -

We object to the ultra modern design of the property which is out of keeping with the traditional style of houses in Fryerning.

The harm would be increased if proposal was amended to be two storey.

## **5. Consultation Responses**

### **• Arboriculturalist:**

The arboricultural report is fine and should be conditioned should permission be granted - the provisions of the report will need to be implemented in full in particular the need for supervision and monitoring.

### **• Design Officer:**

I have no objections to this one given the single storey nature.

I do advise you do cover conditions such as landscaping, fenestration eaves etc?

### **• Parish Council:**

No objection

## **6. Summary of Issues**

This application has been assessed against policies laid out in the National Planning Policy Framework (NPPF) (2012), National Planning Policy Guidance (2014) and the Brentwood Replacement Local Plan (2005).

The issues which are relevant to the determination of this application are:

- Is the development inappropriate for the green belt?
- Would the development detract from the openness of the green belt?
- Are there any 'very special circumstances' which would outweigh the Charm created to the greenbelt?
- Impact on the character and appearance of the area.
- Impact on neighbouring residential amenity
- Impact on parking

Site and surroundings

The site covers an area of approximately 3790 sqm. Its rear boundary runs diagonally from the eastern boundary to the longer western boundary. A natural ditch runs across the front perimeter of the site.

A modern (1960's) Utilitarian flat roofed bungalow shaped in the form of a linear gun is located centrally within the site. To its east is a flat roofed garage close to the site's eastern boundary. The levels on the site are slightly undulating. The remainder of the site is covered in mature trees, lawn and vegetable garden. The trees ensure that the property is well screened from long views of the site.

The site is designated as being within a Special Landscape Area and the Green Belt.

The National Planning Policy Framework (NPPF) states that new development within the Green Belt is inappropriate unless it falls within the list of exceptions set out in paragraphs 89 and 90 of the NPPF, and provided it does not harm the openness of the Green Belt or conflict with any of the five purposes of including land within it.

Local Plan policies GB1 and GB2 are broadly in compliance with the aims and objectives of national green belt policy. The NPPF states that one of the exceptions to inappropriate development within the Green Belt is the replacement of a building provided the building is not materially larger than the one it would replace and it is in the same use as the one it is to replace.

The existing dwelling has a footprint of 218 sqm. The new dwelling would have a total floor area above ground level of approximately 449 sqm. Whilst the overall height will remain the same as the existing; the overall volume of the new dwelling would be significantly more than the existing building.

The floor area, volume and scale of the proposed dwelling is therefore more than double the size of the original building and materially larger than the one it is to replace. It is therefore by definition, inappropriate development as set out in National and Local Plan Policy.

Revised plans have repositioned the proposed garage 8m further back in comparison to the existing structure; however its size and volume is similar to the existing garage on the site, therefore the overall impact in terms of harm to the Green Belt is not materially different from the existing garage.

Impact on the openness of the Green Belt.

A plan (no. 3275 PL14) has been submitted showing the existing dwelling if extended under 'permitted development,' overlaid on top of the proposed dwelling. Although the proposed dwelling would not be materially higher than the existing building, it is considerably wider on the east / west axis, and would be sited parallel to the road as opposed to the existing house which has a dominant north / south axis. Accordingly, the space between the new building and the sites side boundaries would be diminished as would views towards the rear of the site. Given the significant increase in the footprint of the building, it

would be materially harmful to the openness of the Green Belt, which is in conflict with the National Planning Policy Framework and Local Plan Policy GB2.

In conclusion, the proposal is inappropriate development in the Green Belt, and would materially harm the openness of the Green Belt. The Local Planning Authority should ensure that substantial weight is given to any harm to the Green Belt. Paragraph 88 of the NPPF states that such development should not be approved except in 'very special circumstances'. 'Very Special Circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Other Considerations:

The applicant refers to a 'fallback' position in the form of permitted development, acknowledged by the Council's issue of Certificate of Lawfulness under reference 14/00414/S192 and 14/00280/PN42.

The first reference relates to a single storey side and single storey rear extension. The second relates to an 8m long single storey rear extension. It is calculated that these extensions, if implemented, would result in a dwelling with a floor space of 477 sqm. The proposed bungalow has a floorspace of 449.06 sqm above ground level. This would be 28 sqm less than the permitted development extensions.

Case law exists on the fallback position of permitted development. The weight the Council is required to give to such a fallback position as a material consideration will depend on whether what could be built using the permitted development extension on having a broadly similar or worse impact to what is proposed; AND the reasonable likelihood or possibility that, if permission were refused, permitted development extensions would in fact be built.

The High Court decision made in Samuel Smith Old Brewery (Tadcaster) v SoS 2009 ruled that there must be a real likelihood of any fall back position actually being exercised in the event of a refusal. It must be demonstrated that the test should be made on the balance of probabilities rather than the balance of possibilities.

Taking these tests in turn:-

Does the fallback position have a broadly similar or worse impact than what is proposed?

In terms of visual impact, the proposed house would have a similar low visual impact, but would be much closer to the boundaries of the site than the existing house, or the house extended under permitted development. Officers conclude

that whilst the fallback position would have a floor area marginally bigger than the proposed new dwelling (28 sqm above ground level) the visual impact of the new dwelling through its presence would still be much greater than the fall back position given the proposed orientation and linear east - west form.

On the balance of probabilities, rather than the balance of possibilities, is the fall back position likely to be exercised in the event of a refusal.

The applicant sets out that the existing house is "poorly insulated to walls and roof and has no insulation at all to the floor. It is not practical to insulate the walls and roof without a lot of disruption and cost as there is no access as in a pitched roof situation. The opportunity to provide new windows and doors to a new building rather than an old also makes sense and will be more economical saving VAT. The roof is also in need of replacement. Hence we are considering a rebuild"

Furthermore, the permitted development certificates indicate a ground floor layout which while providing additional living accommodation would have an awkward circulation space, occupiers having to move through several habitable rooms in order to get from one part of the bungalow to the other (as opposed to using a central corridor hallway).

In cases where the likelihood of permitted development permissions being implemented are very slight, (*Brentwood Borough Council v SoS and Gray 1996*) it has been ruled that the adverse consequences of implementing the fall back position would have to be very significant to justify very special circumstances. Then, the seriousness of the harm that would be done, if planning permission was not granted and the fall back position was implemented, would have to be such that the risk was not acceptable so that planning permission should be granted.

In this instance, it is considered that the risk of implementing the fallback position is not so materially harmful in comparison to the application proposal to justify grant of permission.

Given the statement made by the applicant the probability of the fallback position being implemented is considered less than theoretical.

As such, the fallback position advanced by the applicant is not a consideration that would amount to 'very special circumstances' that clearly outweigh the harm to the Green Belt by inappropriateness or the other harm identified. The proposal is therefore considered to conflict with paragraph 87 of the NPPF and policy GB2 of the Local Plan.

Character and Appearance:

The NPPF indicates that Local Planning Authorities should seek to promote or reinforce local distinctiveness but "Avoid unnecessary prescription or detail and

should concentrate on guiding the overall scale, density, massing, height, landscape, layout materials and access of new development.."

The area has a verdant, rural character which includes a high proportion of mature trees and vegetation and sporadic, low density development.

The proposal replaces a flat roofed utilitarian bungalow with a similar height bungalow with a contemporary design and it is considered that good quality materials are proposed. Subject to conditions, it is considered that the design, appearance and scale of the dwelling would be acceptable within its surroundings in terms of local distinctiveness and therefore comply with the aims and objectives of the NPPF and Brentwood Replacement Local Plan policy CP1 (i) and (ii).

#### Trees

The Tree Officer is satisfied that the details contained within the arboricultural method statement submitted as part of this application will ensure that the health and stability of existing trees which would help to partially screen the house from public views will not be harmed. The proposal therefore complies with C5 of the Local Plan.

#### Quality of resulting residential accommodation.

The lack of information in relation to the ground to ceiling height of the basement could be controlled by condition as generally the quality of accommodation is good as the size of the unit meets criteria laid out in Appendix 5 of the Brentwood Replacement Local Plan and the 'Technical Housing Standards document issued by the Department of Communities and Local Government.' (2015).

#### Neighbouring residential amenity

Due to the position of the proposal being sufficiently distant from any neighbouring properties, it is considered that there will be no significant impact on neighbouring amenity in terms of loss of privacy, disturbance or overbearing effect. The proposal would therefore comply with the requirements of CP(ii) of the Brentwood Replacement Local Plan 2005.

#### Impact on Highway safety

There is sufficient space for adequate parking and safe access into and out of the site in accordance with CP1 (iv) of the Local Plan.

#### Other Considerations:

The comments received from neighbours have been addressed in the body of this report.

The Applicant states that the proposed new dwelling would be built to a high standard saving significant future energy costs and improve the appearance of the site, however, this would be expected of any new house regardless of whether it is in the Green Belt or not.



#### Conclusion and balance:

Whilst the principal of a replacement dwelling on this site is acceptable, the proposal conflicts with National and Local Plan Policy as it is materially larger than the existing dwelling and would harm the openness of the Green Belt. It is therefore inappropriate development within the Green Belt. The planning history of the site and householder permitted development rights have been taken into account and while these matters are capable of being material considerations they do not constitute very special circumstances that clearly outweigh the harm to the Green Belt. The proposal if built will result in the depletion of Green Belt land. It therefore fails the environmental limb of sustainable development as defined by the National Planning Policy Framework and therefore should not be approved.

### **7. Recommendation**

The Application be REFUSED for the following reasons:-

#### R1 U10768

The proposed replacement dwelling would be materially larger than the one it would replace and, therefore, be inappropriate development in the Green Belt. As a result of the increase in footprint of the proposed dwelling, the development would also reduce the openness of the Green Belt, and conflict with the purposes of including the land within the Green Belt. The proposal is therefore contrary to chapter 9 of the NPPF and Policies GB1 and GB2 of the Brentwood Replacement Local Plan.

#### R2 U10769

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

#### Informative(s)

##### 1 INF05

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

##### 2 INF20

The drawing numbers listed above are relevant to this decision

3 U02518

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concerns and explaining the harm within the reasons for refusal. The concerns have been conveyed to the applicants agent. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

*BACKGROUND DOCUMENTS*

**DECIDED:**

# Appendix A



Title : High Point, Beggar Hill, Fryerning

15/00315/FUL

Scale at A4 : 1:2500

Date : 13th October 2015

Brentwood Borough Council  
Town Hall, Ingrave Road  
Brentwood, CM15 8AY  
Tel.: (01277) 312500



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**SITE PLAN ATTACHED**

**05. LAND TO THE EAST OF WARLEY HALL MAGPIE LANE LITTLE WARLEY  
ESSEX CM13 3DT**

**CONSTRUCTION OF AGRICULTURAL AND FORESTRY BUILDING.**

**APPLICATION NO: 15/01004/FUL**

|                                                 |                                                                                                                  |                       |                                                  |
|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------|-----------------------|--------------------------------------------------|
| <b>WARD</b>                                     | Warley                                                                                                           | <b>8/13 WEEK DATE</b> | 16.09.2015                                       |
| <b>PARISH</b>                                   |                                                                                                                  | <b>POLICIES</b>       | GB14 GB1<br>GB2 CP1 T2<br>C3 C8 C16<br>NPPF NPPG |
| <b>CASE OFFICER</b>                             | Kathryn Mathews                                                                                                  |                       | 01277 312616                                     |
| <b>Drawing no(s) relevant to this decision:</b> | 01; 02; 03; SUPPORTING LETTER; APPENDIX B - APPLICANTS LETTER; APPENDIX C - REPORT ON NEED; APPENDIX E - X-GRID; |                       |                                                  |

This application was referred by Cllr Tee for consideration by the Committee. The reason(s) are as follows:

The Applicant has made a strong case for need, also for the position of the barn in relation to the use and the design and size is good. The applicant is proposing purchasing more woodland as well. My concern is that it might be refused on size, design and position - all are justified. The design is outstanding and the size is needed for the dry keep of wood from woodland soon to be purchased. A similar application was made that I missed the deadline to refer.

**1. Proposals**

Proposed store building: 21m in width x 9.8m in depth and 9.8m in height (maximum dimensions), pitched roofs. The materials to be used to construct the external surfaces of the building would consist of black featheredged boarding above a brick plinth for the walls and clay, plain tiles for the roof. It is stated that the building would accommodate 165sq.m. of floorspace.

The application site measures approximately 75m along its road frontage with Childerditch Lane and 90m in depth.

The application is accompanied by a Report on the Need for an Agricultural and Forestry Building (July 2015) which provides the following information:-

- The applicant purchased Warley Hall and around 12ha of adjacent land in 2009, they have since purchased 6ha of woodland adjacent to their property and they anticipate that they may be able to purchase further areas of adjacent woodland in the future. The grassland extends to a total of 9.25ha.
- Since the purchase of the adjacent woodland, the applicant has felled and removed a number of dead, dangerous or dying trees and logged up fallen timber which is stacked awaiting sale or disposal primarily as firewood
- The applicant intends to take a hay crop bi-annually from 6ha of grassland and that the woodland would benefit from selective thinning but there is insufficient storage for the resulting produce (hay and timber) and machinery. The applicant's agent calculates that, on 6ha, 2250 bales of hay could be produced per year with a storage requirement of around 375-400sq.m. and that if a proportion of the timber being processed is also stored indoors (some 50 tonnes) a further storage capacity of approximately 75sq.m. would be required.
- Grass cutting and hay making can continue to be carried out on contract but space would be required for an additional tractor and hedge flail attachment, a 10 tonne trailer for movement of hay/timber and an area for ancillary goods.
- A fully enclosed building is necessary from a functional point of view and for security reasons (fire risk and valuable machinery/equipment)
- A traditionally designed building is proposed due to the sensitive Green Belt location of the site.
- Reference is made to the need to provide services to the building (water and electricity) and an area of hard standing for the turning and movement of vehicles in front and to the side of the building which would be required.
- The location has been chosen as it would utilise an existing access on Childerditch Lane, would read as part of the group of buildings with Home Farm but also would be well situated for the future management of the grassland and woodland
- On the basis of the above, it is stated that a building measuring 20m x 6.5m x 5m to eaves is required

A letter from the applicant also accompanies the application which advises that:-

- they have a total of 44 acres of land (woodland and grassland) to look after and very few existing buildings to use.
- the building is the minimum size required to store the hay crop coming off the grassland, timber from the woodland (which would be stored and dried as firewood), large machinery (e.g. another tractor, trailer and attachments) and other equipment and materials needed to maintain the land
- a more traditional designed building would be more expensive to build but would be much more attractive in this Green Belt location

The applicant's agent advises that hard standing would be provided through ground reinforcement grills for the new drive and yard areas, with grass growing through the grids, and makes reference to a similarly designed building granted planning permission by Epping Forest District Council in 2011.

## **2. Policy Context**

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

On 6th March 2014, the government published Planning Policy Guidance (NPPG) which, along with the NPPF, is a material consideration in the determination of planning applications. The NPPG 'Design', 'Conserving and enhancing the historic environment', 'Noise' and 'Housing and economic land availability assessment' are of particular relevance to the current application. The NPPGs have been taken into account, where relevant, in the following assessment.

Relevant Local Plan Policies

GB1 - New Development

GB2 -Development Criteria

GB14 - Agricultural Buildings

CP1 -General Development Criteria

T2 - New Development and Highway Considerations

C3 - County Wildlife Sites, Local Nature Reserves and Other Habitats and Natural Features of Local Value

C8 - Ancient Landscapes and Special Landscape Areas

C16 - Development within the Vicinity of a Listed Building

## **3. Relevant History**

- 14/01504/FUL: Construction of Agricultural and Forestry building -Application Refused
- 12/00187/FUL: Proposed new machinery and plant storage building -Application Permitted
- 12/00187/NON/1: Non Material Amendment application for proposed new machinery and plant storage building -Application Permitted

- 12/00187/COND/1: Discharge of condition 1 (building materials) for planning application 12/00187/NON/1 -Application Permitted

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

A site notice was displayed at the site. One letter of notification was sent out. No letters of representation have been received.

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

- **Arboriculturalist:**  
No response at the time of writing report.
- **Essex Wildlife Trust:**  
No response at the time of writing this report.
- **Highway Authority:**  
From a highway and transportation perspective the Highway Authority has no comments to make on this proposal.
- **Environmental Health & Enforcement Manager:**  
No objections.

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

The application site is located on the western side of Childerditch Lane, close to its junction with Home Farm Road. The site is located within the Metropolitan Green Belt and a Special Landscape Area. The site adjoins a County Wildlife Site and is within the grounds associated with Warley Hall which is a Grade II listed building.

Planning permission was refused for the same proposal (reference 14/01504/FUL) for the following reason:-

1. The proposed building, as a result of its position, height, size and bulk, would significantly reduce the openness of the Green Belt and, along with the hard standing required, would be contrary to one of the five purposes of the Green Belt i.e. to assist in safeguarding the countryside from encroachment, and would be harmful to the character and appearance of the area, which is also a Special Landscape Area. As a result, the proposal is contrary to the NPPF (paragraph 17 and section 7), and Policy GB2, Policy CP1 (criteria i and iii), Policy GB14 and Policy C8 of the Brentwood Replacement Local Plan.

The current application is for the same building in the same location but with revised/additional supporting information.



The main issues which require consideration as part of the determination of this application are the impact of the development on the Green Belt, the impact of the building on the character and appearance of the area which is also a Special Landscape Area and within the grounds of a listed building, any impact on the amenity of the occupiers of Home Farm, highway safety and ecology.

The Core Planning Principles which form part of the NPPF (paragraph 17) include a requirement to protect the Green Belts around our main urban areas and to recognise the intrinsic character and beauty of the countryside.

Section 9 of the NPPF refers to 'Protecting Green Belt land' as part of which it is stated that the Government attaches great importance to Green Belts and that the aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are stated as being their openness and their permanence (paragraph 79). Paragraph 87 and 88 refers to the need for very special circumstances to exist before inappropriate development is approved.

Policy GB14 states that the design, external appearance and colour of new buildings for use in connection with agriculture shall be appropriate within their setting. All new development shall be sited so as to have the minimum impact and must take account of the provisions of GB2.

#### Principle

The NPPF states that new buildings are normally inappropriate development in the Green Belt. Agricultural and forestry buildings are one of the exceptions to this. The information submitted with the application explains how the building would be used and that there is a need for a building with dimensions of 20m x 6.5m and an eaves height of 5.5m. However, whilst there would appear to be a need for building to accommodate the uses referred to, the proposed building is larger than this with a footprint of up to 21m x 9.8m. The eaves height of the building would be 5.5m but its overall height would be nearly 10m and the irregular footprint of the building would limit its versatility. On this basis, it is not considered that a building of the size and height proposed is justified, especially as this building would be in addition to the store building (to include a tractor) elsewhere within the grounds of Warley Hall granted planning permission in 2012 (reference 12/00187/FUL).

#### Green Belt Openness

Whilst the proposed agricultural/forestry store building may not be inappropriate development in the Green Belt, it is considered that the development as a result of its position, height, size and bulk, would significantly reduce the openness of the Green Belt and would be contrary to one of the five purposes of the Green Belt i.e. to assist in safeguarding the countryside from encroachment, contrary to the NPPF (section 9), Policy GB2 and Policy GB14. Details of the location and extent of the

hard surfacing required is not included as part of the application but manufacturer's details of the ground reinforcement grid system to be used has been provided. On the basis that this system would allow grass to grow through the grids, it is considered that this element of the proposal is unlikely to result in material encroachment into the countryside.

#### Character and Appearance

There are existing buildings to the south. However, the application site itself is currently an undeveloped field. As a result of the position, height, size and bulk of the building proposed, it is considered that the development proposed would be harmful to the character and appearance of the area, which is also a Special Landscape Area. As a result, it is considered that the proposal is contrary to the NPPF (paragraph 17 and section 7), Policy CP1 (criteria i and iii) and Policy C8. Details of the location and extent of the hard surfacing required is not included as part of the application but manufacturer's details of the ground reinforcement grid system to be used has been provided. On the basis that this system would allow grass to grow through the grids, it is considered that this element of the proposal is unlikely to result in material harm to the character and appearance of the area.

The proposed building would be located within the grounds of Warley Hall which is Grade II listed building but, at over 300m away, it is considered that the development would not have any impact on the setting of the listed building and, therefore, Policy C16 is not applicable.

#### Impact on Neighbours

On the basis of the scale and nature of the use of the building proposed, it is considered that the development is not likely to cause demonstrable harm to the occupiers of the adjoining Home Farm, in compliance with the NPPF (paragraph 17) and Policy CP1 (criterion ii). The Environmental Health Officer supports this view.

#### Highway Safety and Parking

Given the area which would be available for parking within the site and as an existing vehicular access could be utilised, it is considered unlikely that the proposal would materially harm highway safety, in compliance with the NPPF (paragraph 17), Policy T2 and Policy CP1 (criteria iv and v). The Highways Officer supports this view.

#### Ecology

The application site adjoins a County Wildlife Site but, given the nature and scale of the use of the building proposed, it is considered that the development is unlikely to cause harm to local ecology, in compliance with Policy C3.

## 7. Recommendation

The Application be REFUSED for the following reasons:-

R1 U11117

The proposed building, as a result of its position, height, size and bulk, would significantly reduce the openness of the Green Belt, would be contrary to one of the five purposes of the Green Belt i.e. to assist in safeguarding the countryside from encroachment, and would be harmful to the character and appearance of the area, which is also a Special Landscape Area. As a result, the proposal is contrary to the NPPF (paragraph 17 and section 7), and Policy GB2, Policy CP1 (criteria i and iii), Policy GB14 and Policy C8 of the Brentwood Replacement Local Plan.

### Informative(s)

1 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: GB1, GB2, GB14, CP1, T2, C3, C8, C16 the National Planning Policy Framework 2012 and NPPG 2014.

2 INF20

The drawing numbers listed above are relevant to this decision

3 INF25

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

### *BACKGROUND DOCUMENTS*

### DECIDED:

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# Appendix A



Title : Land to the East of Warley Hall, Magpie Lane, Little Warley

15/01004/FUL

Scale at A4 : 1:2500

Date : 13th October 2015

Brentwood Borough Council  
Town Hall, Ingrave Road  
Brentwood, CM15 8AY  
Tel.: (01277) 312500



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**SITE PLAN ATTACHED**

**06. 198 - 202 RAYLEIGH ROAD HUTTON ESSEX CM13 1PN**

**CHANGE OF USE FROM CLASS A1 (RETAIL) TO CLASS A5 (HOT FOOD TAKEAWAY), INSTALLATION OF REPLACEMENT SHOP FRONT, INSTALLATION OF COLD ROOM COMPRESSOR, AIR CONDITIONING UNIT, 2 NO. FRESH AIR INTAKE DUCTS AND EXTRACT DUCT.**

**APPLICATION NO: 15/00788/FUL**

|                                                 |                                                          |                       |                               |
|-------------------------------------------------|----------------------------------------------------------|-----------------------|-------------------------------|
| <b>WARD</b>                                     | Hutton East                                              | <b>8/13 WEEK DATE</b> | 21.08.2015                    |
| <b>PARISH</b>                                   |                                                          | <b>POLICIES</b>       | NPPF NPPG<br>S4 T2 CP1<br>PC4 |
| <b>CASE OFFICER</b>                             | Mr Jonathan Binks                                        |                       | 01277 312500                  |
| <b>Drawing no(s) relevant to this decision:</b> | BLOCK PLAN ; SITE PLAN ; EX 01 ; EX 02 ; GA 03 ; EL 04 ; |                       |                               |

This application was referred by Cllr Sanders for consideration by the Committee. The reason(s) are as follows:

Highway safety, parking, impact of a national brand changing the village nature of the parade, the need for extraction units generating fumes, impact on neighbours amenity.

**1. Proposals**

Planning permission is sought for a change of use from the current use class (Class A1 - shop) to a hot food takeaway (Use Class A5) and includes the installation of a replacement shop front, cold room compressor, air conditioning units, two air intake ducts and an external extract duct.

The applicant has indicated that the hours of opening are Monday - Wednesday 12 - 10pm and Thursday - Sunday 12 - 11pm (email dated 23rd September 2015).

In support of the application, the applicants have provided information indicating that the new store will relieve some of the pressure on the existing store on High Street in Brentwood. Given the residential catchment it is anticipated that a

significant amount of trade from the store would be generated by customer pickups, both on foot and by car.

Four parking spaces are provided to the front on hardstanding. The applicants advise that in respect of car borne collections, it is considered there is sufficient customer car parking available to the front of the parade, particularly when considering that Domino's peak trade will be after 6pm when the majority of the other shops in the parade have closed. The access road to the side of the property and the rear parking area would be used by staff to collect for deliveries in cars.

The applicants have provided additional information and indicate that the delivery peak will be between 6pm and 9pm with approximately 15-20 deliveries an hour expected to be dispatched on the busiest days - Friday and Saturday, with lower delivery volumes throughout the rest of the week. 15-20 deliveries an hour on peak days, taking on average 15 minutes, would equate to 5 or 6 delivery drivers working during the peak time, although they obviously would not all be arriving and departing at the same times.

## **2. Policy Context**

National Planning Policy Framework 2012  
National Planning Practice Guidance 2014

CP1 General Development Criteria  
S4 Non-retail uses within Local shopping centres and parades  
T2 New development and highway considerations  
PC4 Noise

## **3. Relevant History**

- 11/00276/FUL: Erection Of Storage Shed To The Rear Of The Site, In Association With Existing A1 Retail Unit. -Application Permitted
- 15/01141/ADV: 1 no. internally illuminated fascia sign and 1 no. internally illuminated hanging sign -

## **4. Neighbour Responses**

15 adjoining and nearby occupiers were notified of the application and a site notice was posted. There were 8 responses (two from the same address) objecting to the proposal on the following grounds:

- people and staff using the unit will park outside neighbouring properties
- the proposed takeaway would open until midnight
- increase in noise and rubbish
- detrimental to residential amenity due to disruption
- noise pollution to a residential garden associated with the use of the existing side access



- later than normal shop hours causing loss of enjoyment of evening for neighbouring residential occupiers
- noise and activity from delivery vehicles
- manufacturing noise adversely affecting quality of life
- noise disruption from plant and machinery, including noxious smells, which will be anti-social
- people will drop litter in residential gardens
- The Hutton Village Shops would be adversely affected as this would be the only unit which would open for 12 hours a day
- a takeaway would not meet a proven local need
- the proposal will result in youth gatherings/visitors which will cause anti-social behaviour/crime as the site is close to two schools and the Playing Fields
- the Council should not sanction any takeaways which could cause obesity in children/an exclusion zone should exist
- the proposal will result in highway safety issues, already present, but will be exacerbated by the increased volume of vehicles
- people are likely to crash their cars into a neighbour's boundary fence
- the proposal is for a double/large unit and in future there could be eat-in provision with insufficient parking
- the takeaway would start a disastrous decline of this cherished local amenity
- insufficient consultation undertaken
- the parking area for the whole parade is already congested and informal and haphazard, its increased use will result in an increased risk of accidents
- litter bins should be provided
- delivery scooters will have a negative impact on the peacefulness of the area
- it is noted that there would be filtration and extraction but food smell will be obnoxious
- the takeaway activity will wake sleeping children in nearby properties
- likely vermin problems
- rubbish will be left at the Playing Fields
- the size of the frontage would be disproportionately large and overbearing to the other shops detracting from their attraction
- the parade should only have independent operators
- bright lights and glaring back-lit signage with a national brand would not be ok
- the main sewer is not adequate

The need for the takeaway was also raised as Dominos has 2 outlets in Brentwood and Billericay already. Officer comment - the type of takeaway is not of itself a planning consideration and, while it is noted that there are other existing Dominos, the planning consideration is whether or not a takeaway would be acceptable or not in this location taking into account the planning policy of the Borough. The type of takeaway user would, if permission is granted, be for the market to decide.

The cost of properties was raised as a reason that the occupiers are entitled to not having unacceptable commercial activity close by. Officer comment - the value or

cost of properties is not a material planning issue and the commercial unit is an existing unit in an existing shopping parade.

## **5. Consultation Responses**

- **Highway Authority:**

As none of the changes are affecting the highway, therefore, from a highway and transportation perspective the Highway Authority has no comments to make on this proposal.

- **Environmental Health & Enforcement Manager:**

Ventilation requirements

A mechanical extraction system shall be provided to the kitchen area in accordance with details submitted to and agreed in writing with the Local Planning Authority. Such agreed works shall be fully implemented prior to the commencement of any use hereby permitted and shall be maintained in the approved form while the premises are in use for the permitted purpose.

In particular, prior to installation, details of all fume extraction and ventilation equipment shall be submitted to and approved in writing by the L.P.A. The equipment shall be installed as approved and shall be maintained in the approved form while the premises are in use for the permitted purpose. Adequate odour control and noise attenuation measures will be required, particularly when relating to residents of the flats directly above and nearby to the shop.

The extraction system will require adequate odour control and noise attenuation measures and will normally be required to terminate at least 1m above the highest roof level and the efflux velocity of the discharge shall be a minimum of 15m/sec. A suitable flue termination such as Scandinavian sleeve must be provided. This Service, as a matter of course with such applications, would require an activated carbon filtration system to be installed.

Any mechanical ventilation must be capable of supplying fresh air to the kitchen. Additionally, a ventilation hood located over the oven and heating appliance equipped with a grease filter should be installed.

## **6. Summary of Issues**

Key Considerations:

The main issues are the principle of the proposed development, impact on the character and appearance of the area, impact on residential amenity and highways/parking issues.

Site description:

The site comprises the ground floor of a double-fronted unit located on the northern side of Rayleigh Road (A129). The unit has been extended to the rear with a single-storey pitched roof with commercial bi-fold doors. There is also a corrugated iron storage building with a flat roof to the rear and some floodlighting. There is a 2m high close boarded fence to the rear/side with some conifer trees to the shared boundary with No. 196 Rayleigh Road and to the rear with a hedge to the shared boundary with No. 204 Rayleigh Road. The unit was vacant at the time of the site visits but its last use was as A1 (Retail) as a bathroom sales/showroom. The unit forms one end of a parade of shop units with a variety of mainly A1 uses but with an existing takeaway at the far end "Hutton Spice". There is a residential unit above the shop accessed from the front, repeated to the first floor of other units in the parade.

There are four parking spaces to the front of the unit on hardstanding and there is a gated vehicle access to the side of the unit with a parking area to the rear. The surrounding area is otherwise residential in character.

The Brentwood Replacement Local Plan (the RLP) has not been updated since the publication of the National Planning Policy Framework (the Framework) and it is necessary to consider the weight to be given to the policies that are relevant to the determination of this application. Paragraph 215 of the Framework indicates that if development plans have not been revised to take account of the Framework decision-takers should give "due weight" to policies in existing plans according to their degree of consistency with the Framework.

Policy CP1 is a wide-ranging general policy that seeks, amongst other things, to ensure that developments do not have an unacceptable detrimental impact on the general amenities of nearby occupiers or the occupiers of the proposed development by way of overlooking, lack of privacy, overbearing effect or general disturbance (Criterion ii). That objective is fully consistent with one the core planning principles of the Framework which indicates that a good standard of amenity for all existing and future occupiers of land and buildings should always be sought.

RLP Policy S4 seeks to maintain an appropriate balance between A1 retail and other uses to avoid over-concentration of groups of adjacent non-retail uses which can lead to a loss of retail floor space reducing the attractiveness of parades and therefore their viability. The policy is broadly compliant with the NPPF (paragraph 23) which indicates that local planning authorities should pursue policies to support the viability and vitality of town centres and set policies that make clear which uses will be permitted in identified locations.

Each of the RLP Policies set out above predates the Framework; however their objectives are fully consistent with the Framework and those objectives may therefore be given full weight.

Policy S4 indicates that A5 uses will be allowed in local shopping parades providing it would not result in more than two adjacent non-retail uses and in the case of shopping parades AND no more than 40% of units should be in non-retail uses. In addition it would only be allowed where the imposition of conditions regarding hours of opening, control of noises and smells can protect the amenities of adjacent residents and the surrounding area. Applicants are required to provide details of any extraction, refrigeration units etc. with their application.

There are 9 units in the parade. The double unit at the application site is counted as two units for the purpose of this calculation, although the small units are both counted as one unit each (the hairdresser and dry cleaners at 210a and b). The adjoining unit, No.204 Rayleigh Road is a computer repair shop in A1 Use such that the proposal would not result in more than two adjacent non-retail uses. There is only one other non-retail use, an Indian takeaway, in the parade. As a result of the proposed development, 3 of the 9 units would be in non-retail use which at 33% would be below the criteria indicated in policy S4. It is therefore considered that in principle the proposed change of use from A1 to A5 would be acceptable.

Impact on the character and appearance of the area:

The external changes are the installation of a new shopfront and provision of extract duct, air con units, compressor and air intake ducts.

The main change is the provision of a replacement shopfront (signs and other advertising are not the subject of this planning application and would anyway require the submission of a separate advertisement under the Advertisement Regulations).

The proposed shopfront would have large windows with a new stall-riser and a centrally located door which would provide level access. The existing rendered pilasters would be repainted. The external materials would be aluminium in traffic grey. The proposed shopfront would introduce a stallriser reducing the existing glazed proportion. While grey is a subdued colour, it is expected that any accompanying signage to the fascia would be in the house colours of blue, white and red. Of itself, the shopfront with the same size of fascia sign board is considered to be acceptable in terms of its impact on the character and appearance of this commercial area.

It is proposed to locate the extract duct to the rear of the two-storey part of the building. Given its location at the rear of the unit it would not be visible from public viewpoints. It would be visible from the rear garden to the adjoining properties and would be visible from one of the windows to the upper floor property. It is considered that the extract duct would be limited in height as it would rise 1m above

the rear eaves level that it would be acceptable in respect of its impact on the character and appearance of the area.

The compressors and fresh air intake would be located to the rear close to the door, they are relatively small in scale and attached to the building. It is not considered that of themselves they would result in any harm to the character and appearance of the area.

Impact on residential amenity:

The proposed takeaway is proposed to open between 12 noon and 11pm. The other units are mainly day-time A1 (Retail uses) which are mainly closed by 6pm. The Indian Takeaway is indicated as opening between 5pm and 10pm every day including bank and public holidays. The proposed use would therefore operate beyond the majority of the existing units and beyond the other takeaway in the shopping parade.

The applicant indicates that its peak times are between 6pm and 9pm each evening and that its deliveries are undertaken in cars where drivers are required to sign up to an expected code of conduct. The side vehicle access and rear parking area is existing, and it would be unreasonable to restrict the use of this area in relation to the normal commercial requirements of a business in this unit.

With the exception of the occupiers of the flats above, the nearest neighbouring property is 196 Rayleigh Road. The proposed A5 use is likely to result in some additional activity within and outside the premises with comings and goings until later in the evening than at present, although the parade will be quieter once the day-time activities cease. However, the A129 is a through route, and although relatively quieter in the evening after rush-hour would still generate background noise from passing cars and buses. Given the semi-urban location it is considered that any additional noise or disturbance arising from the use of the unit would not be unacceptable subject to a condition limiting the opening hours.

The fume and ventilation extraction would be agreed to standards set out by the Environmental Health Department and it is anticipated that subject to conditions there would be no detrimental impact on nearby residents by reason of noise or odour from this equipment.

Overall it is considered that the effect on the amenity of neighbouring residents would not be so harmful that a refusal of permission could be justified.

Parking/highways:

There are four parking spaces for customers to the front and a large enough hardstanding area for four - five staff/delivery vehicles to the rear.

Rayleigh Road (A129) is also a bus route with a bus stop on the opposite side of the road and one to the east on the same side of the road which provides an alternative form of transport.

A number of objectors have raised concerns regarding the current shared parking area at the shopping parade and some near-misses and damage to a fence. While the proposed use would be likely to attract more customers than the recent bathroom showroom and would open later than the current existing use, there would be no change to the existing parking area or the existing vehicle access to the application site. It would be unreasonable to require the new, relatively smallscale use to provide highway improvement facilities which would benefit the whole parade.

The Highway Authority confirm that there have been no reported accidents in the last three years at the application site and they raise no highway safety concerns in relation to the proposed use.

Other matters:

Most of the objections raised by nearby residents have been addressed in the body of the report.

The distance from schools where school children can buy fast food and other such snacks also applies to supermarkets and newsagents which sell a range of unhealthy foods such as crisps and sweets as well as both cold and hot snack food such as pasties and sausage rolls. The nearest school is some distance on foot from the parade of shops.

There is no submitted evidence to suggest that there would be a rise in criminal activity as a result of the use of the shop as a takeaway unit; the introduction of vermin is an unfounded speculation. The issue of additional litter cannot be controlled by a planning condition but an informative can be added suggesting that the operator introduce measures to help customers dispose of unwanted packaging.

Conclusion:

The proposal would result in a takeaway in an existing shopping parade. It would be acceptable in principle and, subject to suitable conditions being attached to ensure reasonable opening hours it is considered that the proposed use would not result in any material harm to existing residential amenity. The proposed development is not considered, due to its limited external works, to result in any harm to the character and appearance of the area and there are no parking or highways issues raised. The proposal would therefore accord with the NPPF, NPPG and Policies CP1, S4, T2 and CP4 of the Borough Replacement Local Plan.

## **7. Recommendation**

The Application be APPROVED subject to the following conditions:-

1 TIM01 Standard Time - Full

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2 DRA01A Development in accordance with drawings

The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

3 U11173

The premises shall not be open for customers outside the following hours: 12 noon til 10pm Monday to Wednesday, 12 noon til 11pm Thursday til Sunday inclusive.

Reason: To safeguard the living conditions of nearby residents.

4 BUS07 Hours of Use - deliveries

No deliveries shall take place outside the following hours: -

(09:00 - 21:00], Mondays – Fridays, [09:00 - 17:00] Saturdays and there shall be no deliveries on Sundays and public holidays.

Reason – To safeguard the living conditions of nearby residents

5 U11085

Prior to commencement of the development hereby permitted, further details of the extract ducting system shall be provided. Once approved in writing, the extract ducting shall be implemented in accordance with the approved details and maintained.

Reason: In the interests of residential amenity.

6 U11086

Prior to the use commencing a grease trap should be installed within the foul drainage system. Once fitted it shall be regularly maintained in accordance with the manufacturers instructions.

Reason: To prevent any pollution of ground water.

Informative(s)

1 INF22

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1, S4, T2 and PC4 the National Planning Policy Framework 2012 and NPPG 2014.

3 INF04

The permitted development must be carried out in accordance with the approved drawings and specification. If you wish to amend your proposal you will need formal permission from the Council. The method of obtaining permission depends on the nature of the amendment and you are advised to refer to the Council's web site or take professional advice before making your application.

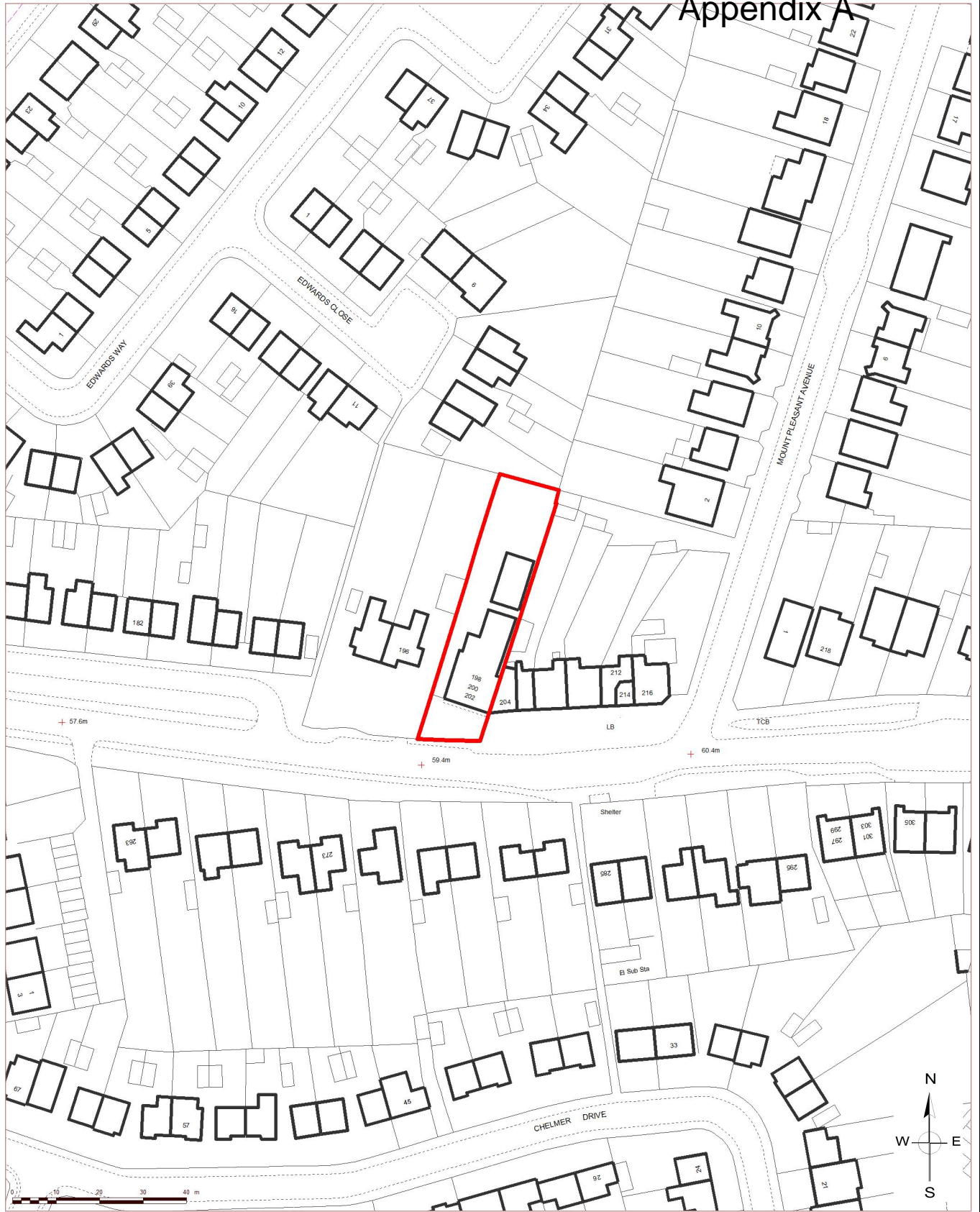
4 U02569

The applicant is reminded that the premises should comply with the requirements of the Workplace (Health, Safety and Welfare) Regulations 1992 and it is recommended that you contact the Council's Environmental Health Food/Health and Safety Team to discuss the scheme before implementation.

*BACKGROUND DOCUMENTS*

**DECIDED:**





Title : 198-202 Rayleigh Road, Hutton

15/00788/FUL

Scale at A4 : 1:1250

Date : 13th October 2015

Brentwood Borough Council  
Town Hall, Ingrave Road  
Brentwood, CM15 8AY  
Tel.: (01277) 312500



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## **Members Interests**

Members of the Council must declare any pecuniary or non-pecuniary interests and the nature of the interest at the beginning of an agenda item and that, on declaring a pecuniary interest, they are required to leave the Chamber.

- **What are pecuniary interests?**

A person's pecuniary interests are their business interests (for example their employment trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and asset including land and property).

- **Do I have any disclosable pecuniary interests?**

You have a disclosable pecuniary interest if you, your spouse or civil partner, or a person you are living with as a spouse or civil partner have a disclosable pecuniary interest set out in the Council's Members' Code of Conduct.

- **What does having a disclosable pecuniary interest stop me doing?**

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not :

- participate in any discussion of the business at the meeting, of if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business or,
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

- **Other Pecuniary Interests**

Other Pecuniary Interests are also set out in the Members' Code of Conduct and apply only to you as a Member.

If you have an Other Pecuniary Interest in an item of business on the agenda then you must disclose that interest and withdraw from the room while that business is being considered

- **Non-Pecuniary Interests**

Non –pecuniary interests are set out in the Council's Code of Conduct and apply to you as a Member and also to relevant persons where the decision might reasonably be regarded as affecting their wellbeing.

A 'relevant person' is your spouse or civil partner, or a person you are living with as a spouse or civil partner

If you have a non-pecuniary interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

## **Planning and Licensing Committee**

### **Planning**

(a) Town and Country Planning Act 1990 and any related legislation including:-

- (i) determination of planning applications;
- (ii) enforcement of planning control;
- (iii) waste land notices, purchase notices, etc.

(b) Listed Buildings and Conservation Areas Act 1990

- (i) determination of applications for Listed Buildings and Conservation Area consent;
- (ii) enforcement of Listed Building and Conservation Area legislation.
- (c) To consider and determine the Council's comments where appropriate on major development outside the Borough when consulted by other Local Planning Authorities.

(a) To guide the Council in setting its policy objectives and priorities.

- (b) To carry out the duties and powers of the Council under current legislation;
- (c) To develop, implement and monitor the relevant strategies and policies relating to the Terms of Reference of the committee.
- (d) To secure satisfactory standards of service provision and improvement, including monitoring of contracts, Service Level Agreements and partnership arrangements;
- (e) To consider and approve relevant service plans;
- (f) To comply with the standing orders and financial regulations of the Council;
- (g) To operate within the budget allocated to the committee by the Council.
- (h) To determine fees and charges relevant to the committee;

To review and monitor the operational impact of policies and to recommend proposals for new initiatives and policy developments including new legislation or central government guidance

(d) Powers and duties of the local planning authority in relation to the planning of sustainable development; local development schemes; local development plan and monitoring reports and neighbourhood planning.

### **Licensing**

(a) Except in relation to the statement of Licensing Policy, to discharge all functions conferred upon the council as licensing authority under the Licensing Act 2003.

(b) Except in relation to the statement of Licensing Policy, to discharge all functions conferred upon the council as licensing authority under the Gambling Act 2005.

(c) To determine all fees and charges relevant to matters disposed by the Planning and Licensing Committee.

(d) To exercise all other functions relating to licensing and registration including

- i. Trading Requirements.
- ii. All functions relating to hackney carriage drivers and vehicles and private hire drivers vehicles and operators.

- iii. Animal Welfare and Security.
  - iv. Skin Piercing, Acupuncture, Electrolysis and Tattooing.
  - v. Sex establishments (including Sex Entertainment Venues (SEV)).
  - vi. Pavement Permits.
  - vii. Charitable Collections.
  - viii. Camping, Caravan Sites and Mobile Homes.
  - ix. Scrap Metal.
  - x. Game Dealers.
- (e) Any other matters relating to licensing as may be referred to the committee for consideration.
  - (f) To hear and determine licensing applications and appeals where objections and /or representations have been received in relation to any of the above functions.
  - (g) To manage and monitor the budgets in respect of licensing and vehicle licensing.