



Agenda

Planning and Licensing Committee

Tuesday, 3 November 2015 at 7.00 pm
Council Chamber - Town Hall

Membership (Quorum-4)

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

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9. Urgent Business

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

Head of Paid Service

Town Hall
Brentwood, Essex
26.10.2015

Information for Members

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.

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.

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.

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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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Evacuation Procedures

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Minutes

Planning and Licensing Committee Tuesday, 13th October, 2015

Attendance

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

Also Present

Cllr Ms Sanders

Officers Present

Jonathon Bink	- Planning Assistant
Claire Hayden	- Governance and Member Support Officer
Sukhvinder Dhadwar	- Planning Officer
Gordon Glenday	- Head of Planning and Development
Caroline McCaffrey	- Development Management Team Leader
Kathryn Mathews	- Senior Planning Officer
Charlotte White	- Senior Planning Officer
Christine Stephenson	- Planning Lawyer
David Carter	- Environmental Health Manager
Brandan Johnson	- Highways Representative

191. Apologies for Absence

There were no apologies received for this meeting.

192. Minutes of the Previous Meeting

The Minutes of the previous Licesning/Appeals Sub-committee meetings held on 26th January 2015, 29th April 2015 and 10th September 2015 were agreed as correct records, also those of the Planning and Licensing Committee held on 1st September 2015 subject to an amendment to min. 118 – 8 Bowhay,

Hutton, Essex from Cllr Carter who declared on behalf of the Liberal Democrat Group that the applicant was known to the group

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

Variation of the agenda

The Chair **MOVED** a motion and it was **RESOLVED** by the Members of the committee to vary the order of the agenda and move item 6 before item 3.

193. 198 - 202 RAYLEIGH ROAD HUTTON ESSEX CM13 1PN

Ms Lees, the agent was present and addressed the committee in support of the application.

Cllr Sanders, ward member expressed her concerns about the application; Highway safety, parking, impact of a national brand changing the village nature of the parade, the need for extraction units generating fumes and impact on neighbours amenity.

Members expressed a desire to ensure that the takeaway could not change to a restaurant and that any approval would be on that understanding.

A motion was **MOVED** by Cllr Barrell and **SECONDED** by Cllr Wiles for approval

A vote was taken by a show of hands.

FOR: Cllrs Tee, Reed, Barrell, Wiles, Cloke, Mynott, Newberry, Morrissey, Keeble, Trump and McCheyne (10)

AGAINST: Cllr Carter (1)

ABSTAIN: (0)

RESOLVED

That the Application be **APPROVED** subject to the following conditions and an additional condition, to be agreed with Chair and Head of Planning, no change of use to A3 (Restaurant) without express consent, only oven baking.

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.

7. Given Members requirement to ensure that a restaurant could not open in the premises without permission, a condition to be delegated to the Head of Planning will be added restricting the use to A5 Use.

Reason – to ensure that a restaurant could not open in the premises without permission

194. GARAGES ADJACENT TO 10 ALEXANDER LANE HUTTON ESSEX

Ms Tappin, the applicant was present and addressed the committee in support of the application.

Concerns had been raised by the committee about possible future parking issues and advice was sought on this issue from Brendon Johnson, the Highways Representative. It was considered that at present this was adequate. The Committee welcomed the prospect of having an increase in much needed one bedroom accommodation within the Brentwood area.

A motion was **MOVED** by Cllr Trump and **SECONDED** by Cllr Cloke for approval.

A vote was taken by a show of hands.

FOR: Cllrs Tee, Reed, Barrell, Wiles, Cloke, Keeble, Trump and McCheyne (8)

AGAINST: Cllrs Mynott, Newberry, Carter and Morrissey (4)

ABSTAIN: (0)

RESOLVED

That the application be **APPROVED**, subject to conditions. In particular conditions are added relating to the design, highways, landscaping material and noise. The wording of the conditions to be delegated to the Head of Planning.

195. HIGH POINT BEGGAR HILL FRYERNING ESSEX CM4 0PN

Mr Hillier, was present and addressed the committee in objection to the application.

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

Cllr Hones, ward member spoke in support of the application and informed the committee that the resident is in poor health and improvements are required to make her home more comfortable and efficient for her.

The Committee noted that no objections had been received from the Parish Council's or Tree Officer.

A Motion was **MOVED** by Cllr Cloke and was **SECONDED** by Cllr Wiles to approve this application.

A vote was taken by a show of hands.

FOR: Cllrs Tee, Reed, Wiles, Cloke, Mynott, Newberry, Keeble, Trump and McCheyne (9)

AGAINST: Cllrs Barrell, Carter, Morrissey (3)

ABSTAIN: (0)

RESOLVED

That the application be **APPROVED**, subject to conditions. In particular conditions be added that verges, roads and landscaping were protected during construction.

The conditions to be agreed with the Chair and Head of Planning, before issuing a decision notice.

(Cllr Cloke declared a personal interest in knowing the applicant and Cllr Hones, who is not a member of the committee, but was present, also declared a personal interest in knowing the applicant).

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

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

Cllr Tee, ward member spoke in support of the application, however due to report on the Modern Planning Services presented and resolved at the Planning and Development meeting in March 2015, Cllr Tee will not be able to vote on this application as he referred it to committee.

A motion was **MOVED** by Cllr Barrell and was **SECONDED** by Cllr Wiles for approval of the application.

A vote was taken by a show of hands.

FOR: Cllrs Reed, Barrell, Wiles, Cloke, Mynott, Newberry, Carter, Morrissey Keeble, Trump and McCheyne (11)

AGAINST: (0)

ABSTAIN: (0)

RESOLVED

The application be **APPROVED**, with conditions. The wording of the conditions to be agreed with the Chair and Head of Planning, In particular a condition to be added regarding the removal of Permitted Development rights before issuing a decision notice.

197. Urgent Business

Gordon Glenday, Head of Planning and Development updated the Committee on two additional features relating to the Council's Modern Planning initiative.

To help make the new system simpler to follow, from now on, every Monday, a list will be emailed to all members showing the new planning applications in

the Borough with details of the proposed development, address, case officer and the deadline for consultation responses. By having access to this information, members can find out more about the planning application in their ward at an early stage in the planning process.

In addition to this, an additional series of emails will be circulated to all members showing when Decision Notices are about to be issued. This information needs to be treated as confidential until the Decision Notice is finalised and sent to the applicant.

Following some discussion it was **AGREED** that this list will also be sent to the Chair and Clerk of Parish Councils on the presumption that the information is also treated by them as confidential.

The meeting concluded at 9.17 p.m.

3 November 2015

Planning and Licensing Committee

Proposed General Licensing Fees and Charges for 2016/17

Report of: *Ashley Culverwell – Head of Borough Health Safety and Localism*

Wards Affected: *All*

This report is : *Public*

1. Executive Summary

- 1.1 This report seeks Members agreement on the proposed budget and Schedule of fees and charges for 2016/17 in respect of the general licensing functions other than Hackney Carriage and Private Hire and any statutory or centrally set fees.

2. Recommendation

- 2.1 **That the schedule of fees and charges for all non statutory fees as attached at appendix A be agreed and to take effect on and from 1 April 2016.**

3. Introduction and Background

- 3.1 Some licence fees and charges are statutory and therefore determined by regulations issued in accordance with primary legislation. The council must review any discretionary charges for all services from time to time, to ensure that they reflect the current cost of providing the service. Costs should in most cases aim to achieve full cost recovery including reasonable costs for administration and in some cases enforcement.
- 3.2 In 2014 the Council determined that all fees and charges across the entire range of Council services should be fully assessed and amended where appropriate in time for the fee setting process for 2016/17.

- 3.3 Whilst there is no discretion for the Council to set fees for some of the licences that it issues, these fees have still been calculated in the same manner as discretionary fees as it provides a good indication of the degree of surplus or deficit on each account. Moreover, it is intended that this process should be undertaken across the board on an annual basis as this will also provide for a smooth transition and more accurate calculation if (as is anticipated) some of these fees are able to be set locally in the future as part of the Government's localism agenda.
- 3.4 Statutory fees are those pertaining to the Licensing Act 2003 and Gambling Act 2005. Although in the latter case this is a statutory maximum with the ability to charge less. However, in the former case there is no discretion at all. These calculations have been attached for at **Appendix B**.
- 3.5 All other fees are non statutory and the Council must therefore set these as close to full cost recovery as possible. These calculations are attached at **Appendix C** with the exception of any fees relating to Hackney Carriage or Private Hire, driver, vehicles and operators, which form the subject of a separate report for reason of transparency and clarity.
- 3.6 The general licence fees over which the Council has full discretion include; Markets and Street Trading (including Pavement Permits), Scrap Metal, Sex Establishments (including adult shops and lap/table dancing type venues), Animal Licensing (including Zoo's, Dangerous Wild Animals, Pet Shops, Dog Breeders, Riding Schools and Animal Boarding) and Skin piercing (including tattooing, electrolysis and body piercing).
- 3.7 In addition to the above, there are other functions that the council is legally obliged to administer but cannot charge a fee for. These include House to House and Street collection permits.

4. Issues Options and Analysis of Options

- 4.1 Fees and charges should aim to recover the full cost of the service(s) being provided (where legislation permits). It is not generally permitted for any profit to be made from licence fees and calculations are only permitted to incorporate costs as permitted by legislation. These permitted costs

vary depending on the specific licence and governing legislation and are therefore outlined in detail in paragraph 5 of this report.

- 4.2 There is no specific legislation that prevents the Council from setting a fee below that of full cost recovery. However, this would mean a subsidy for licence holders from the general fund. Therefore, the fairest and most practical approach is that full cost recovery should be maintained so that the burden of cost falls on the person who benefits most from the licence i.e. the licence holder and not the Council Tax payer.
- 4.3 As part of the budget setting process for 2015/16, the Council determined that only an inflationary rise should be allocated to accounts in favour of a full root and branch review of fees in time for setting fees for 2016/17. This process has been completed in relation to licence fees using the tried and tested methods that have worked well over the past 3 to 4 years in respect of the Taxi Trading Accounts. Fees have been adjusted to offset any surplus or deficit shown on each individual account. The full proposed fees and charges are attached as **Appendix A**.
- 4.4 This method will be carried forward for each account year on year and any surplus or deficit taken into account during each fee setting process.

5. Reason for Recommendations

- 5.1 As above stated, the fees should be set individually for each account and cross over between each is not permitted i.e. a surplus in one is not permitted to offset a deficit in another. Generally, where a fee is discretionary it is required to be 'reasonable'. This means that the Council is not permitted to make a profit and therefore that the fee should aim to achieve full cost recovery subject to the inclusion only of the element of cost permitted by legislation.
- 5.2 The licensing team record their time on a daily basis in order to feed information into the budget setting process as accurately as possible. Traditionally, this has been done in respect of the Taxi Trading Accounts where the complexity of the legislation requires that these are calculated in a specific and very transparent manner. The same statistics have been used to calculate the cost of providing each licensing function and therefore the most appropriate fee, where this can be set or to accurately record any surplus or deficit where the fee is statutory.

- 5.3 In all cases further streamlining of processes within the licensing department and cost reductions brought about by efficiencies within the council as a whole e.g. the Town Hall project are expected to make a long term positive impact on the cost of running each function.
- 5.4 The proposed fees and charges and/or the surplus or deficit on the account along with a summary of the reasoning behind the proposals are highlighted separately below:

All calculations are reproduced in appendices B and C.

5.4.1 Licensing Act 2003: - All Fees are Statutory

The licensing Act 2003 (LA2003) function accounts for 39.09% of the overall licensing function/resource. The overall cost of the LA2003 function as at the close of the 2014/15 accounts is £137,423 as compared to an income of £78,753. This means that a deficit is carried forward to 2016/17 of £58,670.

However, these fees are set under Central Government regulations and have remained unchanged since implementation of the Licensing Act in November 2005. In view of this there is no scope to set these fees at present, although the possibility of locally set fees has not been totally discounted by Government, which means that by continuing to calculate the year on year cost of this service, the Council will be better placed to set the most accurate and appropriate fee should this become possible at a later date.

5.4.2 Gambling Act 2005 – Fee set at discretion up to a statutory maximum

The Gambling function accounts for 6.68% of the overall work of the team and for the year 2014/15, the total costs of administering this function were £23,353. With an income of £10,275 from the gambling account for the same year, this means that gambling incurred a loss of £13,078.

Whilst the fee is subject to a statutory maximum with regard to premises applications, this is currently only set at 75% of the maximum figure. The proposal is to increase the fees up to the maximum permissible fee in order to recoup some of the deficit. This is unlikely to fully recover the total deficit due to the small number of applications likely to be received. There is no scope to increase any further although it is hoped that costs may reduce for reasons as highlighted in paragraph 5.3.

5.4.3 Street Trading – Discretionary

Street Trading incorporates the Market, individual stalls, the lighting up Brentwood event and Pavement Cafes. This work amounts to 7.22% of the licensing function at a cost of £26,479 as at the close of business for 2014/15. The income from this is £23,374 leaving a current deficit of just over £3,000 showing on the account.

The numbers of licences issued are relatively small and the calculation is somewhat complex given that some licences are issued on a daily rate, some weekly and others annually. The increase in fees has therefore been calculated to reflect the work that is involved in each case and is aimed at achieving full cost recovery by the end of 2016/17 and gradually reducing the year on year deficit from then on.

One area that has traditionally been calculated separate is the independent fruit stall. This is because it has been trading for many years, has made a positive contribution to the High Street area of Brentwood and does not require a great deal of supervision. The fee has been set at £280PA for the last two years. It is proposed on this occasion that it be raised to £350PA, which covers the costs associated with the grant of this particular licence. This increase has been discussed with the stall holder and he is in full agreement with the proposal.

5.4.4 Scrap Metal – Discretionary

Scrap Metal only accounts for 1.08% of the licensing function, a cost of £4,016 as at close of accounts for 2014/15. Income for the same period amounted to £2,170, which means a loss on the account of £1,846.

Costs for next year are likely to be similar as there is an exercise planned to visit a number of premises throughout the Borough in order to assess whether a licence is required. This may result in an increase in income as these compliance checks may identify traders who are yet to licence under this relatively new legislation. In addition the streamlining as identified in paragraph 5.3 may identify some efficiency savings.

The current increase is proposed from £365 to £495 for a 3 year site licence and from £180 to £280 for a 3 year collector's licence. The initial fee was set as a best estimate when the legislation was first introduced in 2013 and it was agreed at that time that a full review of fees would follow once more accurate cost figures had been assessed.

5.4.5 Skin Piercing – Discretionary

This is a very small element of the licensing function taking less than 0.5% of the overall workload of the team. Associated costs are, therefore also low and the expenditure on this account amounts to only £1220 at the close of accounts for 2014/15. However, with only 7 registrations in that year this has still brought about a small deficit on the account.

Traditionally these fees have only increased year on year by a few £'s and this therefore means that a substantial increase is required in order to reduce the deficit. However, it is worth noting that this is a 'one off' fee as once registered this continues in perpetuity for as long as the premises is in operation.

Premises registrations are proposed to increase from £105 to £250 and practitioners from £47 to £89. Whilst this increase still leaves an anticipated deficit on the account, this is another area where streamlining of the process and planned future efficiencies should reduce the costs associated with conducting this function. Therefore these fees will be kept under review and re-assessed in detail as part of the fees and charges process for 2017/18.

5.4.6 Animal Licensing - Discretionary

This area covers a number of different types of licence as outlined in appendix C and accounts for 2.63% of the overall work of the team at a cost of £9,336 as at close of accounts for 2014/15.

A move to online applications and afore mentioned anticipation of efficiency savings should reduce these costs over time. Therefore, whilst the increase proposed from £158 to £250 does not recover the full cost of operating the animal function, it is proposed that given the size of the deficit (circa £6000PA) it is impractical to increase fees to the level that would be required to offset this. Therefore, a further review should be undertaken as part of the 2017/18 process, which can take account of any cost savings made over the coming year.

It remains likely that a further increase would be required for 2017/18, however, the impact of this would be spread and if delayed for a year the overall increase should be less than if it were all imposed now.

Zoo licensing is also included in this account and these licences are proposed to increase from £762 to £900 for the grant of a licence and £383 to £550 for a renewal.

5.4.7 Sexual Entertainment Venues (SEV) – Discretionary

This area of licensing has been calculated in a different manner to the other functions performed by the department. The reason for this is that currently there are no licensed sex shops or adult entertainment venues in the borough. This means that the fee calculation must be made on an estimate of how much it would cost to fully process an application from start to finish and the cost of compliance checking throughout the term of the licence.

The fee is therefore calculated to include administration costs (including recharges, overheads and staff salaries), broad consultation, the cost of a hearing to determine the outcome of any application received, the additional cost of processing representations and producing a report for a hearing and two compliance checks per annum.

The recent Hemmings v Westminster Case looked at the fee charged for these types of licences and determined that the fee cannot be set as a deterrent as appears to have happened in some areas. The fee at Brentwood is however, reasonable and can be fully justified as being at an appropriate level to achieve cost recovery.

No costs have been appropriated to this account at this stage as the only expenditure unless application(s) are received would be in training, writing of processes and procedures and formulation of a policy. These are all currently in place and whilst they will be reviewed, there was no such review in the 2014/15 period upon which current expenditure predictions are based.

- 5.5 With regard to any of the increases proposed, the only alternative to not increasing by as much or in failing to impose any increase at all would be for the balance to be found through the Council's central fund. Ultimately this would mean that licence fees were subsidised by the Council Tax payer and not by those who benefit most from the grant of any licence. Anything other than attempting to achieve full cost recovery as outlined in this report is not therefore, seen as a viable or appropriate option.

6. References to Corporate Plan

- 6.1 The proposals contained within this report link directly to the following priorities of the corporate plan:

A prosperous Borough –

“Safeguarding public safety through a risk based regulation and licensing service.”

Street Scene and Environment –

“Develop effective partnership arrangements so all issues affecting neighbourhoods are delivered in a timely and efficient way”

Localism –

“Encourage local businesses to invest directly in Brentwood’s communities”

7. Consultation

- 7.1 There is no consultation required under legislation relating to any discretionary fees outlined in this report given the requirement to set the fees as cost recovery. However, these will be published on the Council website and are in all cases open to challenge by way of Judicial Review should they be inappropriately set. For this reason the calculations have been made to ensure that they capture only those elements of costs that legislation permits to be recovered and using the latest available actual expenditure for each licensing function.

8. Implications

Financial Implications

Name & Title: Christopher Leslie, Finance Director

Tel & Email 01277 312542/ Christopher.leslie@brentwood.gov.uk

The impact of the revised fees and charges will be incorporated within the medium term financial plan.

Legal Implications – Monitoring Officer Comment

Name & Title: Christopher Potter, Monitoring Officer and Head of Support Services

Tel & Email 01277 312860 / christopher.potter@brentwood.gov.uk

There are potential cost implications in the event of failure to calculate or advertise fees in the proper manner, however, the fees proposed in this report have been calculated on a cost recovery basis using a robust system of accounting which has been developed over time to ensure they are as accurate as possible.

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

The main objective of any licensing regime is the protection of the public, through managing risks, promoting best practice and ensuring that business is conducted safely and free from crime and disorder. Policy and procedure is developed in conjunction with legislation and government guidance to not only promote these principles at all times but to ensure that the licensing function is fully inclusive and available to all sectors of the community.

The fees proposals in this report have been proposed taking full account of legislative requirements and have therefore undergone a full impact assessment at National level. Therefore, there are no significant implications arising from agreement to the recommendations of this report.

9. Appendices to this report

- Appendix A – Proposed Fees and Charges
- Appendix B - Breakdown of Recharges
- Appendix C - Trading Accounts

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GENERAL FEES AND CHARGES 2016-2017 (CHARGES EFFECTIVE FROM 1st APRIL 2016)

Description of charge	VAT Payable Y/N	2015/16	2016/17
Animal Boarding Establishments (plus vets Fees)	N	158.00	250.00
Riding Establishments (plus Vet's fees)	N	158.00	250.00
Pet Shops (plus Vet's fees)	N	158.00	250.00
Pet Shops special events fee (plus £10 per stall)	N	158.00	250.00
Dog Breeders (plus Vet's fees)	N	158.00	250.00
Dangerous Wild Animals Act (plus vet's fees)	N	158.00	250.00
First Zoo Licence for six years (plus Vet's fees, Ministry Fees and any other inspection fees that may be required)	N	762.00	900.00
Renewal Zoo Licence for four years (plus Vet's fees, Ministry Fees and any other inspection fees that may be required)	N	383.00	550.00
Transfer of Zoo Licence (Per application not per annum)	N	84.00	150.00

GENERAL FEES AND CHARGES 2016-2017 (CHARGES EFFECTIVE FROM 1st APRIL 2016)

Scrap Metal Dealers Act 2013	VAT Payable Y/N	2015/16	2016/17
Scrap Metal Collector (NEW)*	N	180.00	280.00
Scrap Metal Collector (Variation)*	N	69.00	89.00
Scrap Metal Site (New)*	N	365.00	495.00
Scrap Metal Site (Variation)*	N	69.00	89.00
Sex Establishments			
Sex Establishment Application (Per application not per annum)	N	2,255.00	2,255.00
Sex Establishment Renewal	N	1,537.50	1,537.50
Sex Establishment Transfer (Per application not per annum)	N	1,050.00	1,050.00
Sex Establishment Variation (Per variation not per annum)	N	525.00	525.00
Special Treatments			
Acupuncture, Tattoo and Ear/ Body Piercing Premises Licence	N	105.00	250.00
Acupuncture, Tattoo and Ear/Body Piercing-Practitioner	N	47.00	89.00

GENERAL FEES AND CHARGES 2016-2017 (CHARGES EFFECTIVE FROM 1st APRIL 2016)

Description of charge	VAT Payable Y/N	2015/16	2016/17
Occasional Street Trader Events** Daily Fee	N	22.00	30.00
Occasional Street Trader Commercial ** Daily Fee	N	75.00	85.00
Fruit Stall – Brentwood High Street	N	280.00	350.00
Pavement Permit for tables and chairs (single fee not per annum)	N	358.00	450.00
Renewal of table and chair permit	N	205.00	300.00
Bingo Clubs			
-New Application	N	2,625.00	3,500.00
-Annual Fee	N	750.00	1000.00
-Application to Vary	N	1,312.50	1,750.50
-Application to Transfer	N	900.00	1,200.00
-Application for Re-instatement	N	900.00	1,200.00
-Application for Provisional Statement	N	2,625.00	3,500.00
-Licence Application (provisional statement holders)	N	900.00	1,200.00
Betting Premises (excluding Tracks)			
- New Application	N	2,250.00	3,000.00
-Annual Fee	N	450.00	600.00
-Application to Vary	N	1,125.00	1,500.00
-application to Transfer	N	900.00	1,200.00
-Application for Re-instatement	N	900.00	1,200.00
-Application for Provisional Statement	N	2,250.00	3,000.00
-Licence Application (provisional statement holders)	N	900.00	1,200.00

GENERAL FEES AND CHARGES 2016-2017 (CHARGES EFFECTIVE FROM 1st APRIL 2016)

Description of charge	VAT Payable Y/N	2015/16	2016/17
Tracks			
-New Application	N	1,875.00	2,500.00
-Annual Fee	N	750.00	1000.00
-Application to Vary	N	937.50	1,250.00
-Application to Transfer	N	712.50	950.00
-Application for Re-instatement	N	712.50	950.00
-Application for Provisional Statement	N	1,875.00	2,500.00
-Licence Application (provisional statement holders)	N	712.50	950.00
Family entertainment Centres			
-New Application	N	1,500.00	2,000.00
-Annual Fee	N	562.50	750.00
-Application to Vary	N	750.00	1,000.00
-Application to Transfer	N	712.50	950.00
-Application for Re-instatement	N	712.50	950.00
-Application for Provisional Statement	N	1,875.00	2,500.00
-Licence Application (provisional statement holders)	N	712.50	950.00
Adult Gaming Centres			
-New Application	N	1,500.00	2,000.00
-Annual Fee	N	750.00	1,000.00
-Application to Vary	N	750.00	1,000.00
-Application to Transfer	N	900.00	1,200.00
-Application for Re-instatement	N	900.00	1,200.00
-Application for Provisional Statement	N	1,500.00	2,000.00
-Licence Application (provisional statement)	N	900.00	1,200.00
Copy of Licence (all gambling premises types)	N	15.00	20.00

Apportionment of Costs incurred in respect of each Licensing Function

	Taxi Function	Licensing Act 2003	Gambling Act 2005	Street Trading	Scrap Metal	Skin Piercing	Animal Licensing	Non Licensing	Total
Officer direct salaries									
14/15 Total	67,524	64,277	10,978	11,865	1,771	527	4,320	3,164	164,426
	41.07%	39.09%	6.68%	7.22%	1.08%	0.32%	2.63%	1.92%	
Total salaries	67,524	64,277	10,978	11,865	1,771	527	4,320	3,164	164,426
176,194									
Central support to allocate using above salary percentages	72,357	68,878	11,764	12,714	1,898	564	4,629	3,390	0
Other Direct Costs from MTFP									
Training	710	750	10	250	250	100	150	-	
Maintenance of ranks	5,000		-						
Refunds	-	-	-						
Public Access Costs	3,696	3,518	601	649	97	29	236	173	-
Town Manager Services	-	-	-	1,000	-	-	-	-	
Sub Total	9,406	4,268	611	1,899	347	129	386	173	-
TOTAL COSTS 14/15	149,287	137,423	23,353	26,479	4,016	1,220	9,336	6,727	

Apportionment of Recharges (Using salary allocation percentages)

Account Name	Actual	Taxi Function	LA 2003	GA 2005	Street Trading	Scrap Metal	Skin Piercing	Animal	Non Licensing
		41.07%	39.09%	6.68%	7.22%	1.08%	0.32%	2.63%	1.92%
SALARIES - BASIC (PERM)	124879.31	51,283.79	48,817.59	8,337.67	9,011.28	1,345.08	400.02	3,281.20	2,402.67
SALARIES - CASUAL STAFF	236.62	97.17	92.50	15.80	17.07	2.55	0.76	6.22	4.55
SALARIES - OVERTIME	5768.78	2,369.05	2,255.12	385.16	416.27	62.14	18.48	151.57	110.99
NATIONAL INSURANCE - SALARIES	10001.94	4,107.47	3,909.94	667.79	721.74	107.73	32.04	262.80	192.44
PENSION - SALARIES	15751.93	6,468.80	6,157.72	1,051.69	1,136.66	169.66	50.46	413.88	303.07
EMPLOYEE PAYROLL ALLOWANCES	5685.63	2,334.90	2,222.62	379.61	410.27	61.24	18.21	149.39	109.39
OCCUPATIONAL HEALTH	55.00	22.59	21.50	3.67	3.97	0.59	0.18	1.45	1.06
ACCUMULATED ABSENCES ADJ	-990.42	- 406.73	- 387.17	66.13	71.47	10.67	3.17	26.02	19.06
TRAVELING ALLOWANCE - GENERAL	539.16	221.42	210.77	36.00	38.91	5.81	1.73	14.17	10.37
PURCHASES - GENERAL EQUIPMENT	13.34	5.48	5.21	0.89	0.96	0.14	0.04	0.35	0.26
STATIONARY - GENERAL	2.75	1.13	1.08	0.18	0.20	0.03	0.01	0.07	0.05
SOFTWARE SUPPORT & MAINTENANCE	2468.16	1,013.59	964.85	164.79	178.10	26.58	7.91	64.85	47.49
OFFICER - SUBSISTENCE	417.16	171.31	163.08	27.85	30.10	4.49	1.34	10.96	8.03
SUBSCRIPTIONS	320.00	131.41	125.09	21.37	23.09	3.45	1.03	8.41	6.16
MISCELLANEOUS EXPENSES	660.00	271.04	258.01	44.07	47.63	7.11	2.11	17.34	12.70
CORPORATE LEADERSHIP TEAM	22801.03	9,363.63	8,913.34	1,522.33	1,645.32	245.59	73.04	599.10	438.69
CORPORATE SUPPORT	9401.48	3,860.88	3,675.21	627.70	678.41	101.26	30.12	247.02	180.88
DESIGN AND PRINT	2007.45	824.39	784.75	134.03	144.86	21.62	6.43	52.75	38.62

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FINANCIAL SERVICES	48310.67	19,839.59	18,885.52	3,225.50	3,486.09	520.36	154.75	1,269.36	929.49
HUMAN RESOURCES	6188.64	2,541.47	2,419.25	413.19	446.57	66.66	19.82	162.61	119.07
INFORMATION & COMMS TECHNOLOGY	16972.64	6,970.10	6,634.91	1,133.19	1,224.74	182.81	54.37	445.96	326.55
LEGAL SERVICES	5691.96	2,337.50	2,225.09	380.03	410.73	61.31	18.23	149.56	109.51
OFFICE ACCOMMODATION	11517.81	4,729.98	4,502.52	769.00	831.12	124.06	36.89	302.63	221.60
PAYROLL SERVICES	1313.06	539.23	513.30	87.67	94.75	14.14	4.21	34.50	25.26
BUSINESS TRANSFORMATION	6201.22	2,546.64	2,424.17	414.03	447.48	66.79	19.86	162.94	119.31
CUSTOMER CONTACT CENTRE	34536.34	14,182.93	13,500.88	2,305.85	2,492.14	371.99	110.63	907.44	664.48
ENVIRONMNETAL HEALTH ADMIN	8618.91	3,539.50	3,369.29	575.45	621.94	92.83	27.61	226.46	165.83
INTANGIBLE AMORTISATION	716.07	294.07	279.92	47.81	51.67	7.71	2.29	18.81	13.78
COST OF DEMOCRACY	1916.94	-	1,916.94						
OTHER RECOVERED INCOME	28493.82	11,701.47	11,138.75	1,902.41	2,056.11	306.91	91.27	748.67	548.22
MISCELLANEOUS INCOME	0.00	-	-						
INTERNAL RECHARGES INCOME (LICENCE FEE)	-361443.61	- 148,432.90	- 141,294.88	- 24,132.09	- 26,081.74	- 3,893.13	- 1,157.81	- 9,496.91	- 6,954.15
Total Costs	342003.58	139,662.30	134,862.99	22,706.17	24,540.62	3,663.09	1,089.39	8,935.76	6,543.25
Total Income (-)	-332949.79	- 136,731.44	- 130,156.13	- 22,229.67	- 24,025.62	- 3,586.22	- 1,066.53	- 8,748.24	- 6,405.93
Total Profit(-) or loss	9053.79	2,930.87	4,706.86	476.50	514.99	76.87	22.86	187.52	137.31

3 November 2015

Planning and Licensing Committee

Hackney Carriage and Private Hire Fees and Charges for 2016/17

Report of: *Ashley Culverwell – Head of Borough Health, Safety and Localism*

Wards Affected: *All*

This report is : *Public*

1. Executive Summary

- 1.1 This report seeks Members agreement on the proposed budget and Schedule of fees and charges for 2016/17 in respect of the Hackney Carriage and Private Hire licensing functions and for publication of the agreed fees and charges in accordance with statutory requirements.

2. Recommendation

- 2.1 That Members agree to the budget and proposed schedule of fees and charges for 2016/17 as shown in Appendix A of this report and for advertisement of the same to appear in a local newspaper in accordance with statutory requirements.**

3. Introduction and Background

- 3.1 The Local Government (Miscellaneous Provisions) Act 1976 (the Act) permits the Council to charge such fees for the grant of vehicle and operators licences as may be resolved by them from time to time as may be sufficient in aggregate to cover in whole or in part the reasonable costs associated with these licensing functions.
- 3.2 The Act prescribes either that the maximum fee in respect of the grant of vehicle and operator licences should be set at £25 or that it may be set at “such other sum as the Council may from time to time determine” subject to:
- a) publication of a notice in a local newspaper; and
 - b) retention of a copy of the notice at the offices of the Council for a period of 28 days
- 3.3 Following advertising of any proposed amendment to the fees and charges there is a 28 day period during which objections may be received. In the event that written objections are received the Council is

required to consider these and to set either the proposed or a revised fee within a 2 month period from the end of the 28 day consultation.

- 3.4 If no objections are received to the fees and charges these come into immediate effect at the end of the 28 consultation.
- 3.5 By virtue of sections 53(2) and 70(1) of the Act the Council is entitled to recover the cost of administration of the taxi and private hire licensing functions on a cost recovery basis.
- 3.6 With regard to vehicles and operators, the recovery of costs may include the costs of control and supervision of those vehicles and in respect of hackney carriages only, this may include costs associated with the provision of stands (ranks).
- 3.7 In relation to hackney carriage and private hire drivers there is no provision that permits recovery of enforcement costs, therefore such costs are non-recoverable through the taxi trading account and must be met from the Councils' general fund. There is no requirement to advertise driver fees although this is normally done as a matter of course by addition to an advertisement of changes to vehicle and operator fees, however, there is no requirement to consider representations relating to drivers fees.

4. Issues Options and Analysis of Options

Budget and Fee Setting 2016/17

- 4.1 The taxi account has been split into three specific areas of recoverable and non-recoverable costs for driver, vehicle and operator licences. This allows for time recording and structuring of the budgets on an individual basis in respect of each licence type to ensure that fees are set as a reflection of the true cost in each case.
- 4.2 The licensing team record their time on a daily basis in order to feed information into the budget setting process as accurately as possible.
- 4.3 The proposed fees have been calculated in accordance with legislative requirements and are based on the time recording analysis figure and include the appropriate element of central support costs.
- 4.4 The proposed schedule of taxi and private hire fees and charges for the year 2016/17 has been discussed with representatives of the trade at the Taxi Trade Consultative Group (TTCG) held on 5th October 2015 and is attached as **Appendix A**.

- 4.5** It is proposed that, if agreed in principle by members, the increased fees should be advertised as soon as practicably possible in accordance with legislative requirements as highlighted in paragraph 3.2.
- 4.6** Given recent changes in legislation by means of the Deregulation Act 2015, the Council must now set fees with immediate effect (as from 1 October 2015) for three year driver licences and five year operator licences only. In view of this the new fees will be implemented as soon as the full legal process has been concluded rather than waiting until 1 April as would be normal when setting the annual fees and charges. The grant of one year and two year driver licences and three year operator licences is no longer permissible save for exceptional circumstances.

Financial and Budgetary Information

- 4.7** The fees and charges for vehicles are proposed to remain at the level as set for 2015/16, which means that they have not seen any increase for three years.
- 4.8** The fees for drivers as indicated in paragraph 4.7 are proposed to provide only for a three year licence term in accordance with the requirements of the Deregulation Act 2015. In addition to the three year fee for renewal there is now a new fee in respect of the initial grant of a three year licence. The three year renewal fee has been reduced by £115 and the fee for a three year grant has been set £60 higher than the renewal fee as this is the calculated cost of the additional administration involved in the first granting of a licence. All fees in respect of one and two year licences will be discontinued.
- 4.9** Operator licence fees have been calculated to allow for the five year period of a licence as required under the deregulation Act 2015, rather than the current three years. A pro rata increase is not sufficient to recoup the deficit on the account and therefore on top of the recalculation from 3 years to 5 years there is an increase of approximately 5%, which aims to reduce the deficit over a three to five year period.
- 4.10** The budget trading accounts that support the fees calculations are attached as **Appendix C**.
- 4.11** As highlighted in paragraph 4.9, the operator fees are still running at a deficit despite a small increase last year and a substantial increase the previous year. The deficit has not reduced to date due to the small numbers of licences held (23) and the long term of each licence, which

means that it takes some three to five years for the full cycle of licence renewals to take place.

- 4.12** At the TTCG meeting on 5 October 2014, there was general agreement with these proposals, however, members of that group anticipate further cost reductions due to the longer term licences and continued streamlining of processes. The initial proposals for the reduction in driver licence fees were at a lower level than that now proposed, as calculations were made to reduce half the surplus and to see what the effect of reduced income from 3 year only licences would be. However, TTCG members suggested that a higher discount would fully recoup the substantial surplus (anticipated to be over £41,000 by the end of the current financial year) in the account over just one financial year as opposed to two (as originally proposed) and that this would effectively reduce the impact of a driver having to now renew for three years when they may only have budgeted for one or two. They suggested that even if this means an increase in fees next year, at least it would assist with the Deregulation Act changes (as highlighted in paragraph 4.6 of this report) in the short term, thus benefiting Hackney Carriage and Private Hire drivers now, at a time when it is most needed.
- 4.13** A breakdown of the various recharges and indication as to how these are calculated is attached at **Appendix B**. Once the overall recharge figure to the licensing section is known (based on the methodologies illustrated in the last column of each chart) these are apportioned across the trading accounts using the percentages from the licensing team time sheets, there being a correlation between the hours spent on each function across departments and apportionment of the recharge.
- 4.14** It is anticipated that with further planned efficiencies the trend of a reduction in the recharges should continue at least in the short to medium term. There are also planned reductions in overheads as a result of the Town Hall project, which as of yet have not been fully realised.
- 4.15** The licensing processes have recently undergone a review to ensure not only that all statutory functions are being fully met but that bureaucracy and subsequently costs of providing the licensing service are streamlined. These processes are evolving and it is anticipated that efficiencies will improve further.
- 4.16** Benchmarking of the fees for all Essex authorities has not been provided in this report as the law requires that fees are set purely on cost recovery without consideration to charges levied elsewhere.

5. Reason for Recommendations

- 5.1 The Council is required to review fees regularly to ensure that the Taxi licensing regime remains cost neutral. Should any surplus accrue this must be adjusted in the follow years licence fees.
- 5.2 The driver account in particular is running at a surplus as at close of accounts for 2014/15 and it is anticipated that by the end of this financial year (2015/16) that surplus will have increased to over £40,000. Funds cannot lawfully be used to subsidise other Council functions, nor indeed other areas of licensing. Neither can the funds be transferred within the various Taxi trading accounts e.g. a driver surplus cannot be used to offset a vehicle deficit. Therefore the surplus belongs to the holders of driver licences and must be returned. A reduction in the fees is the simplest means of achieving this.
- 5.3 Whilst the deficit in the operator account is not large, this has to be measured in proportion to the size of the account and the relatively small numbers of licences issued. On this basis the deficit should be recovered as soon as possible, although as with all accounts, work continues on the streamlining of the various processes and it is hoped that this will see a reduction in costs for future accounting years.

6 References to Corporate Plan

- 6.1 The proposals contained within this report link directly to the following priorities of the corporate plan:

A prosperous Borough – “Safeguarding public safety through a risk based regulation and licensing service.”

Street Scene and Environment –

“Develop effective partnership arrangements so all issues affecting neighbourhoods are delivered in a timely and efficient way”

7 Consultation

- 7.1 The process of consulting on fees is laid down in legislation, which allows opportunity for any person to object to any increase in fees and charges. Such objections must then be considered by Licensing Committee.
- 7.2 Consultation also took place with TTCG on 5 October 2014 and the outcome of this is highlighted in paragraph 4.12.

8. Implications

Financial Implications

Name & Title: Christopher Leslie, Finance Director

Tel & Email 01277 312542/ Christopher.leslie@brentwood.gov.uk

- 8.1 The impact of the revised fees and charges will be incorporated within the Medium Term Financial Plan.

Legal Implications – Monitoring Officer Comment

Name & Title: Christopher Potter, Monitoring Officer and Head of Support Services

Tel & Email 01277 312860 / christopher.potter@brentwood.gov.uk

- 8.2 There are potential cost implications in the event of failure to calculate or advertise fees in the proper manner, however, the fees proposed in this report have been calculated on a cost recovery basis and will be advertised in accordance with legislative requirements and there are no additional anticipated implications pertaining to legal, health and safety, asset management or equality and diversity or risk management (other than as already identified).

Other Implications

Equality and Diversity

- 8.3 Most aspects of licensing are strictly governed by statute, which have undergone impact assessments at Central Government level. The Processes and Procedures have been designed to comply with legislative requirements and ensure that guidance and best practice are followed at all times. This allows for fair, open and transparent licensing processes with equality of access to licensing services for all.

9 Appendices to this report

Appendix A – Schedule of Fees and charges

Appendix B - Breakdown of Recharges

Appendix C - Budget Trading Accounts

Report Author Contact Details:

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Appendix A

Schedule of Fees and Charges for Hackney Carriage and Private Hire licences 2016/17

Type of Licence	Current Fee 2015/16	Proposed Fee 2016/17
Vehicle Licence – Hackney Carriage		
Vehicle Licence – Including Plate	243.00	243.00
Vehicle Replacement	75.00	75.00
Vehicle Licence – Private Hire		
Vehicle Licence – Including Plate	225.00	225.00
Vehicle Replacement	75.00	75.00
Vehicle Inspections – Hackney Carriage and Private Hire		
Vehicle Inspections (at cost ... Current cost shown)	47.00	47.00
Trailer Inspection - Non Braked (at cost ... Current cost shown)	15.00	15.00
Trailer Inspection – Braked (at cost ... Current cost shown)	23.00	23.00
Re – Inspection (at cost ... Current cost shown)	12.50	12.50
Re – Inspection 2 (full re-test) (at cost ... Current cost shown)	47.00	47.00
Drivers Licence – Hackney Carriage and Private Hire		
Combined Driver new (was one year. Now 3 Year)	228.00	300.00
Combined Driver Renewal – 1 Year	164.00	Discontinued
Combined Driver Renewal – 2 Year	276.00	Discontinued
Combined Driver Renewal – 3 Year	355.00	240.00
Re-Test – Knowledge Test	35.00	35.00
Disclosure and Barring Service (DBS) check (at cost – currently)	44.00	44.00
Driver and vehicle Licensing Agency (DVLA) check (at cost – currently)	5.00	5.00
Replacements (at cost current charge shown)		
ID Cards	6.00	6.00
PHV Cards	6.00	6.00
Tariff Cards	6.00	6.00
Replacement Plates	12.00	12.00
Replacement Door Signs (per pair)	15.00	15.00
Plate Platforms (optional)	6.00	6.00
Private Hire Operators		
Single Vehicle Operators Licence	185.00 (3 Yrs)	325.00 (5 Yrs)
Operator Licence – 2 to 5 Vehicles	618.00 (3 yrs)	1,085.00 (5 yrs)
Operator Licence – More than 5 Vehicles	766.00 (3 yrs)	1,345.00 (5 yrs)

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Appendix B

TOTAL COSTS AS AT CLOSE OF ACCOUNTS FOR 2014/15				
	Driver Admin	Vehicle Admin	Operator Admin	Other Licensing
Officer direct salaries				
14/15 Total	28,078	39,715	1,024	92,295
Enforcement Non Chargeable	- 974		-139	
	27,104	39,715	885	92,295
	16.83%	24.65%	0.55%	57.97%
Total salaries	27,104	39,715	885	92,295
175,682				
Central support to allocate using above salary percentages	29,560	43,305	965	101,851
Other Direct Costs from MTFP				
Training	710	750	10	
Maintenance of ranks	-	5,000	-	
Refunds	-	-	-	
Public Access Costs	1,514	2,218	49	5,218
Inspection Costs		18,740		
Sub Total	2,224	26,708	59	
TOTAL COSTS 14/15	58,889	109,728	1,910	

TOTAL APPORTIONED RECHARGES AS AT CLOSE OF ACCOUNTS FOR THE 2014/15

Account Name	Actual	Taxi Drivers	Taxi Vehicles	Operators	Other Licensing
		16.83%	24.65%	0.55%	52.16%
SALARIES - BASIC (PERM)	124879.31	21,012.31	30,782.17	686.23	65,137.05
SALARIES - CASUAL STAFF	236.62	39.81	58.33	1.30	123.42
SALARIES - OVERTIME	5768.78	970.66	1,421.98	31.70	3,009.00
SAL - BASIC (FIXED TERM STAFF)	0.00	-	-	-	-
NATIONAL INSURANCE - SALARIES	10001.94	1,682.94	2,465.43	54.96	5,217.01
PENSION - SALARIES	15751.93	2,650.43	3,882.78	86.56	8,216.21
EMPLOYEE PAYROLL ALLOWANCES	5685.63	956.67	1,401.48	31.24	2,965.62
OCCUPATIONAL HEALTH	55.00	9.25	13.56	0.30	28.69
TRAINING EXPENSES	0.00	-	-	-	-
ACCUMULATED ABSENCES ADJ	-990.42	166.65	244.13	-	516.60
TRAVELLING ALLOWANCE - GENERAL	539.16	90.72	132.90	2.96	281.23
PURCHASES - GENERAL EQUIPMENT	13.34	2.24	3.29	0.07	6.96
PURCHASES - MATERIALS	0.00	-	-	-	-
STATIONARY - GENERAL	2.75	0.46	0.68	0.02	1.43
SOFTWARE SUPPORT & MAINTENANCE	2468.16	415.29	608.39	13.56	1,287.39
OFFICER - SUBSISTENCE	417.16	70.19	102.83	2.29	217.59
SUBSCRIPTIONS	320.00	53.84	78.88	1.76	166.91
MISCELLANEOUS EXPENSES	660.00	111.05	162.69	3.63	344.26
CORPORATE LEADERSHIP TEAM	22801.03	3,836.52	5,620.35	125.30	11,893.02
CORPORATE SUPPORT	9401.48	1,581.90	2,317.42	51.66	4,903.81

DESIGN AND PRINT	2007.45	337.78	494.83	11.03	1,047.09
FINANCIAL SERVICES	48310.67	8,128.80	11,908.36	265.48	25,198.85
HUMAN RESOURCES	6188.64	1,041.31	1,525.47	34.01	3,227.99
INFORMATION & COMMS TECHNOLOGY	16972.64	2,855.83	4,183.68	93.27	8,852.93
INTERNAL AUDIT	0.00	-	-	-	-
LEGAL SERVICES	5691.96	957.73	1,403.04	31.28	2,968.93
OFFICE ACCOMMODATION	11517.81	1,938.00	2,839.09	63.29	6,007.69
PAYROLL SERVICES	1313.06	220.94	323.66	7.22	684.89
BUSINESS TRANSFORMATION	6201.22	1,043.42	1,528.57	34.08	3,234.56
PROCUREMENT	0.00	-	-	-	-
CUSTOMER CONTACT CENTRE	34536.34	5,811.12	8,513.05	189.78	18,014.15
ENVIRONMMENTAL HEALTH ADMIN	8618.91	1,450.23	2,124.52	47.36	4,495.62
INTANGIBLE AMORTISATION	716.07	120.49	176.51	3.93	373.50
COST OF DEMOCRACY	1404.27	236.28	346.15	7.72	732.47
OTHER RECOVERED INCOME	28493.82	4,794.40	7,023.60	156.58	14,862.38
MISCELLANEOUS INCOME	0.00	-	-	-	-
SUPPORT SVS RECHARGE INCOME	0.00	-	-	-	-
INTERNAL RECHARGES INCOME (LICENCE FEE)	-361443.61	- 60,816.84	- 89,094.18	- 1,986.19	- 188,528.99
Total Costs	341490.91	57,459.58	84,175.93	1,876.55	178,121.66
Total Income (-)	-332949.79	- 56,022.44	- 82,070.59	- 1,829.61	- 173,666.61
Total Profit(-) or loss	8541.12	1,437.14	2,105.35	46.93	4,455.05

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Appendix C

Year on Year driver accounts and surplus/deficit carried forward								
<u>Driver Licences</u>			Drivers					
			2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
			£	£	£	£	£	£
Total Costs	(Increase 1% Year on year)		58,889	59,477	60,072	60,673	61,280	61,892
Less Grant			0	0	0	0	0	0
TOTAL EXPENDITURE			58,889	59,477	60,072	60,673	61,280	61,892
No of Licences		Current Fee	New Fee	Anticipated Income (actual for 2012/13 & 2013/14 & 2014/15)				
Income 2012/13		£						
	New 1 year Licence	32	215.00					
	Renewed 1 year Licence	237	155.00					
	Renewed 2 year Licence	28	260.00					
	Renewed 3 year Licence	98	335.00	10,943				
Total Income for 2012/13		395		10,943	0	0	0	0
Income 2013/14		£						
	New 1 year Licence	43	215.00					
	Renewed 1 year Licence	104	155.00					
	Renewed 2 year Licence	24	260.00	3,120				
	Renewed 3 year Licence	60	335.00	6,700	6,700			
Total Income for 2013/14		231		9,820	6,700	0	0	0
Income 2014/15								
	New 1 year Licence	33	228.00	7,524				
	Renewed 1 year Licence	90	164.00	14,760				
	Renewed 2 year Licence	52	276.00	7,176	7,176			
	Renewed 3 year Licence	191	355.00	22,602	22,602	22,602		
Total Income for 2014/15		366		52,062	29,778	22,602	0	0

Income 2015/16										
New 1 year Licence	30	228.00			6,840					
Renewed 1 year Licence	93	164.00			15,252					
Renewed 2 year Licence	33	276.00			4,554	4,554				
Renewed 3 year Licence	143	355.00			16,922	16,922	16,922			
Total Income for 2015/16				299	0	43,568	21,476	16,922	0	
Income 2016/17										
New 3 Year Licence	22	355.00	300.00			2,200	2,200	2,200		
Renewed 3 year Licence	105	355.00	240.00			8,400	8,400	8,400		
Total Income for 2016/17				127	0	0	10,600	10,600	10,600	
Income 2017/18										
New 3 Year Licence	22	355.00	300.00				2,200	2,200	2,200	
Renewed 3 year Licence	136	355.00	240.00				10,880	10,880	10,880	
Total Income for 2017/18							13,080	13,080	13,080	
Income 2018/19										
New 3 Year Licence	22	355.00	300.00					2,200	2,200	
Renewed 3 Year Licence	151	355.00	240.00					17,868	17,868	
Total Income for 2018/19					0	0	0	0	20,068	20,068
TOTAL INCOME					72,825	80,045	54,677	40,602	43,748	33,148
Surplus / (Deficit)					13,936	20,568	-5,395	-20,071	-17,531	-28,744
Reserves										
Brought Forward				2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	
Surplus/(Deficit)				7,211	21,148	41,716	36,321	16,249	-1,282	
Carry Forward				13,936	20,568	-5,395	-20,071	-17,531	-28,744	
				21,148	41,716	36,321	16,249	-1,282	-30,026	

Drivers

Income 2016/17

From 1 October 2016 there will be a significant reduction (estimated at approximately £25,000 PA) in income caused by the loss of 1 and 2 year licences. Whilst this would be likely to require an increase in fees, there should be an associated reduction in costs by 2017/18. Therefore this will be monitored and adjusted as appropriate.

Whilst expecting to make a year on year loss from 2016/17, there is an expected surplus of £41,716 by the end of the current financial year. In order to reduce this, the overall fees have been reduced by £115. However, these will need to be closely monitored and assessed to reflect potential changes following the change to three year licences only, which will reduce income and may reduce expenditure to compensate.

The cost for a NEW 3 year licence has been set at the renewal fee + £60 as this is estimated to be the additional cost of granting a new licence as compared to a renewal.

Assumptions:

Expenditure

1% increase has been applied to Salaries & Central Support Costs year on year

Number of new three year licences year on year is an estimate

In all cases the fees do not include DBS, Medical or DVLA checks where relevant.

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Vehicle Licences							Vehicles			
							2014/15	2015/16	2016/17	2017/18
							£	£	£	£
Total Costs							109,728	110,825	111,934	113,053
TOTAL EXPENDITURE							109,728	110,825	111,934	113,053
	No of Licences 14/15	Current Fee	Increase 10%	15/16 Anticipated	16/17 Anticipated	17/18 Anticipated				
Private hire										
Licence	36	225.00	225.00	37	38	39	8,100	8,325	8,550	8,775
Replacement vehicle	11	75.00	75.00	12	12	12	825	900	900	900
Inspection	72	47.00	47.00	74	76	78	3,384	3,478	3,572	3,666
Re-Tests	12	12.50	12.50	12	12	12	150	150	150	150
Hackney carriage										
Licence	255	243.00	243.00	258	261	264	61,965	62,694	63,423	64,152
Replacement vehicle	78	75.00	75.00	84	88	92	5,850	6,300	6,600	6,900
Inspection	588	47.00	47.00	600	610	620	27,636	28,200	28,670	29,140
Re-Tests	88	12.50	12.50	90	91	93	1,100	1,125	1,138	1,163
TOTAL INCOME							109,010	111,172	113,003	114,846
Surplus / (Deficit)							-718	347	1,069	1,793
Reserve							2014/15	2015/16	2016/17	2017/18
Brought Forward							(6,951)	(7,669)	(7,322)	(6,253)
Surplus/(Deficit)							-718	347	1,069	1,793
Carry Forward							(7,669)	(7,322)	(6,253)	(4,461)

Assumptions:

Expenditure – 1% Pay award has been applied to Salaries and Central Support Costs from 2015/16 and each consecutive year thereafter.

Operator Licences								2014/15	2015/16	2016/17	2017/18	2018/19		
Currently 3 Years								£	£	£				
Total Costs								1,910	1,929	1,949	1,968	1,988		
TOTAL EXPENDITURE								1,910	1,910	1,949	1,968	1,988		
	volumes 14/15	volumes 15/16	volumes 16/17	volumes 17/18	Volumes 18/19	Current Fee (3 Years)	Proposed Fee (5 Years)							
1 Vehicle	4	1	1	8	7	£185	£325	740	740	325	325	2,600		
2 to 5 vehicles	0	1	0	1	0	£618	£1,085	0	0	1,085	0	1,085		
Over 5 Vehicles	1	0	1	1	0	£766	£1,345	766	766	0	1,345	1,345		
TOTAL INCOME										1,506	1,410	1,670	5,030	2,275
Surplus / -Deficit										-404	-500	-279	3,062	287
Reserves														
								2014/15	2015/16	2016/17	2017/18	2018/19		
Brought Forward								-4,024	-4,428	-4,928	-5,207	-2,145		
Surplus/(Deficit)								-404	-500	-279	3,062	287		
Carry Forward								-4,428	-4,928	-5,207	-2,145	-1,858		

Operator**Assumptions:**

1% Increase year on year to costs

Any Licences issued from 1 October 2015 must be issued for a 5 year term. It has been necessary to recalculate the fees to allow for this.

However, The accounts are running at a substantial loss as compared to the number of licences issued.

Therefore it has been necessary to increase fees over and above the extra needed to allow for the extended term.

Work is underway to streamline processes further which may reduce Expenditure in the longer term, should this occur then it may be possible to reduce fees at a later date.

Whilst the Operator account is running at a loss, there is a large profit currently in the driver account and a smaller profit in the vehicle account. Therefore some of the increase will be offset by the lower driver and vehicle fees.

Therefore, some of the operator increase can be offset against the reduction in driver licence fees and the freezing of vehicle licence fees. It is not possible however, to mix up the separate accounts, which is why they are calculated and the fee set separately in each case.

The new 5 year fee has been calculated as follows: Current 3 Year fee / 3 * 5 + 5% and rounded to the nearest 5.

SITE PLAN ATTACHED

05. THE BULL CHURCH STREET BLACKMORE ESSEX CM4 0RN

CHANGE OF USE FROM PUBLIC HOUSE ON GROUND FLOOR AND LIVING ACCOMMODATION ON UPPER FLOOR TO RESIDENTIAL USE WITH WHOLE BUILDING TO BE USED AS A SINGLE DWELLING

APPLICATION NO: 15/00314/FUL

WARD	Tippis Cross	8/13 WEEK DATE	23.04.2015
PARISH	Blackmore, Hook End And Wyatts Green	POLICIES	NPPF NPPG LT11 CP1 C14 C15 C16 C17 T2
CASE OFFICER	Mrs Charlotte White	01277 312536	
Drawing no(s) relevant to this decision:	MARKETING REPORT ; MARKETING PARTICULARS ; PLANNING STATEMENT ; LSH VIABILITY ASSESSMENT ; P001 /A; P002 /A; P010 /A; P011 /A; P020 /A; P021 /A; PINDERS VIABILITY ASSESSMENT ; REGIONAL INTERIORS QUOTE ;		

1. Proposals

Planning permission is sought to change the use of the public house to a residential use. The public house is to be used as a single dwellinghouse. The information submitted with the application indicates that the area to the rear of the dwelling will be the amenity area for the residential property, with the car park area reduced to provide a larger grassed area/garden. No internal alterations are proposed as part of this proposal.

The application has been submitted with a planning statement and two viability assessments have been submitted.

This application is presented to Committee due to the level of neighbour interest in this development.

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.

The National Planning Practice Guidance (NPPG) is a material planning consideration.

Local Plan Policies

LT11 - Retention of existing local community facilities

CP1 - General development criteria

C14 - Development affecting Conservation Areas

C15 - Listed Buildings - demolition, alterations or extensions

C16 - Development within the vicinity of a Listed Building

C17 - Change of use of a Listed Building

T2 - New development and Highway Considerations

3. Relevant History

- 13/00250/FUL: Erection of two dwellings and car barn, alterations to listed building "The Bull" Public House. -Application Refused
- 13/00251/LBC: Alterations to listed building The Bull Public House -Application Permitted
- 13/00818/LBC: Removal of existing steps and construction of timber steps - Application Permitted

4. Neighbour Responses

13 neighbour letters were sent out, a site notice displayed and the application advertised in the press. To date 3 letters of support have been received and 38 letters of objection have been received and one letter which raises concerns, but concludes that if kept as a single family dwelling, would not object to the change of use was received. These letters make the following summarised comments:

Letters of support

The letters of support received refer to the viability of the pub and that the last tenants were unable to earn a viable living, its deterioration and that it needs to be occupied. Reference is made to the other 2 pubs in the village.

Letters of Objection

Material and non-material planning considerations have been cited in the objection letters received:

The material concerns raised include harm to the Listed Building, including comments that unauthorised works have been undertaken and the first floor has been converted into two flats and it is stated that the pub is part of Blackmore's history; operating as a pub in the 1600/1700s and new fences will destroy the ambience of the area. There are concerns regarding parking, that the proposal does not benefit the community and results in the community losing an amenity and a local meeting place.

It is stated that the pub is viable, that the owner removed the bar and fixtures. Reference is made to the Leather Bottle which is currently for sale at £699,995 with a turnover of £375,000. The marketing price of The Bull was too high and good offers were rejected; a group of local residents would be interested in buying The Bull but £850,000 is excessive. Comment has been received that the re-opening of the pub would be good for the community and it is stated that the Bull previously attracted visitors from afar, with the beer garden an attraction. Punch Taverns had high rent and inexperienced staff in the Bull and reduced its food offer and had financial problems in the end. Concern is raised about some inaccuracies in the information submitted, including the cost of refurbishing the pub.

It is stated that the closure of the Bull has resulted in the loss of revenue to the village and it is stated that there is demand for historic pubs and other examples of pubs that have enjoyed a revival.

Non-material comments received include that more housing is not needed, that this proposal will set a precedent and will result in the loss of other pubs in Blackmore, that a petition for the previous application attracted 1000 signatures. The desire to have a sign installed to inform people The Bull is closed is not a material consideration. Profits as a result of a development are not a material consideration.

Other comments include concerns about the Council's advertising of the application and that the Council should consider a compulsory purchase order.

A letter of objection has been received from Cllr Keeble which makes the following comments:

- Purchased for £425,000 - never attempted to run it as a pub/restaurant.
- Upstairs meeting room converted into a flat.
- Original bar has been removed and oak beams sanded.
- Building has been left to deteriorate.
- There have been at least 2 serious offers in the region of £650,000 for the business.

- Will not only lose a valuable business which offers local employment and a community hub, but also the chance for people to enjoy the ambience of the interior of this Grade II Listed Building.
- It is not just another public house that is no longer viable; with its reputation it is a project that could be very profitable.

Following receipt of these letters, the Agent has subsequently provided the following comments to rebut the responses:

- There was an offer of £525,000 for The Bull which was not turned down but it was made when the property was already under offer from another party for £750,000, so the lower offer was kept as a fallback offer. However, the lower offer was not increased, and the bidder failed to view the property and didn't supply any financial details to check whether he was able to proceed with a purchase of the property.
- The Agent stood to gain financially from a sale and as such the Agent would have nothing to gain from not selling the property.
- The property was marketed and a buyer could not be secured.
- The applicant has invested more than £185,000 restoring the property including renovating the first floor, re-wiring and plumbing, restoring the timber beams, replacing a flat roof, replacing insulation, re-pointing the chimney and replacing an outside staircase. The lease has also been altered at incurring legal fees.
- Given the purchase price, investment, uplift in market value and an offer of £750,000 being received the £525,000 offer was not considered favourably.
- The Agent recommended the property was marketed for £825,000.
- No accounts were made available to Punch Taverns.
- The bar was removed to enable plumbing to be upgraded and is on site. Due to neglect, damage by the illegal party in 2010, damp and water ingress the bar is damaged beyond repair. Furthermore a smaller bar would be needed to run a modern pub.
- If a brewer paid for a refurbishment, the pub would not be a free house and would be less attractive to a landlord. A similar arrangement was previously in place which is perhaps one reason why the pub failed and a brewery may not risk £350,000 to this business.

5. Consultation Responses

- **Historic Buildings And Conservation Officer:**
Significance

The Bull Inn is a Grade II listed building (List entry No: 1280959) located on Church Street, Blackmore; a historic thoroughfare which meanders from The Green to the Grade I listed church of St Laurence. The listed building has a beer garden at the rear and ancillary structures within the curtilage. Its use as a public house is intrinsic to its significance as a listed building. The buildings evolution is evident in the periods of architecture it expresses.

Located within Character Zone 2 of the Blackmore Conservation Area, The Bull Inn contributes positively to the Character and Appearance of the Heritage Asset; with special architectural and historical interest and cultural and social significance; this significance is reinforced through its use as a Historic Public House within the core of the Conservation Area.

'The Conservation Area layout is fundamentally the medieval village, held together by a surviving core of historic buildings' p. 14 CAAMP).

The Bull Inn is within the immediate context of a cluster of listed buildings, including Swan House to the north, Little Jordan to the south and Church Street Cottage to the west, collectively these buildings have group value.

Listing text: '2 houses, now combined to form a public house. C15 and early C16, extended in C20. Timber-framed, plastered with much exposed framing, roofed with handmade and machine-made red clay tiles. The N house comprises a long-jetty main range of 2 bays, c1500, and a jettied cross-wing of 2 bays to right, C15, extended to the rear by one bay in the C17, with an internal stack in the rear bay. A short gabled wing has been added to rear of the main range, with a C19 external stack at the end and a single-storey lean-to extension added to rear of both parts. C20 single-storey extensions to left and rear. The S house, abutting on the first, comprises an early C16 long-jetty range of 3 bays with a stack in the middle bay, with C20 single-storey extensions to rear right, along Bull Alley' (Historic England 2015).

Proposal

Change of use from public house on ground floor and living accommodation on upper floor to residential use of whole building.

Discussion

This application contains proposals for the Change the Use of The Bull Inn to residential accommodation. As an early C15th century building there is a substantial amount of historical record for this timber framed building. No Heritage Assessment accompanies this application.

The ground floor of the listed building comprises the main bar area, snug and kitchen/storage areas. The first floor historically utilised as a banqueting room has recently been converted to a residential accommodation by the current owner, this has not been subject to Planning or Listed Building Consent to the best of knowledge.

The submitted plans within this application represent the existing layout of the listed building with annotation reflecting the proposed internal use for each space. The existing beer garden and associated outbuildings have not been identified to have any intervention, with the exception of a reduction in parking provision. The Planning Statement (PS p. 5) states the beer garden would be used as 'amenity space for the property' the actual level of intervention which would be required both internally and externally for the Change of use to be implemented would require Listed Building Consent, no detailed information in this respect has been included within these proposals.

In the first instance, it must be considered that the listed building has evolved and furthermore has established its significance predominantly as a Public House in the core of the medieval settlement. It is regarded as a highly significant building in terms of its current use within the community and well as for its special interest and historic fabric. The bar is referred to in the listing text alongside the later C20th addition of the cellar (see appendices).

In a recent appeal decision (APP/H1515/A/14/2216001) the Planning Inspector supported this social significance; an extract of the decision stated:

'I have had regard to the availability of other public house within Blackmore Village. Although there are alternatives within walking distance of the appeal site, each public house has a different character, and neither of the other two pubs have as large a beer garden. In addition, from the considerable number of representations seeking to retain the existing community use, it is evident that the Bull Inn is highly valued, and the beer garden is a particular key feature which draws customers from a much wider catchment to the village itself'

My internal inspection of the listed building as part of the assessment of this application does not find the building to be at risk - there is a lack of cyclical maintenance apparent and whilst this is not assisting the buildings' long term conservation a program of repairs should be implemented. The building has in essence been 'mothballed' at the ground floor by the current owners (please also refer to 'other matters' in the later section).

I do not advise this current use should be changed; the special character and significance of the listed building would be harmed by such proposals, the building is not at a level where the present use cannot be continued - in terms of the long term Conservation of the Heritage Asset and with regard to the protection of its significance this Change of use proposed should be strongly resisted.

In respect of the impact of these proposals upon the Character and Appearance of the Blackmore Conservation Area I find these would neither preserve or enhance the Heritage Asset. As stated above and reinforced at the recently dismissed appeal, this listed building with rear beer garden in its present use contributes strongly to the Character and Appearance of the Conservation Area, such change is of fundamental concern and would be harmful.

Other Matters

I now draw your attention to other matters which are contained within the submitted documentation by the applicant. I advise these contain discrepancies which I wish to address.

The grade II listed building as first listed in 1952 and subsequently inspected by the designation team from Historic England in 1994. The listing text states the C15 building was originally two houses converted into a Public House - not 'several cottages' as stated by the applicant (PS p. 4).

It should be noted the accompanying Planning Statement (p.4) refers to the building as follows 'The ground floor is currently in a poor state of repair, having being stripped out by the previous owners.' Both myself and the Senior Historic Buildings Advisor from ECC visited the building in 2013 with a representative from the Planning Enforcement Team; we were informed by the current owner the ground floor area including the bar, had been ripped out due to a burst pipe which had damaged the bar. All chattels for the function of the listed building as a public house had been removed also. This is contrary to the information submitted. In addition an inspection of the first floor was undertaken, we were informed by the owner timbers had been subject to a sandblasting as part of the internal works to change the function room to a residential unit. The Local Authority were not, as I understand, notified that any urgent works were undertaken to the listed building due to flood damage nor were the works to convert the first floor accommodation subject to Listed Building Consent.

Since the dismissed appeal there have been discussions and a scheme proposed under pre-application with a prospective purchaser who had regard for continuing the use as a Public House - such proposals were supported by the Local Planning Authority including Conservation.

As the viability report is a consideration in the determination of this application there is clearly ambiguity and inconsistencies within the Planning Statement and Viability Assessment which I do not accept.

Conclusion:

In respect of the listed building I advise the current use of The Bull Inn is intrinsic to its special interest and integral to its significance. In respect of the impact of these proposals upon the Conservation Area I advise these will neither preserve nor enhance the Heritage Asset.

Recommendation:

For the above reasons I object to this application which is harmful to statutory designated heritage assets.

- **Highway Authority:**

Although visibility from the existing access to The Bull Public House car park onto Church Street is not ideal, from a highway and transportation perspective the impact of the proposed change of use from public house to residential is acceptable to the Highway Authority subject to the following conditions being attached to any approval, given the previous use of the access, the characteristics and layout of Church Street, the area to be available for parking within the site which complies with Brentwood Borough Council's adopted parking standards for the proposed residential development. Conditions to include: construction method statement, vehicle parking standards, cycle parking requirement, travel pack and an informative.

- **Parish Council:**

The Parish Council Strongly Objects to this Application for the following reasons. The PC have considered the application and are concerned about the accuracy of a number of points within the LCJ Planning Consultancy Report as follows:

The applicant appears to have made no effort to run the Bull as a Pub/Restaurant since first buying it as a licensed premises. Therefore cannot argue that it is not a viable business. This isn't a case of trying to run it as a business, failing, and then applying for a change of use.

It is our understanding that the bar was removed when in ownership by the applicant (not as the application implies) thus making the running of a pub more difficult and costly to effect. It should also be noted that the present owner made alterations to the listed building without permission from the conservation department which required the investigation of enforcement officers. The applicant has had The Bull up for sale for some time but at an inflated price of circa £850,000 for a licensed premises, thus making the running of it as a business far less achievable or attractive. It was bought for £425,000 being a realistic price for a business enterprise at the time - half of what is being asked now. It is interesting to note that the Leather Bottle public house in Blackmore has just gone on the market for £700,000 and it is a thriving busy Pub and restaurant with bars, kitchen and an existing wide clientele.

We have been made aware of at least three offers to buy the premises (Mr Greg Hall and Mr George Hand being two) and run it as a licensed business. Despite the offers being substantially in excess of the applicant's purchase price it appears from feedback, that little interest was placed on these potential buyers by both the Agents and the Applicant. One failed to get a viewing appointment to see inside the premises and both experienced phone calls unanswered, viewings refused (see Mr Hand's letter attached) even though they were both keen to purchase it as a licensed business. This has led to questions as to if The Bull was actually on the market at all? Queries as to whether the applicant was purely waiting to make a change of use application warranting the inflated price for a private dwelling, if successful?

The Bull, Blackmore is a brand - known and visited by those not just in the village but from all the surrounding areas. A premises of outstanding historical interest and hugely important within the village of Blackmore positioned as it is in the heart of the Conservation Area. It has much to offer the visitor and would not just be relying on the locals for trade as the application suggests. It is very feasible that given the strength of the brand and with a little professional marketing, (web site, Facebook, Twitter etc) that external custom could be quickly driven up again.

The Planning Officer will, or has, received many letters from our parishioners on this subject but we feel one particular letter from Mr George Hand of Trimast Associates, particularly sums up the situation of the Bull very well and we have attached it as a separate document. He is involved in the pub industry and points out that the industry is doing rather well at present and that some other similar pubs in Coxtie Green and Pilgrims Hatch are 'enjoying a good level of custom'.

We would strongly suggest that the Council rejects this change of use application as we feel The Bull has not been given a fair try as a viable business concern.

We have also attached our notes and objections sent in on the last planning application by The Bull owner to build two dwellings in the garden. Much of the content of those objection notes apply for this application as well and will hopefully give the Planning Officer some background to this application.

It has also been brought to our attention that the petition organised by local resident Judi Wood against the proposed building at The Bull on the last planning application also included within its wording the opposition to any change of use. We would ask that you take into account that petition in connection with our objection to this application.

- **Historic England:**

Thank you for your letter of 31 March 2015 notifying Historic England of the application for planning permission relating to the above site. On the basis of the information provided, we do not consider that it is necessary for this application to be notified to Historic England under the relevant statutory provisions, details of which are enclosed.

6. Summary of Issues

The site is located within a residential area and is within the Blackmore Conservation Area. The Bull is a Grade II Listed Building and there are a number of Listed Buildings within very close proximity to the application site. The building has previously been used as a public house but that use ceased some time ago. It is apparent that the first floor is being used for separate residential accommodation, although no access to the first floor was possible during the site visit undertaken.

It is considered that the main issues which require consideration as part of the determination of the application are the impact of the loss of the existing use of the premises as a pub, the impact of the proposal on heritage assets, residential amenity and living conditions considerations and highway safety/parking issues:

Recent planning history

Planning permission was recently refused for the erection of 2 dwellings and alterations to the public house (ref. 13/00250/FUL) for two reasons:

1. The introduction of the two dwelling houses and car barn into the setting of the listed building and on the edge of The Green, would adversely affect the character and appearance of the Conservation Area and the setting of the listed building, contrary to the NPPF (section 12 in particular) and Policies CP1 (criteria i, iii and viii), C14 and C16, and is recommended for refusal on this basis below.
2. It has not been demonstrated that the loss of the existing public house's beer cellar combined with the loss of a significant area of the existing beer garden, would not result in the existing building becoming unviable as a public house/community facility, contrary to the NPPF (paragraph 70) and Policy LT11.

An appeal was lodged against this refusal, which was dismissed, the Inspector concluding that the new housing would unacceptable harm the character and appearance of the Blackmore Conservation Area and by reason of their siting; the proposed dwellings would fail to preserve the setting of the Listed Building.

In terms of the second reason for refusal, the Inspector commented that the removal of the storage area was likely to prejudice the successful operation of the public house use, as storage is essential. The attractiveness of the beer garden for customers would also be significantly reduced. Paragraph 19 of this appeal decision states:

I have had regard to the availability of other public houses within Blackmore village. Although there are alternatives within walking distance of the appeal site, each public house has a different character, and neither of the other two pubs have as large a beer garden. In addition, from the considerable number of representations seeking to retain the existing community use, it is evident that that public house use of the Bull Inn is highly valued, and the beer garden in particular is a key feature which draws customers from a much wider catchment than the village itself. Accordingly the proposal would be likely to have an adverse impact on the attractiveness of the pub to customers from Blackmore and beyond.

Loss of the premises as a public house:

Local Plan Policy LT11 states that the change of use or redevelopment of local services, including public houses will not be permitted unless it can be clearly demonstrated that the use is not viable and that there is no interest from an alternative similar community use. The preamble to this policy comments that facilities such as pubs often provide essential local services. The provision of such facilities within smaller rural settlements help to create sustainable communities, reduce the need for journeys by car, promote social inclusion and enhance social interaction leading to safer, friendlier and more cohesive communities. Every effort shall therefore be made to retain such uses, and any proposed re-use will be critically assessed. Although adopted some time before the NPPF, the objectives of this policy are considered to be broadly consistent with the Framework and may therefore be given weight.

The NPPF states that to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should, amongst other things, guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs (paragraph 70).

No recent trading figures are available for the former pub use. A letter has been received from the solicitor that acted on behalf of the current owner when purchasing The Bull which confirms that the seller would not provide even basic information about the property as it has not been in occupation, so no sales records, trading accounts or business files were passed to the applicant.

The application was originally submitted with one viability assessment from Lambert Smith Hampton. This viability assessment was undertaken by a specialist advisor in respect of pubs and other licensed premises. This report comments that it was expected that the customer base would have been generally restricted to residents of the surrounding residential area and that the business would have found it difficult to draw passing trade; with two more prominent public houses on the main road. There are many attractive country pubs in the surrounding area. The business was owned by Punch Taverns and in the years leading up to its disposal to the current owners it was operated under a succession of short term tenancy agreements. Much of the trade inventory had been removed by previous occupants and damage caused by a rave party whilst the premises were vacant prior to the current owners completing their purchase. The business would have offered food and drink sales but the number of internal covers and customer space is quite small being restricted by internal walls and chimney breasts.

The Lambert Smith Hampton viability report comments that the village is very well served by licensed premises; with The Leather Bottle, The Prince Albert and the Blackmore Sports and Social Club. There is also the Blackmore Tea Rooms and there are numerous pubs within the wider surrounding area, many of which are large food led pubs that occupy prominent roadside locations and represent direct competition for The Bull. The report comments that the public house would have to be repaired, refurnished and redecorated, with the replacement of all trade furnishings, fittings and equipment to include upgrades required to the commercial kitchen and estimates that a spend in the region of £300,000 would be needed to refit the premises and provide new inventory as well as to attend to outstanding maintenance and repairs. If available to let free of all trading ties, the expected rent would not be in excess of 25,000 per annum which is unlikely to provide an adequate return on the capital expenditure. This would help to explain why Punch Taverns decided to dispose of the premises rather than invest in attracting a new tenant.

The Lambert Smith Hampton viability study comments that the property was widely exposed to the market principally through agents Fenn Wright; being marketed between April 2012 to September 2013; marketed by both residential and commercial division's and advertised as a public house with residential accommodation. The property was initially marketed at £850,000 although subsequently reduced. It was marketed in the Essex Chronicle and a number of website; Fenn Wright, Primelocation, Rightmove and Zoopla. The property attracted 7 viewings and the feedback generally related to the amount of work required to the ground floor and the inability to use the property fully as a residential home. A sale was agreed on 1st October 2013 at £750,000 but was withdrawn following feedback from the local authority and an inability to secure the required finance.

The Lambeth Smith Hampton Viability Report therefore concludes that given the size and style of the building, the only suitable use is residential. The Bull is incapable of operating as a viable public house. The recent marketing of the property has confirmed that there is no demand for the property from other public house operators because it cannot be operated profitably as a pub. It is highly unlikely that the property will ever be capable of operating as a public house again in the future. It would be extremely risky to invest in reinstating the business which would have to rebuild trade from scratch. Blackmore is a small village and customer demand is already likely to be spread quite thinly between the 3 premises which remain open as licensed trading outlets.

Officers requested a second viability assessment given the lack of trading figures and to obtain a second opinion on the viability of the public house. The Agent subsequently commissioned a second viability assessment from Pinders. This viability assessment was undertaken by an experienced Chartered Surveyor and Business Valuer with experience in the valuation of freehold and leasehold businesses, including public houses and restaurants.

The Pinders viability report comments that Blackmore is a rural village that benefits from a reasonable range of local amenities for its size including a sports and social club, pubs, tea rooms and a primary school. The premises are not particularly prominent or visible to passing trade along The Green. Considerable investment would be required to reinstate the former use of the public house and whilst the kitchen remains well equipped it is suspected that such items would require an overhaul or complete replacement should a new business be established from the premises. Pinders comment that whilst not being provided with any accounting or trading information, based on the arrangements of the accommodation and the size and arrangement of the kitchen, this would have probably have been a typical village public house with a reasonable proportion of trade being generated from food sales. On this basis, Pinders comments that custom was likely to have been drawn from a combination of local residents and those visiting the area from further afield. (This is different to the Lambert Smith Hampton report which suggests that the customer base would have been generally restricted to residents of the surrounding residential area).

The Pinders viability report comments that the quotation from Regional Interiors Limited for the works to the ground floor of £350,500 exclusive of VAT and not including the cost of fixtures and fittings such as furniture, catering equipment, etc would appear to be towards the top end of the range expected, even allowing for the fact that The Bull is a Listed Building. Pinders consider a figure in the region of £250,000 would be more realistic with a further allowance of £50,000 for the refitting of the premises to a good standard. This brings the total allowance for upgrading and the refitting of the trading areas to £300,000 (this figure is based upon experience and discussions). Pinders expect a gross profit margin of 65 percent to be achieved on wet sales and a gross profit margin of 60 percent in respect of food

sales. It would be necessary to re-launch the business with an aggressive marketing campaign. The wage cost is estimated to be around £50,000; around 22.2 percent of the assessed turnover. Competition to The Bull is assessed as being relatively strong. There would be approximately 45 covers provided.

Pinders estimate that the overall turnover would be £225,000. The Leather Bottle has a turnover of around £330,000 exclusive of VAT. Approximately 50% of income will be generated from wet sales and 50% from food sales. There would be an overall gross profit in the region of £140,000 (around 62.2 percent). Operational costs, excluding wages would total some £40,000 (around 17.8 percent of the turnover). Repairs, maintenance and renewals would be £7,000 and heat and light would cost £6,000. The resulting net trading profit would therefore be £50,000 which equates to 22.2 percent of the turnover. However, further deductions are needed, including the opportunity cost/capital cost of owning and fitting out the premises; the estimated cost of fitting out and refurbishment would be in the region of £300,000 and the estimated value of the property is £500,000; a total investment of £800,000 with a 5% interest rate would result in £40,000 in annual interest costs. Deducting this interest payment from the trading profit would result in a net position of £10,000; which equates to £5,000 per proprietor which does not even equate to a minimum wage for a full time job.

The Pinders Report therefore concluded that even allowing for a relatively positive level of turnover and operational profitability, the overall viability of the business is marginal. In real terms the proprietor's remuneration would equate to an hourly rate considerably below the current national minimum wage. Having regard to the extent of the works involved and the fact that the business has been closed for over 5 years, it is likely to take at least 2 years before realistic levels of trade and profitability are likely to be established. Pinders comment that whilst it is envisaged that the business could achieve slightly higher levels of turnover based on Pinders experience than that suggested by Lambert Smith Hampton, the overall opinion expressed are broadly similar and the contents of the Lambert Smith Hampton report are fair and balances. Having regard to all factors, the Pinders report strongly questions whether it would be possible to re-establish and sustain a viable business from the subject premises.

As such, it is considered that it has been clearly demonstrated that the re-use of the premises as a public house/restaurant is not viable. Sufficient marketing has been undertaken and has failed to obtain a buyer. Whilst concerns have been raised as to the marketing price and whilst the viability assessments suggest a value of £500,000, it is worth noting that within the appeal decision at The Woolpack (ref. APP/H1515/A/11/2159066), for the change of use of the bar/bistro to a residential dwelling, where the property was advertised for sale for more than the seller had paid (and it was therefore claimed by some parties for above market value), the Inspector concluded that the asking price would not have necessarily deterred any serious bidders from making offers.

It is therefore considered that it has been clearly demonstrated that the use of The Bull as a public house is not viable and that there is no interest from an alternative similar community use, in accordance with Policy LT11 of the Local Plan. The NPPF states that planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. The Bull is clearly a valued community facility, however, it has been demonstrated that it is not viable to be used as a public house, with the Lambeth Smith Hampton viability assessment clearly stating that the only suitable alternative use is residential and as such its loss as a community building as a result of this development is not unnecessary and it is also noted that village will be continue to be served by 2 other public houses; The Leather Bottle and the Prince Albert and so the loss of this pub would not materially reduce the community's ability to meet its day to day needs. The village retains two public houses and other social facilities and the loss of The Bull as a community facility is unfortunate but would not therefore result in significant or demonstrable harm to the community in this regard.

No objection is therefore raised on this basis in terms of Policy LT11 of the Local Plan and Paragraph 70 of the NPPF.

Design and impact of the proposal on heritage assets

S66(1) of the Planning and Listed Building and Conservation Areas Act 1990 makes it clear that a Local Planning Authority (LPA) should have special regard to the desirability of preserving the Listed Building and its setting or any features of special architectural or historic interest which it possess. S72(1) of this act states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

Chapter 12 of the NPPF aims to conserve and enhance the historic environment, with paragraph 132 stating that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation...Significance can be harmed or lost through alterations or destruction of the heritage asset or development within its setting.

Chapter 7 of the NPPF states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

The Historic Buildings Consultant (HBC) concludes that the proposal would be harmful to the Listed Building and the Conservation Area. As such, in accordance with National Policy it is necessary to determine whether this harm identified would be substantial or less than substantial harm.

The NPPG states that what matters in assessing if a proposal causes substantial harm is the impact on the significance of the heritage asset. Significance derives not only from a heritage asset's physical presence, but also from its setting. In general terms substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a Listed Building constitutes substantial harm an important consideration would be whether the adverse impact seriously affects a key element of its special architectural historic interest

This proposal seeks to change the use of the public house to a residential use. No schedule of works for external or internal alterations have been submitted and therefore it is not possible to determine what level of intervention or effect on the historic fabric or integrity of the building there will be. In terms of the setting, the proposal seeks to reduce the car park area and increase the grassed area. As submitted, the Listed Building would be maintained and there would be no physical alterations to the appearance of the Listed Building within the Conservation Area. Given the scale of the changes proposed and given the NPPG advises that substantial harm is a high test, it is considered that the change of use per se, would result in less than substantial harm to both heritage assets; the Listed Building and the Conservation Area.

Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The NPPG states that public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress. Public benefits should flow from the proposed development. They should be of a nature and scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits. Public benefits may include heritage benefits such as sustaining or enhancing the significance of a heritage asset and the contribution of its setting, reducing or removing risks to a heritage asset and securing the optimum viable use of a heritage asset in support of its long term conservation.

In terms of optimum viable use, the NPPG states that if there is only one viable use for a heritage asset, that use is the optimum viable use. If there is a range of alternative viable uses, the optimum use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes. The optimum viable use may not necessarily be the most profitable one.

The viability assessments submitted both conclude that the use of the premises as a public house is not financially viable, with the Lambert Smith Hampton report concluding that the only suitable use for the premises is residential. As set out above, the NPPG states that public benefits may include reducing risks to heritage assets, securing its optimum viable use and supporting its long term conservation. In this instance, should this proposal be refused, given that it has been demonstrated that the public house is not financially viable, it is highly likely that the Listed Building will remain vacant and in its medium to longer term future maintenance will become uncertain. This proposed use will support the long term conservation of the Listed Building and given the findings of the viability reports it is considered that a residential use would constitute the optimum viable use for this Listed Building. The long term conservation of the Listed Building will preserve the character of the Conservation Area.

As such, in this instance it is considered that public benefits of the proposal would outweigh the less than substantial harm to the heritage assets; the Listed Building and the Conservation Area.

The HBC highlights some discrepancies in the submission, including that the current owner informed her and her colleagues that the ground floor bar was removed due to a burst pipe. The submitted information indicates that the ground floor area was stripped out by the previous owners and was then a venue for an illegal rave party. Neighbours and the Parish Council have similarly commented that the owner removed the bar, fixtures and furnishings and suggest that the premises have been deliberately run-down. In response to the neighbour comments, the Agent subsequently commented that the bar was removed to enable the plumbing to be upgraded but due to neglect, damage by the illegal party in 2010 and water ingress the bar is damaged beyond repair.

In this regard, the NPPF states at Paragraph 130 that where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision. The NPPG reiterates this and states that disrepair and damage and their impact on viability can be a material consideration in deciding an application. However, in this instance there is no actual evidence that deliberate neglect or damage has been undertaken by the current owner. There is ambiguity and conflicting accounts with regard to how the ground floor came to be in its current state, but the HBC confirms that the building is not at risk although there has been a lack of maintenance. And given the findings of the viability reports, even if the bar was still in situ, given the level of upgrading generally required, it is considered that the use of the premises as a public house would still be unviable.

Conclusion

As such, it is considered that the proposed use would secure the long term conservation of the Listed Building and it is considered that the proposed residential use would constitute the optimum viable use of the Listed Building and therefore it is concluded that the public benefits of the proposal would outweigh the less than substantial harm identified to the designated heritage assets; the Grade II Listed Building and the Conservation Area. Subject to conditions, no objection is therefore raised to the proposal in terms of Chapters 7 or 12 of the NPPF and Policies C14, C15, C16, C17, CP1(viii), CP1(i) and CP1(iii) of the Local Plan.

Residential Amenity

This proposal does not seek to provide any internal or external alterations; however, it is apparent that should this permission be granted, subsequent planning applications may need to be submitted in this regard. However, this proposal does not seek to alter or extend the existing building and as such this proposal would not result in any undue dominance or overbearing impact to adjoining residents over and above that of the existing building. In terms of overlooking, although no new windows are proposed, the use of the building is changing and therefore this needs to be considered. At first floor level it is proposed to change two reception rooms to bedrooms and a kitchen to a dressing room. Such a change of use of these rooms would not result in any greater harm in terms of overlooking and loss of privacy than the existing use. At ground floor level, the bar server and trading areas will be converted to a dining room, living area and snug. The toilets will be retained and a store will be converted to a study. The pub kitchen will be converted to a kitchen/diner and the existing wash up area will become a larder. Given the proposed uses, the existing nature of the site and the existing tight urban grain in the proximity of the site, it is not considered that the proposal would result in undue overlooking or loss of privacy.

No objection is therefore raised on this basis in terms of bullet point 4 of paragraph 17 of the NPPF and Policy CP1(ii) of the Local Plan.

Living Conditions

The proposal does not seek to make any internal or external alterations at this stage. The layout of the proposed dwelling is not ideal for example, the plans indicate that the existing pub toilets will be retained at ground floor level. However, all habitable rooms are provided with windows and there would be a large garden area and parking provided for the occupiers of the site. It is also recognised that it is not unusual to have slightly unusual layouts in Listed Buildings given their age and the difficulty of altering such buildings. As such, in this instance, it is considered that the proposal would provide adequate living conditions for any future occupiers.

Highway safety/parking considerations

The Highway Authority has comments that although visibility from the existing access to The Bull Public House car park onto Church Street is not ideal, from a highway and transportation perspective the impact of the proposed change of use from public house to residential is acceptable to the Highway Authority subject to conditions, given the previous use of the access, the characteristics and layout of Church Street and the area to be available for parking. The conditions recommended by the Highway Authority are considered reasonable and necessary (with the exception of the requirement of a construction method statement, which is not necessary given the limited changes hereby proposed) and as such, subject to these conditions no objection is raised to the proposal in terms of highway safety considerations.

Other Matters

In terms of landscaping, it is proposed to remove part of the existing tarmac car park area and replace it with an additional grassed area, which is positive. No other changes are proposed to the landscaping. Given the nature of the proposal and the existing rear garden area no conditions are necessary in this regard in this instance.

The majority of the neighbour comments received have been considered above. In terms of the letters of support received; the decline of the pub and its viability, the state of the building and the other facilities in the area have all been considered above.

The majority of the neighbour concerns and objections raised have also already been considered above including the impact on the Listed Building, Conservation Area and the heritage of the area, the viability of the pub, parking considerations, residential amenity, the current state of disrepair of the building, the marketing price of the premises, the loss of a community pub and lack of accounts and the pub industry.

Comments that more residential housing is not needed is incorrect; the Council does not currently have a 5 year housing supply and there is a need for additional housing in the Borough. Neighbours have commented that there are errors in the reports and the viability report is subjective opinion. However, a second viability assessment has now been undertaken, which provides a second opinion on factors such as the refurbishment costs and also concluded that the premises is unviable.

Concerns are raised that this proposal will set a precedent for the other pubs, however, each planning application must be considered on its own merits. There are no plans for the Council to compulsorily purchase the public house and any profit made from a development is not a material planning consideration. The advertisement of the application by the planning department was correct with neighbour letters sent out, a site notice was displayed and the application was advertised in the press. There are neighbour concerns about fences being erected; however, this proposal does not include any such proposals and given that any such fences would be within the curtilage of a Listed Building, would require permission.

The HBC refers to pre-applications undertaken with a prospective purchaser which were supported by the planning authority and conservation officer. However, it is apparent no sale was finalised. Comments from neighbours and the HBC that unauthorised works have been undertaken to the Listed Building, including the conversion of the upper storey to flats and concerns about the state of disrepair of the building are being investigated by the Enforcement team. The HBC queries that actual level of intervention required to change the use of this Listed Building to a residential property, however, the majority of subsequent changes should planning permission be granted for this proposal would require Listed Building Consent and/or planning permission.

Conclusion

It has been clearly demonstrated that the use of the premises as a public house is not viable. Whilst the proposal would harm the designated heritage assets, this harm would be less than substantial and the public benefits of the proposal would outweigh this less than substantial harm identified. The proposal would not adversely impact the residential amenity of adjoining residents and would not result in any harm to the highway safety. As such the proposal is recommended for approval, subject to conditions.

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 U11257

Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

4 U11258

The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

5 U11259

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator)

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport

Informative(s)

1 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.

2 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: LT11, CP1, C14, C15, C16, C17, T2 the National Planning Policy Framework 2012 and NPPG 2014.

3 U02615

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the application (as originally submitted) and negotiating, with the applicant to obtain further information 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.

4 U02617

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: SMO3 - Essex Highways, Childerditch Highways Depot, Hall Drive, Brentwood. CM13 3HD.

BACKGROUND DOCUMENTS

DECIDED:

Appendix A



Title : The Bull, Church Street, Blackmore

15/00314/FUL

Scale at A4 : 1:1250

Date : 3rd November 2015

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



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SITE PLAN ATTACHED

06. APPLETREE FARM THORNDON PARK WARLEY ESSEX CM13 3RJ

REMOVAL OF CONDITION 4 (STABLES NOT TO BE USED FOR LIVERY OR COMMERCIAL STABLING PURPOSES) OF APPLICATION 95/00242/FUL (DEMOLITION OF EXISTING BUILDING AND ERECTION OF NEW BUILDING CONTAINING FIVE STABLES, TACK ROOM AND HAY STORE.)

APPLICATION NO: 14/01357/FUL

WARD	Warley	8/13 WEEK DATE	07.01.2015
PARISH		POLICIES	C5 NPPF NPPG C14 C16 C8 GB1 GB2
CASE OFFICER	Ms Sukhi Dhadwar		01277 312604
Drawing no(s) relevant to this decision:	STATEMENT IN SUPPORT ; 1213/1A ; EMAIL DATED 15/10/15 ; EMAIL DATED 9/7/15 ; EMAIL DATED 6/7/15 ; EMAIL DATED 30/6/15 ; EMAIL DATED 26/6/15 ; EMAIL DATED 25/6/2015 ; EMAIL DATED 17/6/15 ;		

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

Approval will conflict with our policy CP1 and NPPG and NPPF. Commercialisation of this site would affect badly two residents. Also the character and solitude of the Petre Chapel and Thorndon Country Park.

1. Proposals

Planning permission is sought for the removal of condition 4 of planning permission reference 95/00242/FUL, to allow the site to be used for a commercial livery of horses.

Condition 4 states:-

"The proposed stables shall not be used for any livery or commercial stabling purposes.

Reason: In the interests of the character of the Metropolitan Green Belt."

Planning permission was granted in May 1995 for the erection of a new building containing five stables, a tack room and hay store. Conditions attached to that permission included that the use of the stables be restricted for the sole benefit of the applicant (condition 5) and that the stables not be used for livery or commercial purposes (condition 4).

The application is accompanied by a planning statement in support of the application which sets out that:

Condition 4 has been breached continuously since 1997, and implies that the use is therefore lawful as the breach is immune from enforcement action

Although the use is now advertised (whereas previously customers were obtained by word of mouth) the nature of the use has not changed;

The use generates little traffic or disturbance

There is no probability that they (the stables) would ever be used for private stabling given their location and the fact that there is no dwelling nearby likely to require such a facility

The effect of the stables on the Green Belt will be much the same whether they are privately or commercial livery

The service offered by the stables helps horse owners to enjoy horse riding in the countryside and therefore meets the purposes of paragraph 81 of the National Planning Policy Framework (NPPF)

The use falls within the list of exceptions of uses classed as not inappropriate as set out in paragraph 90 of the NPPF and does not conflict with the purposes of including land within it.

Further information provided by the applicants agent states that the yard is for full livery, providing a maximum of 7 commercial liveries, 2 private owners liveries, and houses two retired ponies belonging to the owner (11 horses in total).

The site is run by the owners daughter who is solely responsible for the running, maintenance, and security of the site. There are no formal opening hours. The full livery service is generally only Monday to Friday and liveries tend their own horses at weekends. It is not a riding school open to the public but a privately run yard.

There is no hacking out from the site and there is no intention to introduce it.

The site is said to measure 3000 sq m and comprises a stable yard, a ménage, and an 'L' shaped building housing 5 stables, a tack room and hay store. It is set within Thorndon Park (North) and surrounded by woodland, and for the most part is very secluded.

Access to the site is from the private road leading from the public car park just north west of the stable building.

This part of Thorndon Park is within the Thorndon Country Park Conservation Area, and a Special Landscape Area, and is also within the Metropolitan Green Belt.

2. Policy Context

The National Planning Policy Framework (NPPF) 2012 is the overarching government planning policy: 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.

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 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 the extension of buildings, for purposes other than those appropriate 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

- 13/00088/FUL: Formation of manege and erection of associated fencing and gate -Application Permitted

- 13/00501/FUL: New dwelling house -Application Refused

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 2 responses had been received. The issues raised are as follows: -

The proposal is within a special landscape area.

The proposal is in close proximity to the Petre Chapel Listed Grade II* and adjacent to Orchard House and Garden Wall listed Grade II.

Additional lighting required to facilitate the use.

The manege approved under 13/00088/FUL has no permission for hard standing.

This is in breach of condition 4.

The commercial use has not continued for continuous period of ten years or more.

Over development of the site.

5. Consultation Responses

- **Environmental Health & Enforcement Manager:**

No objections.

- **Highway Authority:**

the proposal site does not abut the highway, we would therefore have no comment to make.

- **Historic Buildings And Conservation Officer:**

Having conducted a site visit I raise objection to the removal of Condition 4 at the present time. Unfortunately there is little supporting information within this submission which justifies how the proposal to removal the Condition will enhance or preserve the Conservation Area.

Stabling within the Thorndon Park Conservation Area is not objected to, however commercial purposes in this sensitive location must be fully justified in order to protect and preserve the character and appearance of the Heritage Asset. In this respect I defer to the Arboricultural Officer and Highways for further discussion.

- **Essex County Council:**

The issues the change of use may have include:-

- o Access in and out of the property is not currently suitable for large horseboxes and delivery lorries. The entrance road isn't wide enough to allow these vehicles to turn in and out of the site. The verge of the SSSI has already sustained damage in recent months due to large lorries turning in and unloading.

o The park has had issues in the past when there were pony trekking groups previously operating from the farm in large numbers not staying to the designated routes when the property was a stables before.

o Some visitors have raised concerns about the number of horses grazing such a small area of land.

- **Arboriculturalist:**

Given the extent of personnel that may be attracted to livery stables and the pressure for vehicle space/traffic pressure on unpaved areas such a development would have a damaging effect on the numerous veteran/protected trees within this conservation area, the increased through flow of people can also present a threat to the woodland ecosystem.

There is no indication that the planting requirements of condition 2 of 95/00242/FUL have been complied with.

- **Historic England:**

No comment

- **Environment Agency:**

No comment.

- **Natural England:**

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

Natural England currently has no comment to make on the removal of condition 4.

6. **Summary of Issues**

Site and surroundings.

Apple Tree Farm is located within Thorndon Country Park North. The site lies within the Green Belt, a Special Landscape Area and the Thorndon Country Park Conservation Area. It is in close proximity to 3 areas designated as Sites of Special Scientific Interest. (SSSIs).

The application site comprises a building housing five stables, a tack room and hay store and is located towards the southern boundary of the site. It is constructed of black painted feather edge timber. At the time of the officer site visit, two horse boxes on runners were present.

Background

Planning permission was granted under reference 95/00242/FUL for the demolition of the existing building and erection of a new building containing 5 stables, tack room and hay store. Permission was granted at that time on the basis that it replaced an existing dilapidated cow shed, was personal to the applicant, would be well screened by new planting and would only be used for domestic purposes.

Condition 4 of this permission required that the stables be used for domestic purposes only and condition 5 required that it be personal to the applicant.

A subsequent application under 96/00152/FUL granted planning permission for the continued use of the building containing 5 stables, tack room and hay store without complying with condition 5 of planning permission 95/00242/FUL. This approval removed the requirement that the permission only be personal to the applicants.

Under reference 13/00088/FUL planning permission was granted for the formation of a manege and erection of associated fencing and gate within the site. Condition 5 of that permission states :

"The manege hereby approved shall be solely used for the keeping and exercising of horses for private recreational purposes and at no time shall the manege be used for any commercial purposes whatsoever, including a riding school or livery stables.

Reason: In the interests of amenity, highway safety and to ensure that the development conforms with the Council's Policies for the control of development in the Green Belt".

Local sources claim and further investigations by the Council's enforcement officer have established that the ménage granted permission under reference 13/00088/FUL is being advertised as part of the commercial activity being run from the site, in breach of condition 5 of that permission. At the time of writing this report the web site associated with the site was also advertising other commercial activity, that being the selling of 'woodchip' bedding for horses and stating that either a collection or delivery service.

The applicant seeks permission to retain the use of the site as a commercial, livery yard. The most relevant definition of a full livery in this case is one which provides a horse owner with a stable in which to keep their horse and a field in which to turn their horse out during the day, it also includes bedding, hay and feed. Livery yard staff are responsible for all care including mucking out, turning out the horse to the field and bringing the horse in from the field and feeding of the horse on a daily basis.

The applicant's agent has stated that the use will not include the provision of riding lessons to the public or a 'hacking out' service.

Main Issues:

The key issues considered relevant to the determination of this application are:

Green Belt

Effect on the character and appearance of the Thorndon Park Conservation Area.
Effect on the setting of the Petre Chapel Grade II* listed and Grade II garden wall at Orchard House.
Effect on neighbouring residential amenity
Highway issues

Green Belt:

Planning permission was granted for the operational development i.e. the physical buildings within the site, and the Council also considered that the location be acceptable for stabling of horses. Furthermore, subsequent applications approved the formation and use of a manege as acceptable in the Green Belt, albeit restricting the use to those who do not pay for its use.

As part of the assessment of the commercial livery use, it is therefore necessary to consider the reason for the original condition restricting the use of the yard to non-commercial and also whether the commercial use would be any more harmful to the character and openness of the Green Belt.

The commercial use of the existing livery stables is considered to fall within one of the exceptions to inappropriate development as set out in paragraph 89 of the NPPF and furthermore, would not have any further impact on the openness of the Green Belt then if it be used solely by the applicant. Local Plan policies GB1 and GB2 are broadly in compliance with the aims and objectives of national Green Belt policy and as such would also see the development as not inappropriate development. Local Plan GB2 states that development should not have any greater effect on public rights of way, and it is considered the use would not conflict with this criteria.

Local Policy GB25 (Riding Schools and Livery Stables) is considered not to be consistent with the National Planning Policy Framework and therefore little or no weight is afforded to the requirements of this policy.

In terms of the effect of the commercial use of the stables on the character of the Green Belt, the applicant states in his submission that there would be no greater intensification of use of the site then if used solely by the applicant, his friends and associates. The number of horses stabled on the site is limited because the stable building could not be extended without express permission from the local planning authority. Officers concur with this view and furthermore, by formally granting planning permission for this use it would enable the Council to impose restrictions

on the number of horses being stabled at the site and restrict the storage of horse boxes on site.

On this basis it is considered that the use of the yard as a commercial livery would not have any greater effect on the character or openness of the Green Belt than the use granted under the original permission.

The Council has also been made aware that the manege is being advertised for use along with the commercial livery. Officers consider it unlikely that the manege would be used by members of the public who are not already stabling their horses at the site, there being little opportunity for 'passing' trade, and even if this were to be the case, the impact on the openness of the Green Belt would be negligible, since only a small number of horses could be facilitated in the manege at any one time.

In conclusion, the use is not considered to conflict with the fundamental aim of the Green Belts or any of the 5 purposes of including land within the Green Belt and therefore, in principle, is considered acceptable subject to it satisfying other criteria.

Impact on the character and appearance of the Thorndon Park Conservation Area. The site is centrally located with the expansive area of Thorndon Country Park, a mature landscape containing a diverse mixture of habitats.

S72(1) of the Planning and Listed Building and Conservation Areas Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

Paragraph 131 of the NPPF requires that when determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.

Where the proposal will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The heritage asset is the Conservation Area. Any harm would be assessed as that activity arising out of the use of the site, specifically the comings and goings to the site.

The Highway Authority indicate that there will not be a significant increase in traffic as compared with the domestic use of the site.

Comments from Essex County Council's Parks suggest that access in and out of the property is not suitable for large horse boxes and delivery lorries, as the entrance road is not wide enough to allow these vehicles in and out of the site. They state that the verges have already sustained damage in recent months due the large lorries turning and unloading but have produced no evidence to suggest that this is occurring from the use of the stables.

The applicant's agent has advised that any pony trekking or hacking out activities have now ceased.

If approval is granted it is considered that the site be restricted the use as commercial livery only and to restrict the weight and size of lorries to the site.

Hay is brought in from outside the site and a Park Ranger working in Thorndon Park has verbally informed officers that lorries which deliver the hay deliver to the car park owned by Essex County Council and then staff remove the hay from the lorry and carry it to the site.

The applicant's agent claims that the domestic use resulted in between 4 to 5 cars being on the site at the same time and that the use of the site as a commercial livery is not likely to generate more than 6 cars during peak times. The park car park provides ample parking for these vehicles.

Thorndon Country Park is already a well used park, it is therefore considered that the additional traffic that will result from the owners of the horses coming to the site to muck out stables and ride the horses would not be significantly more than if the stables remained in domestic use for friends and family.

The comments from the Conservation Officer are noted however an objection is raised on a perceived lack of information to justify how the use would enhance or preserve the Conservation Area. The use is considered to have a neutral effect on the Conservation Area over and above that which has been approved by the Council, and refusal on this basis would therefore be difficult to substantiate.

It is therefore considered that the effect on the character and appearance of the Thorndon Country Park Conservation Area would not give rise to any harm, in line with Chapter 12 of the NPPF and policies C14 and CP1 (i) of the Brentwood Replacement Local Plan.

Impact on the setting of Petre Chapel Grade II* listed and Grade II garden wall at Orchard House.

S66(1) of the Planning and Listed Building and Conservation Areas Act 1990 requires that the Council should have special regard to the desirability of preserving the Listed Building and its setting or any features of special architectural or historic interest which it possesses.

Paragraph 132 of the NPPF requires that "When considering the impact of a proposal on the significance of the designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater weight should be given to the asset's conservation. Significance can be harmed or lost through (inter-alia) development within its setting. As heritage assets are irreplaceable any harm should require clear and convincing justification.... Substantial harm to a Grade II listed building should be exceptional".

The Conservation Officer has not raised any objections in relation to the proposal's impact upon the listed structures and given their distance, it is considered that there will not be a significant material harm to the setting of the listed chapel and wall in accordance with policy C17 of the Local Plan.

The Historic Chapels Trust have raised concerns that there may be further alterations of the buildings at the stables if this condition were removed leading to clutter and an incremental loss of openness. However, the application relates only to the change of use from domestic stables and livery to commercial stables and livery use. No other additional facilities or structures are proposed. As submitted, it is considered that there will be no further additional activity or structure over and above that which already occurs at the site or than when the site was in solely in domestic use.

Trees

The Tree Officer has raised concerns that the increased activity on the site will damage, destroy or threaten the future survival of trees and other natural features within this site and around the site. An objector has also raised concerns in relation to cars being parked on SSSI land.

There are two very large Oak trees on the site which would be unaffected by horses due to their size.

There is a large ancient Oak Tree which is positioned on SSSI land in the middle of the junction between the access and the park road.

The users of the livery business would continue to park in the public car park. It has not been demonstrated that any damage to trees would be carried out by users of the site explicitly then for example the general public visiting the park. The Highway Authority has stated that there would be no significant change in traffic levels in and around the area as a result of the commercial livery. However, given the comments from the Essex County Council Park's department in relation to verges, and the concerns raised by the Tree Officer, it is recommended that a condition be imposed preventing any lorries above 7.5 tonnes delivering to and from the site.

The original permission under 95/00242/FUL required that trees be planted to screen the use from the park. The agent states that this condition was complied

with in 1996, however the scheme meant planting small bushes under large established trees so hardly any of them took.

Given the time lapsed it would be unreasonable now to insist on reproducing a condition to include further landscaping requirements as no complaints have been received since that time.

Impact on neighbouring residential amenity.

The proposal is sufficiently distant from neighbouring residential properties to ensure that the proposal will not have a material adverse impact on neighbouring amenity in terms of light, outlook or privacy. The proposal therefore accords with the requirements of sub criterion (ii) of policy CP1.

Impact on highway safety.

The Highways Authority has raised no objection in relation to the proposal and its impact on parking and highway safety. The proposal therefore accords with the requirements of criteria (iv) and (v) of the Local Plan.

Other matters.

Flood lighting has not been included as part of this application and a condition is suggested to ensure none are installed in order to preserve the special character of Thorndon Country Park.

Conclusion:

The applicant states that the domestic use was exclusive for only 1 year, and there was a significant amount of activity during that time. No 'certificate of lawfulness' has been granted for the use as a commercial livery stable, however anecdotal evidence suggests that the use has been occurring for a considerable length of time in breach of condition 4.

The use of the stables as a commercial activity would be no more harmful to the openness of the Green Belt and granting permission would allow the Council to impose conditions to restrict the size of vehicles accessing the site, limit the number of horses to be stabled on the site and prevent the storage of horseboxes or other such chattels on site, in order to control the level of intensification in an environmentally sensitive area.

The Park is already a very well visited destination by members of the public by vehicles and there would not be any significant if any increase in traffic to the site by permitting the commercial use.

The use also provides facilities for activities which promote health and well being and subject to conditions, will not harm the character and appearance of the

Thorndon Park Conservation Area; Special interest of the surrounding SSSI; or listed buildings within the vicinity of the site.

It is for these reasons considered to contribute to all three dimensions of sustainable development, and is therefore recommended that permission be granted.

7. Recommendation

The Application be APPROVED subject to the following conditions:-

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.

2 U10974

The use hereby permitted shall be limited to the provision of stabling and to turning out and bringing in of horses; including provision of bedding hay and feed; and shall not include the schooling of horses or riding lessons.

Reason: In order to control the intensity of the use so that the purpose, character and appearance of this site within a Special Landscape Area, Green Belt and the Thorndon Country Park Conservation Area is preserved and protected in accordance with CP1, GB1, GB2 C8, and C14.

3 U10975

No horses stabled within the site shall be used for hacking or riding lessons within Thorndon Country Park .

Reason: So that the purpose, character and appearance of this site within a Special Landscape Area, Green Belt and the Thorndon Country Park Conservation Area is preserved and protected in accordance with the NPPF and Brentwood Local Plan Policies CP1, GB1, GB2 C8, and C14.

4 U10976

The number of horses on the site shall not exceed 9 at any time and no more than 7 shall be liveried.

Reason: In order to control the intensity of the use so that the purpose, character and appearance of this site within a Special Landscape Area, Green Belt and the Thorndon Country Park Conservation Area is preserved and protected in accordance with the NPPF and Local Plan Policies CP1, GB1, GB2 C8, and C14.

5 U11004

Notwithstanding the Town and Country Planning Act 1990 or the Town and Country Planning (General Permitted Development) Order 1995 (or any subsequent re-enacting Acts or Orders) no floodlighting or any other form of external lighting shall be provided on the site.

Reason: To safeguard the character and appearance of the area.

6 U11005

Notwithstanding the Town and Country Planning Act 1990 or the Town and Country Planning (General Permitted Development) Order 1995 (or any subsequent re-enacting Acts or Orders) no paving or hard surfacing shall be laid or formed within the site.

Reason: In the interest of the character and appearance of the area.

7 U11227

There shall be no vehicles, trailers or horse boxes stored on the site overnight.

Reason: In order to safeguard and enhance the character and appearance of this site within a Special Landscape Area, Green Belt and Thorndon Country Park Conservation Area in accordance with the NPPF and C5, CP1, GB1, GB2, C8, and C14 of the Brentwood Replacement Plan.

9 U11247

No vehicles over 7 and a half tonnes lorries shall be used for the delivery or despatch of goods to and from the site at any time.

Reason: In order to mitigate against the loss of existing biodiversity and nature habitats in accordance with chapter 11 of the NPPF and sub criterion (viii) of the policy CP1 and C1 of Brentwood Replacement Local Plan..

10U11252

There will be no sale of goods from the application site at any time.

Reason: In order to safeguard and enhance the character and appearance of this site within a Special Landscape Area, Green Belt and Thorndon Country Park Conservation Area in accordance with the NPPF and C5, CP1, GB1, GB2, C8, and C14 of the Brentwood Replacement Plan.

11 U11253

No portable buildings, van bodies, trailers, vehicles or other structures used for storage, shelter, rest or refreshment, shall be stationed on the site without the prior approval in writing of the Local Planning Authority.

Reason: In order to safeguard and enhance the character and appearance of this site within a Special Landscape Area, Green Belt and Thorndon Country Park Conservation Area in accordance with the NPPF and C5, CP1, GB1, GB2, C8, and C14 of the Brentwood Replacement Plan.

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: C5, CP1, C8, C14, C16 GB1, GB2, GB28 the National Planning Policy Framework 2012 and NPPG 2014.

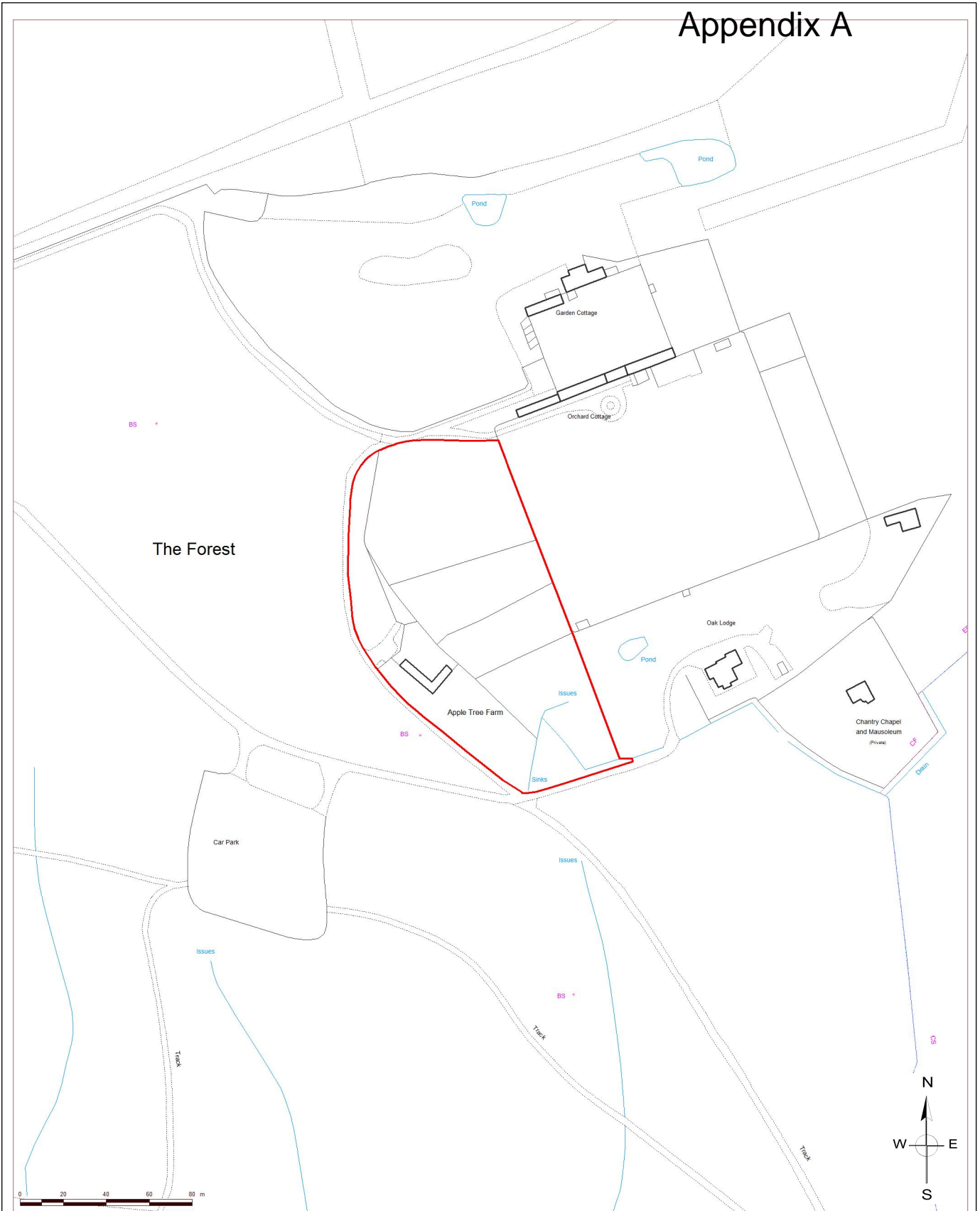
3 INF20

The drawing numbers listed above are relevant to this decision

BACKGROUND DOCUMENTS

DECIDED:

Appendix A



Title : Appletree Farm, Thorndon Park, Warley

14/01357/FUL

Scale at A4 : 1:2500

Date : 3rd November 2015

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



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SITE PLAN ATTACHED

07. CAR PARK WILLIAM HUNTER WAY WILLIAM HUNTER WAY BRENTWOOD ESSEX CM14 4SS

CHANGE OF USE OF PART OF THE WILLIAM HUNTER WAY CAR PARK TO SUI-GENERIS CAR WASH USING A WATER FREE SYSTEM, AND THE RETENTION OF THE EXISTING FENCE, CARWASH UMBRELLA AND PORTACABIN, TO BE PAINTED LIGHT GREY (RETROSPECTIVE)

APPLICATION NO: 15/00984/FUL

WARD	Brentwood North	8/13 WEEK DATE	10.09.2015
PARISH		POLICIES	NPPF NPPG CP1 PC2 PC4 C14 T2 T6
CASE OFFICER	Ms Sukhi Dhadwar		01277 312604
Drawing no(s) relevant to this decision:	01 ; 03 ; 04 ; PLANNING STATEMENT ; 8258 200 01 ; 8258 300 00 ; BY2754 /1; OASIS KS DETAILS ; OASIS T2 DETAILS ; BY1083 /B; BY2329 /3; DESIGN NOTE ; CANOPY (FABRIC DETAILS) ; ADDENDUM PLANNING STATEMENT ; EMAIL DATED 16/10/15 ;		

1. Proposals

This application has been referred to committee on the basis that it relates to land which is Council owned.

Permission is sought for the retention of a change of use of part of the William Hunter Way Car Park site to a commercial Car Wash business, and the retention of the existing fence, carwash canopy and portacabins.

Two boundary fences are proposed. The first is a wooden fence which runs along the internal boundary of the eastern perimeter of the site. It measures 2.4m high by 17.26m long. The second fence runs along the southern perimeter of the site. It is a marine plywood fence which measures 1.2m high by 27m long. It has been painted bright yellow and blue.

The drains are a maximum of 150mm wide by 83mm deep and run from the canopy and north of the portacabins into the inceptor drain. The drain has a total length of 12.1m

The erection of two portacabins attached to each other measuring a total of 5.89m wide by 3m deep and 2.69m high to their flat roofs. They are constructed with an aluminium frame and have a grey coloured exterior. The entrance door is blue.

The portacabins are to house the water reclamation unit, the insulated vacuum cleaner and insulated jet pumps.

4 plastic containers which will hold the recycled water collectively measure 1.1m deep by 2m wide and have a height which is just below that of the portacabins.

The installation of a car wash 'umbrella' canopy held up by 2 galvanized steel support posts has a maximum height of 3.1m. The canopy section measures 4.85m wide by 7.95m deep and has a height which does not extend beyond the height of the support posts. It is constructed of polyester and is proposed to have a silver/grey PVC coating.

The cleaning of the water will be carried out by a bespoke version of the 'Oasis T2' system by ByWater Services. This system works through water being sprayed from a 15m length hose pipe which is attached to the wall under the canopy which will spray 3.6 litres per minute through a 40 degree nozzle. A large bucket will contain the 'rinseless wash' detergent mixed with water which valetors will dip sponges into the solution and then wipe the cars. The planning statement submitted as part of this application describes the solution as being biodegradable.

The water then drops to the ground following the natural ground slope into the Clark Drain which is covered by grills and into the inceptor drain.

The inceptor will through underground piping connect to the insulated water reclamation unit. Water is then filtered, cleaned and subsequently stored in the plastic containers ready to be put through the hoses again. The accumulated dirt is finally stored and taken away by a representative of ByWater Services. During the visit the representative will also clean the machinery used to filter the water.

All water based cleaning is carried out under the canopy area.

Cars will then be vacuumed by a Kercher HT 70/2 vacuum (replaced with a updated model on a yearly basis). Its armoured cable is attached to the inside wall of the southern elevation boundary treatment. The flexible hose is also attached to this timber boarding.

The applicant states that the benefits of the system are that there is reduced water storage requirements; reduced demand on mains water supply and environmentally friendly.

The hours of operation are Monday to Saturday 07:00 until 19:30 and Sunday 09:00 until 17:00.

The proposal will provide employment for 3 full time and 8 part time employees.

2. Policy Context

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 of particular relevance to this application are the following policies:

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 1 requires that planning decisions should support sustainable economic growth.

Chapter 2 requires that the vitality of the Town Centre be promoted.

Chapter 7 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.

Chapter 11 requires that the planning system should contribute and enhance the natural and local environment.

Chapter 12 requires that development conserves heritage assets in manner appropriate to their significance.

The National Planning Practice Guidance (NPPG) provides additional guidance which 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.

Brentwood Replacement Local Plan

CP1 (General Development Criteria) requires development to satisfy a range of criteria covering the following considerations: Character and appearance of the area; Residential amenities; Access; Highway safety; Environmental protection; and the Natural and Historic Environment

TC10 (William Hunter Way Car Park) This policy for this site is intended to retain the site for short stay car parking, and does not preclude the consideration of the car park for redevelopment, in whole or part, for a mixed use development

T2 (New Development and Highway Considerations) states that planning permission will not be granted for proposals where it will have an unacceptable detrimental impact on the transport system; and it fails to comply with adopted policies and highway requirements.

T6 (Public Car Parking Strategy) states that existing levels of short term car parking in the Borough's shopping areas will be maintained in order to retain their economic viability

PC2 (Hazardous Substances) Development must not give rise to an unacceptable risk to the health and safety of users of the site, neighbouring land or the environment.

PC4 (Noise) Noise generating development will not be permitted if it would have a significant unacceptable detrimental impact on the noise levels experienced by the occupiers of existing residential development.

3. Relevant History

- 07/00978/FUL: Demolition Of Existing Structures, Erection Of New Buildings And Structures To Provide A Cinema (Use Class D2), Retail Stores (Use Class A1), Multi-Storey Car Park, 14 One-Bedroom Flats And Associated Car Parking Together With Service Areas, Highway Works, Hard And Soft Landscaping And Other Ancillary Works -Application Withdrawn
- 08/00729/FUL: Demolition Of Existing Structures, Erection Of New Buildings And Structures To Provide A Cinema (Use Class D1), Retail Stores (Use Class A1), Multi Storey Car Park, 14no. One Bedroom Flats And Associated Car Parking Together With Service Areas, Highways Works, Hard And Soft Landscaping And Other Ancillary Works. -Approve (Subject to Section 106)
- 13/00133/BBC: Change of use from disabled car park to a private car park to serve Barclays (ancillary A2) -Application Withdrawn
- 13/00784/EXT: Demolition of existing structures and erection of new buildings and structures to provide Cinema, retail stores (Class A1), multi storey car park, 14 no one bedroom flats and associated car parking together with service areas, highways works, hard and soft landscaping and other ancillary works. (Extension of time to commence approved development 08/00729/FUL). -Approve (Subject to Section 106)
- 14/00567/FUL: Retention of fence, carwash umbrella and portacabin (retrospective) -Application Withdrawn
- 14/01326/FUL: Change of use of part of the William Hunter Way Car Park site to Car Wash and the retention of the existing fence, carwash umbrella and portacabin (Retrospective permission) -Application Withdrawn

4. Neighbour Responses

Letters were sent to 50 occupants of adjoining and nearby properties within William Hunter Way, High Street and Western Road. Two site notices were also displayed. At the time of the writing of this report a total of 3 responses (From 2 respondents) had been received from the public with regard to the application.

The issues raised can be summarised as follows:-

The location is too close to the residential properties therefore location 3 would be much more suitable. The vacuums are far too close to the residential properties opposite in WHW.

The location of sump tank, wash bay and re-circulation unit are not shown on the application drawings.

A proper wash bay needs to be installed to prevent contaminated water escaping down surface water drains and to ensure all is collected into the settlement tank and that all existing car wash illegal drainage arrangements are removed and reinstated.

The applicant/operator must ensure that the fences canopy screens etc., are maintained properly not like as before or at present. The operator must ensure that all doors and windows are kept shut on the portacabins to contain the noise unlike before.

The opening hours are too long especially on a Sunday.

The noise from the jet wash system will be unbearable

The previous car wash was running from 07.30 every morning, even on weekends, which had an impact on our quality of life.

Information supplied on the application form is either incorrect or is inconsistent, for example the number of car parking spaces which will be lost to the use, and the area of the site.

The information demonstrating where the jet wash and vacuum equipment is inadequate, and the block and drainage plan shows insufficient detail of the drainage, and does not include a wash bay and silt trap

The plan suggests that the slope of the site from the under canopy wash area is towards the drainage channels. This is not the case, the majority of this area slopes towards the North of the car park and the Eastern kerb. All the wash water will therefore not be collected in the drainage channels but will flow towards other surface water gullies

5. Consultation Responses

- **Highway Authority:**

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority; given the existing use of the site, the location and the area to be available for parking within the site, which complies with Brentwood Borough Council's adopted parking standards for the proposed car wash, subject to conditions relating surface water discharge, fencing is clear of the highway.

- **Environment Agency:**

No response.

- **Historic Buildings And Conservation Officer:**

Brentwood Town Centre Conservation Area. Following my previous comments on the withdrawn application I again raise concerns for the proposed use at this site, which does not either enhance or preserve the Conservation Area. Should permission be granted boundary treatments and other associated elements which cumulatively devalue the Heritage Asset should be more discreet given the context. Whilst the site is located in the backlands of the Conservation Area, it should be appropriately considered.

- **Assets Manager:**

No comments

- **Head Of Street Scene:**

No comments received in relation to this application however comments made in relation to the previous application under reference 14/00567/FUL are as follows:-

1. It takes up 10 spaces, but these are paid for in the lease agreement with the company, as are all car parking spaces used by their customers.
2. Based on our user figures usage in WHW has increased, along with usage in all car parks in the Town, which I feel is evidence that shoppers have not been deterred.

- **Environmental Health & Enforcement Manager:**

Further to the above application this Department previously had cause to object on account of the noise produced by the generator. As this has now been replaced by a fixed power source these concerns have been appeased and therefore no objection is raised to the current application.

email dated 15/10/15

Noise

Whilst complaints were received by this Department regarding the pressure washer from the previous use of the site as a car wash, investigations were undertaken and noise levels were found to be acceptable. There is no additional plant in this application that would give a reason to believe the proposed noise levels will be above the previous recorded levels.

Additionally there was concern over the use of the generator but this new proposal negates the necessity for this.

Drainage

The total wash water reclamation system allows waste water to be recycled via a contained tank. The water is diverted via a sump and the "recycled" water is then used to wash the cars. The dirt etc collected will then be disposed of as per the requirements of the local water authority. Environmental Health have no adverse comments regarding this process as the tank will be fully contained and surface waste water is diverted into the system.

Vacuum Cleaner

I've never received any issues with these commercial vacuums. The noise level is 75dB at source which means that at nearest receptor (30 metres) the noise will be around 37dB which is below existing background noise levels in the daytime.

Therefore I have no objections to the vacuum operating.

- **Thames Water Development Planning:**

Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.

A Trade Effluent Consent will be required for any Effluent discharge other than a 'Domestic Discharge'.

- **Essex & Suffolk Water:**

No reply received at time of writing report.

6. Summary of Issues

Background

On 26 February 2014 the Community Services Committee gave approval for the applicant to obtain a rolling 3 month renewable licence for William Hunter Way car park for use of the south western area to be used as a car wash. This licence was to last until such time that a new development partner was found for the site.

The applicant then carried out the operational works in order to facilitate the change of use. These works resulted in an enforcement complaint being made to the use and structures.

Planning application reference 14/00567/FUL was submitted for operational development on the land including the stationing of portacabins and canopies. During the assessment of that application, officers considered that a material change of use had occurred; complaints relating to noise from the use of power hoses and vacuum machines were also received and investigated by the Council's Environmental Health officer.

The applicant was advised of these issues and subsequently withdrew the application before formal determination.

A revised application was then submitted under reference 14/01326/FUL for the change of use of part of the William Hunter Way Car Park site to a car wash and the retention of the existing fence, carwash umbrella and portacabin (Retrospective permission). This application was withdrawn on 2/2/15 as it was found that water mixed with car wash detergent was being discharged into the surface water drain. The use was removed from the site and some of the drains were refilled.

The applicant then contacted the Environment Agency who suggested a water recycling system or water reclamation system as the way forward as there are no foul water sewage drains in the vicinity of the site.

Current Proposal:

The planning statement submitted as part of this application refers to a sequential test carried out by the applicants and car park management in order to find the most suitable area for the use. 5 areas were identified and the final decision for the location was made on the basis of a balance between the impact on the car park users, impact on the public impact on residential amenity and impact on the Brentwood Town Centre Conservation Area. Area 1 was selected based on the facts that it would result in the loss of the least amount of car parking spaces, it had limited public access and was further most away from the Conservation Area. An objector wishes that the location be changed to read '3' as it is the furthest away from residential properties. This area was discounted due to the number car parking spaces lost and would be between two points of pedestrian access, as well as being nearer to the conservation area.

The key considerations for this application are :

Principle of change of use

The impact the proposal will have on the character and appearance of the application site, the adjoining Brentwood Town Centre Conservation Area and wider surrounding area.

The impact of the proposal on the Environment.

The impact of the proposal will have on the living conditions of neighbouring residential properties.

The impact of the proposal on highway safety.

Site and surrounding area

The proposal is located on the northern side of William Hunter Way Car Park. This car park is owned by the Council. There are two vehicular entrances and exits to the site. The application site is situated in the south western corner of this car park, is irregularly shaped and covers an area of 615 sqm. This area is equivalent to 15 car parking spaces and turning circle area. It shares the south westerly entrance/ exit route with the main car park. (The agent advises that this is the correct amount and the other figures were stipulated in error).

The boundary of the Brentwood Town Centre ends at the rear boundary of shops facing the High Street.

The character of this area is mixed, as this road is predominately used as a service link to the backs of the existing shops facing the High Street. However there are residential properties to the west and south of the site and space for car parking to its east and north.

Principle

The site is within the Brentwood Town Centre and north west of the Conservation Area. Within the Brentwood Replacement Local Plan (BRLP) it is designated for use as a car park until such time that a proposal comes forward for the redevelopment of the site for a mixed use development, in line with the requirements of policy TC10 (Site of the William Hunter Way Car Park) of the BRLP.

William Hunter Way comprises of 379 car parking spaces. Policy T6 of the Local Plan requires that existing levels of short term car parking in the shopping areas be maintained.

The development has resulted in the loss of 4% of this total. The Car Parking Manager considers this as acceptable as the site is only full to capacity 3 time a year (near Christmas) therefore demand for parking in this location will not normally outstrip the supply as a result of this application.

Furthermore some of the clients of the car wash would be joint trippers, i.e. they may be using the car park anyway to access the town centre and may wish to also get their car washed. It is therefore considered the impact on the use of the car park would be minimal and may be considered to be an enhancement of the shopper experience within the Brentwood Town Centre. The proposal is therefore considered accord with the requirements of Chapter 2 of the NPPF.

Impact on the Character and appearance of site, adjoining conservation area and wider surrounding area:

The site is a car park on a service road and there are a number of large banner adverts on the buildings which face the south side of William Hunter Way; opposite this application site and within the Brentwood Town Centre Conservation Area.

The bright blue and yellow colour scheme chosen for the fencing contributes negatively to visual clutter within the public realm. Based on the comments of the Conservation officer, it is considered that the colour and appearance of the boundary treatment and structures is harmful to the character and appearance of the adjacent Conservation Area.

However, the applicant is willing to agree to change the colour scheme to a silver grey paint (as advised by the Conservation officer) as shown on drawing number 300_00 and by way of planning conditions on any approval, to overcome the harm identified.

All advertisements on the site have been removed. The applicant has also been advised that some advertisements may require express consent and that this should be obtained prior to any installation.

It is therefore considered that subject to the implementation of the conditions the proposal would have a neutral impact on the character and appearance of the site, the adjoining conservation area and wider surrounding town centre. The proposal therefore complies with the requirements of Chapter 7 of the NPPF along with policies C14 and CP1 (i) and (iii) of the Local Plan.

Impact on the environment

This proposal has been amended since the previous withdrawal and now provides no connection to the nearby surface water drain and as a result will not contaminate local waterways. A condition is also recommended to ensure that all existing connections to this drain are removed prior to any approved use commencing on the site.

A site visit was carried out 9th October 2015. At the meeting 60 litres of water was dropped from a tank within a van under the canopy structure. I found that due to the natural slope of the site all the released water then travelled into the existing drains on the site and on this basis a silt tray is not deemed as an essential requirement.

Furthermore the proposed method of washing the cars through its reduction in water usage and recycling method will make a contribution towards adapting to climate change. The proposal therefore complies with the requirements of paragraph 93 of the NPPF.

Impact on neighbouring residential amenity.

The nearest residential properties to the use are the apartments within Bishops Gate which are situated on the southern side of William Hunter Way. This block is a minimum of 19m away from the application site. The residential properties on Western Road are 25m away

The Environmental Health officer has not raised concerns in relation to this application and its impact on noise pollution levels in this locality. This is because the applicants have replaced the previous generator with a fixed power source, all noise producing machinery is insulated and housed within the portacabin. The increased length of the hose, 40 degree nozzle and low output of water ensure that noise levels from this use will not be significant.

Furthermore the site is situated within the heart of the Town Centre where one can expect a background level of noise and activity. However, in order to monitor and assess the level of impact of the use on nearby residents, it is recommended that the permission be granted for a temporary period in order to allow the Council the opportunity to review the effect of the use at a later date.

On this basis and subject to conditions limiting hours of operation and noise levels of machinery, it is considered that there is no significant level of harm to the occupiers of nearby adjacent properties.

Due to the limited use of water, reduced force of the jet spray hoses and extensive drainage on the site it is not considered that there will be significant water spray drift to either passing pedestrians or onto the highway.

It is therefore considered that whilst objectors concerns in relation to noise and water spray are noted, any such occurrence can be mitigated against by use of planning conditions and complies with the aims and objectives of the NPPF and BRLP CP1 (vii) and PC4.

Highways

The Highway Authority has raised no objection to the planning application, and the fencing is within the boundary of the application site. The proposal therefore complies with the requirements of policy CP 1(iv).

Conclusion:

The use of part of the car park as a Car Wash operation would contribute to sustainable economic growth within the town centre, offering add-on attraction to shoppers and users of the car park.

Through the imposition of conditions there would be no significant harm to the living conditions of the neighbouring residents or the general public or to the character and appearance of the Town Centre and adjoining Brentwood Town Centre Conservation Area.

The removal of any remaining drainage connection to the existing surface water drain and the proposed method of recycling the water will ensure that local waterways are not affected and that natural resources are used prudently.

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 TIM07 Temporary permission - Use (Land)

The use hereby permitted shall be discontinued and the land restored to its former condition on or before 18 months from the date of this permission in accordance with a scheme of work to be first agreed in writing with the local planning authority.

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

4 U11267

The use shall not operate and no machinery or equipment associated with it shall be used on the premises before 07:00 and after 19:30, Mondays -Saturdays or before 09:00 and after 17:00 on Sundays and public holidays.

Reason: To safeguard the living conditions of nearby residents in accordance with the NPPF, C14 and PC4, CP1 Criteria (ii) and (vii)# of the Brentwood Replacement Local Plan .

5 U11268

The proposed boundary treatment including final finishes of paint work as shown on drawing 300_00 shall be implemented and completed within one month of the date of this decision, and retained in perpetuity.

Reason: In order to remove visual clutter and to safeguard the character and appearance of this location within the vicinity of the Brentwood Town Centre Conservation Area, in accordance with the requirements of Chapter 7 and 12 of the NPPF along with policies C14 and CP 1 of the Brentwood Replacement Local Plan.

6 U11269

All machinery and noise producing equipment associated with the car wash activity, including pressure washers and vacuum cleaners etc. shall not be removed from the portacabins whilst the approved use is in operation. This machinery shall only be operated if it is housed within the portacabin and the doors of this portacabin remain closed for whole duration of the function of this equipment.

Reason: In the interests of residential amenity in accordance with paragraph 123 of the NPPF along with PC4 and CP 1 of the Brentwood Replacement Local Plan 2005.

7 U11270

No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The lighting approved shall be installed and shall be maintained in accordance with the approved details.

Reason: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site in accordance with the NPPF and policy CP1 of the Brentwood Replacement Local Plan 2005.

8 U11271

No sound amplifying equipment, loudspeaker, radio/CD player or public address system shall be installed /operated within the site hereby approved.

Reason: In the interests of neighbouring residential amenity in accordance with paragraph 17 of the NPPF and policies CP1 (ii) and (vii) and PC4 of the Brentwood Replacement Local Plan 2005.

9 U11274

No advertisements shall be displayed within the site or on the boundary treatment, without prior permission from the local planning authority.

Reason: To prevent visual clutter in accordance with chapter 7 and 12 of the NPPF and policies CP1, C14 and C16 of the Brentwood Replacement Local Plan.

10U11361

Any existing connections to the surface water drain shall be disconnected prior to the first use of the site.

Reason: In order to prevent the development from contributing to, or being put at risk from water pollutants, in accordance with chapter 11 of the NPPF and Local Plan Policy PC2.

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

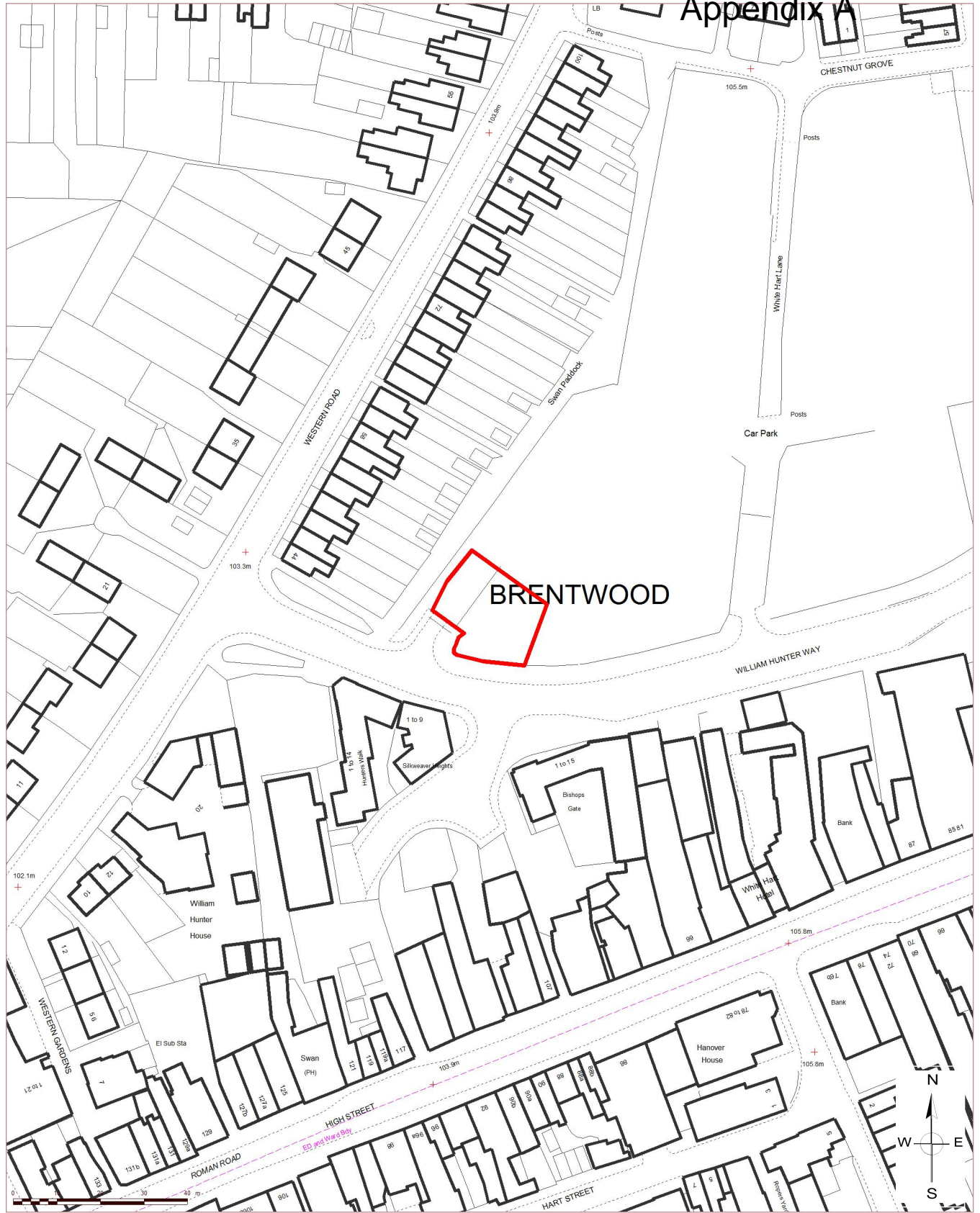
The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1 PC2 PC4 C14 T2 T6 the National Planning Policy Framework 2012 and NPPG 2014.

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.

BACKGROUND DOCUMENTS

DECIDED:



Title : Car Park, William Hunter Way

15/00984/FUL

Scale at A4 : 1:1250

Date : 3rd November 2015

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



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SITE PLAN ATTACHED

08. 35 MOUNT CRESCENT WARLEY ESSEX CM14 5DB

DEMOLITION OF EXISTING GARAGE AND CONSTRUCTION OF TWO STOREY SIDE AND REAR EXTENSION INCORPORATING A JULIET BALCONY AND CHIMNEY. PORCH TO FRONT.

APPLICATION NO: 15/01024/FUL

WARD	Warley	8/13 WEEK DATE	08.10.2015
PARISH		POLICIES	NPPF NPPG CP1
CASE OFFICER	Jonathan Binks		01277 312500
Drawing no(s) relevant to this decision:	EX/01 ; EX/02 ; EX/03 /A; EX/04 ; EX/05 ; PL/01 ; PL/02 /A; PL/03 ; PL/04 ; PL/05 /A; PL/06 ; PL/07 ; PL/08 ;		

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

Due to the detrimental impact the proposal may have on the neighbouring property at No.33, the depth of the extension and the overbearing effect created. The distance of the extension from the boundary (375mm), the impact of the foundations on the neighbouring property. The chimney would have an overbearing effect.

1. Proposals

No 35 is a detached house on an elevated site on the south side of Mount Crescent. The house is built on an "L" shaped plan with its main two storey wing at right angles to the road. The gabled front elevation is marked by a prominent two-storey flat-roofed square bay. A subsidiary wing projects to the east of the north-south range. This has two storey accommodation towards the rear with a long front "cat-slide" roof sloping down to low front eaves set back from the main front wall of the house. The forecourt is mostly laid down to parking with an access alongside the west wall of the house towards a single detached garage to the rear.

Permission is sought to add a two-storey extension to the west side of the house. The eaves line of the front part of ground floor (accommodating a garage) would be just inside the boundary with No 33. To the rear of the garage the flank wall would be set in 1m from the boundary. The front wall of the first floor accommodation would be set back from the front wall of the house by about 2m with the first floor flank wall being inset from the boundary by 1m. The first floor accommodation would be built above the garage and the living area to the rear projecting back 4m from the main rear wall of the house. The first floor of the side extension is proposed to be covered by a pitched roof running parallel to the main roof of the house. This narrower range would have a lower ridge than the main roof with a hipped end at the front and a gable at the rear. It is proposed that the new north-south section would be linked to the main roof by a cross wing of the same height as the original eastern wing. A chimney is proposed towards the rear of the flank wall projecting about 0.35m towards the boundary.

The rear extension would extend across the full width of the rear of the existing house and the proposed side extension. At the eastern end a single storey element would extend back 3.9m from the main rear wall of the house. This part of the proposal would have a shallow-pitched lean-to roof sloping down from the rear wall of the house with its flank wall off-set from the boundary with No 37 by 0.95m. The two-storey element would comprise the rearward projection of the side extension (described above) and a continuation of the main north south range of the original house. This would extend 4.2m beyond the existing rear wall terminating in a rear-facing gable. The bedroom within the gable would be lit by windows and inward-opening glazed doors with a "Juliet" balcony.

The proposal also includes an enclosed front porch that would be created by a gabled forward extension of the cat-slide roof at the eastern end of the front elevation.

Main windows would face the rear garden with two sideways-facing obscured glazed bathroom windows at first floor level facing No 33. All materials are indicated to match the existing.

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.

3. Relevant History

- 10/00491/FUL: Two Storey Side And Rear Extension, And Single Storey Rear Extension. -Application Refused
- 10/00690/FUL: Two Storey Side And Rear Extension And Single Storey Rear Extension. -Application Permitted

4. Neighbour Responses

Four objections. No 31:- (in summary) proposal would unacceptably impact on character and appearance of the area by reducing the housing units on either side from open 1920's development to a terrace resulting in a considerable loss of natural daylight and sense of spaciousness. The length of the rear extension would breach the privacy enjoyed by the adjacent gardens. The proposed footprint is about twice that of the original building. The proposal is aesthetically disproportionate and is not compatible with the existing house or the surrounding properties.

No 33:- (in summary) The size and bulk of the proposal would be similar to that refused in 2010 and would be excessive. The size and design are out of keeping with nearby properties and the proposal would be overdevelopment. Proposal would cut out direct morning sunlight to side facing windows and the conservatory at No 33. Natural daylight would be reduced in these areas requiring greater use of artificial light. The Juliet balcony would overlook the rear gardens of several properties. Concern that parking would not be adequate.

Other objections from nearby residents:- Proposal would be dominant when seen from the neighbouring properties at No 33 and 37. An application with a smaller footprint was turned down in the past. Extensions that largely eliminate the gaps between buildings adversely affect neighbours and detract from the amenity of more remote neighbours and users of the road. The house is set forward and the proposal would be particularly obtrusive in the street scene.

5. Consultation Responses

- :None consulted

6. Summary of Issues

Character and appearance

The house at No 35 is positioned forward of No 33 (to the west) and this combined with its elevated position and the space between the buildings results in the whole of the flank wall of No 35 being prominent in the street. The proposal would narrow the gap between dwellings but the flank of the extension would also be clearly in view. However as a result of the 2m set back at first floor level and the design and detailing of the proposal it is considered that the proposal would be compatible with the existing house and would not appear out of place in the street scene.

Reference has been made to the refusal of permission for a previous proposal; however in that proposal the front wall of the side extension was set back by only a small amount and the flank wall was designed as two gables with a flat roofed section between them. It was considered that the proposal would be of an unsympathetic design that would have been out of keeping with the host dwelling and its surroundings.

All extensions reduce the amount of space around buildings and most of the nearby houses have been extended. Whilst the chimney would infringe the guidance in the RLP concerning the distance of flank walls from the boundary the proposal would not lead to terracing. Overall the proposal would be bulkier than the 2011 permitted proposal; however that bulk would be achieved by an extension of an acceptable design. The comments of nearby residents about the character and appearance of the area are noted; however it is considered that the proposal would not unacceptably detract from the character and appearance of the dwelling and the immediate area and would accord with the objectives of RLP Policy CP1 (i) and (iii) and of the National Planning Policy Framework as regards the character and appearance of new buildings.

Living conditions

The single storey element next to No 37 would project back slightly less than the 4m extension permitted as part of the January 2011 permission. In common with that proposal the wall would be off set from the side boundary with No 37 by 0.95m. The lean-to design would result in a higher flank wall but it is considered that the effect of the proposal on the outlook from No 37 would not be materially different from the permitted proposal. In common with the 2011 permission the two storey element would be positioned further from the boundary and it would not unacceptably detract from light or outlook at No 37.

The extension would not project as far back as the rear wall of the house at No 33 which is set back further into its plot than No 35. No 33 has windows in its flank wall facing the application property and has a conservatory attached to its flank wall through which light reaches the kitchen. However the flank wall is set back from the boundary and the windows do not serve main living rooms. Most of the conservatory would be to the rear of the extension and taking account of the space between the proposal and the conservatory it would not result in an unacceptable loss of light. The extension would be to the east of No 33 and would cut out some direct morning sunlight. However the conservatory has a dual aspect to the east and the south and it is considered that the proposal would not materially detract from light and outlook.

The proposed arrangement of the upper floor windows at the rear of the house is the same as that approved in 2011, including the "Juliet" balcony. It is considered that subject to obscured glazing conditions on upper floor side windows unacceptable overlooking would not occur.

Whilst there are some differences between the 2011 proposal and the current application the effect on the occupiers of neighbouring houses on both sides would not be materially different. It is considered that the proposal would not conflict with Policy CP1 (ii) of the Brentwood Replacement Local Plan which indicates that developments should not have an unacceptable impact on the amenities of nearby occupiers or with one of the core principles of the National Planning Policy Framework which indicates that a good standard of amenity for all existing and future occupants of land and buildings should always be sought.

Car parking

The proposal includes a garage that would satisfy the adopted standard (7m by 3m internal) with a parking space which also meets the adopted standard. The two off-street spaces would be in accordance with the parking standards.

Conclusion

This property has been the subject of three applications for side and rear extensions in the last five years or so. It is considered that the proposal would not be harmful to the character and appearance of the area or the host dwelling and it would not unacceptably detract from the living conditions of neighbouring occupiers. It is therefore recommended that permission should be granted.

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 MAT03 Materials to match

The materials 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.

3 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.

4 U11260

The windows identified on the approved drawings as being obscure glazed 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 window(s) 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

Informative(s)

1 INF02

Reason for approval: The proposal would accord with the relevant policies of the development plan as set out below. The Council has had regard to the concerns expressed by residents but the matters raised are not sufficient to justify the refusal of permission.

2 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1 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 INF21

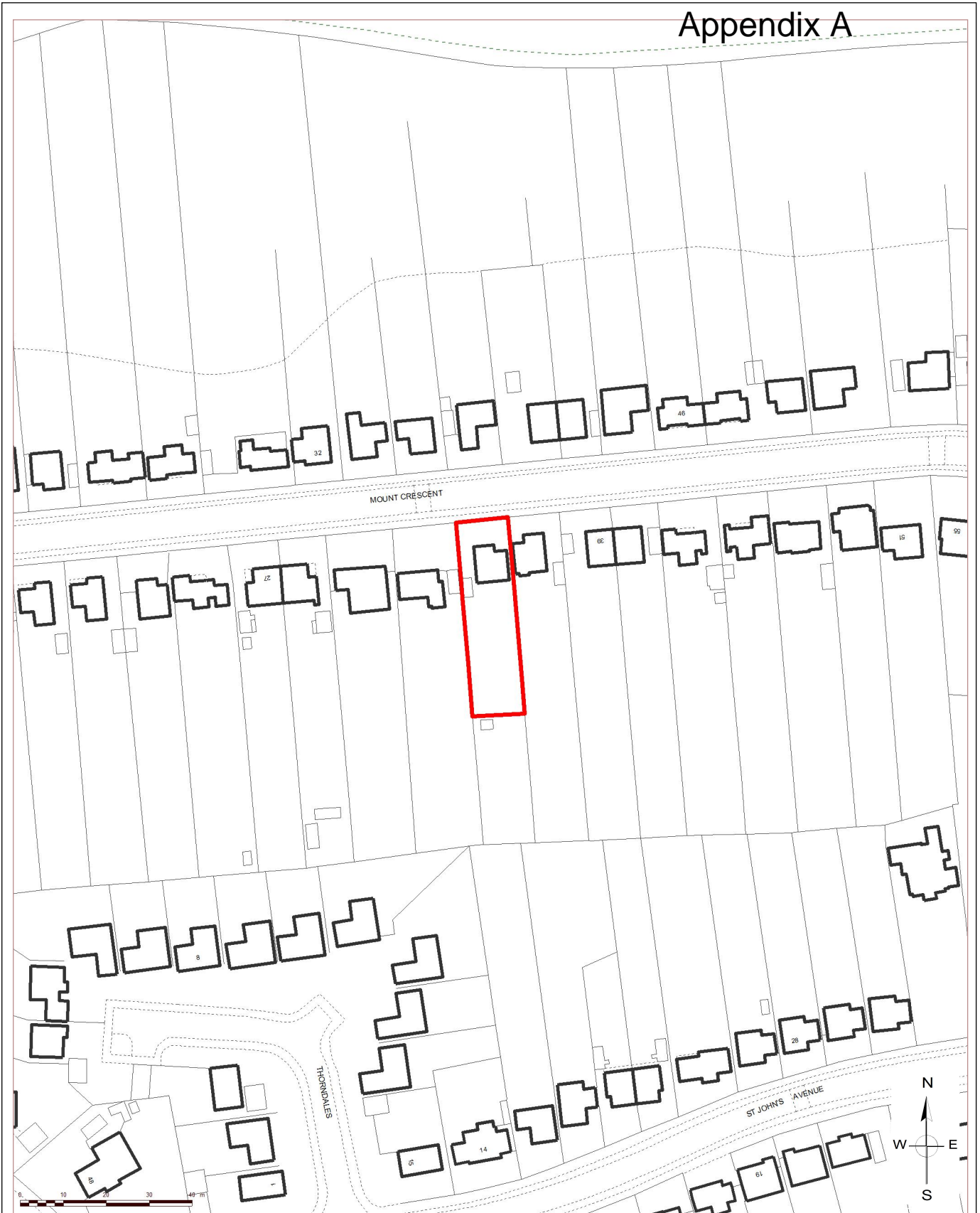
The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in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

BACKGROUND DOCUMENTS

DECIDED:

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Appendix A



Title : 35 Mount Crescent, Warley

15/01024/FUL

Scale at A4 : 1:1250

Date : 3rd November 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.