



# Agenda

## Planning and Licensing Committee

Tuesday, 1 March 2016 at 7.00 pm  
Council Chamber - Town Hall

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### Membership (Quorum-4)

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

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8. **Urgent Business**

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

Head of Paid Service

Town Hall  
Brentwood, Essex  
22.02.2016

**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**

<b>Point of Order</b>	<b>Personal Explanation</b>	<b>Point of Information or clarification</b>
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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1 March 2015

## Planning and Licensing Committee

### Petition regarding the proposed housing development at land off Honeypot Lane, Brentwood.

**Report of:** Philip Ruck – Head of Paid Service

**Wards Affected:** Brentwood West

**This report is:** Public

#### 1. Executive Summary

- 1.1 A petition was presented by Cllr Karen Chilvers at the 27 January 2016 Ordinary Council meeting regarding the proposed housing development at land off Honeypot Lane, Brentwood, as set out in the Council's Draft Local Plan consultation document.
- 1.2 The petition states: "*Greetings. NO to the proposed housing development at land off Honeypot Lane, Brentwood*".
- 1.3 The petition was made up of 281 signatories. Subsequently, following an officer request for additional address information, the petition has been re-submitted and now contains the signatories' addresses and totals over 400 signatures.

The petition will be made available for Members' information.

#### 2. Recommendation:

- 2.1 **That the petition be considered as a representation in response to the Brentwood Draft Local Plan consultation.**

#### 3. Introduction and Background

- 3.1 A petition was presented by Cllr Chilvers at the 27 January 2016 Ordinary Council meeting worded as follows: "*Greetings. NO to the proposed housing development at land off Honeypot Lane, Brentwood*".
- 3.2 The Brentwood Draft Local Plan (January 2016) contains draft policies relating to future land use in the Borough. The document is available for public comment as part of a six week consultation, as approved at the 27 January 2016 Ordinary Council meeting.

- 3.3 The Brentwood Draft Local Plan sets out policies for a range of development uses to meet local needs, including new housing development and proposed locations. Land at Honeypot Lane, Brentwood (site reference 002) is included within Policy 7.4 (previously referred to as Policy DM4 in 27 January 2016 Ordinary Council report). Policy 7.4 sets out sites proposed to be allocated for housing development to meet local needs, as follows:

**“POLICY 7.4: HOUSING LAND ALLOCATIONS**

**Sites (with potential capacity for 10 or more homes) allocated for residential development over the Plan period 2013-2033 are set out in Figure 7.2, and identified on the Proposals Map. Where indicated, a mix of uses, including residential may be sought or appropriate. Further detail is set out in Appendix 2 [Draft Local Plan appendix reference].**

**Proposals for housing submitted on these allocations in accordance with the phasing indicated, will be approved where the proposed scheme is in accordance with other relevant policies in the Plan. Planning applications in advance of its phasing will only be approved where:**

- a. Early release would not prejudice the delivery of other allocated sites phased in an earlier time period;**
- b. The site is required now to maintain a five year supply of deliverable sites; and**
- c. Infrastructure requirements of the development can be fully and satisfactorily addressed.”**

- 3.3 Draft Local Plan Figure 7.2 (housing land allocations) lists sites proposed to be allocated for housing development, which includes land at Honeypot Lane, Brentwood (ref 022) for an indicative and approximate figure of 250 dwellings. The site is listed under heading “Greenfield Green Belt”, which is further explained in Figure 5.4 (sequential selection of sites).

- 3.4 Public consultation for the Draft Local Plan began on 10 February and will continue until 23 March 2016.

#### **4. Reasons for Recommendation**

- 4.1 In accordance with the Council’s Procedure Rules, Rule 12.1. ...’Every such memorial or petition shall stand referred, as appropriate, to the committee within whose terms it falls’.

#### **5. Consultation**

- 5.1 Public consultation for the Draft Local Plan began on 10 February and will continue until 23 March 2016.

## **6. References to Vision for Brentwood 2016-19**

### 6.1 Planning and Licensing:

- Have a Local Development Plan in place to manage change in the Borough for the next 15 years
- Broaden the range of housing in the Borough to meet the needs of our population now and in the future

## **7. Implications**

### **Financial Implications**

Chris Leslie, Finance Director and Section 151 Officer  
01277 312712 /christopher.leslie@brentwood.gov.uk

7.1 There are no financial implications.

### **Legal Implications**

Saleem Chughtai, Legal Services Manager  
01277 312500 / saleem.chughtai@brentwood.gov.uk

7.2 The planning authority has a legal duty to be fair to landowners , developers and objectors and must comply with the relevant statutory regulations.

### **Other Implications**

7.3 Decisions regarding the suitability of specific sites for housing development may have implications for the proposed spatial strategy and other draft policies as the Council progresses towards adopting a new Local Development Plan for the Borough.

## **8. Background Papers**

8.1 Brentwood Draft Local Plan (January 2016)

## **9. Appendices to this report**

9.1 None.

### **Report Author Contact Details:**

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## Minutes

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### Planning and Licensing Committee Tuesday, 19th January, 2016

#### Attendance

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

#### Apologies

Cllr Pound  
Cllr Tee

#### Substitute Present

Cllr Mrs Coe (substituting for Cllr Tee)  
Cllr Ms Rowlands (substituting for Cllr Mrs Pound)

#### Also Present

Cllr Clark  
Cllr Hossack  
Cllr Mrs Hubbard  
Cllr Ms Sanders  
Cllr Foan – West Horndon Parish Council

#### Officers Present

Steve Blake	- Environmental Health Officer
Sukhvinder Dhadwar	- Planning Officer
Gordon Glenday	- Head of Planning & Development
Brendan Johnston	- Highways Representative
Paulette McAllister	- Design & Conservation Officer
Caroline McCaffrey	- Development Management Team Leader
Gary O'Shea	- Principal Licensing Officer
Karen O'Shea	- Governance and Member Support Officer
Jean Sharp	- Governance and Member Support Officer
Christine Stephenson	- Planning Solicitor
Charlotte White	- Senior Planning Officer

### **300. Apologies for Absence**

Apologies were received from Cllrs Mrs Pound and Tee.

### **301. Minutes of the Previous Meeting**

The Minutes of the Planning meeting held on 1 December 2016 were agreed as a true record subject to correction of the misspelling of a name under Minute 239 - Ms Kenyon instead of Keynon.

### **302. Street Trading and Market Policy Review**

The report sought Members' agreement in principle on the review to the Street Trading and Market Policy and for the same to be released for consultation prior to consideration of any representations and full adoption in April 2016.

The current policy had been in place since 2012 but it had become apparent through recent events that it was restrictive and needed to be reviewed.

It was proposed the revised policy would be fully consulted on for a period of six weeks.

Members noted that in paragraph 4.4 of the report the word 'completion' should read 'competition'.

**Cllr McCheyne MOVED and Cllr Trump SECONDED the recommendation in the report, a vote was taken by a show of hands and it was**

#### **RESOLVED**

**That Members agree in principle the Street Trading and Market Policy as attached at Appendix A to the report and to release it for consultation prior to reconsideration and final adoption in April 2016.**

#### **Reason for recommendation**

The policy was almost 4 years old and required updating. There was certain clarification required and this had led to a need to update the policy to ensure that it was more easily understood and interpreted by all parties, including officers.

The policy must retain some flexibility in law to ensure that matters were always considered on merit. In other words the Council must not fetter its discretion in any individual case. For this reason, the exemptions in 3.5, 5.2 and 5.4 had been clarified. However, whilst these formed the normal process of the Council, it was essential that there was flexibility for Members to divert from policy if evidenced that it was appropriate to do so.

**303. 114 ORCHARD AVENUE BRENTWOOD ESSEX CM13 2DP**

**REMOVAL OF CONDITION 4 (NO HEATING/COOKING EQUIPMENT SHALL BE USED ON PREMISES) OF APPLICATION 15/00145/FUL (CHANGE OF USE FROM MOTOR SPARES SHOP (RETAIL) TO CAFE (FOODOUTLET)).**

**APPLICATION NO: 15/01341/FUL**

Cllr Wiles advised the Committee that the applicant would be submitting the necessary documentation to overcome the reasons for the officer's recommendation for refusal and proposed that consideration of the issues be deferred to the next meeting.

Cllr Wiles **MOVED** and Cllr Morrissey **SECONDED** that this item be deferred to the next Committee meeting.

For: Cllrs Barrell, Carter, Cloke, Coe, McCheyne, Morrissey, Mynott, Newberry, Reed, Rowlands, Trump and Wiles (12)

Against (0)

Abstain (0)

**RESOLVED UNANIMOUSLY** to defer this item to the next meeting.  
*(Cllr Morrissey declared a non-pecuniary interest under the Council's Code of Conduct by virtue of her working for a local Estate Agent).*

**304. THE BRENTWOOD TRAINING CENTRE ESSEX WAY WARLEY ESSEX CM13 3AX**

**DEMOLITION OF THE EXISTING BUILDING AND CONSTRUCTION OF 50 RESIDENTIAL DWELLINGS, (10 HOUSES AND 40 FLATS) INCLUDING AFFORDABLE HOUSING, IN BUILDINGS EXTENDING TO BETWEEN TWO AND FOUR STOREYS IN HEIGHT, TOGETHER WITH ASSOCIATED LANDSCAPING, PARKING AND INFRASTRUCTURE WORKS.**

**APPLICATION NO: 15/01379/FUL**

Mr Baldwin was present and spoke in objection to the application.

Mr Wheeler, the agent, was also present and spoke in support of the application.

Members expressed concern regarding parking problems in the locality and Cllr Cloke advised he would raise the possibility of introducing a residents' parking scheme in the area at the next meeting of South Essex Parking Partnership.

Cllr McCheyne **MOVED** and Cllr Trump **SECONDED** that the application be approved, subject to a Section 106 agreement.

For: Cllrs Cloke, Mrs Coe, McCheyne, Reed, Ms Rowlands, Trump and Wiles (7)

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

Abstain: Cllr Barrell (1)

It was **RESOLVED:**

That planning permission be **APPROVED** subject to completion of a Section 106 agreement as set out in the officer's report and the following conditions:

- 1 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 The development hereby permitted shall not be carried out except in complete accordance with the approved drawings, specifications and documents listed above.  
Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.
- 3 No development above ground level shall take place until samples of both bricks to be used in the construction of the external surfaces of the building hereby permitted, as well as details of the jointing and mortar, have been submitted to and approved in writing by the local planning authority. Sample panels of both bricks proposed of no more than 500mm in height are to be erected on site to show areas of the new exterior walling. Development shall be carried out in accordance with the approved details.  
Reason: In order to safeguard the character and appearance of the area.
- 4 The development shall be finished with metal profile roofing panels and grey UPVC windows only as shown on drawing number 8128/06 without the further formal consent of the Local Planning Authority.  
Reason: In order to safeguard the character and appearance of the area.
- 5 Notwithstanding the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), and with the exception of those approved as part of this permission, no walls, fences or other means of enclosure shall be erected within the application site.

Reason: In the interests of safeguarding the character and appearance of the area.

- 6 Aside from those indicated on the approved drawings, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), no windows, dormer windows, glazed doors or rooflights shall be constructed without the prior grant of specific planning permission by the local planning authority.

Reason: To safeguard the living conditions of the occupiers of neighbouring dwellings.

- 7 None of the accommodation hereby permitted shall be occupied until the facilities to be provided for the storage of refuse/recycling materials have been provided in accordance with the details shown on the approved drawings. Thereafter the accommodation shall not be occupied unless those facilities are retained.

Reason: To ensure that adequate provision is made in order to safeguard the character and appearance of the area.

- 8 In view of the report produced by Geosphere Environmental Ltd; a remediation scheme to bring the site to a suitable condition in that it represents an acceptable risk shall be submitted to the Local Planning Authority for approval prior to the commencement of any development of the site. The agreed remediation scheme will be implemented and completed to the satisfaction of the Local Planning Authority prior to the commencement of any other part of this planning permission (unless the scheme or parts of it require commencement of other parts of the permission). Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with the Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers. A signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in the conditions above.

Reason: In the interest of the living conditions of the future occupiers of the site. This issue is fundamental to the development hereby permitted and the application as submitted provides insufficient information to demonstrate that the proposal would not be unacceptably harmful in this regard. In the absence of a condition requiring the approval of these matters before the commencement of the development it would have been necessary to refuse planning permission.

- 9 Should contamination be found that was not previously identified during any stage of the application hereby approved or not considered in the remediation scheme that contamination shall be made safe and reported immediately to the local planning authority. The site shall be re-assessed and a separate remediation scheme shall be submitted for approval by the Local Planning Authority. Such agreed measures shall

be implemented and completed to the satisfaction of the Local Planning Authority prior to the commencement of any development of the site.

Reason: In the interest of the living conditions of the future occupiers of the site. This issue is fundamental to the development hereby permitted and the application as submitted provides insufficient information to demonstrate that the proposal would not be unacceptably harmful in this regard. In the absence of a condition requiring the approval of these matters before the commencement of the development it would have been necessary to refuse planning permission.

- 10 The development hereby permitted shall not be carried out except in complete accordance with the construction method statement submitted with this application, without the further formal consent of the local planning authority.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt and in the interest of the residential amenity of the adjoining residents.

- 11 The development hereby approved shall not be occupied until such time as the vehicle parking area indicated on the approved plans has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the local planning authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

- 12 The cycle parking facilities as shown on the approved plans for the proposed flats are to be provided prior to the first occupation of the development and retained at all times without the further formal consent of the local planning authority.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity and to encourage sustainable transport choices.

- 13 Cycle parking facilities for the proposed houses shall be provided in accordance with the EPOA Parking Standards. The approved facilities shall be secure, convenient, covered and provided prior to occupation and retained at all time without the further formal consent of the local planning authority.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity and to encourage sustainable transport choices.

- 14 The powered two wheeler parking facilities as shown on the approved plans are to be provided prior to the first occupation of the development

and retained at all times without the further formal consent of the local planning authority.

Reason: To ensure appropriate powered two wheeler parking is provided in the interest of highway safety.

- 15 Prior to commencement of the development, excluding demolition and enabling works, the site access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres to the compass point in each direction, as measured from and along the nearside edge of the carriageway as per drawing number C700 Rev P1. Such vehicular visibility splays shall be provided before the site access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety.

- 16 There shall be no discharge of surface water onto the Highway.  
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

- 17 The development hereby approved shall not be occupied until the developer has provided a Real Time Passenger Information facility at the nearby northbound bus stop on The Drive, the details of which shall be submitted to and approved in writing by the local planning authority prior to its installation.

Reason: To encourage trips by public transport in the interest of accessibility and sustainability.

- 18 Prior to occupation of the development hereby approved, the Developer shall be responsible for the provision of a Residential Travel Information Pack for sustainable transport to include six one day travel vouchers for use with the relevant local public transport operator, the details of which shall be submitted to and approved in writing by the local planning authority prior the occupation of any of the units.

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

- 19 No development excluding demolition and enabling works, shall take place until a detailed surface water drainage scheme for the site, based on the approved surface water drainage strategy, sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to ensure the effective operation of SuDS features over the lifetime of the development and to provide mitigation of any environmental harm which may be caused to

the local water environment. This issue is fundamental to the development hereby permitted and the application as submitted provides insufficient information to demonstrate that the proposal would not be unacceptably harmful in this regard. In the absence of a condition requiring the approval of these matters before the commencement of the development it would have been necessary to refuse planning permission.

- 20 No development excluding demolition and enabling works, shall take place until further ground investigation has taken place, during winter months (between December and April), to demonstrate that ground water levels do not pose a significant risk to the development. Following ground investigation, if necessary, a scheme for appropriate mitigation of ground water flood risk should be submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved prior to occupation.

Reason: To mitigate against groundwater flooding by ensuring that sufficient information is in place to fully understand the risk associated with the development. This issue is fundamental to the development hereby permitted and the application as submitted provides insufficient information to demonstrate that the proposal would not be unacceptably harmful in this regard. In the absence of a condition requiring the approval of these matters before the commencement of the development it would have been necessary to refuse planning permission.

- 21 The development hereby permitted shall not be commenced until such time as a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate against increased flood risk to the surrounding area during construction therefore, there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development . This issue is fundamental to the development hereby permitted and the application as submitted provides insufficient information to demonstrate that the proposal would not be unacceptably harmful in this regard. In the absence of a condition requiring the approval of these matters before the commencement of the development it would have been necessary to refuse planning permission.



- 22 Prior to the occupation of the development the applicant must submit to and have approved in writing, a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies to the Local Planning Authority.  
Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.
- 23 The adopting body responsible for maintenance of the surface water drainage system must record yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.  
Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.
- 24 The replacement trees to be planted on the eastern boundary adjacent to the dwellings in Gibraltar Close shall be planted within 1 month of the removal of the existing trees, unless formally agreed by the further formal consent of the local planning authority.  
Reason: In the interests of the character and appearance of the area and the residential amenity of adjoining residents.
- 25 The development hereby permitted shall not be carried out except in complete accordance with the recommendations of the ecology, reptile and bat survey and arboricultural impact assessment submitted, without the further formal consent of the local planning authority.  
Reason: In the interests of ecology and biodiversity and the visual amenity of the area.
- 26 Additional drawings that show details of proposed windows, eaves and roof profiles, balconies and brick relief detail to be used by section and elevation at scales between 1:20 and 1:1 as appropriate shall be submitted to and approved by the Local Planning Authority in writing prior to their installation. The development shall be carried out in strict accordance with the approved details.  
Reason: In the interests of the character and appearance of the area.
- 27 The development hereby permitted shall not be carried out except in complete accordance with the hard and soft landscaping details included within this submission, including those submitted within the Design and Access Statement, without the further formal consent of the local planning authority.  
Reason: In the interests of the visual amenity of the area.

**305. 3 CLIVEDEN CLOSE SHENFIELD ESSEX CM15 8JP**

**FIRST FLOOR FRONT EXTENSION, HIPPED ROOF TO REPLACE FLAT ROOF, THREE DORMERS TO REAR AND REMOVAL OF THE CHIMNEY. PART TWO STOREY AND SINGLE STOREY REAR EXTENSION TO INCLUDE ROOFLIGHTS.**

**APPLICATION NO: 15/01393/FUL**

Mrs Aston, the applicant, was present and addressed the Committee in support of the application.

Cllr Clark had referred the application for consideration by the Committee since there were concerns that policies were being interpreted subjectively rather than objectively, so that the difference between what was refused in this case had been allowed in neighbouring houses was not clear.

Cllr Ms Rowlands **MOVED** and Cllr Newberry **SECONDED** that the application be approved.

For: Cllrs Carter, Newberry, Ms Rowlands and Trump (4)

Against: Cllrs Barrell, Cloke, Mrs Coe, McCheyne, Morrissey, Mynott and Wiles (7)

Abstain: Cllr Reed (1)

The Motion was **LOST**.

Cllr Cloke **MOVED** and Cllr Wiles **SECONDED** that the application be refused.

For: Cllrs Barrell, Cloke, Mrs Coe, McCheyne, Morrissey, Mynott and Wiles (7)

Against: Cllrs Carter, Newberry, Ms Rowlands and Trump (4)

Abstain: Cllr Reed (1)

**RESOLVED:** That the application be **REFUSED** because the proposal would result in a poorly designed and disjointed appearance at the front and rear of the house.

Members recommended the applicant to work with Planning officers on any future design prior to submission.

**306. LAND ADJACENT ROSNEATH HUNTERS CHASE HUTTON ESSEX CM13  
1SN**

**PROPOSED 3 BEDROOMED DWELLING.**

**APPLICATION NO: 15/01444/FUL**

Mr Sanderson, the applicant, was present and addressed the Committee in support of the application.

Cllr Hossack had referred the application for consideration by the Committee since he supported the proposal and had no concerns about its impact on the green belt in the intended location. He advised that those living in neighbouring properties were supportive and considered the proposed dwelling would prove to be an enhancement to their neighbourhood.

Cllr Wiles **MOVED** and Cllr Cloke **SECONDED** that the application be approved.

For: Cllrs Carter, Cloke, Mrs Coe, McCheyne, Newberry, Reed, Ms Rowlands, Trump and Wiles (9)

Against: Cllrs Morrissey and Mynott (2)

Abstain: Cllr Barrell(1)

**RESOLVED:** That the planning application be **APPROVED** subject to the following conditions:

1. 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. 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. No development above ground level shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

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

4. The development hereby approved shall not be occupied until details of the treatment of all boundaries including drawings of any gates, fences, walls or other means of enclosure have been submitted to and approved in writing

by the local planning authority and the approved boundary treatments shall be completed prior to the first occupation of the development and shall thereafter be permanently retained and maintained.

Reason: In the interests of safeguarding the character and appearance of the area and living conditions of adjacent occupiers.

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

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

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

6. No development above ground level shall be undertaken until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. The submitted scheme shall indicate the existing trees shrubs and hedgerows to be retained, the location, species and size of all new trees, shrubs and hedgerows to be planted or transplanted, those areas to be grassed and/or paved. The landscaping scheme shall include details of all surfacing materials. The landscaping scheme shall be completed during the first planting season after the date on which any part of the development is commenced or in accordance with a programme to be agreed in writing by the local planning authority. Any newly planted tree, shrub or hedgerow or any existing tree, shrub or hedgerow to be retained, that dies, or is uprooted, severely damaged or seriously diseased, within five years of the completion of the development, shall be replaced within the next planting season with another of the same species and of a similar size, unless the local planning authority gives prior written consent to any variation.

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

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) no dormer windows, or rooflights shall be constructed and no change shall be made to the shape of the roof without the prior grant of specific planning permission by the local planning authority.

Reason: To safeguard the living conditions of the occupiers of neighbouring dwellings and in the interest of the character and appearance of the area.

8. Details of existing and proposed site levels and the finished floor levels of the proposed buildings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby permitted. Construction shall be in strict accordance with the approved details.

Reason: To safeguard the character and appearance of the area and the living conditions of nearby residents.

### **307. Article 4 Directions for Barrack Wood**

Members were reminded that at the 14 April 2015 Planning and Development Committee meeting it was resolved unanimously to serve an Article 4 Direction on Barrack Wood. Since this decision was made, Legal Services had identified that the format of the Article 4 Direction in the earlier report needed to be updated because it did not meet the current legislative requirements and so was not valid. Members were therefore recommended to endorse the serving of an updated Article 4 Direction for Barrack Wood to reflect current legislation and the clear intention of the Planning and Development Committee's April 2015 decision.

Cllr McCheyne **MOVED** and Cllr Barrell **SECONDED** the recommendations in the report and following a discussion it was **RESOLVED UNANIMOUSLY:**

1. That an Article 4 Direction be authorised and served for Barrack Wood (see Map attached in Appendix A to the report).

2. That authority be delegated to Head of Planning and Environmental Health, after consultation with the Chair and Ward Members, to issue and serve Article 4 Directions in relation to other woodlands in the Borough where deemed appropriate.

#### **Reasons for Recommendation**

Given the potential immediate threat to the integrity of the woodlands affected, it was deemed necessary to issue the two Article 4 Directions, one of which should take immediate effect due to the potential risk of inappropriate works.

### **308. Urgent Business**

There were no items of urgent business.

The meeting ended at 20.50 hrs.

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## Minutes

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### Licensing/Appeals Sub-Committee Thursday, 24th September, 2015

#### Attendance

Cllr Newberry  
Cllr Reed

Cllr Wiles

#### Officers Present

Dave Leonard	- Licensing Officer
Karen O'Shea	- Governance and Member Support Officer
Adam Rulewski	- Barrister – BDT Legal
Jean Sharp	- Governance and Member Support Officer

#### 163. Appointment of Chair

Councillor Newberry was appointed Chair of the Sub Committee.

#### 164. Administrative Function

Members were respectfully reminded that, in determining the matter listed under Minute 166 they were exercising an administrative function with the civil burden of proof, that the matter would be determined on the facts before the Sub-Committee and the rules of natural justice applied.

#### 165. Declarations of Interest

No declarations of interest were made, however, Cllr Reed advised that he was a personal license holder on behalf of Brentwood Theatre.

#### 166. Licensing Act 2003 - Application for Premises Licence: McColls - 4 The Keys, Eagle Way, Great Warley, Brentwood, CM13 3BP

The report before Members provided information relating to the application for a premises license at McColls, 4 The Keys, Eagle Way, Great Warley CM13 3BP.

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

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

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

The sub committee took those objectives into account in determining the matters before it together with the following:

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

The application for a premises licence was received on 5 August 2015 in respect of McColls, 4 The Keys, Eagle Way, Great Warley Brentwood CM13 3BP and was put before Members.

The premises was a newsagents and general convenience store and the application was for a premises licence for the provision of the sale of alcohol for the following hours; 06:00hrs-2300hrs daily.

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

One valid representation had been made which related to a number of serious assaults that been carried out on staff in the past and a concern that granting a licence to sell alcohol may exacerbate the situation and put staff and customers at risk.

The sub committee was addressed by the applicant. There was no objector present at the meeting.

The applicant advised that the additional financial turnover following the purchase of the goodwill and stock from the neighbouring off licence would allow for two members of staff to be on the premises at all times.

The applicant also confirmed the store manager had now obtained a personal license and was the Designated Premises Supervisor.



The sub-committee considered the reports presented to it and the representation for and against the application. Upon consideration, the sub-committee

## **RESOLVED UNANIMOUSLY**

to grant the application as applied for with the following amendment to the agreed conditions set out in full below.

*That two members of staff shall be on the premises at all times during which the premises license permits the applicant to carry out licensable activities.*

Members took the view that the above additional condition was necessary in order to meet the licensing objectives.

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

- The premises shall have sufficient cameras located within the premises to cover all public areas including the entrance and exit and where the sale of alcohol take place.
- The CCTV system must be operating at all times whilst the premises are open for licensable activity. All equipment shall have a constant and accurate time and date generation. All recorded footage must be securely retained for a minimum of 28 days.
- The manager, supervisor and DPS will be trained in the use of the CCTV system and can play the CCTV recordings on the system at the premises upon reasonable request (meaning within 48 hours of the request).
- The downloaded images must be in a viewable format on either disc or VHS. Footage supplied in a digital format on CD or DVD will also have a copy of the CCTV system software enabled on the disc to allow playback.
- Staff will be trained with regard to their responsibilities in the retail sale of alcohol and regular refresher training will also be undertaken. Training records can be made available for inspection upon reasonable request by the Police or other relevant officers of a responsible authority.
- A till prompt system will be in operation at the store and used for the refusal of all age restricted products.
- An electronic refusal log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon reasonable request.
- A Challenge 25 policy will be operated at the premises: forms of identification that will be accepted are;
  - a) A Valid Passport
  - b) Photo card Driving Licence
  - c) 'PASS' accredited identification card.
- The licence holder shall display prominent signage confirming the company's Challenge 25 policy.
- Spirits will be located behind the counter

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

All parties were reminded that they had a right to appeal to the Magistrates' Court.

# Minutes

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## **Licensing/Appeals Sub-Committee Monday, 16th November, 2015**

### **Attendance**

Cllr McCheyne  
Cllr Newberry

Cllr Wiles

### **Officers Present**

Gary O'Shea - Principal Licensing Officer  
Jean Sharp - Governance and Member Support Officer  
Adam Rulewski - Barrister, BDT Legal

### **221. Appointment of Chair**

Members resolved to appoint Cllr McCheyne to chair this meeting of the Sub-Committee.

### **222. Administrative Function**

Members were respectfully reminded that, in determining the matters under consideration, they were exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matters were determined on the facts before the Sub-Committee and the rules of natural justice applied.

### **223. Application for the Grant of a Street Trading Licence - Local Government (Miscellaneous Provisions) Act 1982**

Members were requested to determine an application for the grant of a Street Trading licence in respect of an E-Cigarette and Vaping supplies stall to permit it to trade at the Essex Farmers Market in the High Street Brentwood, weekly on both Friday and Saturday.

Brentwood Borough Council had adopted schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to designate Brentwood High Street from Wilsons Corner to its junction with Kings Road and Weald

Road as a 'licence' Street for the purpose of Street Trading. This meant that no trading might take place otherwise than in accordance with an authorisation from the Council.

This application had been submitted by Mr Matthew Connolly. Originally, a licence was granted under delegated authority and Mr Connolly traded for a total of 4 trading days until concern was raised that the content of the stall might fall outside of the Council's current Street Trading and Market Policy. Mr Connolly immediately ceased trading pending determination of his application.

The Sub-committee heard from the applicant who confirmed that he traded from an online shop and in other markets. He purchased the e-cigarette products themselves from a wholesaler in the UK, and all parts could be fully traced. In terms of the e-cigarette liquid, this was compiled at home by the applicant, by mixing together the various ingredients which he had purchased. The ingredients themselves were pre-produced, and his role was simply to mix them into an appropriate formula. He confirmed he had no formal qualifications in this respect, and that he was acting entirely in accordance with the law. The applicant confirmed that he had full public and product liability in respect of these products.

Officers confirmed that no complaints had been received in respect of the applicant's stall.

The Sub-committee had some concerns in respect of the mixing of the formula at home without qualification, but took into account the applicant's description of the simple process and noted that this was entirely legal.

**The Sub-committee RESOLVED UNANIMOUSLY to grant the street trading license, but on condition that the applicant provided to the local authority copies of his Public and Product Liability Insurance, and subject to the Sub-committee being satisfied that these policies adequately covered him for sales of these products from his market stall.**

**224. Consideration of the Suspension or Revocation of a Hackney Carriage/Private Hire Driver's Licence (Exempt Information, Paragraph 4 of Part 1 of 12A of the Local Government Act 1972).**

Members were requested to consider information contained in the confidential report before them relating to an incident which had given rise to concern over whether a dual Hackney Carriage and Private Hire license holder remained a 'fit and proper' person to hold the license and having considered the information to determine whether it should be suspended, revoked or remain in force.

The incident involved the applicant's vehicle being seen to be driving away with a pedestrian hanging onto the vehicle for some 100 yards before falling

to the ground. The Sub-committee had reviewed the footage and noted the comments from the Police that they had no concerns about the applicant. The applicant provided a full and honest account of the incident and the Sub-committee noted that he had an unblemished driving license and unblemished record with the Council.

**Taking all of these matters into consideration, the Sub-committee was of the view that the applicant was clearly a fit and proper person to hold a license. In the present situation, the Sub-committee considered him to be nothing more than victim of circumstances and no blame could be attached to him for what happened and it was RESOLVED UNANIMOUSLY that the applicant should therefore continue to operate under his license.**

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# Minutes

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## Licensing/Appeals Sub-Committee Tuesday, 8th December, 2015

### Attendance

Cllr Murphy  
Cllr Newberry

Cllr Pound

### Officers Present

Gary O'Shea - Principal Licensing Officer  
Jean Sharp - Governance and Member Support Officer  
Chris Pickering - Principal Solicitor

### 259. Appointment of Chair

Members resolved that Cllr Newberry should chair this meeting of the Sub-committee.

### 260. Administrative Function

Members were respectfully reminded that, in determining the matters under consideration, they were exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matters were determined on the facts before the Sub-Committee and the rules of natural justice applied.

### 261. Consideration of matters under the Street Trading and Market Policy

Brentwood Borough Council had adopted schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to designate Brentwood High Street from Wilsons Corner to its junction with Kings Road and Weald Road as a 'licence' Street for the purpose of Street Trading. This meant that no trading might take place otherwise than in accordance with an authorisation from the Council and the Council's Street Trading and Market Policy.

The report before Members sought clarification on a matter pertaining to the Council's Street Trading and Market Policy; in the first instance seeking clarification on a matter of policy pertaining to one particular product type and in the second instance to identify whether clothing might be sold by a trader and if so, whether this should be restricted or conditioned in any way.

Members were advised that Jacky's Boutique was a longstanding trader on

the High Street market, having operated on a Saturday for some approximately three years and on a Friday, since Friday trading commenced approximately one year ago.

Jacky's Boutique sold ladies and children's clothing and had been permitted to do so by adopting a broad interpretation of Schedule 4 of the Act and the Council's policy. This was because it had been the belief of Officers that a literal interpretation of these provisions would disallow clothing of any nature to be sold on the basis that there were already many outlets in and around the vicinity that stocked and sold clothes. Instead, a purposive view had been taken to permit clothing provided that it was not the same or distinctly similar to clothing sold elsewhere.

It should be noted that whilst Jacky's Boutique had been told that they could not duplicate stock, this had not to date been put in writing and only verbal guidance had been given.

The Sub-Committee considered in detail the submissions by all parties and had sympathy for the arguments presented on both sides. They restricted their consideration to the published policy and the stated intention of the market. In the Sub-Committee's view, this policy needed to be reconsidered by the Planning and Licensing Committee as it had not been amended since it was introduced.

The Sub-Committee considered issues submitted under the Competition Act, but did not accept them. Any specification in the policy of what could and could not be sold would necessarily restrict market stalls. Paragraph 5.4 of the policy restricted what could be sold and included excluding all cut flowers for example.

The stated intention of the market was to provide an alternative to the High Street with niche products on offer. There would always be some degree of duplication from market stalls to shops but it was reasonable for the Council to set out appropriate conditions that were fair to all, however.

The Sub-Committee recommended that the policy should be reviewed by the Planning and Licensing Committee as soon as possible so that a certain and fair policy was in place. In dealing with the issues before the Sub-committee, and in considering the policy and a fair interpretation of it in light of the stated purpose of the market and the wording of the policy, the Sub-Committee **RESOLVED**, with immediate effect, pursuant to para 2.1 (a)(ii) of the report, that while clothing may be sold by Jacky's Boutique, it should not be of a nature that is the same or distinctly similar to other stalls or shops. The implication of this decision should be with the assistance and cooperation of the Council's licensing department.



# Minutes

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## **Licensing/Appeals Sub-Committee Wednesday, 20th January, 2016 10.00am**

### **Attendance**

Cllr McCheyne (Chair)  
Cllr Newberry

Cllr Pound

### **Officers Present**

Keith Alexander - Licensing Officer  
Gary O'Shea - Principal Licensing Officer  
Jean Sharp - Governance and Member Support Officer  
Chris Pickering - Principal Solicitor

### **309. Appointment of Chair**

Members resolved that Cllr McCheyne should chair this meeting of the sub-committee.

### **310. Administrative Function**

Members were respectfully reminded that, in determining the matters under consideration, they were exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matters were determined on the facts before the Sub-Committee and the rules of natural justice applied.

### **311. Application for the Grant of an Operator's Licence - Local Government (Miscellaneous Provisions) Act 1982**

Members were requested to determine an application for the grant of an Operator's Licence to take bookings for a private hire vehicle within the borough. The applicant did not currently qualify under the Council's pre licensing conditions by virtue of not having held a Licence to drive private hire vehicles for a period of 2 years or more.

The applicant, Mr Heggie, originally made an application for a Private Hire Operator's Licence to work in Brentwood on 2 November 2015.

Private Hire Vehicle Operator's Licence Pre-Licensing Conditions stated that the applicant should have been licensed as a Private Hire or Hackney Carriage vehicle driver for at least two years within Brentwood prior to their first application.

The applicant had never driven as a licensed driver within Brentwood and although he had made application to enable him to drive a licensed Hackney Carriage or Private Hire vehicle, he had not done so for the required 2 year period. This contravened the pre-licensing condition and therefore, the application had to be refused by officers. Mr. Heggie had appealed the decision to refuse his application.

It was his intention that he would operate as an Operator/Driver Company based in Brentwood which would focus on a specialist clientele, e.g. large corporations, private jet rentals, executive hire etc. The application indicated that the vehicle being used by Mr Heggie was a Bentley which was not a vehicle that would be used for every day private hire work as with a standard private hire operation.

If the Licence was granted, the applicant would be responsible for ensuring that he complied with the conditions and pre-conditions as laid out in paragraph 4.3 of the report, with the exception of any conditions that were relaxed by Members as a result of the application.

The nature of the business being operated by the applicant was such that it was not likely to raise any concern should the pre-licensing conditions be relaxed on this occasion. The nature of delegation however, was such that only a Sub-committee had the power to divert from pre-licensing requirements and conditions.

The matters for consideration were set out in note 2 of the pre-conditions which stated:

*'All relevant information will be taken into account when consideration is given to an application for a Private Hire Vehicle Operator's Licence, and it may be that the standards and requirements are waived or amended or added to at the discretion of the Council'.*

There was a duty for each application to be considered on its own merits and this meant that pre-licensing conditions were able to be diverted from if Members considered it appropriate to do so in the individual circumstances of the application.

One of the key considerations in determination of this application was whether the nature of the business that Mr Heggie wished to operate was such that Members did not consider there to be any relevance to applying the restriction

in this case on the basis that this business was not a standard Private Hire business.

The Sub-committee considered the matter and decided to exercise its discretion to deviate from the Council's policy and **RESOLVED** to grant the application for a Private Hire Operator's Licence as applied for.

The meeting ended at 10.20am

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**SITE PLAN ATTACHED**

**05. 59 CROWN STREET BRENTWOOD ESSEX CM14 4BD**

**DEMOLITION OF EXISTING HOUSE AND CONSTRUCTION OF APARTMENT BLOCK COMPRISING 10 UNITS AND UNDERCROFT CAR PARKING.**

**APPLICATION NO: 15/01430/FUL**

<b>WARD</b>	Brentwood South	<b>8/13 WEEK DATE</b>	25.01.2016
<b>PARISH</b>		<b>POLICIES</b>	CP1 CP2 CP3 CP4 H14 T2 T14 LT4 LT11 C5 PC1 TC1 TC2 TC5 NPPF NPPG
<b>CASE OFFICER</b>	Kathryn Mathews		01277 312500
<b>Drawing no(s) relevant to this decision:</b>	REV A; A01; A02; A04 C; A05 A; A06 A; A07; A08 A; A09 A; A10; A11; A12 A; A13 A; A14 A; A15 A; A17 A; A03 B;		

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

Feel that this is not contrary to aims of Policy LT11 of BRLP and NPPF. Height may be a factor but not at this stage consideration for refusal CP1. Also, it may go into the LPP. The size bearing in mind the buildings in lower part of Crown Street is not inconsistency.

**1. Proposals**

Demolition of existing two storey house (around 8m in height).

Construction of 4 storey (plus semi basement) apartment block comprising 10 two bedroom units: a maximum of 22.5m in depth and 15.5m in width, and a maximum of approximately 13m in height, mansard roof.

Undercroft car parking with a total of 10 parking spaces and 10 cycle parking spaces are proposed, accessed via the site's Crown Street frontage. There is a fall in levels across the site north to south of approximately 1.3 metres.

A garden area would be provided to the south and south west of the proposed building which extends to around 165sq.m.. Four of the proposed flats would be provided with balconies on the southern elevation of the building (two at second floor level each measuring around 9sq.m., and two at third floor level each measuring around 7sq.m.)

The materials proposed to construct the external surfaces of the building are brick and artificial stone detailing for the walls, vertical ribbed metal sheets for the roof and metal framed double glazed windows. Stone walls and hedges would be used as boundary treatments.

The existing use of the site is described as being residential and that it is not vacant.

The site measures a maximum of 31.5m in depth and around 19m in width (Crown Street frontage). The site currently accommodates a two storey dwelling (the church manse) and a car park which occupies the full depth of the site and around 8m of its width.

Applicant's case (precis):

The application is accompanied by a Design and Access Statement which refers to the following:-

- the church manse is currently unoccupied [Officers understand this not to be the case]
- the current premises are too small for the Breakthru Church and are not DDA compliant. Sunday meetings are held at the Nightingale Centre. The cooking and toilet facilities are inadequate.
- the proposal would allow a new church building to be constructed, on a suitable site, in the local area which will enable existing activities to be continued and increased
- the existing site is not of sufficient size to re-develop it for a new church building with adequate parking, and without causing disturbance to neighbours with longer occupancy hours
- the existing church building is used for events such as prayer meetings and a food bank which will continue
- there is a change in levels across the site (approximately 0.8m from south west to north east and approximately 0.35m from south east to north west) [Ground levels significantly reduce further beyond the south-western corner of the site down towards Queens Road.]
- the total area of the site is 588sq.m. - the building footprint occupies 52%
- the gross internal floor areas of the new apartments range from 77.5sq.m. to 94.7sq.m.
- boundary treatment would consist of 1.8m timber fencing (south west boundary), natural vegetation (north-west boundary with Primrose Hill), 2m fencing and existing trees (southeast boundary) and natural vegetation (Crown Street boundary)

- the flats would comply with Lifetime Home Standards (Policy H16) and Policy H11 Supported Accommodation
- the scheme has been designed to prevent undue harm to the occupiers of neighbouring properties
- the building is of Georgian style, the mansard roof is typical of the local area and maximises the use of the roof space.
- the mass of the building has been broken down with stepped facades
- reference is made to a Transport Statement Document submitted as part of the previous application
- the level of parking proposed is acceptable given the sustainable location of the site
- the design takes into account access, the Equality Act 2010, security and crime prevention (Secured By Design), and sustainability
- construction would take around one year but would be carefully managed

The previous application (13/01076/FUL) for 17 apartments was accompanied by a Transport Statement which provided the following information:-

- there is parking for 8-10 cars currently within the site with direct access to Crown Street and four car parking spaces accessed via Primrose Hill
- the proposal would include 17 car parking spaces within an undercroft along with 18 cycle parking spaces and refuse storage area; the undercroft would be accessed via a 6m wide ramp from Crown Street. In terms of driver visibility, the proposal is no worse than existing (approximately 2m x 43m splay in both directions is achievable).
- the Statement concludes that, compared the existing vehicle movements into/out of the site, there will not be a perceptible traffic impact arising from the level of vehicle movements generated by the proposed development
- there are parking restrictions along Crown Street and Primrose Hill in the vicinity of the site; the site is located within a Residential Parking Zone but the applicant accepts that residents of the proposed development will not be eligible for residents parking permits.

The previous application was also accompanied by a Report on a Geo-Technical Investigation at the site. This report concluded that, given the make-up of the ground on the site, it would be necessary to either employ ground improvement techniques or piled foundations given the loads a four storey apartment block is likely to impose. Some contamination was evident within the made ground and, as a result, a number of remediation measures were recommended including protection of the site operatives, protection of the end users of the site including use of clean, inert granular sub-base beneath buildings, pavements and hardstandings, installation of a proprietary vapour resistant membrane and a capping layer beneath proposed gardens and landscaped areas.

## **2. Policy Context**

National Planning Policy  
National Planning Policy Framework (NPPF) and National Planning Practice  
Guidance (NPPG)

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 consideration in the determination of this application.

Local Plan Policies

CP1 - General Development Criteria  
CP2 - New Development and Sustainable Transport Choices  
CP3 - Transport Assessments  
CP4 - The Provision of Infrastructure and Community Facilities  
H14 - Housing density  
T2 - New development and Highway Considerations  
T14 - Cycling  
C5 - Retention and Provision of Landscaping and Natural Features in Development.  
LT4 -Provision of Open Space in New Development  
LT11 - Retention of Existing Local Community Facilities  
PC1 - Land Contaminated by Hazardous Substances  
TC1 - Vacant and Redevelopment Sites within Residentially Allocated Areas  
TC2 - Residential Replacement  
TC5 - Type of Accommodation

## **3. Relevant History**

- 13/01076/FUL: Demolition of existing church building and manse, and the construction of 17 apartments with onsite underground parking -Application Refused, Appeal dismissed.

## **4. Neighbour Responses**

24 letters of objection have been received raising the following concerns:-

- very unattractive, would overwhelm and dominate the surrounding area
- building is too high, two stories would be less overpowering
- has not addressed the reasons previous appeal was dismissed
- inadequate parking - increase in on-street parking which add to existing
- significant loss of light to neighbouring 67-71 Crown Street
- harm to highway safety with increase traffic pulling onto Crown Street



- object to destruction of another attractive and historic property
- would be overbearing and unsympathetic in this location
- building work would cause danger and disruption to buildings nearby
- contaminated land
- ground disturbance during construction could cause damage to properties
- far too large for location
- potential disruption and disturbance to neighbouring Spiritualist Church
- overlooking and overshadowing issues not resolved
- a density of 170 dwellings per hectare nearly the same as the previous application and unprecedented in the area
- adverse impact significantly and demonstrably outweighs the positive benefits of the scheme related to additional housing
- insufficient communal garden space proposed
- construction of basement raises contamination and potential structural/property/infrastructure damage issues - health and safety issue and would affect property value
- consideration of impact on Sycamore tree located adjacent to the site needed
- concern regarding ground stability
- increased traffic on narrow lane (Primrose Hill)
- pollution during construction
- could not be constructed safely as so close to boundary with Primrose Hill
- existing church manse has been occupied since December 2014
- necessary refurbishment of church should be conditioned
- leaving church very little outside space
- construction of underground car park could cause damage to buildings in close proximity
- would block out sunlight to nearby residents
- add to traffic in a congested area which would create highway dangers
- adverse impact on privacy and outlook from 65-71 Crown Street
- concern regarding height, density and mass of the development
- demolition of church would have a negative impact on the community
- would put strain on existing parking, infrastructure and other key services
- overbearing effect and general disturbance to neighbours
- not family homes so residents likely to be younger with younger habits (parties etc).
- would take away their view
- over development and town cramming

Petition from the Brentwood Spiritualist Church against the proposed development with 12 signatures which have been completed correctly.

26 letters of support have been received. The main reasons for support are as follows:-

- would be great benefit for new and existing residents
- existing house in need of repair
- would provide much needed accommodation close to town centre and tidy-up site

- will keep the existing community facility although it is also in need of repair
- well designed scheme and fits into street really well
- significant improvement on previous scheme
- would respect the privacy of nearby residents
- would provide off-road parking for new residents
- would provide much needed affordable apartments
- would make better use of site
- would provide funding to maintain the existing community facility at the site

## **5. Consultation Responses**

- **Highway Authority:**

Although the proposed vehicle parking provision would not fully comply with Brentwood Borough Council's adopted parking standards, the Highway Authority would not wish to raise an objection to the above application, subject to the following conditions being attached to any approval, given the existence and use of the site and its access, the layout of the existing site in relation to Crown Street and Primrose Hill, the scale of the development, the location with good access to frequent and extensive public transport, town centre facilities and car parks, the existence and present use of the access onto Crown Street, the existing on-street waiting restrictions outside the site, and Brentwood Borough Council's adopted parking standards.

1. The development shall not commence until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Construction Method Statement shall be complied with during the construction period. The Statement shall include the following information:

- Details of a wheel cleaning facility which shall be used to remove mud and debris from the

wheels of all vehicles leaving the site before they enter the public highway.

- Details of areas for loading and unloading of plant and materials.

- Details of areas for the storage of plant and materials used in constructing the development.

Reason: In order to maintain the free and safe flow of vehicles on the public highway in the interests of highway safety.

2. The vehicle access shall be widened at right angles to carriageway in Crown Street in accordance with Drawing No. A/04 and the terms, conditions and specification of the Highway Authority, Essex County Council. Reason: To ensure that vehicles can leave the highway in a controlled manner in the interest of highway safety.

3. The development shall not be occupied until the proposed vehicle parking area has been constructed and marked in bays in accordance with Drawing No. A/04 Rev.C. The vehicle parking area shall be retained in this form at all times. The vehicle parking area shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority. Reason: To ensure that vehicles can enter and leave the site in a controlled manner and appropriate parking is provided in the interest of highway safety.

4. The development shall not be occupied until the cycle parking facilities shown on Drawing No. A/04 has been provided and thereafter shall be retained at all times. Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

5. No part of the proposed boundary wall or its foundation shall encroach onto the highway. Reason: To avoid encroachment onto and obstruction of the highway in the interest of highway safety.

6. The gates on the pedestrian access from Primrose Hill shall be inward opening only. Reason: To avoid obstruction of the highway in the interest of highway safety.

7. No works shall commence until a detailed sustainable transport mitigation package has been submitted to and agreed, in writing by, the Local Planning Authority. This package will provide information on how the applicant proposes to mitigate any increase in private vehicular use associated with the development and will include appropriate information on all sustainable transport modes including bus and rail travel, cycling, walking (including the local Public Rights of Way network), taxi travel, car sharing and community transport in the vicinity of the site. The package shall thereafter be implemented as agreed for each individual dwelling and/or premises within 14 days of the first beneficial use or occupation of that unit. Reason: In the interests of mitigating the impact of the approved development by seeking to reduce the need to travel by private car through the promotion of sustainable transport choices.

Note: Essex County Council as Highway Authority can assist in the production of appropriate material as packs of information are available for purchase by the developer. Contact the Sustainable Travel Planning team on 01245 436135 or email [travelplanteam@essex.gov.uk](mailto:travelplanteam@essex.gov.uk) for more information.

#### Informative

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](mailto:development.management@essexhighways.org) or by post to: SMO3 - Essex Highways, Childerditch Highways Depot, Hall Drive, Brentwood. CM13 3HD.

- **Environmental Health & Enforcement Manager:**

With regard to the above I confirm the following matters that require attention.

- o With regard to building activities in general under the Control of Pollution Act 1974 and the Environmental Protection Act 1990 such activities must be carried out within agreed time periods. These are as follows:

Monday - Friday: -	08:00hrs to
18:00hrs	
Saturday: -	08:00hrs to
13:00hrs	
Sunday/Bank Holidays: -	No noisy work at all

In addition to the above, contractors must take due care not to make any unnecessary noise during their work and in particular, time particular noisy activities such as angle grinding/pile driving/hammering etc. for periods after 09:00hrs and before 17:00hrs.

- o All deliveries to site should occur within the 'Building activities' time frame.
- o Management control shall be carried out to ensure that:
  - No loud abusive or inappropriate language be used
  - No loud radio/amplified music be carried out whilst staff are on site
  - All site sub-contractors should nominate or appoint a suitable team member responsible for liaison with the lead contractor's representative and to ensure that sub-contractor construction activities are managed effectively.

For information, a summary of 'best practice' site management measures is provided within the guidance Kukadia et al, BRE/dti, February 2003. Here the Minerals Policy Statement 2, Annex 1 Dust provides guidance on dust control and mitigation measures.

- o The Applicant and contractors must ensure that artificial lighting does not materially interfere with nearby residents comfort, convenience and amenity.

- **Essex & Suffolk Water:**

No response at the time of writing report.

- **Anglian Water Services Ltd:**

No response at the time of writing report.

- **Arboriculturalist:**

No response at the time of writing report.

- **Schools, Children Families Directorate:**

ECC will not be seeking an Education financial contribution from the above proposed development.

- **Design Officer:**

Significance

59 Crown Street is situated immediately to the South of the Brentwood Town Centre Conservation Area at the junction of Primrose Hill. The manse house which is currently occupied by private tenants (contrary to the DAS which states it is unoccupied) is cited for demolition within these proposals to facilitate the development of 10 apartments.

The existing Victorian building is of architectural merit and significance, evident on early OS Mapping data, it is one of a decreasing number of traditional unlisted buildings within the Brentwood Town Centre which were developed at the time of industrial evolution of the town; these larger detached dwellings lead from the Railway station at the south of the town centre up through Queens Road to the Cathedral. They offer an important established quality in their larger scale domestic Villa style form.

Looking at the building of 59 Crown Street specifically and its contribution to the locality; the principal gabled frontage has pleasing manner on route to the Conservation Area and contributes to the immediate and wider character and appearance of the location. The roof scape leading up through Primrose Hill into Crown Street is of a distinct character with a positive contribution to the townscape.

In my consultee response for the refused application 13/01076/FUL I did not support the demolition of this building in principle and this remains the case. Since the dismissed Appeal no preapplication advice has been sought prior to this submission and no condition survey evidences the building is at risk and requires demolition.

Summary of Principle of development

I see no reason why this building cannot be extended and retrofitted to improve its thermal performance and internal configuration to create individual units, this approach would negate the loss of a quality historic building many of which are diminishing within the Town Centre partly for their undesignated status. I also note the plan form of the existing dwelling (Drawing A03) is incorrect and does not reflect the built form as inspected on site and as evidenced on OS data.

Discussion:

Should the principle of demolition be accepted in Planning Terms I advise this current design is to a degree improved from the previously refused scheme in its design intent. The plan form proposed is largely orthogonal although there is some articulation in the placement of the volume at the southern aspect at the junction with the east elevation, to create a stepped in balcony; however the fundamental issue of a contextually appropriate scale remains unresolved.

The proposal for a four storey form at this location I advise has not been developed by a thorough contextual appraisal or led by massing studies; these would have concluded that of the Inspector's Report of the recently dismissed appeal who found 'The scale and bulk of the building would be fully exposed at the junction of Crown Street and Primrose Hill and evident from views from the north. This would appear at a higher level than the properties further to the south and hold a dominant and imposing position. When viewed in the context of the entrance to and character of Primrose Hill it would jar with the more subdued domestic scale of the buildings and the intimate nature of this narrow lane'.

Even though the wider context of the site on the northern approach to the town centre evidences buildings of an increased scale e.g. the Multi Storey Car Park, the context of the development site remains at a domestic scale, the character of which would be harmed by these proposals.

In terms of the design narrative itself, the DAS refers to the proposed form as being typical of the local context in its roof design and respectful of the local vernacular; however this is not the case and as stated earlier in this response the immediate context evidences Victorian/Edwardian buildings - perhaps with a few domestic scale late Georgian buildings, but overall there are insufficient true Georgian buildings present within this location to advise the selected narrative is of the local vernacular. The design has possibly been developed to relate to the Knight Court at No. 47 Crown Street, a modern development in a mock neo classical style.

Despite the selected architectural style and my comments above, the design intent upon the elevations is well proportioned and has been designed with a good level of detail intent. It is clear attention has been paid to the hierarchy of fenestration which provides interest in the façade. In another context this may well be an appropriate form.

#### Recommendation

It is unfortunate in the first instance a scheme has not been developed with a view for the existing dwelling to be extended and modified to negate a total demolition.

Should this be acceptable in planning terms I advise there are fundamental concerns in respect of the scale and what is contextually appropriate here.

The design in isolation has clearly been more considered than the previous application, however based on the demolition of a quality historic building in close proximity to the historic town centre I am unable to support this application.

- **Building Control:**

Refers to previous advice which was as follows:-

I've had a look at the attached geotechnical discussion apart from a 'shallow excavations' approach (which would not be suitable for the potential loads involved, and even then relates mainly to the extent of open trenching possible) there appears to be no overall stability issues in relation to the sub soils. What is present however is low ground bearing pressures, which is what is driving all the talk about ground consolidation (one method of improving the load bearing situation) and deep driven piles (suggested in relation to the potential for the loose nature of the ground, sands, silts etc, collapsing into open drilled pile bore holes, but again no overall general ground, or site instability as such). Again also the same effect is present in relation to the piling mat discussion for the piling equipment. These would be dealt with by the Building Control Body involved from the perspective of getting suitable design in relation to the new structure, and would also be the prime concern of the designing engineers.

[In response to the engineers report submitted by a local resident]

I think I indicated that previous report talked in general terms of the risks of (and probable unsuitability of) open excavations, and discussed again, in general terms, the suggested initial approach of considering driven piled foundations as a method of avoiding the those risks. As is clear from that report, no detailed or indeed detailed outline, designs were available at that time. I seem to remember this is acknowledged by the authors.

This latest report refers to the construction of a deep basement, which I assume you are currently looking at in detail or outline? If this is indeed accurate, then the structural design issues noted in the 1st report remain valid, but only in as far as they were developed against the above background. A large basement being a considerable open excavation (at least at some stage), would require detailed consideration not envisaged in this first report . The new report is therefore quite right in highlighting the gap between this initial report and the more detailed design approach required for a 'more developed' design, let alone a final design involving a basement. The reports, are in fact, not in conflict, merely evolving in structural design consideration terms.

The wider issue of considering what extent of information needs to be provided and at what time, to enable to you process your application, is clearly Planning orientated upon which I am not able to comment. However this report, again based solely on the information available at this time, speculates in clauses 23 to 25 on the circumstances and indicates potential design solutions.

- **Open Space Strategy Coordinator:**

With reference to the above planning application and the request for comments in response to it, I am now in a position to offer the following comments:

15/01430/FUL - In terms of the overall style of the development this is outside of my field of remit and so I have no comments to make on this. Looking at the site itself an attempt has been made to provide some private formal open space in the form of a private courtyard garden to the rear of the properties and communal open space for the flats along with private balconies for certain individual properties. However details on any landscaping and plantings is limited and further information about species and quantities and scope of the plantings will be needed before a substantive opinion can be made.

I also note that as the development consists of more than 10 individual dwellings that it will trigger a contribution of funds via a Section 106 agreement to existing open space provision under current local planning obligations. I would anticipate this contribution being in the region of £60,000.

At this stage there is no initial objection from an open spaces perspective, however, further comment will be retained until more details of the planting specifics is released by the developer.

At this stage there is no initial objection from an open spaces perspective.

## **6. Summary of Issues**

The site is located south of the Brentwood Town Centre Conservation Area at the junction of Primrose Hill and Crown Street. The site is located in a mixed use area within which there are residential houses and flats, as well as a multistorey car park, offices, shops, and a church, and is around 100m from Brentwood town centre. On Crown Street there is a mix of two, three and four storey buildings including more modern flat blocks. Beyond the multistorey car park, Crown Street and Primrose Hill is of domestic scale of two storeys and bungalows. The site is located within an area allocated for residential purposes in the Local Plan.



Planning permission was refused, at appeal, for the 'Demolition of existing church building and manse, and the construction of 17 apartments with onsite underground parking' (reference 13/01076/FUL) on a larger site (but which included the current application site) on 24 September 2014 for the following reasons:-

- the development would have resulted in the loss of an existing community facility which would undermine the community's ability to meet its day-to-day need, contrary to Policy LT11 and the NPPF (in particular paragraph 70)
- in terms of character and appearance, the Inspector considered that the proposal was unacceptable as a result of the scale, bulk, height and depth of the building and as well as its proportions and massing would be significantly larger than the surrounding buildings, in a dominant and imposing position, contrary to Policy CP1 and the NPPF (paragraphs 56, 58, 60 and 64)
- the Inspector also raised concerns regarding the impact of the proposal on the existing sycamore tree on neighbouring land which makes a significant contribution to the character and appearance of the area
- the development would have provided significant opportunities for overlooking of the rear of 24 Queens Road as a result of the proximity to this dwelling and the building proposed, the elevated location of the proposal building and the use of balconies. The development would have also allowed for a significant degree of inter-visibility between the windows proposed (which would be on higher ground) and the neighbouring building 65-71 Crown Street which has its main elevation facing towards the proposed building. The building would also have appeared domineering and overbearing from these windows exacerbated by the length and height of the elevation. The development would have an unnecessarily unneighbourly relationship with no.4 Primrose Hill as a result of the orientation, scale and height of the proposed new building, associated with the changing ground level - this added to his concerns regarding the development. The proposal would, therefore, be contrary to Policy CP1 and the NPPF (paragraph 17 bullet point 4)
- the Inspector concluded that the requirements and justification for an obligation to secure financial contributions to provide education and maintenance of public open space in the area had not been fully met and there was no evidence to ensure that such an obligation would meet the test in paragraph 204 of the Framework
- the Inspector concluded that the development would not have resulted in sustainable development given the significant demonstrable harm arising from the proposal which did not outweigh the limited benefit of the net increase of 16 units of housing the development would have provided.

The agent explains that the current application aims to overcome these issues as it excludes the existing church building from the application site, proposes a smaller building and number of residential units (a net increase of 9 from the existing dwelling on the site), and any new windows that could overlook any existing property have been reduced (previous balconys have been removed).

The previous application related to a site which measured a maximum of 40m in width and 54.5m in depth, had a road frontage with Crown Street of around 18.5m and a frontage with Primrose Hill of around 40m. The site accommodated a church building, a dwelling house, a portacabin and a car park, and had a site area stated as being 0.95ha. The previous proposal consisted of 17 apartments (2no. one bedrooms, 12no. two bedrooms and 3no. three bedroom). The building would have been up to four storeys in height above ground level and would have measured 36.5m in length x 23.7m in width (maximum dimensions) and a maximum of 13m in height.

The main issues which require consideration as part of the determination of the current application are the principle of the development, the impact of the proposal on the character and appearance of the area, the impact of the development on the amenity of the occupiers of neighbouring properties, the quality of life for the occupiers of the proposed flats, highway safety and parking issues, contamination, land stability and planning obligations.

#### Principle

The application site is within an area identified as being for residential purposes in the adopted Local Plan (Policy TC1) and would replace the existing dwelling on the site (Policy TC2). However, part of the site currently provides car parking for the existing church (reference is made in the previously submitted Transport Statement to there being parking for 8-10 cars) which would be lost as part of the proposed development and only leave space for parking of a maximum of two vehicles within the curtilage of the church (accessed off Primrose Hill). The adopted parking standard for places of worship is a minimum of 3 bays for disabled and a maximum of 1 space per 10sq.m (which would equate to a requirement for a maximum of around 17 parking spaces in this case). The applicant has not submitted any information to demonstrate that the significant loss of off-street parking spaces accessed from Crown Street and reduction in the extent of the curtilage of the building proposed would not threaten the continued beneficial use of the church. Furthermore, if the Breakthru Church vacate the site (as they intend to do), the significant loss of the parking area and reduction in the extent of the curtilage of the building proposed is likely to reduce the viability for continued or re-use of the building as a community facility, contrary to the aims of Policy LT11 and the NPPF (paragraph 70) to retain existing local community facilities and services. Therefore the effect of granting planning permission for this development would be to lose part of the community asset and make it more likely that the rest of the community facility would be lost. It is recommended below that planning permission is refused on this basis.

The applicant has stated their intention to replace and increase the community services which they provide on another site. However, the applicant has not identified any alternative site and, therefore, the Council would not currently be able to ensure that the existing community facility provided at the application site would be replaced. This claim cannot be given weight in determining this application.

The proposal would comply with Policy TC5 which states that all new housing within the town centre inset plan area should be in the form of one or two person units.

#### Character and Appearance

The Design Officer raises concerns regarding the demolition of the existing dwellinghouse, providing the following advice:-

'The existing Victorian building is of architectural merit and significance, evident on early OS Mapping data, it is one of a decreasing number of traditional unlisted buildings within the Brentwood Town Centre which were developed at the time of industrial evolution of the town; these larger detached dwellings lead from the Railway station at the south of the town centre up through Queens Road to the Cathedral. They offer an important established quality in their larger scale domestic Villa style form.

Looking at the building of 59 Crown Street specifically and its contribution to the locality; the principal gabled frontage has pleasing manner on route to the Conservation Area and contributes to the immediate and wider character and appearance of the location. The roof scape leading up through Primrose Hill into Crown Street is of a distinct character with a positive contribution to the townscape.

In the Design Officers consultee response for the refused application 13/01076/FUL the demolition of this building was not supported in principle and this remains the case. Since the dismissed Appeal no preapplication advice has been sought prior to this submission and no condition survey demonstrates the building is at risk and requires demolition.....

No evidence has been provided to show why this building cannot be extended and retrofitted to improve its thermal performance and internal configuration to create individual units, this approach would negate the loss of a quality historic building many of which are diminishing within the Town Centre partly for their undesignated status. It is noted that the plan form of the existing dwelling (Drawing A03) is incorrect and does not reflect the built form as inspected on site and as shown on OS data.'

However, the loss of the existing dwelling was not a reason the previous appeal (reference 13/01076/FUL) was dismissed, the building is not a Listed Building and is not located within a Conservation Area. Therefore, an objection to the current proposal on this basis could not be substantiated.

The Design Officer also raises concerns regarding the new building proposed. Whilst the design of the new building is considered to be an improvement on the previous scheme and some articulation on the elevations is included with stepped in balconies, the design is not typical of its local context and the plan form proposed is largely orthogonal and it remains a contextually appropriate scale. A four storey form is not appropriate for this site and its surroundings. As part of the previous appeal decision which also related to a four storey building in this location, the Inspector considered that 'The scale and bulk of the building would be fully exposed at the junction of Crown Street and Primrose Hill and evident from views from the north. This would appear at a higher level than the properties further to the south and hold a dominant and imposing position. When viewed in the context of the entrance to and character of Primrose Hill it would jar with the more subdued domestic scale of the buildings and the intimate nature of this narrow lane'.

This remains the case and therefore it is considered that the proposal would also be an incongruous element in the street scene and so harm the character and appearance of the area, contrary to the NPPF (section 7) and Policy CP1 (criteria i and iii), and it is recommended below that planning permission is refused on this basis.

A mature sycamore tree was located adjacent to the southern boundary of the previous application site (reference 13/01076/FUL) but the extent of the site has now been reduced and so this tree is now at a sufficient distance from the application site not to be adversely affected by the development currently proposed, in compliance with Policy C5.

#### Residential Amenity

The proposal has been assessed in terms of its impact on the amenity of the occupiers of neighbouring residential properties with respect to overlooking, dominance, loss of outlook, loss of sunlight and loss of daylight.

#### Privacy

It is considered that the majority of the development would not create unreasonable levels of overlooking (as a result of the location and orientation of habitable rooms windows and balconies proposed and their distances away from neighbours' habitable windows and private gardens), or such could be reduced to an acceptable level through, for example, the introduction of obscure glazing or privacy screens along the sides of external balconies proposed. However, part of the scheme would lead to an unreasonable level of overlooking of some existing, neighbouring residential properties.

The current scheme would not provide opportunities for overlooking of 24 Queens Road, unlike the previously refused scheme (13/01076/FUL) as the new building would be at least 20m from their rear garden boundary with an intervening garage block.

There would be no windows proposed on the south-western elevation of the new building facing 4 Primrose Hill and the balconies proposed on the southern elevation of the building would be at a sufficient distance away (at least 18.5m) to prevent an unreasonable level of overlooking of this neighbouring property's rear garden.

However, as part of the previous appeal, the Inspector noted that the 'building 65-71 [Crown Street] has its main elevation facing towards the proposed building and it contains a number of windows serving habitable rooms. The flank elevation of the proposed building would accommodate windows to habitable rooms and these elevations would be separated by a distance in the region of 6m. Whether or not the windows are directly aligned the immediate proximity of the windows would allow for a significant degree of intervisibility between the windows. With the proposed building being on higher ground and a more elevated position this would allow for greater views down into the rooms which would significantly compromise the living conditions of the occupants of 65-71'.

There are habitable room windows proposed on the southern elevation of the building at first and second floor levels but none of these would be directly opposite any of the windows within the side elevation of neighbouring 65-71 Crown Street. As a result of the distance between the habitable (lounge) windows proposed and the windows at 65-71 Crown Street which face the site (around 12m) combined with the angle of views which could be obtained, it is considered that any overlooking would not result in a material loss of privacy for the occupiers of this adjoining property. However, there are balconies proposed on the southern elevation of the new building at second and third floor levels which would face 65-71 Crown Street. These balconies would be at a higher level than the windows at 65-71 Crown Street which face the site and the distance between the balconies and 65-71 would be around 8m, compared to the 6m distance referred to above as part of the previous appeal decision. However, at a distance of only 8m, it is considered that the balcony proposed for unit 10 at second floor level would provide opportunities for overlooking of these neighbouring habitable room windows which would result in a material loss of privacy to the occupiers of this neighbouring property.

Part of the building proposed would face the front elevation of 1 Primrose Hill which contains two bedroom windows at first floor level and a lounge window at ground floor level. One of these bedroom windows would be only 9m from bedroom windows proposed at first floor level. Whilst the windows would be at a slight angle to one another, it is considered that the proposed development would create opportunities for overlooking of this neighbouring residential property which would result in a material loss of privacy for the occupiers of the dwelling.

In all of these situations, the overlooking could not be reduced to a reasonable level through the imposition of conditions without having an adverse impact on the quality of life of the occupiers of some of the proposed flats e.g. obscure glazing bedroom windows, screening around the balconies proposed.

#### Dominance and Loss of Outlook

As part of the previous appeal, the Inspector noted that the "building 65-71 [Crown Street] has its main elevation facing towards the proposed building and it contains a number of windows serving habitable rooms. .... This relationship with 65-71 would ... result in the significant bulk and mass of the proposed building being situated in such close proximity to that property such that it would appear domineering and overbearing from these windows. A situation exacerbated by the length and height of the elevation".

At its closest point, the proposed building would be located around 6m directly in front of the side elevation of 65-71 Crown Street which contains habitable room windows but would only be at single storey (up to 5.1m) in height at this point. However, there would be a three storey, around 11m high, section around 5m in length within 8m of this neighbouring side elevation and a four storey section, up to 13m in height, of around 10m in length around 10m from this neighbouring side elevation. It is considered that, as a result of this height and proximity, and the length of the side elevation proposed, the proposed development would adversely affect the outlook from these neighbouring habitable room windows to the detriment of the occupiers of this residential property.

The proposed building would be within a 45 degree angle of sight from existing habitable room windows on the front elevation of 1 Primrose Hill (a living room at ground floor level and two bedrooms at first floor level) and the proposed building would be located to the south of this existing property. However, the building would be 8m away at its closest point and the outlook from these windows would not be reduced to a degree which would result in material harm to the occupiers of this dwelling being caused especially as two of the habitable rooms affected have at least one secondary window on the dwelling's western side elevation. Hence, it is considered that the proposal would not cause material harm by virtue of dominance, loss of outlook, loss of sunlight or loss of daylight to the occupiers of 1 Primrose Hill.

With respect to the other neighbouring properties (including the office building at the junction of Primrose Hill and Crown Street, the Spiritualist and Breakthru Churches on Primrose Hill, Fielders Court flats on the opposite side of Crown Street and 24 Queens Street), it is considered that the proposed building would be a sufficient distance away from the site boundaries so as not to cause demonstrable harm to the occupiers of these neighbouring properties with respect to loss of outlook, dominance, loss of sunlight or loss of daylight.

To summarise the impact on the amenity of neighbouring occupiers, it is considered that the development would cause material harm to the occupiers of 65-71 Crown Street by reason of loss of privacy, loss of outlook and dominance, and to the occupiers of 1 Primrose Hill by reason of a loss of privacy, contrary to the NPPF (paragraph 17) and Policy CP1.

#### Quality of Life for the Occupiers of the Proposed Flats

All of the flats proposed would exceed the recommended minimum floorspace of 52sq.m. for two bedroom flats (Appendix 1 of Local Plan) and the recommended minimum floorspaces within the 'Technical housing standards - nationally described space standards' (i.e. a minimum of 70sq.m. for one storey, two bedroom, four person units and a minimum of 79sq.m. for two storey, two bedroom, four person units).

With regard to amenity space, the development would provide a garden area extending to around 165sq.m. with four of the proposed flats to be provided with balconies of at least 5sq.m. in area. Taking into account the minimum standards usually expected (a communal area of at least 25sq.m. per flat or a balcony of at least 5sq.m. per flat) and the edge of town centre location of the site, it is considered that the proposal would make adequate provision for amenity space for the occupiers of the proposed flats. The proposal also makes adequate provision for off-street parking and cycle parking (see below) and provision for bin storage is made.

#### Highway Safety and Parking

With respect to off-street parking, the proposal would accommodate 10 parking spaces in an underground parking area and 6 cycle parking spaces. This would equate to at least one car parking space for each flat proposed.

The adopted parking standards would require two car parking spaces for each flat with two or more bedrooms, and one cycle parking space per flat. This would equate to a requirement for 20 car parking spaces plus visitor spaces of 0.25 per flat and 10 cycle parking spaces. The proposal would be slightly below the minimum requirement for cycle parking and the car parking provision would be below the car parking standard normally required. However, the site is located within an urban area. The adopted parking standard states that, for main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development. Main urban areas are defined as those having frequent and extensive public transport and cycle and walking links, accessing education, healthcare, food shopping and employment. It is considered that, given the location of the site at the edge of the town centre where there is good access to frequent and extensive public transport, town centre facilities and car parks, a reduction in the off street parking requirement is appropriate in this case and that the provision of one parking space per flat would be an adequate provision. This is in line with other recent permissions near the station. The Highways Officer does not raise objection to the

proposal subject to conditions being imposed, also making reference to the existing on-street waiting restrictions outside the site.

The Highways Officer also raises no objection to the proposed vehicular access to the site on highway safety grounds making reference to the existence and use of the site and its access, the layout of the existing site in relation to Crown Street and Primrose Hill, and the scale of the development.

On the basis of the above, it is considered that the proposal complies with the NPPF (paragraph 17), Policy T2, Policy CP1 (criteria iv and v), Policy T14, and Policies CP2 and CP3, subject to the imposition of conditions including a requirement for a Construction Method Statement, provision of the proposed cycle parking, and the provision of a sustainable transport mitigation package.

#### Education and Public Open Space

Essex County Council has not advised that the proposal would generate the need to provide any school provision but the proposal would generate a commuted sum payment (in the region of £60,000) for existing open space provision. The applicant previously advised that they are aware that such payments would be requested. On the basis that the applicant is willing to enter into a Section 106 Agreement to secure the payment of a commuted sum towards public open space, the proposal would comply with Policy CP4 and Policy LT4.

#### Contamination

As part of the Geo-Technical Investigation report submitted as part of the previous application, contaminants were found at the site. However, based on the advice of the Environmental Health Officer, it is considered that the proposed development would not pose an unacceptable risk to local occupiers or the occupiers of the proposed flats as a result of this contamination provided that the recommendations within the report are carried out and the conditions recommended by the Environmental Health Officer are imposed. As a result, the proposal complies with the NPPF (section 11), Policy PC1, and Policy CP1 (criteria vii).

#### Ground stability

A number of the representations received refer to concerns regarding the stability of the site. However, based on the advice of the Building Control Officer, it is considered that this can adequately be dealt with as part of the approval of Building Regulations for the development and, as result, the proposal complies with the NPPF (section 11).



## Representations

Most of the matters raised through the representations received have been addressed above. With respect to those matters which have not, the following comments are made:-

- Reference is made to the proposal contributing towards the provision of housing within the Borough and that the site would deteriorate if it were not developed, but it is not considered that these matters outweigh the harm the development would cause (see below)
- the proposal would accord with the minimum density requirements referred to in Policy H14 of 65 dwellings per hectare in town and district centres but this requirement no longer accords with national planning policy and so has not been afforded any weight in the assessment of the proposed development
- The method of construction would be a matter for Building Control; damage to neighbouring properties would be a civil matter to be resolved privately between the relevant parties.
- antisocial behaviour would be a matter for the police and there is no evidence that the proposal would directly lead to an increase in antisocial problems or significant disturbance
- The increased demand on infrastructure and drainage are technical matters which would need to be addressed as part of other legislation and regulations.
- Noise and disruption during construction would be temporary and not sufficient reason to refuse planning permission for the development, and could be minimised through the imposition of a condition limiting working hours etc.
- Loss of property value and view are not material planning considerations
- Other matters raised, such as reduced light to Primrose Hill inhibiting melting of ice on road are not material planning considerations
- imposing a condition requiring the refurbishment of the existing church would not meet the relevant tests for reasonable conditions

## Framework Balance

The proposal would make a contribution to housing supply and the Council acknowledges that the provision of 9 additional residential units would be a benefit and would also represent a small boost to local building and supplies businesses. The Council acknowledges that it is unable to identify a full five years supply of housing. Therefore, in accordance with paragraph 49 of the National Planning Policy Framework, the Council's current adopted policy relevant to the supply of housing is not considered to be up-to-date. The effect of this shortfall in identified housing land is that the provisions of paragraph 14 of the Framework come into play. For decision taking this means that applications for residential development should be granted permission unless any adverse impacts of granting permission would significantly and demonstratively outweigh the benefits of the development when considered against the policies of the Framework as a whole. However, the deficit in housing land is small and takes no account of windfall sites that have made up 21% of the dwellings built in the Borough over the past five years. In light of the above, it is considered that a five year land supply for housing will easily be made and, therefore, that the matter of housing supply should be afforded little

weight in the determination of this application. Brentwood Replacement Local Plan (2005) Policy CP1 and Policy LT11 are referred to in the reasons for refusal. These policies are not concerned with land allocation or development restraint. The objectives of Policy CP1 as regards safeguarding character and appearance and the promotion of high standards of design and layout and Policy LT11 as regards the retention of existing community facilities are consistent with the objectives of the Framework and in this respect Policy CP1 and Policy LT11 should be given full weight. As a result, it is not considered that the presumption in favour of development exists in this case. However, even if it did, the development would cause significant adverse impacts which would significantly and demonstrably outweigh the benefits of the development when considered against the Framework as a whole. Therefore, the presumption in favour of granting planning permission does not apply in this case.

### Conclusion

On the basis of the above assessment, it is considered that planning permission should be refused for the proposal development for the following reasons:-

The existing Breakthru Church is a valued community facility. The significant loss of off-street parking spaces and reduction in the extent of the curtilage of the building proposed could threaten the continued beneficial use of the church and, if the Breakthru Church vacates the site, could reduce the viability for continued or re-use of the building as a community facility, contrary to the aims of Policy LT11 of the Brentwood Replacement Local Plan and the NPPF (paragraph 70).

The proposed development would, as a result of the size, height, scale, massing and design of the building proposed, be an incongruous element in the street scene to the detriment of the character and appearance of the area, contrary to the NPPF (section 7) and Policies CP1 (criteria i and iii) of the Brentwood Replacement Local Plan.

The development proposed, as a result of the height, position, design and bulk of the building proposed, would harm the amenity of the occupiers of neighbouring residential properties by reason of loss of privacy (1 Primrose Hill and 65-71 Crown Street) and loss of outlook and dominance (65-71 Crown Street), contrary to the NPPF (paragraph 17) and Policy CP1 (criterion ii) of the Brentwood Replacement Local Plan.

It is acknowledged that the currently proposed scheme would be less harmful overall than the scheme the subject of the previous appeal (reference 13/01076/FUL) but the development would still cause significant adverse impacts which would significantly and demonstrably outweigh the benefits of the development.

## 7. Recommendation

The Application be REFUSED for the following reasons:-

R1 U12115

The existing Breakthru Church is a valued community facility. The significant loss of off-street parking spaces and reduction in the extent of the curtilage of the building proposed could threaten the continued beneficial use of the church and, if the Breakthru Church vacate the site, could reduce the viability for continued or re-use of the building as a community facility, contrary to the aims of Policy LT11 of the Brentwood Replacement Local Plan and the NPPF (paragraph 70).

R2 U12130

The proposed development would, as a result of the size, height, scale, massing and design of the building proposed, be an incongruous element in the street scene to the detriment of the character and appearance of the area, contrary to the NPPF (section 7) and Policies CP1 (criteria i and iii) of the Brentwood Replacement Local Plan.

R3 U12131

The development proposed, as a result of the height, position, design and bulk of the building proposed, would harm the amenity of the occupiers of neighbouring residential properties by reason of loss of privacy (1 Primrose Hill and 65-71 Crown Street) and loss of outlook and dominance (65-71 Crown Street), contrary to the NPPF (paragraph 17) and Policy CP1 (criterion ii) of the Brentwood Replacement Local Plan.

### Informative(s)

1 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1-4, H14, T2, T14, LT4, LT11, C5, PC1, TC1-2, TC5 the National Planning Policy Framework 2012 and NPPG 2014.

2 INF20

The drawing numbers listed above are relevant to this decision

### 3 INF25

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

#### *BACKGROUND DOCUMENTS*

#### **DECIDED:**

Appendix A



Title : 59 Crown Street

15/01430/FUL

Scale at A4 : 1:1250

Date : 1st March 2016

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



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**SITE PLAN ATTACHED**

**06. LAND ADJACENT MANHATTEN FARM LITTLE WARLEY HALL LANE  
LITTLE WARLEY ESSEX**

**DEMOLITION OF EXISTING DWELLING AND OUTBUILDINGS AND  
CONSTRUCTION OF 2 NO. DWELLINGS.**

**APPLICATION NO: 15/01459/FUL**

<b>WARD</b>	Warley	<b>8/13 WEEK DATE</b>	01.01.2016
<b>PARISH</b>		<b>POLICIES</b>	NPPF NPPG CP1 GB1 GB2
<b>CASE OFFICER</b>	Mr Mike Ovenden	01277 312500	
<b>Drawing no(s) relevant to this decision:</b>	7946-01; 7946-02; 7946-03; 7946-04; 7946-05; 7946-06; DESIGN AND ACCESS STATEMENT; PLANNING STATEMENT; ARBORICULTURAL IMPACT REPORT; PRELIMINARY ECOLOGY APPRAISAL;		

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

Approval would clear up this Brownfield site and give community much needed 2 residences.

**1. Proposals**

This application relates to the erection of a 'replacement dwelling' - there is a mobile home on the site with the benefit of a certificate of lawful development - and the erection of an additional dwelling to replace all existing 'outbuildings'. Both dwellings would be four bedroom bungalows, of the same design though handed and one would be rendered, the other clad in weatherboarding. The scheme also involves closing the existing access and creating a replacement access approximately 25 metres to the north.

## 2. Policy Context

National Policy:  
NPPF - Chapter 9 Protecting Green Belt Land  
NPPG - Guidance

Brentwood Replacement Local Plan  
CP1 - General Development Criteria  
GB1 - New Development within the Green Belt  
GB2 - Development Criteria (within the Green Belt)

## 3. Relevant History

- 06/00744/FUL: Outline Application For The Replacement Of A Mobile Home By A Permanent Dwelling -Application Refused
- 02/00022/S191: Use Of Mobile Home As A Separate Dwellinghouse -Application Permitted

## 4. Neighbour Responses

None received

## 5. Consultation Responses

- **Highway Authority:**

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

1. The application as submitted does not include sufficient information to properly determine the highway impact of the proposed development.

Note - Were amended plans to be submitted showing what visibility is achievable at both the existing and proposed access the Highway Authority would reconsider the application.

- **Essex & Suffolk Water:**

None submitted

- **Anglian Water Services Ltd:**

None submitted

- **Arboriculturalist:**

None submitted

- **Design Officer:**

I understand that the main issues are greenbelt related and therefore I offer no design comments.



## 6. Summary of Issues

### Green Belt

The site is in open Green Belt countryside and is therefore subject to the local and national policies that apply in the Green Belt. The National Policy for Green Belts appears in Part 9 "Protecting Green Belt Land" of the National Planning Policy Framework (NPPF - the Framework). The Framework indicates that openness is one of the essential characteristics of Green Belts and paragraph 80 sets out the five purposes of the Green Belt.

The Framework indicates that within Green Belts inappropriate development is harmful and should not be approved except in very special circumstances. With a few exceptions the construction of new buildings in the Green Belt is inappropriate development. These exceptions are set out in Paragraph 89 of the Framework and paragraph 90 indicates certain other forms of development that are not "inappropriate" in the Green Belt. Paragraph 89 indicates that the replacement of a building may not be inappropriate provided that the replacement building is in the same use and is not materially larger than the existing building. That provision does not apply here as the proposed development is residential and there are no authorised dwellings on the site.

The issue of replacing the existing mobile home has been considered by an application and a dismissed appeal in 2008. This is within the lifetime of the current local plan and whilst national policy on greenbelts has been republished in the framework replacing Planning Policy Guidance 2 Green belts (PPG2), the two documents maintain the same approach to replacement dwellings. Local plan policy GB6 is partly compliant with the NPPF - those elements that are not NPPF compliant (parts i, ii and iii) have not been considered in the determination of this application.

The existing mobile home is not a lawful dwelling - it is merely immune from enforcement action. The inspector stated in his 2008 appeal decision stated "In any event it is unauthorised and based on GB6 and in the absence of any hard evidence to the contrary from the appellants, it is clear to me that the proposal represents inappropriate development in the greenbelt. Such development would be, by definition, harmful to the green belt".

In paragraph 7.9 the applicant refers to the mobile home as being a "permanent structure and not sited on wheels. The only way to remove this from the site would be its complete demolition. The dwelling is also served by a residential curtilage, albeit a relatively small one in relation to the size of the plot". The applicant has not explained why the mobile home should be described as a permanent structure when the inspector reached the clear view that it was not. The description of the mobile home at the time (2006 application) matches the mobile currently on the site - which suggests it is the same mobile home - and while it will be eight years older than at the time of the last appeal and potentially less robust, no evidence has been submitted to justify this new description. There is a small fenced area adjacent to the mobile home but this does not have any lawful residential status.

Notwithstanding the above, even if the mobile home was a lawful dwelling given its small size - 56 sqm, approximately 6 metres wide by 9 metres long and 3 metres tall - the erection of a dwelling of 180 sqm, approximately 17m by 14 m and 5.4 metres tall would be materially larger than the existing mobile home. That would make it inappropriate development in the green belt. It is noted that the dismissed 2008 proposal would have been 95 sqm which at the time of the application was considered to be materially larger - it was almost double the floorspace of the mobile home. This proposal is over three times the size of the mobile home. Consequently if viewed as a replacement dwelling it would be judged to be inappropriate development due to its much increased size.

Paragraph 90 also indicates that the redevelopment of previously developed sites may not be inappropriate provided that the new development would not have a greater impact on openness and the purposes of including land in the Green Belt than the existing development.

The applicant draws attention to Paragraph 89 and indicates that the application site is a "previously developed site" but care must be taken when interpreting this statement. The Framework definition of "Previously Developed Land" (PDL) (in Annex 2) excludes land that is or has been occupied by agricultural buildings. The applicant refers to the buildings as former agricultural buildings and in the D&A statement (7.8) refers to the potential of 'retention of agricultural uses' or 'alternative forms of farm diversification'. The planning history does not indicate any permission or certificate of lawfulness to indicate any material change of use from agriculture. On that basis the site is not previously developed land.

Notwithstanding this the following analysis is based on the site falling within the Framework definition of PDL. The application indicates that the footprint of the proposal would no more than that of the existing buildings (approximately 360 sq m). The existing buildings are single-storey but of differing heights; however the survey drawing indicates that the maximum ridge height of the largest building is about 4m with others being lower. This compares to 5.4m indicated for the proposed dwellings. It is accepted that not all parts of the dwellings would be built to the maximum height; however it is considered that two dwellings of the footprint proposed here would be not only be taller but also bulkier than the existing buildings which are dispersed around the east and south edges of the site would therefore detract from the openness of the green belt. The applicant has indicated that there would be a significant reduction in hardstanding on the site but due to the screening around the edges of the site, the informal nature of some of the hardstanding and that it is limited to ground level its impact on the openness and therefore the benefit of its removal in the interests of the future openness of the greenbelt, is minimal.

Agricultural uses and buildings are to be expected in the Green Belt and the applicant may be correct in claiming that existing buildings may potentially be reused for non agricultural activities - subject to a planning application which would be considered on its merits - those uses would occupy existing rural buildings and it is considered that the encroachment of uses would therefore be less apparent than the new built development now proposed. This differentiation between uses and built development is consistent with the Framework which applies the "purposes of the Green Belt" test to the physical redevelopment of Green Belt land (paragraph 89) but not to the re-use of buildings in the Green Belt (paragraph 90).

It is considered that the proposal would have a greater impact on the openness of the Green Belt than the status quo and would result in an encroachment of development into the countryside in conflict with one of the purposes of the Green Belt. Therefore even if the applicant was able to demonstrate that the site is PDL the proposal would be inappropriate development in the Green Belt.

#### Character and appearance

Paragraph 109 of the Framework indicates that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The Framework does not define "valued" but given that paragraph 115 refers to nationally designated land it is considered that the value of local environment (as referred to in paragraph 109) is a matter for local people and their representatives to determine. The application site lies within an area defined as a Special Landscape Area in the RLP. This designation in itself now carries limited weight; however it is indicative of this being a valued landscape which should be protected and enhanced.

## Sustainability of location

Paragraph 55 of the Framework considers development in rural areas and indicates that housing should be located where it would enhance or maintain the vitality of local communities. The Framework indicates that local planning authorities should avoid new isolated homes in the countryside. The term "isolated" is not defined. In an extreme case it could mean remote from any other dwellings, which would not apply here; however within the full context of the Framework the term could reasonably be applied to dwellings which, whilst close to others, are remote from services and public transport.

The site has no services within reasonable every day walking and cycling distance and is not well served by public transport. It is considered that a very high proportion of all journeys to and from the dwellings would be made using private vehicles, most likely private cars. This would directly conflict with paragraph 35 of the Framework which indicates that developments should be located to give priority to pedestrian and cycle movements and should have access to high quality public transport facilities.

Taking account of the overall objective of the promotion of sustainable development it is considered that in terms of the Framework the site can reasonably be described as "isolated". The proposal would conflict with a fundamental objective of the Framework which indicates that sustainable solutions should be found for development.

## Highway safety

The proposal involves the creation of a replacement access, the original being closed. The existing access has poor visibility when emerging from the site. The proposed access is claimed by the applicant to represent an improvement in highway safety, although no details have been provided. If the proposal was otherwise acceptable it is likely that conditions could be attached to achieve a superior access to the existing one. However in the context of the other planning considerations, this issue is not sufficient to justify granting planning permission.

## Other considerations and Green Belt Balance

The Council cannot currently identify sufficient land for housing that would satisfy the requirements of the Framework and the two dwellings proposed would make a small contribution to the land available for development. However the 6 October 2014 revision to the on-line Planning Practice Guidance (Paragraph: 034 Reference ID: 3-034-20141006) made it clear that when taking decisions in respect of proposals in the Green Belt an unmet need for housing is unlikely to outweigh the harm to the Green Belt such as to constitute very special circumstances justifying inappropriate development within the Green Belt.

The proposal would be inappropriate development that would materially detract from openness and represent an encroachment of development into the countryside. It would therefore conflict with local plan Policies GB1 and GB2 and the objectives of the Framework as regards development in the Green Belt. The other matters that may weigh in favour of the proposal have been considered but they do not clearly outweigh the harm to the Green Belt or the other harms identified. Therefore very special circumstances to justify inappropriate development in the Green Belt do not exist.

Ecological and arboricultural reports have been submitted and do not identify any particularly issues arising from the proposed development.

Addendum:

Since the initial drafting of the report, the main issues have been discussed with the applicant's agent. In response that agent has sent an email which seeks to clarify/add additional information. This is summarised below and the full text is recorded on the file.

Use of the site - the 'green barns' were erected 14 years ago as agricultural barns but have always been let commercially. One is used for worktop manufacture, a second for making resin floors and a third for storing old cars. As there has been no agricultural use for 14 years we would argue that the site is brownfield. With regard to the mobile home, this was allowed on appeal and is therefore not unauthorised. A copy of the certificate is provided.

With regard to the existing use of the site, there is no evidence produced to support the claim although the appropriate mechanism for testing the evidence is via an application for certificate of lawful development. With regard to the status of the mobile home it is immune from enforcement action (having the benefit of a certificate of lawful development - though not granted on appeal) which is not the same as being 'authorised' and this is addressed on page 3 above.

## **7. Recommendation**

The Application be REFUSED for the following reasons:-

R1 U11889

The proposal would be inappropriate development that would materially detract from the openness of the Green Belt and represent an encroachment of development into the countryside. It would therefore conflict with Brentwood Replacement Local Plan 2005 Policies GB1 and GB2 and the objectives of the Framework as regards development in the Green Belt.

R2 U11890

The proposed housing would be in an unsustainable location and would unacceptably detract from the character and appearance of valued countryside. It would conflict with Brentwood Replacement Local Plan 2005 Policy CP1 and with the underlying objective of the Framework as regards sustainable development and the protection and enhancement of valued landscapes.

Informative(s)

1 INF05

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

2 INF20

The drawing numbers listed above are relevant to this decision

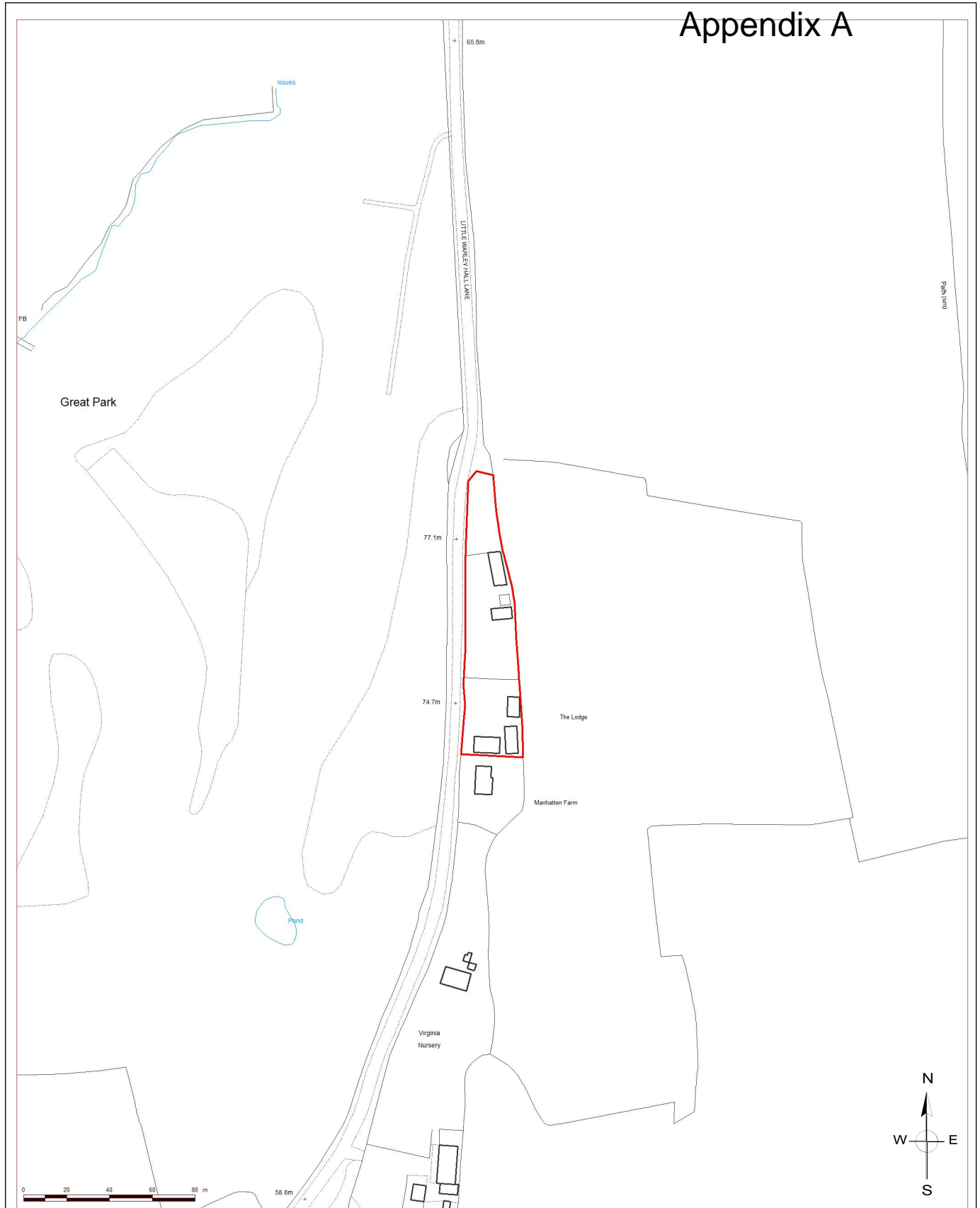
3 INF25

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

*BACKGROUND DOCUMENTS*

**DECIDED:**

# Appendix A



Title : Land Adjacent Manhattan Farm, Little Warley Hall Lane, Little Warley

15/01459/FUL

Scale at A4 : 1:2500

Date : 1st March 2016

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



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**1<sup>st</sup> March 2016**

## **Planning and Licensing Committee**

### **Planning and Building Control Fees and Charges Review**

**Report of:** *Gordon Glenday, Head of Planning and Development*

**Wards Affected:** *All*

**This report is:** *Public*

#### **1. Executive Summary**

- 1.1 In March 2015, the Planning and Development Committee approved a recommendation to review the Council's Planning and Building Control non-statutory fees and charges annually. The current fees and charges have been benchmarked against the rates charged in a number of other Boroughs to gauge how Brentwood's rates compare with similar services elsewhere. The evidence indicates that Brentwood is currently charging less for the discretionary planning services it provides than nearby authorities.
- 1.2 Officers have reviewed the schedule of fees and propose to increase the non statutory planning fees and charges to a more appropriate level which reflect the cost to the Council of providing the service. With regard to Building Control, however, it is considered that the current rates reflect the market level and so no changes are proposed to these rates.
- 1.3 This report recommends that as well as increasing the charges for some non statutory services currently offered at a cost, a new charge should be introduced for residential pre-application advice. This service is currently free to homeowners.

#### **2. Recommendations**

**That the Council's non-statutory Planning fees and charges be amended to the rates outlined in TABLE 2 of this report, with effect from 1 April 2016.**

### **3. Introduction and Background**

- 3.1 Certain fees and charges such as planning application fees are set by central government and so cannot be changed at the local level. However local authorities have the power to charge for the provision of discretionary services or decide not to provide such services at all. Most local authorities choose to provide a broader range of planning and building control services than the statutory minimum and exercise the power to charge for their provision. For example there is no requirement for local authorities to provide pre application advice although officers and developers find this a useful service to have available. A developer or householder can buy such advice from the market place or from the local authority if such a service is offered. In setting the level of charges local authorities are required to set the rates which broadly reflect the cost of providing the service.
- 3.2 Given the Council's on-going budget challenges, there is increasing pressure on service areas to generate and increase income wherever possible to contribute to the funding of the Borough's services. The Planning Service therefore needs to explore the opportunities available to generate income from the non-statutory services it offers in order to provide a high quality of service to its customers. This report has considered the fees currently charged by the Council compared with some other authorities to give an idea of the varying rates charged. Rates across other councils vary depending upon the cost and level of service provided.
- 3.3 To provide the level of service required in the current local government budgetary environment means that recovering costs through planning and building control fees is imperative. The rates proposed in TABLE 2 seek to generate an appropriate fee income for 2016/17 to meet the costs of delivering an effective pre-planning application service without making the charges prohibitive for developers or homeowners.

### **4. Proposed Planning and Building Control Fees and Charges**

- 4.1 The Borough's current fees and charges are set out on the Council's website so that all developers know the rates in advance of preparing their proposals. If the proposed changes to the Council's fees and charges are accepted, the new rates will need to be published, for example by uploading to the website, so that developers are aware of the changes.

**TABLE 1: BRENTWOOD COUNCIL'S CURRENT PLANNING FEES (inc VAT)**

<p><b>No Fee</b></p>	<p>A single meeting with householders living within Brentwood Borough and/or their agents concerning the extension or alteration of their dwelling (but not the redevelopment or replacement of their dwelling).</p> <p>A single meeting with the operators of businesses within Brentwood Borough and/or their agents concerning the extension or alteration of their business premises, including the proposed display of advertisements relating to those premises (but not the redevelopment of their businesses premises)</p> <p>The owners or occupiers of listed buildings concerning structural alterations to their buildings that would require listed building consent.</p>
<p><b>Band A - £100</b></p>	<p>Second or subsequent meetings with those entitled to a free first meeting (except in relation to Listed Building Consent issues where all meetings are free). Non-residents of Brentwood Borough in connection with extensions or alterations of dwellings within the Borough.</p>
<p><b>Band B - £500</b></p>	<p>Development comprising the extension or alteration of buildings, the construction of ten dwellings or fewer or non-residential development of less than 1000 sq m.</p> <p>The change of use of buildings resulting in equivalent accommodation or other development including the 'variation' of conditions or planning obligations</p>
<p><b>Band C - £1500</b></p>	<p>Developments in excess of ten dwellings or 1000 sq m of non-residential development where one meeting is required.</p> <p>Change of use of equivalent accommodation</p>
<p><b>Band D - £negotiable:-</b></p>	<p>Larger or more complex Band B or C developments where a developer may wish to embark on a programme of meetings.</p>

4.2 The Council has been working on its evidence base for fee setting to achieve cost recovery and while that work is ongoing it indicates that the level of fees and charges do not currently achieve cost recovery. A revised scale of charges is suggested and it is recommended that the fees be increased with immediate effect. The proposed revised schedule of non statutory planning fees and charges for the current Bands outlined in TABLE 1 to the levels outlined in TABLE 2.

**TABLE 2: PROPOSED PLANNING FEES AND CHARGES (inc VAT)**

<b>Band</b>	<b>Title</b>	<b>Written response only</b>	<b>Subsequent written response (following decision notice)</b>	<b>Single meeting with Planning Officer, with written response</b>	<b>Subsequent single meeting with Planning Officer, with written response (following decision notice)</b>
A	Householder extension or alteration	£80	£80	£200 (30 minutes)	£200 (30 minutes)
B	Replacement or erection of single dwelling	£100	£100	£400 (up to 1 hour)	£400 (up to 1 hour)
C	Minor Developments	£250	£250	£1,000 (1 hour)	£1,000 (1 hour)
D	Major Developments	N/A	N/A	£2,500 * (1-2 hour(s))	£2,500 * (1-2 hour(s))
E	Strategic	N/A	N/A	By Negotiation	By Negotiation
F	Listed Building	£80	£80	Site meeting and written response £400 (up to 1 hour)	By Negotiation

If you wish to obtain Specialist advice such as Listed Building, Design Advice, Building Control, Arboricultural or Environmental Health, on any of the above categories, please add an additional £80, per specialist per hour to the above total shown. All fees stated above include VAT.

### **Explanation of Bands**

- A- All householder residential extensions, single, two storey etc.
- B- One replacement dwelling or creation of one additional dwelling or annexe
- C- Net increase or creation of 2 to 9 dwellings.  
Change of use of a building.  
Creation, extension or alteration of a non residential unit with a total floor space up to 999 square metres.

- D- Net increase or creation of 10 to 49 dwellings.  
Creation, extension or alteration of a non residential unit with a total floor space of 1,000 square metres to 4,999 square metres.  
\* DTM (Development Team Meeting) by agreement
- E- Net increase or creation of 50 dwellings and over.  
Creation, extension or alteration of a non residential unit with a floor space over 5,000 square metres.
- F- Listed Building advice for works that do not require planning permission

Any categories not covered by the above, by negotiation.

- 4.3 With regard to Building Control fees, it is considered that the current rates charged already reflect the cost of providing the service and so no increase is proposed.

## **5. Reasons for Recommendation**

- 5.1 The Council agreed to review its non statutory planning fees and charges annually. The proposed review of the non statutory planning fees and charges outlined in Section 4 of this report will better position Brentwood's Planning and Building Control services to fund the increasing needs for high quality, cost effective services.
- 5.2 It is important to acknowledge that any increased fee income resulting from the proposed increase in fees and charges is justified on the basis that the planning and building control services need to be delivered to a high standard. Such a high quality service requires appropriate funding to deliver the services that the higher fee paying developers will expect. The Council must provide value for money for the services it charges. The purpose of the fees is to meet the costs of providing these non statutory services. It is therefore proposed that all planning and building control non statutory fee income is ring-fenced to the Planning Service area in order to comply with the legislation, justify the charges and reassure developers that the service they are paying for will be delivered effectively.
- 5.3 It is difficult to be precise as to how much additional income the proposed new rates would generate as this very much depends upon the development industry's willingness to buy the services offered. However, as the Council currently provides a free service for over 300 residential applications the introduction of a £200 fee for meetings could generate a significant additional income. However, the introduction of a charge could put some householders off from using the service so the number of requests for residential pre-

application advice could well reduce and the introduction of a fee for written advice only at a lower charge of £80 will now also be available. Nevertheless, given the overall costs of an average household development (build costs and other professional fees), a £200 charge is still relatively modest. If it is assumed that if there is a reduced demand from 300 to 200 residential requests per annum, this would still generate circa £40k pa from residential applications alone. Increases to the other Bands is more difficult to assess but it is reasonable to assume that there could be an increase in these fees of £10k.

- 5.4 Officers propose to keep the matter under review and add to its evidence base for future fees setting decisions.

## 6. **Consultation**

- 6.1 Discussions with staff have been held in the preparation of this report. Benchmarking against the fees and charges of other similar local authorities has also been undertaken.

## 7. **References to the Corporate Plan**

- 7.1 Proposals in this report support the Modern Council theme of the Corporate Plan in making efficiencies and savings, while improving service delivery to customers.
- 7.2 The planning service itself supports the Prosperous Borough theme by its promotion of quality development and growth.

## 8. **Implications**

### **Financial Implications**

**Name & Title: Chris Leslie, Finance Director**

**Tel & Email 012777 312712 /chris.leslie@brentwood.gov.uk**

- 8.1 If the proposed Planning and Building Control fees and charges are approved and introduced for 1 April 2016, the Council's fee income for planning services could increase by circa £50K in 2015/16 based on previous levels of planning service charges. If this income level were to be achieved for 2016/17, it would make a significant contribution towards the Council's budget deficit. It must be stressed, however, that this income cannot be guaranteed and is reliant on the development industry coming forward with development proposals and agreeing to pay the non statutory fees and charges proposed.

## **Legal Implications**

**Name & Title:** Daniel Toohey, Head of Legal Services and Monitoring Officer

**Tel & Email** 01277 312703 daniel.toohey@brentwood.gov.uk

- 8.2 The Local Government Act 1999 provides that the Council is under a general duty to "make arrangements to secure continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness" Statutory Guidance, revised in September 2011, emphasises that authorities should engage service users and the wider community in consultation on options for the future and reshaping of the service.

Charges for discretionary services such as pre-application advice and planning performance agreements are allowed by the Local Government Act 2003

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

- 8.4 No other implications are identified.

## **9. Background Papers**

- 9.1 None

## **10. Appendices to this report**

None

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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.