



Agenda

Planning and Licensing Committee

Wednesday, 21 February 2018 at 7.00 pm

Brentwood County High School, Shenfield Common, Seven Arches Road,
Brentwood CM14 4JF

Membership (Quorum – 4)

Cllrs Ms Sanders (Chair), Faragher (Vice-Chair), Bridge, Chilvers, Mrs Middlehurst, Morrissey, Mrs Murphy, Mynott, Newberry, Reed, Mrs Slade and Wiles

Substitute Members


Cllrs Barrett, Mrs Coe, Mrs Davies, Mrs Fulcher, Mrs Pound, Russell and Trump

Agenda

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Report to follow.

7. Urgent Business



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

Chief Executive

Town Hall
Brentwood, Essex
13.02.2018

Information for Members

Substitutes

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

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

Rights to Attend and Speak

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

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

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

Point of Order/ Personal explanation/ Point of Information

Point of Order

A member may raise a point of order at any time. The Mayor 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 Mayor on the point of order will be final.

Personal Explanation

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 Mayor on the admissibility of a personal explanation will be final.

Point of Information or clarification

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 Mayor. The Member must specify the nature of the information he/she wishes to provide and its importance to the current debate. If the Mayor 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 Mayor on the admissibility of a point of information or clarification will be final.

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

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The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of

these activities, in their opinion, are disrupting proceedings at the meeting.

 **Private Session**

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

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 **Access**

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 **Evacuation Procedures**

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



Minutes

Planning and Licensing Committee Wednesday, 31st January, 2018

Attendance

Cllr Ms Sanders (Chair)	Cllr Mynott
Cllr Faragher (Vice-Chair)	Cllr Newberry
Cllr Bridge	Cllr Reed
Cllr Chilvers	Cllr Mrs Slade
Cllr Mrs Middlehurst	Cllr Wiles
Cllr Mrs Murphy	

Apologies

Substitute Present

Also Present

Cllr Kerlake	-	West Horndon Parish Council
Cllr Foan	-	Blackmore Parish Council
Cllr Lockhart	-	

Officers Present

Paul Adams	-	Principal Licensing Officer
Surinder Atkar	-	Planning Solicitor
Philip Drane	-	Planning Policy Team Leader
Claire Mayhew	-	Governance and Member Support Officer
Paulette McAllister	-	Principal Urban Design and Heritage Officer
Steve Plumb	-	Arboriculturalist
Gavin Dennett	-	Environmental Health and Licensing Manager
Philip Ruck	-	Chief Executive
Jacqueline Van Mellaerts	-	Financial Services Manager

258. Apologies for Absence

No apologies were received for this meeting. However, Cllr Morrissey was not in attendance.

259. Minutes of the Previous Meeting

The minutes of the meeting held on 12th December 2017 were approved as a true record.

260. Variation of the agenda

Cllr Ms Sanders, **MOVED** and Cllr Faragher **SECONDED** that item 5 - Planning Application 17/01527/OUT - Bridge Head Quarters, Rayleigh Road be debate before Item 3 – Setting of Hackney Carriage and Private Hire Driver License Fees for 2017/2018.

However, due to a technical issue with the Planning Presentation the Chair reverted back to the original agenda until the item was resolved.

261. Setting of Hackney Carriage and Private Hire Driver License fees for 2017/18

The report was to agree the Fees and charges associated with Hackney Carriage and Private Hire Driver License application for 2017/2018 period, for recommendation to Council for setting.

Mr Hayter from the Taxi Trade Consultative Group was present and permission for Chair was given for him to address the committee in objection to the recommendation.

Cllr Mynott, made reference to the Internal Audit report and queried the figures on Page 40 relating to Actual and Budget this was clarified by the Finance Service Manager and Licensing Officer.

A motion for approval the recommendation was **MOVED** by Cllr Ms Sander and **SECONDED** by Cllr Bridge, subject to the Fees commencing on 1st April 2018.

1. Members to agree the schedule of fees shown in Appendix B and recommend to Council for adoption.

A vote was taken by a show of hands and it was **APPROVED**.

Reasons for Recommendation

The fees and charges once approved have to be agreed by Council. The fees proposed are on a cost recovery basis where possible.

262. Variation of the Agenda

The Chair informed the committee will now debate item 5 - Planning Application 17/01527/OUT - Bridge Head Quarters, Rayleigh Road before item 4, as the technical issue had been resolved.

**263. Brigade Head Quarters, Rayleigh Close, Hutton, Brentwood, Essex
Application Number: 17/01527/OUT**

Outline application for the construction of a 55 bed assisted living and 77 bed car home development together with associated communal facilities, access, basement car, cycle and mobility scooter parking, refuse storage area, landscaped grounds and associated works following demolition of existing building. (Landscaping reserved matters).

Mr Armstrong, an objector, was present and addressed the committee setting out his concerns in relating to the application highlighting on the removal the well-established trees and the size of the development, stating that a 3 storey dwelling would be more acceptable.

Ms Groot, Beech House and Laurel Court Residents Association, was also present and addressed the committee setting out the concerns of the residents of Beech House and Laurel Court.

Mr Bond, the agent, was present and addressed to committee in support of the application.

Cllr Kerlake, Ward Member was present and address the committee. He has visited to the on a number of occasions and has attending pre-application meetings and seen the development of the scheme from the beginning it a large site and import to the local residents and the Borough of Brentwood. He expressed his concerns that if this application was not approved, there is a possibility that the Council will received an application for housing. If this was approved this would be cause traffic congestion, noise and many other problems.

The key issues for residents with the current application is the visual impact of the development with the tree screening. Would like to see a condition be included, requiring the applicant to submitted a detailed landscaping plan. Which can be agreed by the relevant Officers together with Cllr Faragher/Cllr Kerlake on behalf of the residents.

Concerns were expressing by Members of the Committee on the size and mass of the proposed development, the overbearing to neighbours properties and that the screening of trees and scrubs is retained.

Condition to be added relating to a consultation between relevant officers, chair and ward member to agree the landscaping.

A motion was **MOVED** by Cllr Bridge and **SECONDED** by Cllr Faragher to approve the application the subject in the report, with an additional condition and an amendment of a condition relating to a consultation between relevant

officers, chair and ward member to agree the landscaping on a subsequent reserved matters application.

A vote was taken by a show of hands and the Members voted as follows:

FOR: Cllrs Wiles, Mrs Murphy, Ms Middlehurst, Reed, Ms Slade, Bridge, Ms Sanders and Faragher (8)

AGAINST: Cllrs Chilvers, Mynott and Newberry (3)

ABSTAIN: (0)

The motion was **CARRIED** subject to the following conditions:-

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with Section 92 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 be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from date of approval of the last reserved matters to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

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

4. A schedule of all external surface materials including walls and roofs, and a schedule of all external joinery, indicating the proposed finish and decoration to be used, shall be submitted to and approved by the local planning authority in writing prior to the commencement of any works. The development shall be constructed in full accordance with the approved details.

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

- 5 Works shall not be commenced until sample panels of 1 square metre minimum shall be erected on site to show areas of new, exterior walling, have been approved in writing by the local planning authority. Where appropriate, these panels shall indicate: brick bond, copings, mortar mix, colour and pointing profile, render mix, finish and colour. The works shall be implemented in accordance with the approved details and shall be permanently maintained as such.

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

- 6 Works shall not be commenced until additional drawings that show details of proposed new windows, doors, eaves, verges, cills and coping to be used by section and elevation at scales between 1:20 and 1:1 as appropriate have been submitted to and approved in writing by the local planning authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such.

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

- 7 All windows and doors in masonry walls shall be inset at least 70mm, fitted with sub-cills and permanently maintained as such. No visible trickle vents/vent strips.

In order to safeguard the character and appearance of the area

- 8 No electricity, gas or water meter boxes shall be fixed to the external fabric of the building. All electrical and telephone services to the development shall be run underground.

In order to safeguard the character and appearance of the area

- 9 All soil and waste plumbing shall be run internally and shall not be visible on the exterior.

In order to safeguard the character and appearance of the area

- 10 The development 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. 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.

- 11 All trees and hedges to be retained, including trees outside the site whose canopies overhang the site, shall be protected by strong

fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.

Reason: In order to protect trees and hedges of importance to safeguard the character and appearance of the area.

12 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.

13 Prior to occupation of the development and as shown in drawing no 66041-TS-002, the site access at its centre line shall be provided with a clear to ground visibility splays, with dimensions of 2.4 metres by 48 metres to the east and 2.4 metres by 47 metres to the west as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided prior to first occupation and retained free of any obstruction at all times.

To provide adequate inter-visibility between vehicles using the site access and those in the existing public highway in the interest of highway safety in accordance with Policy T2 of the Brentwood Replacement Local Plan

14 Prior to occupation the proposed new pedestrian footway access shall be provided with a minimum two metre width for its entire length

To provide a safe link for both pedestrians and the mobility impaired in the interest of accessibility in accordance with Policy T2 of the Brentwood Replacement Local Plan.

- 15 Prior to occupation the existing bus stops on both sides of the A129 Rayleigh Road to the west of the site shall be improved to Essex County Council specifications. The eastbound stop shall be relocated approximately 25 metres to the west of its existing location i.e. further away from the traffic signals and shall be provided with raised kerbs to facilitate pedestrian and wheelchair access as well as timetable information. The existing westbound stop shall be provided with raised kerbs and a new bus shelter to incorporate new timetable information.

To encourage trips by public transport in the interest of accessibility in accordance with Policy T2 of the Brentwood Replacement Local Plan.

- 15 The proposed development shall not be occupied until such time as the vehicle parking area including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area shall be retained in this form at 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.

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 in accordance with Policy T2 of the Brentwood Replacement Local Plan.

- 16 Cycle parking for both the assisted living and the care home shall be provided in accordance with the Council's parking standards. The approved facilities shall be secure, convenient, covered and provided prior to occupation and retained at all times.

To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy T2 of the Brentwood Replacement Local Plan.

- 17 No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the approved foul water strategy.

To prevent environmental and amenity problems arising from flooding.

- 18 No drainage works shall commence until a surface management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas shall be constructed until the works have been carried out in accordance with the approved surface water strategy.

19 Other than the staff the assisted living residential units shall not be occupied other than by a 'qualified person', defined as:

- i). Persons of more than 65 years of age;
- ii). Persons living as part of a single household with such a person or persons;
- iii). Persons who were living as part of a single household with such a person or persons who have since died.
- iv) Persons in need of personal care by reason of old age, illness or disablement.

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

20. The assisted living units shall not be occupied other than by persons who are, assessed on admission, as a qualified person in need of care. All potential residents of the assisted living units will be assessed as to their care needs before occupation by the onsite assisted living manager and on occupation agree to be contracted into a minimum care package.

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

To prevent environmental and amenity problems arising from flooding.

21. Before development commences a noise acoustic report identifying the plant equipment's combined noise output from a set distance from the plant room shall be submitted to and approved by the Local Planning Authority. The recommendations in the report shall be implemented before the development is first occupied.

In the interests of protecting the living conditions of the neighbouring residents.

264. Licensing Fees and Charges

The report was to agree fees and charges associated with licence applications for the 2018/19 period, for recommendation to Council for setting.

A motion was **MOVED** by Cllr Ms Sanders and **SECONDED** by Cllr Faragher to approve the recommendation in the report.

A vote was taken by a show of hand and is was **RESOLVED**.

1. **To recommend to Council the adoption of the licence fees as detailed in Appendix A.**

Reasons for Recommendation

The fees and charges have to be agreed by Council and cannot be set by this committee. The fees proposed are on a cost recovery basis where possible.

265. Response to the Epping Forest District Local Plan

The report seeks Members approval on a formal response to Epping Forest District Council's Local Plan Submission Version (December 2017). A response has been submitted to comply with the consultation deadline, subject to the approval of the Council's Planning and Licensing Committee.

The Council's response sets out general support for the Epping Forest Local Plan, with concerns expressed over the Plan not meeting the five-year housing supply and lack of clarity as to the actual housing figures.

Both Councils have a "Duty to Cooperate" on strategic priorities, such as planning issues that cross administrative boundaries. These priorities include housing and Gypsy, Traveller and Travelling Showpeople site allocations; conservation of the natural and built environment; and green infrastructure. Although Epping Forest District Council are at the Pre-Submission stage of their Local Plan, the two councils will continue to engage through the duty to cooperate, even after both respective Local Plans have been adopted.

A motion was **MOVED** by Cllr Ms Sanders and **SECONDED** by Cllr Faragher to approve the recommendation in the report.

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

- 1. To approve the response to the Epping Forest Local Plan Submission Version (December 2017), as set out in Appendix A.**

Reasons for Recommendation

The Epping Forest Local Plan Submission Version (2017) has been considered by Officers to be in general conformity with the duty to cooperate, soundness, and legally complaint. Therefore, support of the Plan is proposed. Concerns are raised as outlined in section 4 of the report.

It is considered appropriate that Brentwood Borough Council express general support for the way Epping Forest District Council has moved forward with challenging local development needs, and a commitment to continued collaboration through the duty to cooperate on strategic planning matters that affects our two areas.

266. Urgent Business

This report sets out the Council's Planning fees and charges. Planning fees are set by central government.

As per the settlement announcement, the Secretary of State confirmed local authorities will be able to increase Planning Fees by 20 per cent when they commit to spending additional income on their planning services.

Legislation has been updated as of 20th December 2017 stating the increased statutory Fees. These are set out in Appendix A.

A motion was **MOVED** by Cllr Ms Sanders and **SECONDED** by Cllr Faragher to approve the recommendations in the report, subject to an amendment to 1.1 to state:-

1. That members agree note the fees and charges as in Appendix A to come which comes into effect from 5th February 2018.
2. That members acknowledge the additional income raise from these fees will be re-invested into improve the delivery of the planning service.

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

The meeting concluded at 21:05

SITE PLAN ATTACHED

6C HATCH ROAD PILGRIMS HATCH ESSEX CM15 9PX

CONSTRUCT DETACHED GARAGE (PART RETROSPECTIVE)

APPLICATION NO: 17/01775/FUL

WARD	Pilgrims Hatch	8/13 WEEK DATE	07.02.2018
PARISH		POLICIES	NPPF, CP1
CASE OFFICER	Ms Brooke Pride	01277 312500	
Drawing no(s) relevant to this decision:	1705 BR-SLP01 ; 1705 BR-SLP02 ; 1705 BR-BR01 ; 1705 BR-BR02 ; 1705 BR-BR03 ;		

1. Proposals

The application seeks planning permission for the retention of a garage.

2. Policy Context

The starting point for determining an application is the development plan, in this instance, the Brentwood Replacement Local Plan (RLP) 2005. Applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant material considerations for determining this application are the following RLP policies, the National Planning Policy Framework (NPPF) 2012 and National Planning Policy Guidance (NPPG) 2014.

RLP Policy: Policy CP1 General Development Criteria.

NPPF Sections: Core Planning Principles.

3. Relevant History

- 11/01238/FUL : Development of 4 no semi detached houses, granted permission on appeal
- 17/01104/FUL: Single storey rear extension – Application Permitted.

4. Neighbour Responses

This application has been advertised by way of individual neighbour notification letters.

Detailed below is a summary of the neighbour comments. The full version of each neighbour response can be viewed on the Council's website via Public Access at the following link: <http://publicaccess.brentwood.gov.uk/online-applications/>

Two Neighbour representations were received:

- I was given the understanding that there would be no further development on this site without the PRIOR grant of specific planning permission by the local planning authority.
- The site is a mess with rubbish and wheelie bins. The garage has ruined the road which has been a tidy area to live.
- The garage is not in keeping with the rest of the area. It's large and dominates the street.

One letter of support was received:

- The land belonging to 6C has been clear and the rubbish and wheelie bins belong to 6B.
- The site has now been cleared and works were kept to a minimum time.
- It is within keeping with the street scene and the same materials are used as the main dwelling itself.
- Prior to the dwellings and garage being built there was a derelict piece of land, overgrown and abandoned, therefore this has improved and added value to the road.

5. Consultation Responses

- Not applicable

6. Summary of Issues

The key issues are :

- Effect of the development on the character and appearance of the area, and
- The effect on the living conditions of nearby neighbours.

Design, Character and Appearance

The detached garage has been substantially constructed and permission is therefore sought retrospectively. The building is located to the rear of the garden of 6c Hatch Road and is accessed via Crow Green Road. It abuts an existing flat roof garage building.

The garage measures 3.6 metres in height, is of a pitched roof design and has facing materials that match the dwelling house which it serves (i.e. 6c Hatch Road). It is considered that the building is of an acceptable size and design and does not have a harmful effect on the character or appearance of the surrounding area, which is a suburban road within a residential area. The form and style of the garage is not out of keeping with surrounding development. It is therefore considered to comply with the requirements of Local Plan Policy CP1 (i) and (iii).

Effect on neighbours living conditions

The garage is located on a main road where vehicle movements and noise from traffic are a matter of everyday occurrence, the introduction of a domestic garage would not result in an unacceptable increase in noise or traffic movement that would harm nearby neighbours amenity. In terms of overlooking, loss of privacy, overbearing impact and general disturbance, the garage is far enough away from neighbours that it would not affect their living conditions.

The proposal is compliant with policy CP1 (ii) of the local plan.

Other Matters

The objections have been largely addressed within the report, however the rubbish and tidiness of the site are not a material consideration and therefore not a determining factor in the outcome of the planning application.

In terms of submitting an application to obtain planning permission after the development has commenced, this in itself does not weigh in the balance of the decision; the condition imposed by the Inspector removing 'permitted development' householder rights does not prohibit the form of development proposed, but requires it to be considered by the Council as part of a full application.

7. **Recommendation**

The Application be APPROVED subject to the following conditions:-

1 DRA01A Development in accordance with drawings

The development hereby permitted shall be retained 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.

Informative(s)

1 INF04

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

2 INF05

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

3 INF21

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

BACKGROUND DOCUMENTS

DECIDED:

Appendices to this report

Appendix A – Site Map

Appendix A



Title : 6C Hatch Road, Pilgrims Hatch, Brentwood

17/01775/FUL

Scale at A4 : 1:1250

Date : 20th February 2018

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



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21 February 2018

Planning and Licensing Committee

Enforcement Plan

Report of: Nick Howard -Team Leader Development Management

Wards Affected: All

This report is: Public

1. Executive Summary

1.1 This report sets out an updated version to the Enforcement Plan.

2. Recommendation

2.1 For Members to agree the Draft Planning Enforcement Plan (February 2018).

3. Introduction and Background

3.1 The current planning enforcement plan was approved in March 2015, it is lengthy in content consisting of 38 pages, it is repetitive in parts and difficult to access. The revised plan sets out the Council's pro-active approach to planning enforcement and is easier for members of the public to interpret. The revised enforcement plan will be published on the Council's website which will ensure greater transparency.

3.2 Brentwood Borough Council has a duty to investigate alleged breaches of planning control and has the statutory powers to remedy such breaches. It is our policy to exercise those powers in a way that ensures that we control development effectively within the resources available to the planning enforcement service.

3.3 This document outlines the procedures we follow and the standard of service that can be expected when enquiries are made about alleged unauthorised development. Planning enforcement can be a complex process and the main aims of this document are to make sure:

- that adopted procedures are fair and reasonable;
- that all interested parties are kept informed whenever possible to do so, and
- that the outcome of any action taken is commensurate with the breach of planning control.

3.4 The Enforcement Plan has been prepared having regard to Government policy and guidance on planning enforcement to show how the Council will manage enforcement proactively.

4. Reasons for Recommendation

To ensure that the Council have an up to date enforcement plan that is transparent and concise. It sets the scene for the Council to move forward to an internet-based enforcement system whereby Members and the public can access details of and track the progress of enforcement cases on-line.

5. Consultation

5.1 Discussions with enforcement staff have been carried out and the managed service provider for Development Management have assisted in the preparation of this report.

6. Implications

Financial Implications

Name & Title: Jacqueline Van Mellaerts, Deputy 151 Officer

Tel & Email: 01277 312829/jacqueline.vanmellaerts@brentwood.gov.uk

6.1 There are no direct financial implications arising from this report.

6.2 The Enforcement Plan resources, have been incorporated into the Council's Medium Term Financial Plan for 2018-19.

Legal Implications

Name & Title: Surinder Atkar, Planning Solicitor

Tel & Email: 01277 312860 /surinder.atkar@brentwood.gov.uk

6.3 Effective enforcement is important as a means of maintaining confidence in the planning system. Paragraph 207 National Planning Policy Framework requires that LPAs should publish a local enforcement plan to manage proactively enforcement which is appropriate to their area. This should set out a method of monitoring implementation of enforcement policy, a policy of investigation of any breaches and criteria for enforcement action where appropriate. An effective enforcement plan would engender consistency in any action taken and underpin a solid

approach to enforcement which would considerably improve public confidence in the planning system.

- 6.4 The main implications of the updated enforcement plan are the response times to each breach of planning control. These are in summary:
- a) Serious Breaches: Requiring immediate investigation within 48 hours and complainant to be informed of progress within 5 working days. Examples of serious breaches are unauthorised works to listed buildings
 - b) Urgent Complaints: Investigation to commence and complainant to be informed of progress within 5 working days. Examples of urgent complaints are unauthorised operational and building works
 - c) Non – Urgent complaints: Investigation to commence and complainant to be informed of progress within 15 days working days. Examples of non-urgent works are untidy sites.

7 **Appendix to this report**

Appendix A: Enforcement Plan February 2018

Report Author Contact Details:

Name: Nick Howard, Team Leader Development Management
Telephone: 01277 312624
E-mail: nick.howard@brentwood.gov.uk

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Brentwood Local Planning Enforcement Plan February 2018

BREACHES OF PLANNING CONTROL

Planning permission is required for development work, such as new buildings, and for a material change of use of buildings or land. Breaches of planning control occur in a number of ways, for example:

- Building work, engineering operations and material changes of use without planning permission;
- Development not carried out in accordance with approved plans or in accordance with planning conditions or the terms of a legal agreement;
- Unauthorised demolition;
- Unauthorised work to a Listed Building which affects its character or appearance;
- Removal of, or works carried out to, protected trees and hedgerows without consent being granted or proper notification given;
- The display of advertisements that require express consent without that consent having been granted;
- Land or buildings which are derelict, unkempt or overgrown and are adversely affecting public amenity. These are classed as 'untidy sites'.

HOW WE WILL INVESTIGATE COMPLAINTS

Most breaches of planning control are reported to the Council directly by members of the public. We request that complaints about unauthorised development are made, wherever possible via the Council's website. This allows the Council to start an investigation with all of the necessary information.

The Council will also be pro-active in initiating investigations where it is clear that a serious breach has occurred and it will seek compliance with conditions imposed on planning permissions.

Complaints will normally be acknowledged by telephone or via e-mail, within 3 working days.

Complaints will be treated in confidence. Complainants will be treated as 'protected informants' during the investigation and their identity will not be revealed unless the courts direct otherwise. This is to ensure the safety of complainants, particularly if investigations lead to recriminations from an alleged offender.

Complainants will be advised that if formal action needs to be taken, the Council will be required to provide evidence of the breach and any harmful effects, so their co-operation and involvement as witnesses may be important in securing a successful outcome.

Anonymous or vexatious complaints will not normally be investigated unless they allege breaches of planning control that the Council considers serious and can be verified.

Planning Officers will be responsible for discharging and then monitoring the implementation of planning conditions. Cases will be forwarded to Planning Enforcement Officers in the team where non-compliance occurs.

Complaints that relate to breaches on Council owned land and the public highway will be dealt with by the appropriate land-owning Council department. A remedy using land-ownership powers is generally achieved more quickly and efficiently than when utilising planning powers.

PRIORITISING COMPLAINTS

The Council will use the following classification when deciding which cases will be given priority:

Serious Breaches: Requiring immediate investigation within 48 hours and complainant to be informed of progress within 5 working days.

The following types of cases are regarded as serious:

- Unauthorised works to Listed Buildings;
- Unauthorised works to protected trees (either those covered by a Tree Preservation Order (TPO) or those within a Conservation Area) and safeguarded hedgerows;
- Demolition of important unlisted buildings in Conservation Areas;
- Irreversible harm to amenity of a conservation area.
- Development which results in concerns for public safety;
- Significant unauthorised building works / structures.

Urgent Complaints: Investigation to commence and complainant to be informed of progress within 5 working days

The following types of cases are regarded as Urgent:

- Unauthorised operational and building works, changes of use, and non-compliance with conditions / obligations that significantly affect residential amenity;
- Unauthorised operational development within Conservation Areas
- Where the opportunity to take enforcement, action will shortly end due to immunity.

Non – Urgent complaints: Investigation to commence and complainant to be informed of progress within 15 days working days

The following types of cases are regarded as Non-Urgent :

- Other unauthorised changes of use;
- Other unauthorised building works / condition of land / compliance with conditions;
- Untidy sites
- Advertisements
- Satellite dishes (conservation Areas to be prioritised).

Pro-active Investigations: No specific priority but will be undertaken as required.

The following types of cases will be monitored proactively:

- Checking of planning conditions that have not been discharged, even where a complaint has not been received.

INVESTIGATION PROCEDURES

Stage 1: Acknowledgement

On receipt of a complaint, the priority of the case will be assessed in accordance with the details above. The complaint will be acknowledged within 3 working days.

Stage 2: Initial desktop investigation [Triage]

Once the complaint is acknowledged and prioritised a desk top investigation will take place. This will involve the following:

- Checking the planning / compliance / building control history for the site including conditional requirements for planning permission and Section 106 obligations;

- Checking site constraints;
- Identifying main planning policy considerations relevant to the alleged unauthorised development;
- Checking relevant legislation (i.e. does the alleged breach constitute “development”? Could it be “permitted development? What needs to be checked and measured on site?).

If it is not clear what the reported breach of planning control is, further information will be required and the Triage Officer may need to contact the complaint before proceeding to Stage 3.

If a complaint relates to a non-planning matter, no action will be taken, and the case will be closed at this stage and no further action will be taken. Such non-planning matters include disputes over land ownership and boundaries, restrictive covenants and legal agreements, moral and ethical concerns, and competition and private interests. In cases where a non-planning related complaint can be dealt with by another Council service or another agency then relevant information will be passed to the appropriate organisation;

Stage 3: Initial site visit

The Council’s Planning Enforcement Officers will visit the site to which the alleged breach relates. This will involve:

- A considerate and sensitive approach, recognising that there may be no breach or that the breach is unintentional;
- Enforcement Officers will identify themselves when on site and explain the reason for the visit (if it is suspected that an offence has been committed the Investigating Officer must have regard to the provisions of Section 66 and 67 of the Police and Criminal Evidence Act 1984 in relation to cautioning suspected offenders);
- Obtaining the identity of the owner / occupier / persons responsible for the activity / development taking place;

- Recording names and addresses of all persons who have an ownership or tenancy interest in the land / property;
- Taking and recording any necessary measurements and taking photographs;
- Recording a brief site description including a description of the alleged unauthorised development;
- Identify neighbouring properties likely to be affected by the activities / development;
- If a breach of control has clearly taken place then (depending on the nature of the breach) the owner / occupier / person responsible will be contacted straight away and advised to stop work until the matter is resolved. They will be advised that any further activity / development carried out will be entirely at their own risk and may be subject to enforcement action.

Stage 4: Action following the initial site visit

Following the initial site visit Planning Enforcement Officers will:

- Advise the owner/occupier/person responsible for the alleged unauthorised development of the Council's intended action or options;
- available to resolve the matter, or seek further information to determine whether a breach has occurred;
- Advise complainant in writing of the initial findings and proposed action (if any).

The complainant should be prepared to tell the investigating Officer what harm is being caused to them by unauthorised works or change of use of the land; and of any harm being caused from any of the activities that are being carried on. This can help establish what harm is being caused and/or the level of harm being caused. The investigating Officer can then determine an appropriate time to visit the site to verify the complaint and/or to witness the reported breach of planning control.

Stage 5: Further investigation/obtaining information

Depending upon the outcome of Stage 4, it may be necessary for the Council to:

- Monitor activity on site to collect further information or evidence about the alleged breach;

- Carry out covert surveillance strictly in accordance with the provisions of the Regulation of Investigatory Powers Act (RIPA);
- Serve a Planning Contravention Notice (PCN) or a requisition for information under Section 330 of T&CP Act or Section 16 of the Local Government (Miscellaneous provisions) Act 1976. These require the recipient to provide information relating to the alleged breach and who has an interest in the site within 21 days;
- Carry out a Land Registry search to establish ownership of the land (if registered);
- Carry out a search of the Council Tax and/or the Business Rates databases to establish who the responsible person or company may be (if registered);
- Carry out a search of the Companies House database to establish who the Directors of the company are;
- Consult the parish council, City Council Ward Members, neighbouring residents and other agencies;
- Consult neighbours if appropriate;
- Liaise with other Council services and external agencies.

Stage 6: Action following investigation

Once the investigative stages are complete the Council will follow one of the following courses of action and will advise the complainant of the decision:

-
- If a complaint relates to an activity, building or operational works that constitutes "permitted development" or is lawful, no further action can be taken;
- If the complaint relates to a very minor breach and formal action would not be justified, then no further action will be taken;
- If investigations indicate that a material breach of planning control has occurred then the Council will either invite a planning application to

regularise the development (and impose appropriate planning conditions) or commence formal enforcement action.

ENFORCEMENT DECISION MAKING

All decisions in respect of whether enforcement action is taken, and the type of any such action, are delegated by the Council's constitution to the Head of Planning and Growth. However, in certain circumstances, matters will be referred to the Planning Committee for a decision. The Committee will consider enforcement issues as a quasi-judicial body and make decisions based on the evidence and information submitted. Should an enforcement complaint be referred to the Committee for a decision, both the complainant and the alleged offender will be advised and given the opportunity to submit comments, for inclusion in the relevant Committee report.

WHAT HAPPENS WHEN BREACHES OF PLANNING CONTROL ARE CONFIRMED AND WHAT ACTION MIGHT BE TAKEN?

When a breach of planning control is identified any action taken will be proportionate to the nature and seriousness of the breach. Regard will be given to the following:

- National Planning Policy Framework and relevant planning policy contained in Circulars
- Core Strategy Development Plan Document
- Site Allocations Development Plan Document
- The provisions of the Human Rights Act 1998
- The Planning History of the site
- Adopted Planning Obligations Strategy

Many breaches of planning control can often be resolved informally by negotiation and the Local Planning Authority will continue to do this. Formal action will only take place where it is expedient and where other means to resolve the problem have failed. The Council will take enforcement action, including the service of an Enforcement Notice, only when it is necessary to protect the amenity of the area, public, or highway safety, and to maintain the integrity of the development management process within its administrative area. The impact of some developments is more harmful than others and therefore action taken will be in the public interest and will be commensurate with the breach of planning control. It would not normally be expedient for the Council to take formal enforcement action against a trivial or technical breach of control that causes little or no harm to the amenity of the local area or to neighbours.

When it is clear that there is a breach of planning control, the Council will draw this to the attention of the person responsible and advise them of the most appropriate course of action. This may be:

- If the breach is minor with no significant effects – that no formal compliance action will be taken;

- If the development is in line with the relevant Development Plan policies and other material considerations but needs to have conditions imposed to control its impact either now or in the future, the Council will seek to regularise the unauthorised development by asking for a “retrospective” application for planning permission or advertisement consent;
- If the breach is immune from compliance action due to the passage of time (four years for physical development and ten years for most changes of use and breaches of planning condition) and has not been deliberately concealed an application for a Certificate of Lawful Development may be invited. Such an application would need to be supported by appropriate documentary evidence to prove immunity;
- If permission is unlikely to be granted - the Council will ask for the use to cease or the unauthorised development to be removed. Depending upon the nature of the breach, the Council will follow one of the following options:
 - a) Set a timescale for the person in breach to voluntarily comply.
 - b) Serve a formal Notice (Enforcement, Listed Building or Breach of Condition) setting a period for compliance not less than 28 days with the exception of a Temporary Stop Notice, or Stop Notice.
 - c) Serve a Stop Notice or Temporary Stop Notice in the most serious cases requiring the work/use to stop immediately.
 - d) Serve an injunction.

If the person responsible for the unauthorised development has sought to deliberately conceal the development so that it is not discovered until the normal period for enforcement action has passed, the Local Planning Authority may apply to the Courts for a Planning Enforcement Order (PEO) within six months of the date if it has sufficient information about the breach of control to justify the application to the court for a PEO. If it is satisfied on the balance of probabilities that a PEO is justified the Courts can authorise the service of an Enforcement Notice.

Landowners and others should be aware that under the provisions of the Localism Act 2011, where breaches of planning law have occurred prior to 6 April 2012 and where the time limits for enforcement have expired prior to 6 April 2012, then the LPA cannot apply for a PEO. However, where time is still running after 6 April then an unlawful use or development could be the subject of a PEO in the future.

The decision to serve a formal Notice is discretionary and is made on a case by-case basis.

This decision must be taken only after proper consideration of the relevant facts and the planning merits of the case. The Council must be able to justify taking formal action and be sure that the steps specified in the Notice and the period for compliance within each step is reasonable.

Where necessary, the Council can serve a notice to require any relevant activity to cease, either temporarily (a Temporary Stop Notice) to prevent damage occurring whilst the situation is investigated and resolved, or permanently (a Stop Notice).

The requirements of both types of Stop Notice should “*prohibit only what it is essential to safeguard amenity or public safety in the neighbourhood; or to prevent serious or irreversible harm to the environment in the surrounding area*”. Stop Notices are particularly useful if the continuation of unauthorised works will result in the further loss of environmental features.

There is also provision, if the circumstances warrant it, to obtain a planning compliance injunction to restrain an actual or anticipated breach of planning control.

ENFORCEMENT ACTION

The Town and Country Planning Act 1990 (as amended) defines taking enforcement action as either the issue of an Enforcement Notice or the service of a Breach of Condition Notice.

The Notice shall:

- State the nature of the alleged breach as either development without planning permission, or failing to comply with any condition or limitation subject to which planning permission has been granted;
- Identify the land to which the notice relates;
- Clearly state the matters that appear to constitute a breach of planning control;
- State the Council’s reasons for issuing the Notice, including any relevant policy of the Development Plan;
- Specify the calendar date on which the Notice will take effect (not less than 28 days after service to allow for an appeal);
- Specify the steps which the Council require to be taken or the activities which the Council require to cease to remedy the breach or any injury to amenity it has caused;

- State a reasonable period for compliance after the Notice takes effect, having regard to the practicalities of carrying out the required steps and the impact of the breach (where appropriate different periods may be given for each step).

The steps to be taken will be expressed in plain language so that anyone required to implement them will understand. This will also make checking for compliance easier and ensure a successful prosecution if the Notice is not complied with. The Enforcement Notice may require the restoration of the land to its condition before the unlawful development took place; the demolition or alteration of any building or works; the discontinuance of the use of the land; or the carrying out of any building works or other operations. The purpose of these requirements will be to:

- a) Remedy the breach by making the development comply with the terms (including any conditions or limitations) of any planning permission granted in respect of the land (whether that permission has been granted by the Council following a planning application, or by the General Permitted Development Order under “permitted development rights”); or
- b) Remedy the breach by discontinuing any unauthorised use of the land, or by restoring the land to its condition before the breach took place or;
- c) Remedy any injury to amenity that has been caused by the breach.

Breach of Condition Notice

The Breach of Condition Notice (BCN) is an alternative to an Enforcement Notice for remedying a breach of planning control arising from failure to comply with any condition or limitation subject to which planning permission has been granted. There is no right of appeal, and the threat of prosecution may be sufficient to secure compliance with the condition or limitation. The BCN may be served alone or in addition to an Enforcement Notice.

A BCN will not be appropriate in all cases where a condition (or conditions) has not been complied with. In deciding whether to serve a BCN the Council will consider whether prosecution is likely to secure compliance with the condition(s) in the particular circumstances of the case. If not, then an Enforcement Notice may be preferable. The BCN shall:

- Specify the steps that must be taken, or the activities that must cease in order to secure compliance with the condition(s). Thus the BCN may be mandatory (requiring something to be done) or propitiatory (requiring something to stop). It can only seek to secure full compliance with the condition(s);
- Specify a period for compliance, which will not be less than 28 days.

Section 174 of the Town & Country Planning Act 1990 (as amended) provides a right of appeal to the Secretary of State against an Enforcement Notice. The appeal needs to be lodged before the Notice takes effect. Details of how to appeal will be included with the Enforcement Notice. There are a number of possible grounds of appeal, including legal grounds, concerning the validity of the Notice, grounds relating to over-compliance (for example, that the time for compliance is too short or the works to be undertaken are more than is necessary) and relating to the “deemed” application (i.e. that permission ought to be granted for the development that has already been carried out). There is a fee payable for Enforcement Notice appeals which relate to a ‘deemed application’. Further advice is available at <http://www.planningportal.gov.uk/>. It is not possible to make an appeal against an Enforcement Notice on ground ‘a’ (that planning permission should have been granted) after a planning application has been submitted and refused for the same development.

A local planning authority may decline to determine an application for planning permission for the development of a parcel of the land if that land, or any part of it, is the subject of an existing Enforcement Notice which relates, to the matters specified in the Enforcement Notice as constituting a breach of planning control.

Furthermore, once a planning Enforcement Notice has been issued the land owner or other interested party cannot appeal a previous decision of the LPA to refuse planning permission for the same development. Any appeal must then be made against the Enforcement Notice. This prevents landowners having two ‘bites of the cherry’ or extending the life of an unauthorised development.

There is no right of appeal to the Secretary of State against a BCN. The applicant can submit an appeal against a planning condition when the planning permission is first issued or can submit a subsequent application to remove or vary the condition.

PROSECUTION

In certain circumstances, the Council can immediately instigate prosecution proceedings, without first having to serve a Notice. Further information in respect of these powers is listed at Section 16. These instances include:

- Unauthorised works to a Listed Building;
- Damage to a tree covered by a Tree Preservation Order or within a Conservation Area;
- Damage to safeguarded hedgerows;
- Unauthorised display of an advertisement.

SECURING COMPLIANCE WITH AN ENFORCEMENT NOTICE

As soon as the compliance period for an Enforcement Notice or a BCN has passed, Officers will carry out further investigations to confirm whether the breach is continuing. Further negotiations may be necessary to ensure full compliance with the Notice. If there are grounds to suspect that a criminal offence has been committed, any evidence gathered from a site inspection may have to be carried out under caution. Any interviews would then be carried out in accordance with the provisions of the Police & Criminal Evidence Act 1984 (PACE).

When the Council believes that an Enforcement notice has been fully complied with, the fact will be confirmed to the owner/occupier of the land and to anyone who has complained about the development or activity. However, compliance with an Enforcement Notice does not discharge it. The Notice will remain as a charge on the land to prevent any re-occurrence of the breach.

An offence occurs if an owner/occupier fails to comply with the requirements of an Enforcement Notice or BCN. It is only at this time that a breach of planning control becomes a criminal offence. The Council will take firm action where the requirements of an Enforcement Notice have not been complied with. Such action may involve:

- Prosecution of the parties concerned in the local Courts (depending upon the availability, nature and strength of evidence);
- The issue of an injunction through the High Court;
- Direct, or 'default' action by the Council. The Council will then seek to recover the costs of such action from the party responsible for the breach.

The Council will usually seek to bring the matter to a successful conclusion as quickly as possible through the pursuit of action in the Courts. If someone is found guilty of failing to comply with the terms of an Enforcement Notice, a maximum fine of £20,000 may be imposed by the Magistrates Court. For cases which are decided by the Crown Court there is an unlimited fine. If the Notice is still not complied with, a further prosecution may be brought and this is likely to continue until the Notice has been complied with.

Failure to comply with a BCN carries a maximum penalty, on summary conviction of this offence, of a "level 4" fine on the standard scale, currently £2,500, as provided by the Criminal Justice Act 1991. A person may be convicted of a second, or subsequent, offence where the person responsible has been prosecuted and fined but still fails to comply with the Notice. It is a defence for anyone charged with this offence to prove that he or she had a reasonable excuse for failing to comply with the requirement of a Notice.

Any prosecution action will be taken in accordance with the provisions of the Code for Crown Prosecutors. This Code, produced by the Crown Prosecution Service, seeks to ensure that prosecutions are carried out in the interests of justice and not solely for the purpose of achieving a conviction.

The Council will not necessarily withdraw from acting in the Courts once it has commenced, even where the breach of planning control may be rectified before the case is heard, particularly where the Council has incurred significant costs. This will be considered in the Public Interest and on Legal advice in pursuit of a successful conviction.

In the case of a persistent offence involving an unauthorised activity, an injunction may be sought through the County Court or High Court. More severe penalties may be imposed in these circumstances if the offence continues.

In certain circumstances the Council will consider taking direct or default action to remedy a breach of planning control. This may involve the use of contractors to enter a site and physically remove or put right unauthorised building work. Such circumstances are likely to arise, for example, when the breach of planning control has not been remedied, despite the imposition of successive fines by the Courts. In such cases the Council will seek to recover its costs, possibly in the form of a charge on the land, which is recoverable at the time of any future sale of the land or property.

If an Enforcement Notice is served against a development, and an appeal is subsequently lodged with the Secretary of State (for example, on an application for planning permission or 'Listed' building consent), the outcome of the appeal will normally be awaited prior to the taking of further action to secure compliance with the Enforcement Notice.

Where the Secretary of State has previously considered the matter at appeal and found in favour of the Council, compliance with the requirements of the Notice will be rigorously pursued.

If a Breach of Condition Notice (BCN) has not been complied with or a breach re-occurs the party responsible will be asked to state what steps have occurred to secure compliance with the conditions specified in the Notice. If no reasonable steps have been taken or any reasonable explanation is not given the Council will normally pursue a prosecution.

OTHER PLANNING COMPLIANCE POWERS

Some breaches of planning control are the subject of separate legislation.

These include:

- Listed buildings
- Advertisements/signage
- Trees
- Land adversely affecting public amenity

Where the legislative requirements are the same, this policy will form the basis for any action taken by the Council on these matters.

Listed Buildings

The Council attaches particular importance to ensuring that any alterations to Listed Buildings are properly authorised. The statutory provisions for the preservation of buildings of special architectural or historic interest are contained in the Planning (Listed Buildings and Conservation Areas) Act 1990.

It is an outright offence under Section 9 of the Act to carry out unauthorised works to a Listed Building that would affect its character. The owner of a Listed Building, those who have an interest in the property or who have carried out the works, may be prosecuted by the Council irrespective of whether consent is later obtained retrospectively or the unauthorised works later made satisfactory. A person found guilty of an offence may be liable to a fine and/or a term of imprisonment of up to two years. There is no time limit upon the Council to pursue Listed Building compliance action.

A Listed Building Enforcement Notice may be served requiring remedial works to the building within a certain time period. There is a right of appeal to the Secretary of State, but failure to comply with the Notice is an offence, which is liable to a fine.

Advertisements

The display of advertisements/signs is controlled under the Town and Country Planning (Control of Advertisements) Regulations 2007 (as amended). They are divided into three main groups:

- Those that are 'expressly' excluded from planning control;
- Those which have 'deemed consent' whereby the Council's consent is not required provided the advertisement falls within certain categories:
and;
- Those for which the Council's consent is always needed.

The Advertisement Regulations are complicated and seek to control, amongst other things, the height, size and illumination of advertisements.

Anyone who displays an advertisement, without the necessary consent, is acting illegally. It is open to the Council to take a prosecution in the Magistrates Court for an offence under S224 of the Town and Country Planning Act 1990. Unless the offence is particularly flagrant or repeated, the Council may not initially consider it necessary to prosecute. Instead, it may invite the advertiser to apply for the consent needed, and, if refused, there will be a right of appeal to the Secretary of State. Displays of an advertisement after consent has been refused, and any appeal dismissed will, subject to satisfactory evidence being obtained, result in prosecution. The fine on conviction shall not exceed level 4 on the standard scale and in the case of a

continuing offence one-tenth of level 4 for each day during which the offence continues after conviction.

Any form of flyposting that is, displaying an advertisement without landowner's consent) is an offence, which is immediately open to prosecution or to the removal or obliteration if the Council decides to take such action. If the advertisement identifies the advertiser the Council must give 2 days' notice before obliteration or removal takes place. These powers of obliteration and removal were extended by the Localism Act 2011.

Advertisements that are being displayed on the 'Highway' or Council owned land without their consent is unauthorised and illegal. The Council may remove such advertisements from its land and without warning to those who are displaying the advertisement. Individual cases will be referred to the relevant department (Highways or Lands). In cases where unauthorised advertisements are linked to other unauthorised advertisements on privately owned land, Enforcement Officers may seek their removal with the consent of Highways and/or Lands as a more effective and efficient way of working.

Trees

Under Section 198 of the Town and Country Planning Act 1990 the Council has the right to make provision for the preservation of trees in its area by issuing a Tree Preservation Order (TPO).

Any unauthorised works to such protected trees is an offence under Section 210 of the Act. It is an offence to cut down, uproot, or wilfully destroy a protected tree, or wilfully damage, top or lop a protected tree in such a manner as to be likely to destroy it. The offence is liable, on summary conviction, to a fine of up to £20,000 and on indictment to a further fine. Most established trees (except fruit trees) in Conservation Areas are similarly protected, under Sections 211 and 212 of the Act and the same penalties for offences apply.

If any person contravenes the provisions of a Tree Preservation Order otherwise than as mentioned above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Consent is not required for the following works to trees that are the subject of a Tree Preservation Order:

- Works to trees that are dying or dead or have become dangerous;
- Works to trees authorised by the grant of planning permission;
- Works to trees cultivated for the production of fruit where such work is in the interests of that business or trade.

However, the Council encourages all owners of trees covered by a Preservation Order to consult the Council before undertaking works on the tree(s).

The Council will consider whether a replacement tree should be planted if a protected tree has been removed. This would be the responsibility of the landowner to carry this out and irrespective of who carried out those works. The Council will first seek this voluntarily replacement of the tree prior to considering serving a Tree Replacement Notice to ensure that the tree is replaced with the same or an alternative species of similar size and stature.

Land Adversely Affecting the Amenity of the Neighbourhood – Untidy Sites

Under Section 215 of the Town and Country Planning Act 1990, the Council may take steps to require land to be tidied up when its condition adversely affects the amenity of the area. The Council may serve a Notice on the owner and occupier of the land requiring steps to be taken within a specified period. The Notice becomes effective after 28 days.

There is a right of appeal to the Magistrates Court and then to the Crown Court, during which time the Notice has no effect pending the outcome of the appeal, but once the Notice does take effect it is an offence not to carry out the steps required. If the Notice is not complied with the Council may prosecute the owner for the offence of non-compliance, or enter the land to carry out the required works and recover all associated costs from the owner.

If any owner or occupier of the land on whom the Notice was served fails to take steps required by the Notice within the period specified for compliance with it, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. The Council also has powers under Environmental Health legislation to resolve untidy site problems. Planning Enforcement Officers will liaise with other Council services to ensure that the most appropriate and effective remedy is sought.

REASONS FOR RECOMMENDATIONS:

Paragraph 207 of the NPPF advises 'effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary and local planning authorities should act proportionately in responding to suspected breach of planning control.

The Planning Enforcement Compliance Plan responds to the NPPF and sets out clear standards and processes. The performance of the service will be continued to be measured and the results published via quarterly performance reports.

This Plan will be reviewed whenever there is a significant change in legislation, national or local policy, or otherwise every 2 years.

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21 February 2018

Planning and Licensing Committee

Response to the Rochford New Local Plan Issues and Options Document

Report of: *Phil Drane – Planning Policy Team Leader*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 This report seeks approval on a formal response from Brentwood Borough Council to the Rochford New Local Plan Issues and Options consultation document (Regulation 18).
- 1.2 The proposed response conveys broad support of Rochford District Council's aims in preparing a new local plan. The Rochford Plan is currently at the early stages of the plan-making process with little specific details provided on the strategic approach for the area.
- 1.3 Brentwood Borough Council has recently signed a Memorandum of Understanding for joint working with other South Essex local authorities, including Rochford District Council. The Association of South Essex Local Authorities (ASELA) meet regularly on a number of workstreams including strategic planning and cross-boundary issues.

2. Recommendation

- 2.1 To approve the response to Rochford District Council's New Local Plan Issues and Options document (December 2017), as set out in Appendix A.**

3. Introduction and Background

- 3.1 Rochford District Council is currently working towards replacing their existing Core Strategy with a new Local Plan, subject to the plan period of 2017-2037. An Issues and Options consultation document has been produced as part of the plan-making process and is available for public

consultation between Wednesday 13 December 2017 and Wednesday 7 March 2018.

- 3.2 The document does not set out specific proposals about how Rochford District Council will progress strategic planning in the area, but rather outlines possible options for planning appropriately on a number of matters, such as, but not limited to, meeting housing needs; infrastructure provision; and protecting the environment.
- 3.3 Brentwood Borough Council is duty bound to undergo the duty to cooperate with neighbouring authorities on preparation of their local plans. Rochford District is not a neighbouring authority but is within the neighbouring South Essex housing market area as well as being part of cross-boundary joint working that both authorities are signatories to. Considering this the proposed response is limited to high level comments regarding strategic planning issues shared by Rochford District and Brentwood Borough.

4. Issue, Options and Analysis of Options

- 4.1 The National Planning Policy Framework (NPPF) requires each local planning authority to produce a local plan. This should set out strategic priorities for the area and plan positively for development and infrastructure needs, in line with national policy and guidance.
- 4.2 Local Plans should include strategic policies to deliver:
- a) Homes and employment needed in the area;
 - b) Provision of retail, leisure, and other commercial development;
 - c) Provision of infrastructure for transport, telecommunications, water supply, waste water, flood risk and coastal change management, and the provision of minerals and energy (including heat);
 - d) Provision of health, security, community and cultural infrastructure and other local facilities; and
 - e) Climate change mitigation and adaption, conservation and enhancement of the natural and historic environment, including landscape.
- 4.3 Rochford District Council is at the beginning stages of developing their local plan. The Issues and Options document outlines key strategic planning topics and identifies possible approaches for developing a local plan.

- 4.4 The majority of the issues and options identified in the document do not have a direct impact on Brentwood Borough. Therefore, the proposed response is limited to addressing the need for both councils to continue to engage through the duty to cooperate and address the need for Rochford District to meet local housing needs.
- 4.5 Rochford District Council forms part of the South Essex housing market area, along with, Southend-on-Sea, Castle Point, Basildon, and Thurrock. According to the South Essex Strategic Housing Market Assessment (SHMA) Addendum 2017, Rochford's objectively assessed housing need is between 331-361 homes per annum, equating to 6,620-7,220 homes over the plan period (2017-2037). The Rochford Issues and Options document proposes to develop a plan which meets a target of 362 new homes per annum. However, this is to be dependent on the consultation responses received.
- 4.6 The South Essex SHMA Addendum 2017 identifies a need for 50 special private homes for older people over the period 2014 to 2037. The Rochford Issues and Options document identifies that the number of residents applying for traditional forms of sheltered accommodation is decreasing, therefore it may be sufficient to refurbish existing units rather than requiring such new homes. An additional 62 units per annum from 2014 to 2037 (1,421 units in total) were identified for those individuals with disabilities.
- 4.7 Due to the Government's proposed standardised methodology in calculating objectively assessed housing need, there is still uncertainty as to what the actual housing figures will be until the next stages of the Rochford plan-making process are published later this year. The consultation document states that local authorities have a legal requirement to work with neighbouring authorities, both inside and outside their housing market area. The proposed Brentwood response sets out that Brentwood Borough Council has a lack of brownfield land to meet local housing and employment needs, having to resort to proposed allocation of land in the Green Belt to meet local development needs fully. Therefore, Brentwood Borough is unlikely to be in a position to take any of Rochford District's unmet development needs if these are not fully provided locally.
- 4.8 Brentwood Borough Council has recently signed a Memorandum of Understanding for joint working with other South Essex local authorities, consisting of Rochford, Southend-on-Sea, Castle Point, Basildon, and Thurrock councils, as well as Essex County Council. The Association of South Essex Local Authorities (ASELA) meet regularly on a number of

workstreams and are working towards a shared vision for South Essex. The Memorandum of Understanding outlines the core purpose and aims of ASELA and the principles of collaboration. It is expected that a Statement of Common Ground will be developed and signed by group, which will include issues such as the need to address distribution of housing needs.

5. Reasons for Recommendation

- 5.1 Rochford District Council are at the early stages of the plan-making process. No policies or site allocations have been proposed as part of this consultation and so the proposed response focuses on high-level strategic issues.
- 5.2 It is considered appropriate that Brentwood Borough Council express broad support for Rochford District Council's efforts to develop a local plan in accordance with national policy and guidance, and the commitment to continued collaboration through the duty to cooperate on strategic planning matters that affect South Essex.

6. Consultation

- 6.1 The Rochford Issues and Options consultation is open for comments from Wednesday 13 December 2017 to Wednesday 7 March 2018. Local planning authorities have a statutory obligation to allow consultees a minimum of six weeks to respond as part of the plan-making process.

7. References to Corporate Plan

- 7.1 The Rochford District Local Plan will have a close relationship with the emerging Brentwood Local Development Plan and joint working within South Essex.

8. Implications

Financial Implications

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- 8.1 None directly arising from this report.

Legal Implications

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- 8.2 The Localism Act 2011 places a legal duty on local planning authorities and other defined local bodies to engage constructively, actively and on an on-going basis to maximise the effectiveness of Local Plan preparation in the context of strategic cross boundary matters. It is not a duty to agree, but local planning authorities must make every effort to secure the necessary cooperation before they submit their Local Plan for examination. The cooperation should produce effective and deliverable policies on strategic cross boundary issues.

9. Background Papers

- 9.1 Rochford New Local Plan Issues and Options Document, Rochford District Council (December 2017)

10. Appendices to this report

Appendix A - Response to Rochford New Local Plan Issues and Options Document

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Brentwood Borough Council response to: Rochford District Councils Issues and Options (Regulation 18) consultation 2017
February 2018

1. Thank you for inviting Brentwood Borough Council to provide comments as part of Rochford District Council's consultation on its Local Plan Issues and Options document. Brentwood Borough Council forms part of the Association of South Essex Local Authorities (ASELA) along with Rochford District Council. South Essex shares a number of strategic issues, such as housing and infrastructure. It is important that such issues are addressed through collaborative working and meaningful discussions in accordance with legislation, the National Planning Policy Framework (NPPF) and Planning Practice Guidance.
2. Please note that we have limited comments to high level strategic issues that potentially impact directly on Brentwood Borough. Comments on the Rochford Issues and Options are limited given the early stage of the plan-making process and regular engagement through the duty to cooperate.

Regional Context: South Essex Strategic Housing Market Area

3. The Council notes the South Essex Strategic Housing Market Area, comprising the local authorities of Thurrock, Basildon, Castle Point, Southend-on-Sea, and Rochford. Brentwood Borough Council is in general support of this approach. It is acknowledged that Brentwood is a signatory to the ASELA memorandum of understanding but does not form part of the South Essex Strategic Housing Market Area.

Development Requirements: Meeting housing needs

4. The Council notes the commitment to meeting the District's housing needs. According to the South Essex Strategic Housing Market Assessment Addendum 2017, Rochford's objectively assessed housing need is between 331-361 homes per annum equating to 6,620-7,220 new dwellings over the Plan period (2017-2037). The Rochford Issues and Options Consultation is proposing to develop a plan which plans for 362 new dwellings per annum, however this is be dependent on the consultation responses received.
5. It is noted that one of the options for meeting the district's housing needs would be to distribute some of the need within the wider strategic housing market area. Brentwood is not currently part of the South Essex Strategic Housing Market Area. Brentwood is a Green Belt authority with a lack of identified available brownfield land. Brentwood Borough Council is proposing a spatial strategy in its own local plan that reluctantly accepts the need to allocate Green Belt sites after all available brownfield land is utilised, making up just over 50% of total need. Therefore, it is unlikely that Brentwood will be in a position to accept any unmet housing need from the South Essex housing market area. It is noted that this matter will be discussed further through the duty to

cooperate and the distribution of housing will be addressed through a Statement of Common Ground (SoCG).

Duty to Cooperate: Engaging with other Councils and partners

6. Brentwood Borough Council welcomes the opportunity to continue to work with Rochford District Council in progressing the plan-making process of both local authority areas on an ongoing basis in line with the requirements of the duty to cooperate.

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.