



Agenda

Ordinary Council

Wednesday, 27 September 2023 at 7.00 pm

Council Chamber, Town Hall, Ingrave Road, Brentwood, Essex CM15
8AY

Membership (Quorum – 10)

Cllrs Barrett (Mayor), Haigh (Deputy Mayor), Aspinell, Barber, Dr Barrett, Bridge, M Cuthbert, Mrs N Cuthbert, Mrs Davies, Mrs Francois, Mrs Fulcher, Gelderbloem, Gorton, Heard, Hirst, Kendall, Laplain, Lewis, Marsh, Mayo, McCheyne, Munden, Mrs Murphy, Mynott, Naylor, Parker, Poppy, Mrs Pound, Reed, Rigby, Russell, Sankey, Slade, Wagland, White, Wiles and Worsfold

Agenda

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Live broadcast

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13. **Urgent Business**
An item of business may only be considered where the Chair is of the opinion that, by reason of special circumstances, which shall be specified in the Minutes, the item should be considered as a matter of urgency.



Jonathan Stephenson
Chief Executive

Town Hall
Brentwood, Essex
12.09.2023

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.

Information for Members of the Public

Access to Information and Meetings

You have the right to attend all meetings of the Council and Committees. You also have the right to see the agenda, which will be published no later than 5 working days before the meeting, and minutes once they are published.

Dates of the meetings are available at www.brentwood.gov.uk.

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

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

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

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

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

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

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

 **Private Session**

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

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  **Access**

There is wheelchair access to the meeting venue from the Main Entrance. If you do wish to attend this meeting, please contact the clerk should you have specific accessibility needs. There is an induction loop in the meeting room.

 **Evacuation Procedures**

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



Minutes

Ordinary Council Wednesday, 21st June, 2023

Attendance

Cllr Barrett (Mayor)	Cllr Mayo
Cllr Haigh (Deputy Mayor)	Cllr McCheyne
Cllr Aspinell	Cllr Munden
Cllr Barber	Cllr Mrs Murphy
Cllr Dr Barrett	Cllr Mynott
Cllr Bridge	Cllr Naylor
Cllr M Cuthbert	Cllr Parker
Cllr Mrs N Cuthbert	Cllr Poppy
Cllr Mrs Davies	Cllr Mrs Pound
Cllr Mrs Francois	Cllr Reed
Cllr Mrs Fulcher	Cllr Rigby
Cllr Gelderbloem	Cllr Russell
Cllr Gorton	Cllr Sankey
Cllr Heard	Cllr Slade
Cllr Hirst	Cllr Wagland
Cllr Kendall	Cllr White
Cllr Laplain	Cllr Wiles
Cllr Lewis	Cllr Worsfold
Cllr Marsh	

Officers Present

Phoebe Barnes	- Director - Assets & Investments
Zoe Borman	- Governance and Member Support Officer
Phil Drane	- Director - Place
Laurie Edmonds	- Corporate Manager - Economic Development
Marcus Hotten	- Director - Environment
Nichola Mann	- Acting Joint Director of People & Governance
Claire Mayhew	- Acting Joint Director of People & Governance & Monitoring Officer
Jonathan Stephenson	- Chief Executive
Emily Yule	- Strategic Director
Tim Willis	- Interim Director - Resources

LIVE BROADCAST

[Live broadcast to start at 7pm and available for repeat viewing.](#)

36. Apologies for Absence

There were no apologies received.

37. Declarations of Interest

There were no declarations of interest at this stage.

The Monitoring officer informed members:

“Members, I have had a number of enquiries about declarations of interests in respect of the Business Improvement District Ballot item on this evening’s agenda. If any councillor owns a business premises within the BID area that would be liable for the BID levy – in short if you have received a ballot paper for the BID ballot – you will need to declare a pecuniary interest and leave the room for this item.

For all other members, you will have no greater interest in this item than any other resident of the Brentwood borough and therefore you are free to debate and vote on this item.”

38. Mayors Announcements

“It has been just over one month since I was formally elected as Mayor for 2023/24 and I have already undertaken 10 engagements. I would like to thank the Deputy Mayor for also attending a number of engagements on my behalf also during this time. I should also mention that it is the Mayor’s Escort, my mother June’s, birthday today.

Some of the engagements I have attended included taking part in the Brentwood Art Trail attending the guided tour in Brentwood where I had the pleasure of meeting some of the artists including Ukrainian artist Mykhaylo Rymik. I also visited Sawyers Church showcase event where they showcased all the different ministries, activities and outreaches they do as a Church.

I was pleased to help out for the “Can in a Van” initiative to collect food and supplies for the Daily Bread and the Food Bank. It was really great to see so many people helping where they could.

Earlier this week, I was joined by representatives from Brentwood CCF, Shenfield CCF, 124 Essex Transport Squadron and the Royal British Legion to

raise the flag ahead of Armed Forces Day remembering and honouring all those who have and do serve for our Country.

I look forward to many more engagements around the Borough in the coming months and also start plans for events to raise money for my chosen charities.”

39. Minutes of the previous meeting

Cllr N Cuthbert stated that she was in attendance for this meeting where the minutes states she was not in attendance. Subject to this amendment, the Ordinary Council meeting held on 15th March 2023 were **APPROVED** as a true record. The minutes contain a summary of the meeting, to view the full meeting, please visit [Ordinary Council - YouTube](#)

40. Minutes of Annual Council 17.05.2023

The Annual Council meeting held on 17th May 2023 were **APPROVED** as a true record. The minutes contain a summary of the meeting, to view the full meeting, please visit [Annual Council - YouTube](#)

41. Public Questions

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

Mrs Jan Gearon-Simm has submitted two questions:

- 1. There is horrifying evidence that damage is being done to the sea, to wildlife and to us by discarded plastic, which is made from fossil fuels.*

Billions of plastic bottles, for example, are thrown into landfill.

The Drinking Fountain Association is trying to track down now-derelict drinking fountains, which were provided by councils from the 1860s onward in public places.

Will Brentwood Council follow this example and alert Brentwood residents against plastic bottles by re-opening any derelict fountains and by providing other clean water public outlets?

Cllr Aspinell responded as follows:

“it’s the aim of this Council to rectify the faults of previous, I don’t mean the immediate, I mean previous councils and the practices that have been carried

out within those boundaries. This is one of the reasons we have set up a Clean and Green Committee to look at all aspects of Brentwood's activities to see if we cannot improve on a terrible situation that we currently are experiencing in this country. We will do our best and our little bit to the betterment of our country as a whole.

On the drinking fountains issue itself I think there may be some health and hygiene issues surrounding that but I totally agree with you there should be some public access to clean drinking water and that is one of the things that we will be considering and investigating you have my word."

- 2. At the ordinary Council meeting on 5th July 2011, the then Conservative Leader, Cllr Louise McKinlay was against the recommendation for retaining the Town Hal building but thankfully, the town hall building was saved because of agreement between council members from difference parties, 11 of whom were Conservatives.*

The town hall building symbolises the importance of Brentwood residents being served by democratically elected councillors from a variety of political persuasions.

I would like the Leader of the Council and the Leader of the Opposition to both respond to my Residents Question, which is:

Will all Brentwood Councillors be willing to work in collaboration in order to achieve solutions to Brentwood problems? The watchwords are collaboration, cooperation and compromise.

Cllr Aspinell responded as follows:

"I remember a decision very well I was indeed in this Chamber and I pay tribute to a very brave Councillor at that time. A member of the Conservative group who could not believe his own party was going to not only get rid of this Town Hall as an administrative hub but I think demolish it at that time. I think the person who put forward the proposal to demolish it was the last Council Leader here, it may not have been tabled and it probably isn't recorded anywhere that that happened, but I was personally present when that suggestion was made. We were going to have a new building in that car park when this building could be levelled and made it into homes - that was what the suggestion was. But a brave Conservative member that I would like to pay tribute to is an ex Mayor and Councillor, David Tee. We got together then for a very important reason we've got together since then for very important reasons I hope in the future. The Clean and Green Committee needs everyone on board to forward the desires and the principles of and the objections of that of that committee not just that we find ourselves, and I'm not casting aspersions here, but a government that has led us into financial near ruin that we have to work to try and get out off. Many years ago this side of the Council put forward proposals to set up a local assembly of acquiring land, businesses, car parks and buildings to turn into money making revenue much needed for this Council. They were called a LATCO – Local Authority Trading Company. This was turned down by the then Conservative Administration - I do not know why it was turned down apart from the fact that we

had proposed it. It then we proposed it again the next year this went on for about five or six years nothing happened then eventually when the money started to run out completely we had SAIL set up.”

The Mayor reminded Councillor Aspinell to answer the resident question specifically Will all Brentwood Councillors be willing to work in collaboration in order to achieve solutions to Brentwood problems? The watchwords are collaboration, cooperation and compromise.

Councillor Aspinell continued:

“We will go forward, we will look for suggesting things this side hopefully they will be agreed that side. The last time I stood as leader I was collaborating in a group of four different parties now I have pleasure of leading a group of two. I hope that when we put proposals forward the opposition will back them for the betterment of this Council for the betterment of its residents and for the betterment of our Town”

The Mayor clarified from Mrs Gearon-Simm’s question, the statements being made that suggest there were no minuted proposal for the demolition of the Town Hall and although it was minuted that the Town Hall would be disposed of so for just to clarify that was the minutes and that was the motion that was put forward just for clarity in the debate and the discussion.

Cllr Russell responded as follows:

“Thank you for clarifying that Mr Mayor and yes we did oppose their recommendation for their view of the Town Hall. We was going to build another Town Hall and the car park there and what we were going to do with this is exactly what we've got now this is actually a hybrid of the two motions that were tabled on the night - there was no talk of demolition or anything as such – I appreciate the Leader here trying to rewrite history but the evidence is there in the minutes – I didn't want to bring that up but there go.

If just cast your members back to Annual Council I welcomed new members and although in my notes I did not welcome Councillor Fiona Marsh so just to go on record now that we welcome Fiona thank you.

It is important for Brentwood Councillors to work collaborate collaboratively to achieve solutions for Brentwood residents collaboration cooperation between council members can lead to more effective and efficient decision-making processes that benefit the community. It is essential for Councillors to put aside differences and work towards the common goal of improving the lives of the residents. By working together the council can develop innovative solutions that address the needs of the community and ensure that all residents feel heard and valued. democracy gives us many voices and different opinions how best to serve our residents and there lies the rub as I said at Annual Council where our policies align there will be little resistance however when cuts to services or council tax hikes come into play we will then hold the coalition to task. To facilitate a good working relationship with the coalition or have appointed Shadow chairs and Shadow Vice chairs they will work directly with lead officers to

ensure a democratic process and smooth out any issues and foreseeable problems before coming to meetings. This I hope will streamline meetings saving taxpayers money and benefiting our residents - in practice we have not had this access in some cases but it is

early days I'm sure in time these issues will be resolved. Another example of a collaboration on our part was following a recent incident in the in the High Street on Friday where we raised our concerns and are seeking a resolution to the problems with Planning and Licensing whilst keeping the Coalition informed and updated via their Chairs rather than politicizing taking advantage of the situation and using it to ambush the administration. I have another example for you I have put forward ideas to members of the coalition that I hope will make front with High Street a safer place to be. I welcome the fact that one of these ideas will be coming to the clean and green committee next week as I said to our Mayor the idea was my gift to the coalition as it benefits residents.

I hope this is enough to assure you Jan and I'm sure I'm confident that you will soon pull me up if I disappoint you in any way. Thank you for your questions.”

42. Memorials or Petitions

No memorials or petitions were received.

43. Written Questions

The period allowed for written and oral questions is 60 minutes.

Oral questions would be taken after the written questions responses, time allowing. A member can ask one question to each of the Chairs.

8 Written Questions had been received and responded and were tabled in front of Members. Members were able to ask one supplementary question if they wish.

Two written questions have been received from Cllr Garry White:

Question 1

Question for Chair of Audit and Scrutiny Committee

Will the Chair of Audit and Scrutiny publish a list of the Authority's Statutory Obligations (primary and secondary legislation) confirming for each one which Committee under the Administration's new structure is responsible for the appropriate oversight, performance or compliance monitoring and what second-line assurance mechanisms are in place to oversee this; can these be reported on at the next, or the subsequent, Audit and Scrutiny Committee meeting?

Response

It is good practice for the Council to ensure that the Authority's Statutory Obligations are compliant. A report and an assurance matrix will be presented at a future Audit & Scrutiny Committee and then reported on a yearly basis.

Question 2

Question for Chair of Housing, Health and Community

Is the new Brentwood Joint Administration committed to the delivery of the agreed council homes programmes as per the February SHDP update:

- Brookfield Close & Courage Court (62 Homes),
- Harewood Regeneration (c.40 homes),
- Willingale Close (3 Homes),
- Ingleton House,
- Highwood Close,
- Sir Francis Way (4 homes),
- Four Oaks;

What are the current estimates for dates for completion / occupation of each of the above schemes, and what are the current number of homes expected to be delivered at each location (please include any other locations with anticipated housing development in the confirmed list)?

Response

The current SHDP programme is a set out in the table attached this report (Pipeline June 2023) this contains current estimated completion dates; delivery of units is planned throughout the construction process at each scheme, once contracts are let more detailed end stop dates are inserted and reported to members. Please note the pipeline table is update quarterly by the SHDP Team and contracts being let subject to procurement and market conditions.

Two written questions have been received from Cllr Mellissa Slade:

Question 3

Question for Chair of Housing, Health and Community

How many current cases are there of Damp and Mould in Council properties that are noted as requiring works or interventions to resolve; how many cases are outstanding the review of a complaint, or an initial, or a follow-up visit to review historic cases, by the housing technical team to identify whether such work may be required?

Response

As of 19th June 2023 there are nine cases that have been inspected and are waiting for remedial works to be carried out. A further 22 cases have had initial works completed and are being actively monitored by the Council's Asset Management Team. There are no cases waiting for assessment. All ongoing cases are monitored on a weekly basis by the Corporate Manager for Repairs and Asset Management.

Question 4

Question for the Chair of Planning and Licensing

At a recent excellent Portal member training session, I asked if it was possible for a full list of the planning codes could be added to the Portal.

Therefore, I ask Cllr Mynott in his capacity of Chair of Planning if he will both support and assist with the installation my request, to ensure all Cllrs have an easily accessible, complete list of Planning Codes.

Response

Thank you for your question. I confirm that the relevant planning codes will be added to the member portal for reference.

Two written questions have been received by Cllr Keith Barber:

Question 5

Question for Chair of Housing, Health and Community

Can you confirm whether the administration group intend to reverse the decision for Ingleton House to be retained in the strategic housing delivery programme; if so can you confirm the estimated annual cost (inc. opportunity cost) to the council of leaving the building vacant including utilities, council tax, other standing payments and officer time (plus loss of income from the properties had they been occupied); can you also confirm from which budget these costs would be provisioned and the consequential impact on other housing investment or reserves ?

Response

The Council intends to progress the redevelopment of Ingleton House as part of the SHDP programme. A planning application is assumed to be submitted November 2023.

Question 6

Question to the Chair of Finance, Assets, Investments and Recovery

Can you confirm whether under the new administration the council is considering leaving the Brentwood Rochford partnership and if such a decision was taken confirm the one-off exceptional costs of breaking the agreement and the resulting on-going annual shortfall in budgets of such a move and the loss of access to shared resources?

Response

Councillor Barber, as Leader of the Council I would like to response to your question.

In response to the first part of your question, I would refer you to the Leader's Statement delivered at the May Annual Council when I outlined that this new administration would be reviewing the Rochford Partnership in all of

its aspects, including staffing levels, financial penalties and, more importantly, the affects of service delivery for our residents.

When this review has been completed, if there is to be a change, I will inform you, along with the rest of the Council.

Regarding the second part of your question over future budgets, since the first part has still to be decided, it clearly renders the second part as irrelevant. Additionally, I would add at this point that it is disappointing that the incoming administration find themselves handcuffed with legally enforceable financial implications should it be decided that the Brentwood/Rochford partnership be dissolved

I said in my Leader's statement and to refresh your memory that this administration believes our staff are our greatest asset. The Rochford Partnership agreement the former Conservative administration committed us to relies on the reduction of staffing levels. This Joint Administration believe that the expertise, local knowledge and committed loyalty of our staff to Brentwood justifies a review of the Partnership before the loss of any further staff is considered.

Two written questions have been received by Cllr Mark Reed:

Question 7

Question for Chair of Finance, Assets, Investments and Recovery

The current council budget was set following public consultation in September and October last year, the information from the survey being available for use by Councillors as they set the budget and council tax for 2023/24. Will the Brentwood Joint Administration commit to undertaking public consultation with local residents in advance of bringing forward any amendments to the current budget, or proposals for how the council funds and resources its services for future years?

Response

It is worth noting that it is normal for budgets to be amended during the year. The last administration presided over amendments to the 2022/23 original budget which were approved in accordance with our constitution. Whilst a lot of work goes into preparing the annual Budget, it is, at the end of the day, our best estimate at the time the Budget is approved. Events, both external and internal, need to be reflected in changes to the allocation of resources, including financial resources. Depending on the nature of the changes, there may be consultation with stakeholders.

I can assure Cllr Reed that plans are already being developed to conduct the normal public consultation in the autumn, which will inform the Council in its deliberations regarding the 2024/25 Budget.

Question 8

Question of Chair of Staff Appointments Committee

The remit of the Staff Appointments Committee is to appoint designated officers, and other posts as may be determined from time to time by Group Leaders in consultation with the Chief Executive. It is also remitted to comply with the requirements set out in Chapter 4 of the Constitution (Staff Employment Procedure Rules) which include Rule 4.8.5 "Appointment of Non Statutory Chief Officers (Director and Heads of Service)". Can the Chair therefore set out what the plans and timeframes are to make permanent appointments to vacant and interim-filled roles in the Strategic Leadership Team?

Response

I am sure that fellow members will be aware that the responsibility for ensuring that the Council has adequate staffing provision lies with the Head of Paid Service. Therefore, I have consulted our Chief Executive, Jonathan Stephenson, who has advised me that he is keeping the interim arrangements under review and will consider permanent recruitment later this year.

44. Outside Organisations

Following a change to the Council's Constitution on 25 January 2017. Councillors are now appointed to a number of outside organisations by Ordinary Council. Many of the outside organisations support and advance the broad objectives of the Authority. Representations come about either through the Authority initiating the appointment, or an organisation requesting a representative being nominated or a Charity Commission rule that a Council representative is appointed.

Following consideration of the list of nominations and to ensure effective use of Councillors resource and support for outside organisations it is considered appropriate to categorise the list in the following:

- Statutory Representatives
 - Trustee
- Council has interest whether financially or otherwise
- Others – point of contact

Where a Councillor is required to be a point of contact it is considered appropriate for the outside organisation and the Councillor to make contact and discuss the best approach.

The list of nominations for representatives/point of contact on outside organisations is presented at the Ordinary Council meeting each year for Members' approval.

An amended appendix for appointments have been appended to the minutes.

Cllr Aspinell **MOVED** and Cllr Laplain **SECONDED** the recommendations in the report.

Cllr Bridge **MOVED** an **AMENDMENT** and was **SECONDED** by Cllr Russell that the vacant representative for the Howard Memorial be filled by Cllr Fiona Marsh. This was **ACCEPTED** by the mover, Cllr Aspinell.

Cllr Aspinell expressed his disappointment that the Chair of the Local Highways Panel, County Cllr Wagland did not want to appoint any Brentwood representatives to be part of the panel and meetings relocated from Brentwood to County Hall. Cllr Aspinell urged Cllr Wagland to reconsider to include Brentwood representatives to form part of the Local Highways Panel.

Cllr Wagland responded that all would be clear as the Local Highway Panel under its new regime continues but in particular the suggestions as to my status and the like are completely untrue.

A vote was taken and it was **RESOLVED UNANIMOUSLY:**

That the list of outside bodies and nominated representatives/point of contact for 2023/2024 shown in Appendix A be approved.

Reasons for recommendations.

In line with the Council's constitution.

45. Brentwood Connected Business Improvement District (BID) Ballot

On 17 May, the Brentwood Business Partnership (BBP) submitted a request to the council in accordance with Business Improvement District (England) Regulations 2004, to hold a ballot within Brentwood, Shenfield and Ingatestone to establish a Business Improvement District (BID) across the three centres. This report provides background information on BIDS, the priorities set out in the Brentwood Connected BID Business Plan and the role of local authorities in delivering BIDs. The report seeks approval to support the BID in relation to council properties in the area.

(Cllr Hirst declared an interest and left the Chamber).

(Cllr White declared a non-pecuniary interest that he works for Network Rail who own infrastructure within the BID boundary).

Cllr Kendall thanked the Economic Development team (officers Laurie Edmonds and Nishat Amin), and Shenfield traders Kaye Thurgood and Nish Patel for their work promoting the proposed BID as part of the Brentwood Business Partnership.

Cllr Aspinell **MOVED** and Cllr Kendall **SECONDED** the recommendations in the report. A vote was taken and it was **RESOLVED UNANIMOUSLY:**

R1. Agree to vote in favour (i.e. Yes) in the Brentwood Connected BID Ballot in respect of the council properties within the BID area.

R2. Authorise the Director of Assets to cast the council's votes in the Brentwood Connected BID Ballot in accordance with the decision taken in R1.

R3. Note that the council will be subject to payment of the levy on its properties within the BID area.

R4. Confirm that the BID Proposal does not conflict with any council policy or disproportionately burden any business or class of businesses.

46. Climate emergency

To consider and approve the proposed declaration of a 'Climate Emergency' by the Council and agree the next steps in developing the Council's response to Climate Change.

Cllr Aspinell **MOVED** and Cllr Dr Barrett **SECONDED** the recommendations in the report.

Cllr Hirst **MOVED** an **AMENDMENT** and **SECONDED** by Cllr White as followed: .

R1. To recognise the global climate emergency acknowledging that the Council needs to urgently act to include proper consideration of the causes and impacts of climate change in all its works.

The amendment was not accepted by the mover, Cllr Aspinell or seconder Cllr Dr Barrett.

After a full discussion the amendment, a vote was taken and the amendment was **LOST**.

Councillors discussed the substantive recommendations. A recorded vote was requested by Councillors: Laplain, Dr Barrett, Kendall, M Cuthbert and Naylor. The recorded vote was as followed:

FOR: Cllrs Barrett, Haigh, Aspinell, Dr Barrett, M Cuthbert, N Cuthbert, Davies, Francois, Fulcher, Gorton, Kendall, Laplain, Lewis, Mayo, Munden, Murphy, Mynott, Naylor, Pound, Rigby, Sankey, Slade, Wagland, White, Wiles, Worsfold (26)

AGAINST: (0)

ABSTAIN: Cllrs Barber, Bridge, Gelderbloem, Heard, Hirst, Marsh, McCheyne, Parker, Poppy, Reed, Russell (11)

The substantive recommendations were **RESOLVED**.

For the recommendations:

R1. To Declare a 'Climate Emergency' acknowledging that the Council needs to urgently act on the causes and impacts of climate change;

R2. To confirm the Council's commitment to achieving net-zero carbon status by 2030 for its own estate, and by 2050 for the Brentwood Borough area, and pursue efforts to achieve net-zero CO2 emissions even earlier;

R3. To establish a Climate Emergency Sub-Committee of the Clean & Green Committee;

R4. That the Council lobby for further funding and policy changes at a national level to support the delivery of the Environment Strategy.

47. Notice of Motion

Any one or more Members of the Council may, by notice received by the Monitoring Officer no later than 10.00 am eleven working days before the day of the Council meeting, require the Council to consider a motion about a matter relating to which the Council has powers or duties or which affects the Council's area. A notice of motion may be accompanied by a statement of not more than 200 words setting out the reason for the proposed motion.

The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received.

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

Motion 1 – Received 2nd June 2023 @ 13:52

Mover: Cllr White Seconder: Cllr Bridge

The Council notes:

- 'Chairs Reports and Questions' at Ordinary Council should provide democratic accountability of its leadership.
- Recently, Leaders have chaired PRED committees, allowing a very broad range of questions to be put to them. This may not be the case when a Leader chairs a Policy Committee with a more focused remit, or none at all.
- This motion therefore calls for immediate amendment to Procedural Rule 7.2 that limits the scope of questions to (and omits specific inclusion of) the Council Leader.

This council resolves to:

1. Require the council's leader to be fully involvement in chairs questions sessions across all areas of Council activity to promote public trust,

encourage robust discussions, and enable greater scrutiny of actions and policies;

2. Introduce with immediate effect changes to fully include the Council Leader in Ordinary Council's 'Chairs Report and Questions' session (to be renamed Leaders and Chairs' Report and Questions) to cover "all areas of Council responsibility within the council's area";

3. Request the monitoring officer, in liaison with the Constitution Working Group, to bring forward to the next Ordinary Council the necessary changes Procedural Rule 7 (Chair Report and Questions) to give effect to this change.

Cllr Mynott **MOVED** an **AMENDMENT** to move this motion under 8.3.7 (a) (i) of constitution to refer this matter to the Constitutional Working Group and **SECONDED** by Cllr Dr Barrett.

The amendment was not accepted by the original mover Cllr White

A recorded vote was requested by Councillors; White, Russell, Poppy, Barber and Hirst. A recorded vote was taken as follows:

FOR: Cllrs Barrett, Haigh, Aspinell, Dr Barrett, M Cuthbert, N Cuthbert, Davies, Fulcher, Gorton, Kendall, Laplain, Lewis, Mayo, Munden, Mynott, Naylor, Rigby, Sankey, Worsfold (19)

AGAINST: Cllrs Barber, Bridge, Francois, Gelderbloem, Heard, Hirst, Marsh, McCheyne, Murphy, Parker, Poppy, Pound, Reed, Russell, Slade, Wagland, White, Wiles, (18)

ABSTAIN: (0)

The **AMENDED** motion was **CARRIED** and should be noted that the report on this referral to the CWG will be brought back to the next meeting of Council.

Motion 2 – Received on 2nd June 2023 @ 16:06

Mover: Cllr Kendall Seconder: Cllr Naylor

Reasons for the Motion

Essex County Council introduced a policy of residents having to book to use the Recycling Centres in the Borough of Brentwood and across Essex in March 2023. Since then, a continued escalation in fly-tipping has been observed. Many residents have been turned away from the Recycling Centres if they have not made an appointment. Residents have also not been able to book appointments on the same day, and there have been limited options for multiple trips.

Brentwood Borough Council is financially responsible for clearing fly-tips on public land, and it is therefore impacting the Council's financial position. Whilst Essex County Council might be making savings, they come at a greater cost to Brentwood Council taxpayers, given that clean up costs are higher than the costs of legitimate waste disposal.

Brentwood Borough Council resolves to:

1. Call upon the Cabinet Member for Waste Reduction and Recycling at Essex County Council to reverse the decision that forces residents to book appointments when visiting Recycling Centres. The response to this request to be shared with Ordinary Council.
2. Call upon the officers to write to Essex County Council expressing this Council's opposition to the "booking" policy and asking for an urgent meeting between the Chair of the Clean & Green Committee and the Cabinet Member to discuss our concerns. The outcome of this meeting to be reported back to Ordinary Council.
3. Ask the Audit & Scrutiny Committee to open an investigation into this policy, it's impact on the number of fly-tips, the County Council's justification for this policy and the costs incurred to Brentwood taxpayers. The result of this investigation to be reported back to Ordinary Council.

The motion was **CARRIED**.

Motion 3 – Received on 4th June 2023 @ 20:04

Mover: Cllr Barber

Seconder: Cllr Russell

This council notes:

- Brentwood operates a much valued weekly black bag service for residents' residual waste and this helps to maintain cleanliness and hygiene across our local community.
 - Weekly black bag collection ensures that residual waste is properly disposed of, reduces risk to health and environmental hazards from prolonged retention - including vermin and unpleasant odours.
 - Many residents lack the necessary physical space in their properties that would be required to store black bags securely for longer.
 - Any change to the frequency of residual waste collection has the potential to lead to increased instances of fly-tipping and vermin.
 - The council has a strong record of promoting and supporting recycling across the Borough to help reduce landfill.

This council resolves to:

- reaffirm its commitment to providing a high-quality waste disposal service that meets the needs and expectations of residents;
- not make any significant change to the expenditure on black bag collections and maintain the current weekly collection service for residual waste;
- request that officers investigate opportunities to encourage further waste reduction and promote recycling which do not compromise the frequency of black bag collections

Cllr Dr Barrett **MOVED** an **AMENDMENT** and Cllr Aspinell **SECONDED** it to the following:

This council resolves to:

1. *Affirm the Administration's commitment to providing a high-quality waste disposal service that meets the needs and expectations of its residents;*
2. *Commit to maintaining Brentwood's weekly black bag and food waste collection throughout the 2023/24 year and in the 2024/25 budget process;*
3. *Request that officers investigate opportunities to encourage further waste reduction and promote recycling which do not compromise the frequency of black bag and food waste collections, and bring a report on this topic to a future meeting of the Clean and Green Committee.*

This amendment was accepted by the original mover Cllr Barber.

The amended motion was **CARRIED**.

48. Urgent Business

There were no items of urgent business.

The meeting concluded at 22:30



ORDINARY COUNCIL

27th SEPTEMBER 2023

REPORT TITLE:	Public Questions
REPORT OF:	Claire Mayhew – Director – People & Governance & Monitoring Officer

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

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

Mrs Jan Gearon-Simm has submitted two questions:

- 1. As responsible landlords, Brentwood Borough Council (BBC) will know how many and how habitable the properties they rent to Brentwood residents are.*

When I was a private landlord from 2004 to 2016, it was my responsibility to ensure that my property was in good condition and habitable.

However, the only privately owned properties, which are legally required to be registered with BBC are Housing of Multiple Occupancy (HMOs) and they are, of course, liable to a list of regulations.

Does BBC know how many privately owned rental properties there are in Brentwood?

Does BBC monitor any privately owned properties, which are not HMOs, in order to ensure they are fit for human habitation and are included in BBC Key Performance Indicators list.

- 2. Housing is a human need and “market forces” do not necessarily prevail in all areas of life.*

In order to encourage home ownership, there is a part rent/buy scheme.

When tenants of council properties leave their home those properties remain in Council ownership.

If those tenants, who have engaged in a part rent/buy contract, choose to leave their homes, they are given back the amount of money they have saved during their tenancy.

Such council-owned properties can then be rented to other tenants.

Will Brentwood Borough Council instigate the part rent/buy scheme for council properties?

Mrs Pat Smith has submitted two questions:

- 1. If I understood him correctly Cllr Hossack denied that Brentwood Council Housing Department use fixed term tenancies when he responded to a previous public question of mine. Was that information correct please?*
- 2. Is there a forum for people with HIDDEN disabilities (such as autism) & their parents / carers in Brentwood where the Council (as represented by officers and councillors) can meet local people & properly productively discuss services & local issues affecting this group of people?*

Who is the contact please, (and will they just ignore me & parent / carers like me?)



**ORDINARY COUNCIL
27 SEPTEMBER 2023**

REPORT TITLE:	Community Infrastructure Levy Charging Schedule Adoption
REPORT OF:	Phil Drane – Director of Place

REPORT SUMMARY

This report sets out the outcomes of the examination of the council's Community Infrastructure Levy (CIL) and seeks to formally approve and publish the Council's CIL Charging Schedule, in accordance with Regulation 25 of the CIL Regulations 2010 (as amended). The report advises that, subject to council adoption on 27 September 2023, the Brentwood CIL Charging Schedule will take effect on the 15 January 2024. This date is informed by an ongoing programme of work to set up all necessary guidance, administrative and financial systems and processes for CIL implementation.

The report summarises the preparation process that has been required to produce the CIL Charging Schedule and the stages of consultation and formal examination that have been involved. The report sets out how formal adoption by the council is now required in order to commence and implement CIL.

Once CIL is brought into effect, the Council will become a 'CIL Charging Authority' and 'CIL Collecting Authority'. Moving forward it will be important for Members to approve the governance arrangements for the prioritisation and spending of CIL receipts. This report provides Members with an update as to the consideration of governance arrangements and a commitment for this to be the subject of a future committee report within the next 12 months.

RECOMMENDATIONS

- R1. Adopt the Community Infrastructure Levy Charging Schedule (Appendix A), with an implementation date of 15 January 2024.**
- R2. Adopt the Instalment Policy (Appendix B), with an implementation date of 15 January 2024.**

- R3. Delegate authority to the Director of Place, in consultation with the Chief Executive and Leader of the Council, any necessary further minor editorial changes to the Charging Schedule or Instalment Policy and a change to the implementation date if necessary.**
- R4. Approve that governance options and arrangements for the priorities and spending of CIL receipts be brought to committee in the next 12 months.**

SUPPORTING INFORMATION

1.0 REASON FOR RECOMMENDATIONS

- 1.1 The council has identified a corporate priority to adopt a CIL for the borough. CIL will help secure infrastructure investment alongside new development identified in the council's local development plan. Resource to progress CIL to submission has been prioritised following local plan adoption in March 2022.
- 1.2 On 9 March 2022, the Policy, Resources and Economic Development Committee (Item 337) were presented with an overview of CIL, outlining the need for a levy to support the provision of new infrastructure in the borough, the types of developments which would be liable to pay the levy, how the levy could be used alongside other infrastructure funding mechanisms, the types of projects which could be funded through CIL, how the levy would be administered, and the potential infrastructure funding which could be derived from introducing CIL.
- 1.3 Through the recommendations of the report, the committee approved further work to be undertaken to support the production of a draft CIL Charging Schedule for the borough, in addition to progressing the consideration of options for a CIL panel to determine priorities for the spending of CIL and the creation of a CIL Officer role to lead the administration of CIL within the council.
- 1.4 On 3 October 2022 the Policy, Resources and Economic Development Committee (Item 178) were presented with the outcomes from the 2022 CIL Viability Assessment, including proposed CIL rates for the area. Through the recommendations of the report, the committee approved the draft CIL

Charging Schedule and supporting consultation material for Regulation 16 public consultation.

- 1.5 Consultation on the draft CIL Charging Schedule took place for four weeks, starting on Wednesday 12 October and ending on Wednesday 9 November 2022. Following consultation, the outcomes and an updated draft Charging Schedule were reported to the Policy, Resources and Economic Development Committee (Item 385) on 8 March 2023. Through the recommendations of the report, the committee approved (with full cross-party political support) to submit the updated draft Charging Schedule for examination in accordance with the CIL Regulations 2010 (as amended) and the Planning Act 2008.
- 1.6 The preparation of CIL was part funded by Essex County Council. They, like Brentwood Borough Council, are keen to ensure that infrastructure is delivered and funding is secured by, amongst other means, CIL. Brentwood was one of two pilots in Essex, whereby the county council part funded the preparation work.

CIL Examination

- 1.7 The purpose of the examination of the CIL Charging Schedule was to ensure that the proposed Charging Schedule sets an appropriate balance between helping to fund necessary new infrastructure in the area, and the potential effects of the charge on the economic viability of development across the borough. This test is set out in the CIL Regulations 2012 (as amended), with additional guidance set out in the associated national Planning Practice Guidance.
- 1.8 The examination of CIL commenced in March 2023, upon submission of the draft Charging Schedule. On 11 July 2023, a public hearing session took place in the Council Chamber at Brentwood Town Hall, as part of the Examination of the Brentwood Borough CIL Charging Schedule. The hearing session was live streamed via the council's YouTube channel, to enable anyone interested to follow proceedings online. In its opening statement the council emphasised the importance of securing CIL as a key priority, driven by the need to ensure that much needed infrastructure and other facilities to support future development are provided in a timely fashion. The hearing session largely focused on legal compliance and interrogation of the viability evidence.
- 1.9 Receipt of the Inspector's Report (provided in full at Appendix C) on the 21 August marked the closure of the CIL examination. The Inspector's Report concludes: *"that the Brentwood Community Infrastructure Levy Draft Charging Schedule provides an appropriate basis for the collection of the levy in the*

borough. The Council has sufficient evidence to support the Charging Schedule and can show that the levy is set at a level that will not put the overall delivery of development in the area at risk". It recommends, "that the Charging Schedule should be approved in its published form without changes".

- 1.10 Given the findings of the Inspector’s Report, there are no reasons why the council should not proceed to formal adoption of its CIL Charging Schedule (provided in full at Appendix A). In accordance with the CIL Regulations 2010 (as amended), Regulation 25, the Council has prepared an Adoption Statement for the Charging Schedule (as set out at Appendix D).

Instalments policy

- 1.11 As part of the consultation on the Draft Charging Schedule, a proposed Instalment Policy was set out. Following this Regulation 16 consultation, amendments were made to the proposed ranges within the instalments to ensure there were no gaps within the ranges. The instalments policy within the Draft CIL Charging Schedule (February 2023), submitted for Examination is provided below:

Overall CIL liability	Payment Instalments
£20,000 or less	Payment in full within 240 days
£20,000 - £99,999	50% paid within 360 days Further 50% paid within 540 days
£100,000 - £499,999	10% paid within 270 days Further 15% paid within 540 days Further 25% paid within 720 days Remaining 50% paid within 900 days
£500,000 or more	Agreement of project specific payment schedule

- 1.12 As part of the Examination, the Examiner considered the existence of an instalment policy as a material consideration in assessing the viability of the proposed levy. He determined that the number, amount, and timing of payments would assist the viability of the types of development tested. Therefore, it is necessary for the council to have an instalment policy to ensure the viability of development by providing a degree of flexibility around cash flow.
- 1.13 Therefore, there is a need to achieve a balance between ensuring the economic viability of development by avoiding unnecessary borrowing costs

and ensuring that infrastructure contributions are secured in a timely manner and in full.

- 1.14 The CIL Regulations require full payment of any contribution in full within 60-days, unless there is an instalment policy in place, increasing the cost of development at an expensive time in the development process when the ground works are normally being carried out. The introduction of an instalment policy spreads that cost, reducing the borrowing burden on the developer and improving development viability.
- 1.15 However, it is recognised that instalment policies should not be too generous. The CIL Regulations allow for Warning Notices and Stop Notices to be issued in the event of non-payment. These are only effective if development is ongoing. It is therefore appropriate that contributions are secured during the development period.
- 1.16 Due to the relatively high rate of CIL for residential development, it is possible for relatively small schemes such as a scheme of 5-10 houses to have a CIL charge of over £100,000. However, it is also possible for such a scheme to be completed within 2-years (730 days). The current proposed instalment policy would be ineffective in securing the required contribution whilst the development is under construction. Furthermore, it exposes a high proportion (50%) of the required levy to risk of non-payment due to the proportion due at 900-days.

Revised Instalments Policy

- 1.17 A revised instalment policy is therefore proposed (as set out in Appendix B) which shortens the overall payment period for CIL, enabling the council to take timely enforcement action in the event of non-payment. It does however recognise the need to ensure viability of development by spreading the cost of CIL over a reasonable period.
- 1.18 The revised instalment policy requires a proportion of the CIL requirement to be paid within 60 days of commencement of the development, as required by the regulations, and then regular payments throughout the delivery of a development. The longest repayment period for those liable to the most CIL is now 2 years (730 days) for smaller schemes, which means most developments are unlikely to be completed before their final CIL payment is due, allowing for enforcement action in the event of non-payment.
- 1.19 Following officer engagement with best practice learnt from Castle Point Borough Council, it is additionally proposed that a caveat is added to the instalment policy table to help avoid situations of non-payment which states

that: *“Any and all outstanding instalments become due immediately on completion of the final unit irrespective of the schedule shown in the table above.”*

- 1.20 Regulation 69B of the CIL Regulations allows the council to put in place an instalment policy at any time. It is allowed to alter that instalment policy as it wishes but must allow 28-days between an instalment policy coming into effect and a replacement of it.
- 1.21 The council is required to publish its instalment policy along with its commencement date on its website.

Implementation of CIL

- 1.22 CIL can only be charged on sites which are granted planning permission after the Charging Schedule becomes effective. The effective date is the date on which the Levy comes into effect. Any CIL liable applications decided from that date will be issued a CIL Liability Notice. The charge is payable upon commencement of the development. All customers of the Council will therefore need to be aware of the requirements of the CIL Regulations 2010 (as amended), relevant to their proposed development. A lack of understanding and clarity regarding CIL processes could result in customers being required to pay surcharges or to pay the full CIL amount in full. Therefore time is required to ensure that the introduction of CIL is clear and well explained in advance of it coming into effect.
- 1.23 Consideration must be given to the following points in setting a realistic effective date:
 - a) Timescales for the procurement, introduction and bedding in of a suitable supporting software system is a key dependant.
 - b) Officer resource availability to lead the setting up and administration of CIL.
 - c) The need to prepare a consultation strategy – social media, agent forum, website updates, setting up online payment systems/agreeing invoicing processes.
 - d) Determine the administration process.
 - e) Training and providing updates to departments across the authority including Planning, Finance and Land Charges.

f) Update Local Validation List to require CIL Form 1.

- 1.24 Given the above, and in line with recent experience from other Planning Authorities setting CIL implementation timeframes (such as Castle Point Borough Council, East Suffolk Council and Vale of White Horse District Council), it is considered realistic to allow between 3 to 4 months to ensure all systems are up and running efficiently. A shorter timeframe would risk a rush to prepare the public, and agents for the introduction of CIL. This can result in a loss in public trust and errors being made which could result in unnecessary appeals and other complications.
- 1.25 Officers consider that an implementation date of 15 January 2024 will be achievable, taking into account the holiday period in December/January. However, it is recommended in this report (R3) that the Director of Place, in consultation with the Chief Executive and Leader of the Council is given the power to alter this implementation date should unexpected complications arise.

Governance arrangements

- 1.26 For clarity, Members are not being asked to consider the governance options for spending CIL receipts at present. This is because a meaningful amount of CIL receipts are not anticipated for some considerable time.
- 1.27 Assuming Members approve the adoption and implementation of CIL as set out within the recommendation (R1), developments will be liable for CIL from the 15 January 2024. However, as set out previously, CIL only becomes payable upon commencement of development, which can take up to three years.
- 1.28 There will be a sufficient lag between implementation of CIL charging processes and the receipt of CIL monies to identify strong governance arrangements which will ensure that spend is effective and efficient in delivering infrastructure that responds to the council's priorities. It is recommended in this report (R4) that this topic be the subject of a future report to Members in the next 12 months.
- 1.29 As set out within the officer's report to the Policy, Resources and Economic Development Committee on 9 March 2022 (Item 337), the council agreed that Essex County Council fund £60,000 towards the cost of preparing the CIL in return for access to the first £60,000 worth of CIL receipts for a county-led project or projects in Brentwood borough.

- 1.30 Through the recommendations of the report on 9 March 2022, the committee approved further work be considered and presented to a future committee for the creation of a CIL Officer role to lead the administration and negotiation of developer contributions within the council. By way of updating Members, this is being carefully considered through the OneTeam service review and will be reported to Members in accordance with this process.

2.0 BACKGROUND INFORMATION

- 2.1 CIL is a non-negotiable charge that local authorities can levy on new development. The charge must be set out in an adopted charging schedule and may differ for different types of development. The charge is set on a £/sqm basis and can be levied for a single dwelling unit or for 100sqm net additional floorspace and over. There are certain exemptions from CIL (which are clearly set out in CIL Regulations) and these include affordable housing, self-build housing, residential extensions, annexes and development by charities. However, exemptions and relief from CIL require prospective developers to make an application to the Council, in accordance with the CIL Regulations 2010 (as amended).
- 2.2 Following the examination of the Brentwood Borough Local Development Plan 2016-2033, the council has been in a position to progress the production of a CIL Charging Schedule. To support the production of the local plan the council produced the Brentwood Infrastructure Delivery Plan (IDP), which sets out the key infrastructure projects required in the borough and identified how developer contributions and other funding sources could be used to support the delivery of new infrastructure projects. The IDP highlights the need for additional sources of funding to support the delivery of new infrastructure in the area. CIL provides a mechanism to obtain additional infrastructure funding, alongside other funding such as Section 106 agreements (S106).

How the levy works alongside Section 106 contributions

- 2.3 In September 2019, the restrictions on using five or more S106 contributions to fund a single infrastructure project was lifted, and greater flexibility was provided in relation to how CIL funding could be used alongside S106 contributions. Charging authorities can now use both CIL and S106 contributions to fund the same infrastructure item.
- 2.4 The IDP sets out the key infrastructure projects required in the borough, and identifies the use of S106 funding sources to assist in the delivery of a large proportion of identified new infrastructure projects. It is likely that essential infrastructure items which are directly related to supporting the delivery of new development proposals will continue to be funded through S106 agreements.

The use of this approach has been assessed within the Viability Assessment (2018) and the updated 2022 Viability Assessment, to ensure that strategic sites remain viable with the imposition of both S106 requirements and a CIL charge.

- 2.5 The CIL will be used in combination with S106 agreements to obtain additional funds for a wide range of community infrastructure projects throughout the borough, and to obtain infrastructure funding from smaller developments where S106 agreements may not usually be produced.

How the funds are distributed

- 2.6 Brentwood Borough Council is the relevant 'charging authority', and it is the responsibility of the charging authority to collect and distribute all CIL funds. The council may retain up to 5% of CIL receipts to cover the costs of administering CIL.
- 2.7 In the first instance, the council must pass up to 15% of receipts arising in an area to the relevant parish council for any homes built in that parish. This 15% is capped. The cap was set at £100 per dwelling in 2013 but has been increased since then due to indexation. Where there is a 'made' Neighbourhood Plan covering their parish, the CIL received is 25% of the amount raised, with no cap. In those areas where there is no parish council, then the same level of funding per dwelling should be spent specifically on projects in the area local to sites, e.g. at the ward level (this is referred to as the 'neighbourhood portion').
- 2.8 Having set aside any administrative costs and the local element of the receipt, the council can determine how funds are distributed between organisations and projects. In accordance with the recommendation of this report (R4) it is proposed options for the spending of CIL receipts and associated governance be brought back to committee in the next 12 months.
- 2.9 Funding obtained through the levy must be used towards infrastructure which supports growth in the area and should be used based on the needs for new and improved infrastructure in the borough.
- 2.10 It is the Council's responsibility to report on CIL income each year through the Infrastructure Funding Statement. This must outline the extent of CIL funds which have been received, how received CIL funds are being used, and how future CIL funds are proposed to be used in the future.

Indexation

- 2.11 CIL Charging Authorities are required to apply an annually updated index of inflation, meaning CIL charges are index linked and will change annually on 1 January in accordance with the RICS Community Infrastructure Levy (CIL) Index, which is the index specified by the CIL Regulations.

3.0 OTHER OPTIONS CONSIDERED

- 3.1 The council could decide not to bring the Brentwood CIL Charging Schedule into effect. However, this would mean the council not being able to introduce CIL rates in order to contribute towards plugging the significant infrastructure funding gap that has been identified in the borough. This would not align with the council's corporate priority to implement CIL nor the overriding strategy for growth set out in the local plan.

4.0 RELEVANT RISKS

- 4.1 As due process has been followed (as set out in the CIL Regulations 2010, as amended) and the Draft Charging Schedule has been assessed by an independent Examiner, any risk of a legal challenge following the council's adoption and implementation of the Charging Schedule is limited.
- 4.2 Only applications decided from the implementation date (recommended to be the 15 January 2024) are liable to pay CIL. Therefore, delays in implementation will see the level of CIL receipt reduced. This has implications for the funding of local infrastructure projects.

5.0 ENGAGEMENT/CONSULTATION

- 5.1 Consultation on the draft CIL Charging Schedule took place for four weeks, starting on Wednesday 12 October and ending on Wednesday 9 November 2022. Consultees were asked to respond to eight consultation questions regarding the CIL Viability Assessment, the proposed CIL rates within the Draft Charging Schedule, the approach to supporting the viability of new development in the borough, the draft Instalments Policy, and the provision of discretionary relief.
- 5.2 The consultation was promoted on the council's website, social media platforms (Twitter, LinkedIn), and the Brentwood Gazette informing residents of the consultation and how to obtain further information. A press release was published on the council's website alongside the addition of a webpage dedicated to the CIL Draft Charging Schedule consultation. In accordance with the Regulations, the council consulted with individuals, statutory consultation bodies, local authorities, developers, businesses and other organisations on the council's consultation database. In addition to the online

publications, copies of the CIL Draft Charging Schedule and associated evidence base documents and consultation material were made physically available at the Town Hall and libraries for members of the public to view.

- 5.3 The review of the consultation comments identified the need to make modifications to the Draft CIL Charging Schedule. An updated Draft CIL Charging Schedule was therefore submitted to the Planning Inspectorate for independent examination in accordance with the Community Infrastructure Levy Regulations 2010 (as amended) and the Planning Act 2008.

6.0 FINANCIAL IMPLICATIONS

Name & Title: Tim Willis, Director – Resources (Section 151 Officer)

Tel & Email: 01277 312500 / tim.willis@brentwood.rochford.gov.uk

- 6.1 **Potential Income:** It is anticipated that CIL could raise in the order of £27.5m towards infrastructure funding in the borough, this is based on the contributions that could be made by allocated sites within the local plan that have yet to receive planning permission, it does not include an estimate for windfall development. It should be noted there are a number of other assumptions and caveats that have had to be applied when calculating this figure (including but not limited to average dwelling sizes, development type, development quantum), therefore this should be treated as an indicative estimate of CIL contributions. Final future CIL contributions will vary depending on the final approved development mix and designs.
- 6.2 It should however be noted that CIL becomes liable on those developments granted after the implementation of CIL, and only at commencement. Only around 10% of developments commence within one year of permission being granted. Most commence within two to three years. There will therefore be a lag in terms of the receipts received in the first few years.
- 6.3 **Cost to date:** The council has an agreement with Essex County Council to fund £60,000 towards the cost of preparing the levy in return for them being able to access the first £60,000 worth of CIL receipts for a county led project or projects in Brentwood. The CIL Regulations allow for the remaining costs for preparing the CIL, of the order of £50,000, to be recovered from CIL income in later years. Therefore, whilst the preparation of CIL carried a cost, it will be cost neutral to the council overall if it chooses to recover the investment.
- 6.4 **Cost of Implementation:** Separately, there is a cost associated with implementing and managing CIL. Experience from other authorities indicates that this could require at least one dedicated CIL officer to administer the levy and procurement of a suitable supporting software system/database. It is

estimated that the cost of an officer would be approximately £40,000 per annum (not including pension contributions etc). Software systems could cost around £30,000 for set-up and around £15,000 per annum thereafter, although this is liable to change and would need to be procured in line with the council's Procurement Strategy. Funds will need to be confirmed and agreed within a future budget, although charging authorities can utilise funds from the levy to recover the costs of administering the levy, with the regulations permitting use of up to 5% of their total receipts on administrative expenses.

7.0 LEGAL/GOVERNANCE IMPLICATIONS

Name & Title: Claire Mayhew, Acting Joint Director – People & Governance (Monitoring Officer)

Tel & Email: 01277 312500 / claire.mayhew@brentwood.rochford.gov.uk

- 7.1 The preparation and implementation of CIL is governed by the CIL Regulations. The requirements of these regulations must be followed to prevent legal challenges to the council.
- 7.2 Following the adoption of a CIL in an area, there is a legal requirement on a developer to pay the levy for liable development. The adoption of a CIL could reduce the use of Section 106 agreements in the area. Arrangements will need to be put in place in respect of the transfer and use of CIL funds to third parties.
- 7.3 There will be a sufficient lag between implementation and the receipt of monies to identify strong governance arrangements which will ensure that CIL spend is effective and efficient in delivering infrastructure that responds to the council's priorities.

8.0 EQUALITY & HEALTH IMPLICATIONS

Name & Title: Kim Anderson, Corporate Manager - Communities, Leisure and Health

Tel & Email: 01277 312500 / kim.anderson@brentwood.gov.uk

- 8.1 The Public Sector Equality Duty applies to the council when it makes decisions. The duty requires us to have regard to the need to:
- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - b) Advance equality of opportunity between people who share a protected characteristic and those who do not.

- c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for b) or c), although it is relevant for a).

8.3 The proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

9.0 ECONOMIC IMPLICATIONS

Name & Title: Phil Drane, Director - Place

Tel & Email 01277 312500 / phil.drane@brentwood.rochford.gov.uk

9.1 The production of a CIL will enable the council to require mandatory financial contributions from various forms of development to help fund supporting infrastructure. Infrastructure investment will help support and grow the local economy.

9.2 Delays in adopting CIL could result in a lack of funding, and therefore a failure to deliver new infrastructure projects in the borough. Ideally, the council would seek to ensure a CIL is in place as soon as possible to maximise the receipts from local plan allocated sites, many of which are coming forward in early years of the plan period. Conversely, it should be noted that current and future applicants may be feel aggrieved at the additional burden of CIL payment should their development qualify, although the council's intention to introduce CIL has been public for several years. It may be claimed that such development is negatively impacted from a viability standpoint and thereby reduce local economic output if works are delayed or stopped, for example.

REPORT AUTHOR:

Name: Camilla Carruthers

Title: Senior Policy Planner

Phone: 01277 312652

Email: camilla.carruthers@brentwood.gov.uk

APPENDICES

- Appendix A: Brentwood Borough Council CIL Charging Schedule
- Appendix B: Brentwood Borough Council CIL Instalment Policy

- Appendix C: Brentwood Borough Council CIL Charging Schedule Examination – Inspector’s Final Report, August 2023
- Appendix D: Brentwood Borough Council CIL Charging Schedule Adoption Statement, September 2023

BACKGROUND PAPERS

None

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Policy, Resources & Economic Development Committee: Item 385, Community Infrastructure Levy Submission	8 March 2023
Policy, Resources & Economic Development Committee: Item 178, Community Infrastructure Levy Draft Charging Schedule Consultation	3 October 2022
Policy, Resources & Economic Development Committee: Item 337, Community Infrastructure Levy Update	9 March 2022

Brentwood Borough Council Community Infrastructure Levy Charging Schedule

Appendix A

Adopted 27th September 2023 | Effective 15th January 2024

Community Infrastructure Levy rates

Community Infrastructure Levy (CIL) liable development, as defined within the Community Infrastructure Levy Regulations (as amended) 2010 and the Planning Practice Guidance, will be required to pay the following levy rates.

Development type		CIL rate per m ²
Residential	Brentwood Local Plan ⁽¹⁾ Strategic Residential-led and Mixed Use Allocations ⁽²⁾ : R01, Dunton Hills Garden Village	£0
	R02, Land at West Horndon Industrial Estate	£25
	R03, Land North of Shenfield ⁽³⁾	£150
	All other areas	£250
	Older people's housing ⁽⁴⁾	£220
Non-residential	Brentwood Local Plan ⁽¹⁾ Strategic Employment Allocations ⁽²⁾ : E11, Brentwood Enterprise Park	£0
	All other areas	See below
Retail	General ⁽⁵⁾ retail: In Brentwood Town Centre High Street ⁽⁶⁾	£340
	In all other areas	£80
	Supermarket ⁽⁷⁾	£260
	Retail warehouse ⁽⁸⁾	£160
Industrial	Located on greenfield land: 2,000 sqm or more in size ⁽¹⁰⁾	£80
	Less than 2,000 sqm in size ⁽¹⁰⁾	£0
	Located on brownfield land	£0
Distribution and logistics ⁽⁹⁾		£140
All other development		£0

Notes

- (1) Brentwood Local Plan 2016-2033, adopted March 2022.
- (2) The location and boundary of the sites are presented in the CIL Variable Rates Maps 1 below.
- (3) Site referred to within the CIL Viability Assessment Update (August 2022) as Officer's Meadows.
- (4) Older people's housing is defined as:
 - Retirement living or sheltered housing: This usually consists of purpose-built flats or bungalows with limited communal facilities such as a lounge, laundry room and guest room. It does not generally provide care services, but provides some support to enable



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residents to live independently. This can include 24 hour on-site assistance (alarm) and a warden or house manager.

- Extra care housing or housing-with-care: This usually consists of purpose-built or adapted flats or bungalows with a medium to high level of care available if required, through an onsite care agency registered through the Care Quality Commission (CQC). Residents are able to live independently with 24 hour access to support services and staff, and meals are also available. There are often extensive communal areas, such as space to socialise or a wellbeing centre. In some cases, these developments are known as retirement communities or villages – the intention is for residents to benefit from varying levels of care as time progresses.

- (5) All retail development which is not a supermarket or retail warehouse as defined below.
- (6) Retail within the areas of the Brentwood Town Centre High Street Primary Shopping Area identified in the CIL Variable Rates Maps 2 below.
- (7) Defined as retail selling predominantly convenience goods in premises of 1,000m² or more, offering a shopping destination in their own right where weekly food shopping needs are met. Supermarkets can also include non-food floorspace as part of the overall mix.
- (8) Defined as retail selling predominantly comparison goods (such as carpets, furniture, electrical goods, DIY items) in large premises of 2,000m² or more.
- (9) Uses within the Use Classes Order Class B8 storage and distribution.
- (10) Relating to industrial uses, excluding space associated with car parking and landscaping.

DRAFT



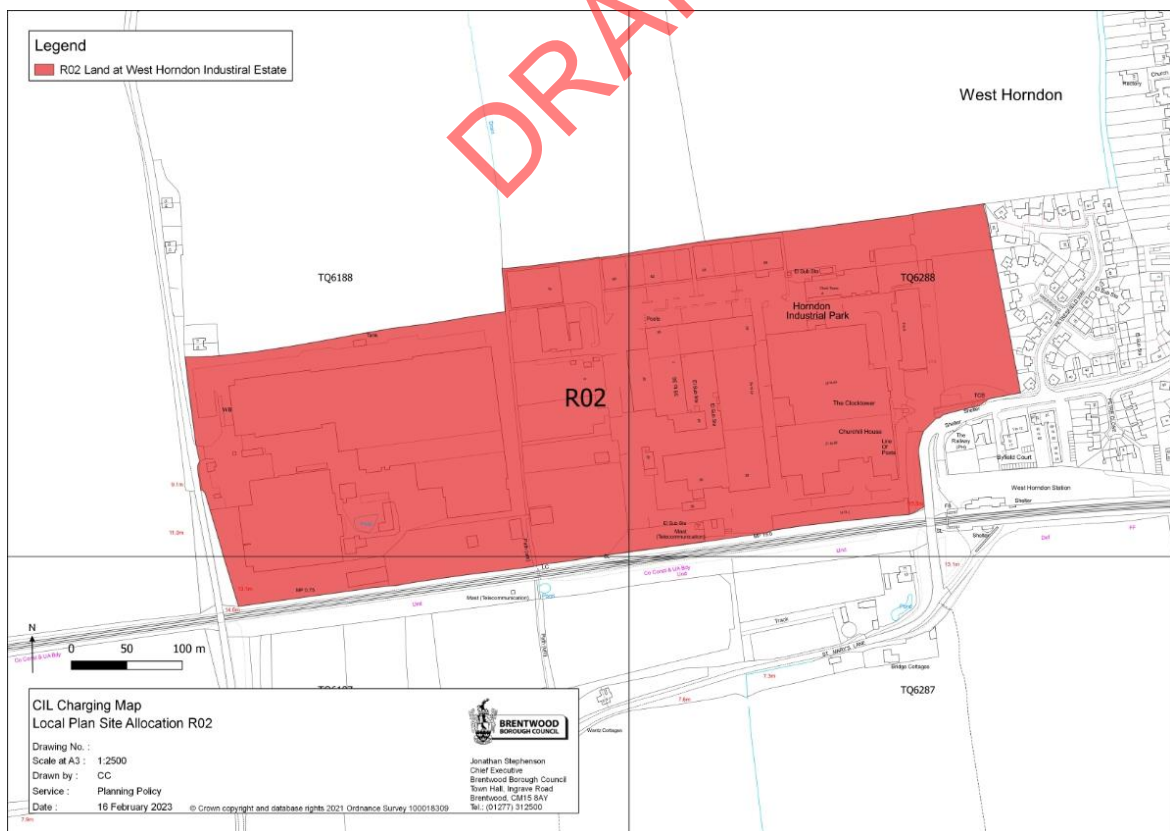
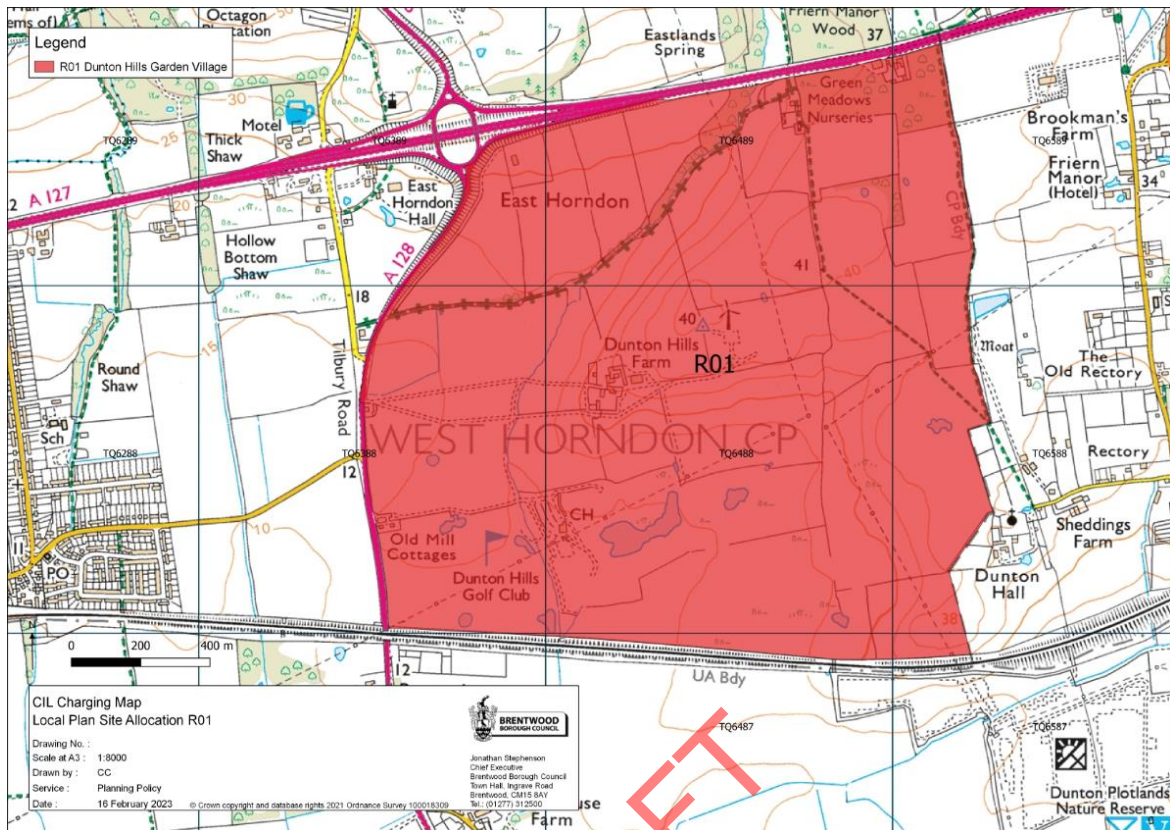
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CIL Variable Rates Maps 1: Brentwood Local Plan Strategic Allocations R01, R02, R03, and E11

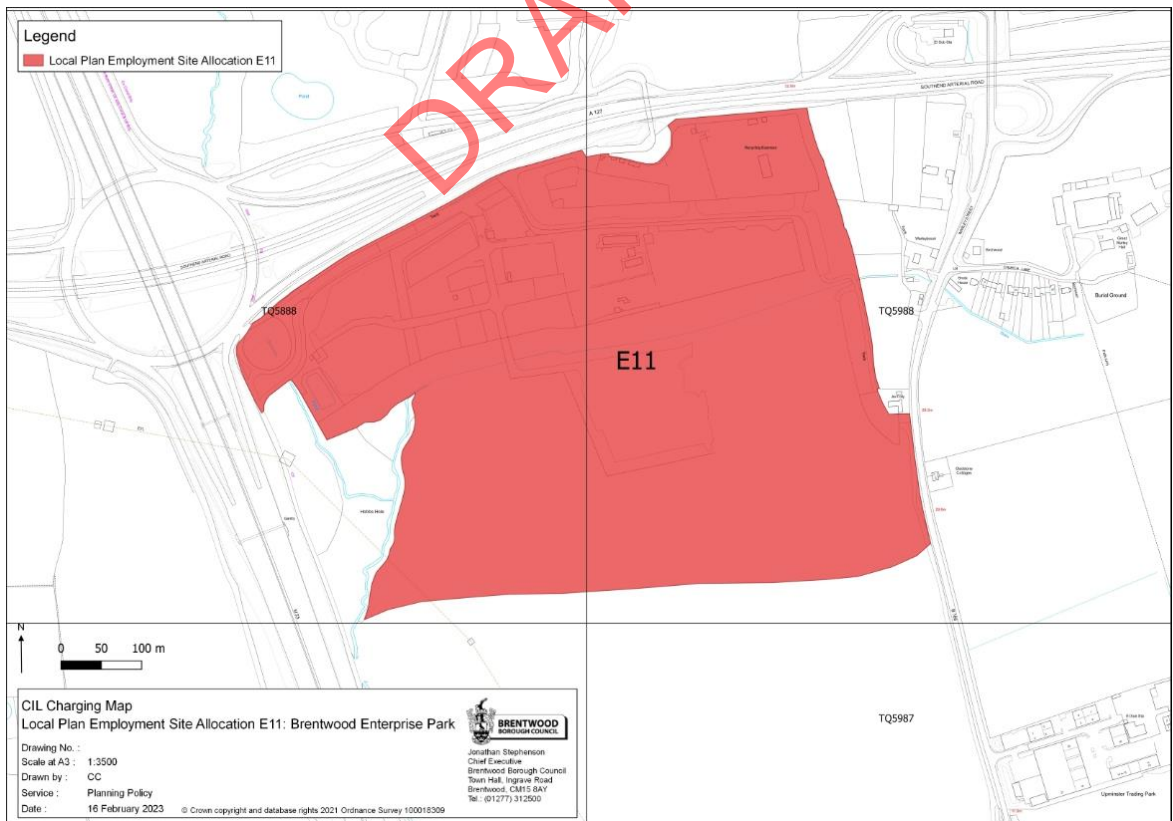
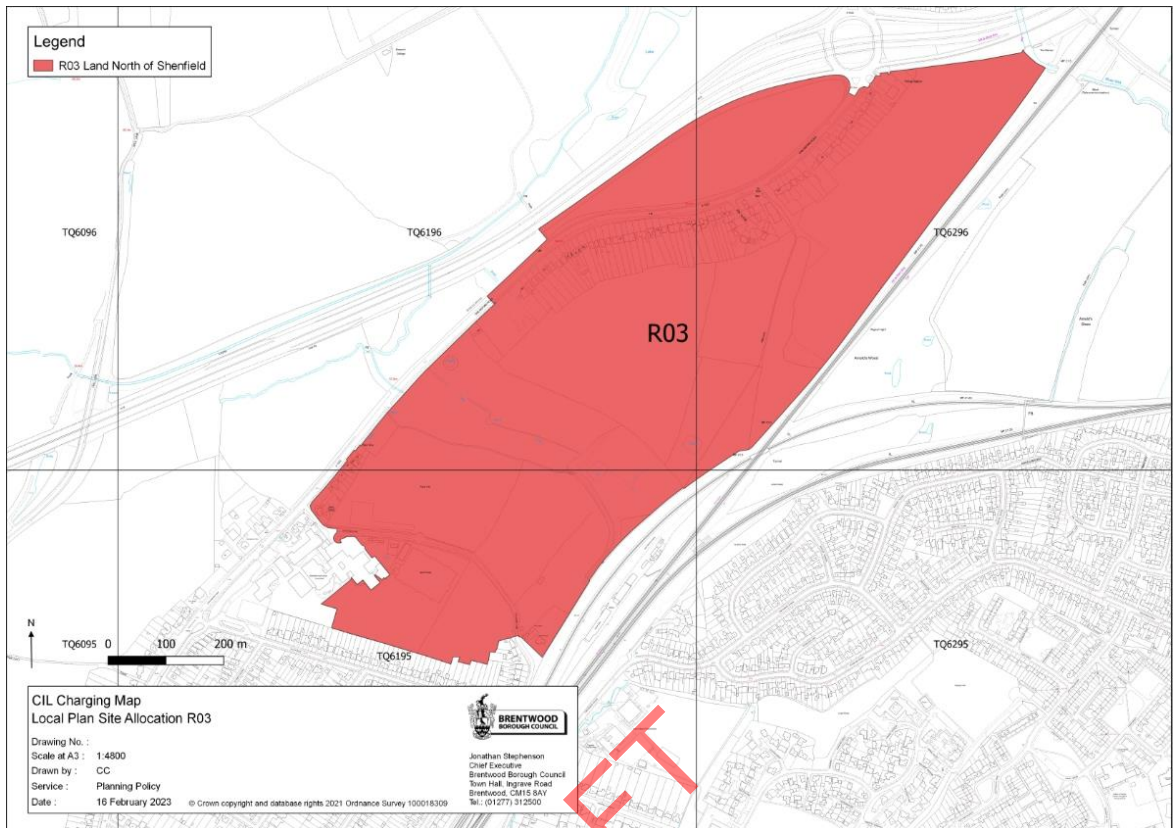


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CIL Variable Rates Maps 2: Retail within the Brentwood Town Centre High Street Primary Shopping Area



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Brentwood Borough Council
Community Infrastructure Levy Appendix B
Instalment Policy

Adopted 27th September 2023 | Effective 15th January 2024

Instalment Policy

The levy rates are required to be paid to the Council through the following instalments following the provision of a CIL Demand Notice issued by the Council.

Overall CIL liability	Payment instalments
£5,000 or less	Payment in full within 60 days (as per regulations)
£5,000.01 - £19,999.99	Instalment 1: 50% within 60 days Instalment 2: 50% within 180 days
£20,000 - £99,999.99	Instalment 1: 25% within 60 days Instalment 2: 25% within 180 days Instalment 3: 25% within 365 days Instalment 4: 25% within 540 days
£100,000 - £499,999.99	Instalment 1: 20% within 60 days Instalment 2: 20% within 180 days Instalment 3: 20% within 365 days Instalment 4: 20% within 540 days Instalment 5: 20% within 730 days
£500,000 or more	Agreement of project specific payment schedule

Any and all outstanding instalments become due immediately on completion of the final unit irrespective of the schedule shown in the table above.



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Report to Brentwood Borough Council

by Matthew Birkinshaw BA(Hons) Msc MRTPI

an Examiner appointed by the Council

Date: 21 August 2023

Planning Act 2008 (as amended)

Section 212(2)

Report on the Examination of the Brentwood Community Infrastructure Levy Draft Charging Schedule

Charging Schedule submitted for examination on 23 March 2023

The examination hearing was held on 11 July 2023

File Ref: PINS/ PINS/H1515/429/11

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Abbreviations used in this report

BLV	Benchmark Land Value
BCIS	Building Cost Information Service
CIL	Community Infrastructure Levy
GDV	Gross Development Value
IDP	Infrastructure Delivery Plan
PPG	Planning Practice Guidance

Non-Technical Summary

This report concludes that the Brentwood Community Infrastructure Levy Draft Charging Schedule provides an appropriate basis for the collection of the levy in the borough. The Council has sufficient evidence to support the Charging Schedule and can show that the levy is set at a level that will not put the overall delivery of development in the area at risk.

I have recommended that the Charging Schedule should be approved in its published form without changes.

Introduction

1. This report contains my assessment of the Brentwood Community Infrastructure Levy ('CIL') Draft Charging Schedule (the 'Charging Schedule') in terms of Section 212 of the Planning Act 2008. It considers whether the Schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance.
2. To comply with the relevant legislation, the local charging authority has to submit a charging schedule which sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the area. Consultation on the Charging Schedule took place from 12 October to 9 November 2022. Following this consultation, the Council produced a Statement of Modifications setting out changes to the Schedule in light of the comments received. The Statement of Modifications was sent to everyone invited to respond to the Regulation 16 consultation and all other representors, as required by Regulation 19 of the CIL Regulations 2010 (as amended). This also included an invitation for participants to request to be heard by the Examiner.
3. It is therefore the modified Schedule, as amended by the Statement of Modifications, which forms the basis of this examination. In summary, it proposes the following rates:

Brentwood Local Plan Strategic Residential allocations:

- R01 – Dunton Hills Garden Village - £0 per square metre
- R02 – West Horndon Industrial Estate - £25 per square metre
- R03 – Land North of Shenfield - £150 per square metre

Residential Development in All Other Areas:

- £250 per square metre

Older People's Housing:

- £220 per square metre

Brentwood Local Plan Strategic Employment allocations:

- E11 – Brentwood Enterprise Park - £0 per square metre

General Retail:

- Brentwood Town Centre High Street - £340 per square metre
- All Other Areas - £80 per square metre

Supermarket:

- £260 per square metre

Retail Warehouse:

- £160 per square metre

Industrial Development on Greenfield Land:

- 2,000 square metres and above - £80 per square metre
- Less than 2,000 square metres - £0 per square metre

Industrial Development on Brownfield Land:

- £0 per square metre

Distribution and Logistics:

- £140 per square metre

All Other Development:

- £0 per square metre

Is the charging schedule supported by background documents containing appropriate available evidence?

Infrastructure planning evidence

4. The Brentwood Local Plan was adopted in March 2022. It sets out the strategy for the area including the type, amount and location of new development over the plan period.
5. The Local Plan is supplemented by the Brentwood Infrastructure Delivery Plan ('IDP')¹. This identifies the infrastructure needs of the area required to support the planned growth. Some of the chapters have not been updated since 2019. However, the IDP is an iterative document and is reviewed periodically and updated where necessary. The latest version, version 7, was produced in 2021 and informed the examination of the Local Plan, which was found to be sound and adopted as part of the development plan for the area. No contradictory evidence has been provided to suggest that the infrastructure requirements identified in the IDP are either unnecessary to support the growth proposed in the Plan, or significantly out of date. The evidence is appropriate and substantiates the need for new infrastructure in Brentwood.
6. The IDP Schedule (updated in 2021) lists the main types of infrastructure, their indicative cost and how each item will be funded, either by CIL, or through planning obligations. In summary, it projects an indicative total cost of £311,167,323 which is required to fund the necessary infrastructure in the area. A significant proportion of the total cost is attributed to transport and education. When deducting the amount of revenue expected from planning obligations, an overall shortfall of £71,093,353 is projected. CIL will contribute towards the funding of this shortfall.
7. Based on the information provided, the proposed levy would therefore contribute towards filling the likely funding gap required to deliver the necessary new infrastructure in Brentwood. The figures demonstrate the need to levy CIL.

Economic viability evidence

8. The Council's Viability Assessment was updated in August 2022² following adoption of the Local Plan. It supplements the 2018 Assessment which had previously considered rates for CIL. The Viability Assessment Update follows the same principles as the earlier assessment, but updates key assumptions regarding costs, values and policy requirements following adoption of the Plan. It also includes updated information on the strategic site allocations.

¹ Core Documents CSD7A and CSD7B

² Core Document CSD6

9. A residual valuation methodology has been used, which is the difference between the Gross Development Value ('GDV') and costs, including a profit margin for the developer. The residual amount is the maximum that can be paid to acquire a development site. To be viable, the residual amount must exceed the existing use value of the site plus an appropriate uplift for a landowner to sell – referred to as the Benchmark Land Value ('BLV').
10. To provide additional flexibility, the BLV has been increased by 30%. Whilst the amount is not prescribed in national policy or guidance, it is an appropriate buffer based on a reasonable judgement in seeking to allow for changing economic circumstances. The approach is also adequately explained in the Council's evidence.
11. The Viability Assessment Update then compares the residual value against the BLV +30%, with CIL costs added incrementally from £0 to £500 per square metre. Based on this methodology, the evidence shows that (except for strategic sites), new residential development is likely to remain viable with CIL up to £350 per square metre³. This is not intended to provide an exact figure upon which all sites are viable but is meant to give a broad indication as to the ability of new housing to accommodate CIL without threatening the delivery of development across the area as a whole.
12. Further consideration is given to viability by looking at CIL as a percentage of the residual value and as a percentage of GDV. For residential development, both calculations suggest that CIL rates up to around £250 per square metre would be appropriate. Above this level and the levy as a proportion of GDV would exceed 5%. Again, whilst this threshold is not an exact science, it nonetheless provides a further evidential basis upon which to judge the effects of CIL. The assumptions are reasonable and point to a levy rate of up to £250 per square metre without seriously threatening the economic viability of new housing across Brentwood.
13. Build costs have been derived from the Building Cost Information Service ('BCIS'), which is an appropriate and widely used source of data referred to in the Planning Practice Guidance ('PPG')⁴. At the time of publication in August 2022, build costs were rising, with the data predicting an 8% increase between July 2022 and July 2025. In response, the impact of cost variations is modelled in Table 10.12 of the Viability Assessment Update. The modelling shows that, for residential development, most schemes could absorb increases in build costs of around 10%, with anything over 15% starting to impact viability. Because the Viability Assessment is only a snapshot in time, and cannot accurately predict future economic events, it will be for the Council to monitor factors such as build costs going forward. At present, there is nothing to

³ Viability Assessment Update, Table 10.5

⁴ Paragraph: 012 Reference ID: 10-012-20180724

suggest that the Viability Assessment Update is significantly out of date, or that further modelling is required, especially when taking into account other tolerances and buffers used throughout in the Assessment.

14. A similar conclusion is reached in respect of borrowing costs. As the Bank of England base rate has continued to rise throughout 2023, it has been suggested that the Viability Assessment Update has underestimated the cost of borrowing. However, the methodology uses a figure of 7% which still broadly reflects current circumstances. Furthermore, this has been applied to all debt, whereas it was accepted by participants at the hearing that developers are likely to include some equity in their projects. Scope for changing circumstances is therefore taken into account.
15. In addition to the BCIS build costs, an allowance of up to 20% has been included for external works. This includes items such as roads, landscaped areas and service connections within a site. A further 5% on costs is included for any abnormal costs typically associated with brownfield sites, whilst a further 5% is included as a contingency allowance. These figures are all reasonable assumptions to make.
16. An allowance for Section 106 contributions of £2,500 per unit is included for 'typical' residential sites. Whilst some schemes may result in higher costs, on the whole, it reflects the evidence which includes a comparison of planning obligations from permissions granted. That analysis showed an average of £1,140 per unit. The figure used is therefore justified.
17. Strategic sites allocated in the Local Plan (Policies R01-R03) have been assessed individually. The cost of providing strategic infrastructure is derived from the IDP, which includes a contingency allowance on each item. Costs are also based on discussions between the Council, Essex County Council and the developers/site promoters to achieve a more accurate position. In summary, Section 106 costs range from £28,951 per unit at Officers Meadow to £42,170 per unit at Dunton Hills Garden Village. The higher costs are attributed to the need for greater strategic infrastructure, and in broad terms, results in a much lower viability threshold. For Dunton Hills Garden Village (the largest site in the Plan), the Assessment recommends that a levy is not charged. West Horndon and Officers Meadow are charged at £25 per square metre and £150 per square metre respectively. Given the importance of the strategic sites to the delivery of the Plan, the site-specific approach to their modelling is justified.
18. Potential strategic sites which are not in the Plan are excluded from the Assessment. This is an entirely reasonable and logical approach to take as large-scale windfall sites are not part of the strategy for the area, nor does the Plan rely upon such sites to come forward. Furthermore, there is nothing to suggest that the type of sites referred to at the hearing would be allocated in

any future Local Plan review, or, that their delivery would be put at risk by the imposition of CIL. In the event that new sites are required as part of a future review of the Plan, then the Charging Schedule would be taken into account as a cost in the necessary updates to the Viability Assessment. There would also be an option for the Council to review the Charging Schedule, as required, in the future.

19. The typologies used in the Viability Assessment Update cover a broad range of sites, using greenfield and brownfield scenarios. Clearly, it is not possible to cover every eventuality, but the Council's Assessment includes a proportionate and realistic mix of sites that would be expected to come forward in Brentwood.
20. The value attributed to new residential development has been determined by making assumptions based on average house prices, derived from both Land Registry sold prices and average asking prices. Assessing the data does show some variation across Brentwood. For example, prices are around £3,700 per square metre in West Horndon compared with around £5,700 per square metre in Pilgrims Hatch⁵. However, the sample sizes used are only limited, with values for Pilgrims Hatch based on only 3 sites. Even where large numbers of transactions are found, such as in Brentwood itself, the majority are from flatted developments. The sales values are therefore going to be skewed by the type and value of properties available and some broad assumptions have to be made. Neither the Viability Assessment nor any alternative evidence justifies taking a different, more refined approach to sales values across the borough. Similar conclusions apply in respect of non-residential uses, where the Viability Assessment Update has looked at wider sources of information to determine values for large industrial units due to a lack of local comparables. Overall, the sampling used by the Council is adequate and the assumptions around values are based on appropriate available evidence, which included engagement with the development industry.
21. Non-residential uses are modelled in the same way throughout the Viability Assessment Update by using the residual valuation approach. Typologies are tested on brownfield and greenfield sites taking account of policy costs from the Local Plan. The only other strategic site in the Plan (the Brentwood Enterprise Park) was assessed based on Section 106 costs known at the time, but, recognised that further evaluation may be required as details for the scheme emerged. Additional information is now provided in the Statement of Common Ground between the Council and St Modwen Properties⁶. It sets out an agreed position with strategic infrastructure and mitigation costs totalling approximately £40m. It is for this reason that the Charging Schedule (as modified) concludes that the site would be unviable with any CIL costs.

⁵ Viability Assessment Update, Table 4.6

⁶ Examination Document PSED1, dated March 2023

22. For industrial schemes, the Assessment differentiates between large and small-scale development based on a threshold of 2,000 square metres. This is consistent with the evidence on costs set out by the BCIS⁷. It also reflects the difference between typically smaller, start-up units and larger-scale industrial premises likely to come forward over the plan period. For similar reasons, the separate testing of distribution and logistics uses (Class B8) is justified and reflects the different type and format of these developments when compared with 'traditional' industrial buildings. The Council's evidence around values also points to differences between general industrial and logistics developments⁸.
23. Unlike industrial development, the Viability Assessment Update does not test brownfield scenarios for distribution and logistics developments. However, given the nature of these uses, and specifically their requirement to have good access to the motorway network, the evidence is justified in the context of Brentwood. Aside from the Brentwood Enterprise Park, no significant brownfield sites have been identified in the Local Plan of the size and location that could accommodate such uses. Nor do any of the Local Plan allocations provide any land parcels of the size and type that would be likely to accommodate large-scale warehousing for distribution purposes.

Conclusion

24. In summary, the Charging Schedule is supported by detailed evidence of community infrastructure needs and economic viability. The evidence which has been used to inform the Charging Schedule is robust, proportionate and appropriate.

Is the charging rate informed by and consistent with the evidence?

CIL rates for Residential Development

25. Strategic Policy MG01 of the Brentwood Local Plan makes provision for 7,752 (net) new dwellings over the plan period (2016-2033). Four strategic sites are allocated at Dunton Hills Garden Village (R01), West Horndon Industrial Estate (R02), land north of Shenfield (R03)⁹ and land at Warley (R04). With the exception of land at Warley, all the strategic housing sites have been modelled in the Viability Assessment Update. The reason for excluding land at Warley is because the allocation falls under the strategic site threshold of 400 dwellings. It is nonetheless a reasonable threshold to use as it reflects the typically greater infrastructure requirements associated with larger, strategic sites.

⁷ Viability Assessment Update, Appendix 11

⁸ Viability Assessment Update, Table 12.2

⁹ Policy R03 land north of Shenfield is referred to in the Viability Assessment Update and throughout this report as 'Officer's Meadow'

26. Dunton Hills Garden Village is the largest site in the Plan and has been assessed for 4,000 houses. An agreed position has been reached between the Council and the site promoters which estimates that the strategic infrastructure and mitigation costs are likely to exceed £168m, or over £42,000 per unit. Based on these costs, the evidence¹⁰ demonstrates that the viability of Dunton Hills would be marginal even without CIL. As a result, the identification of the site as a separate zone, with a rate of £0 per square metre is justified. The approach taken by the Council is consistent with guidance in the PPG, which states that low or zero rates may be appropriate where plan policies require significant contributions towards infrastructure¹¹.
27. Land at West Horndon and land at Officer's Meadow also have site-specific levy rates, at £25 and £150 per square metre respectively. For both these sites, using only the residual value method would suggest a rate of around £150 per square metre would be appropriate. However, the sensitivity testing in Table 10.5 points to a lower rate being appropriate for West Horndon. Recognising that assessing viability is not an exact science, and taking into account that West Horndon is a strategic site in the Plan, taking a more cautious approach is appropriate. The published rates for both sites are therefore consistent with the economic viability evidence and are justified.
28. It has been suggested that Officer's Meadow should be zero-rated in the same way as Dunton Hills Garden Village. But the Viability Assessment Update has looked at each strategic site individually, based on the evidence available, and based on the infrastructure costs derived from the latest IDP. A contingency allowance is accounted for in the IDP cost estimates, in addition to allowances in the viability methodology described above. Where sites have unusually high costs, over and above the allowance for abnormal costs in the Viability Assessment, this is likely to be reflected in lower land prices. The PPG is clear that abnormal costs should be considered when defining benchmark land value and should reflect the implications of these additional costs¹². I find no persuasive evidence at this time to recommend a different rate for the site at Officer's Meadow.
29. In considering the strategic sites I am mindful that the amount of development may change as final details emerge. At Officer's Meadow the site promoter now suggests that fewer homes will be delivered (700) than the 825 units modelled in the Viability Assessment Update. However, the site is allocated in the Local Plan for 825 dwellings. In finding the Plan sound, the Inspectors concluded that "*It is clear from the SoCG that the site is able to move forward fairly quickly and we are satisfied that it can accommodate the development proposed...*"¹³. It must also be acknowledged that the Viability Assessment is

¹⁰ Viability Assessment Update, Table 10.5

¹¹ Paragraph: 026 Reference ID: 25-026-20190901

¹² Paragraphs: 012 Reference ID: 10-012-20180724 and 014 Reference ID: 10-014-20190509

¹³ Examination Document PSED8 paragraph 159

only a snapshot in time and individual sites may achieve a higher or lower scale of housing than envisaged in the Plan. Ultimately, in this case, there is no robust evidence to suggest that a slightly lower level of housing would undermine the delivery of the plan.

30. All other residential development is charged at £250 per square metre. In reaching this conclusion the Viability Assessment Update adequately reflects the type, scale and location of development likely to come forward in the area and the costs associated with adopted Local Plan policies. Across all the typologies, the residual value exceeds the BLV +30% with CIL up to £500 per square metre. However, seeking to ensure that CIL does not account for more than 25% of the residual value, the evidence suggests that the maximum levy for non-strategic sites should not be any greater than £250 per square metre. Although this level of additional cost may still have an impact on some larger brownfield sites, the Plan's housing strategy does not rely upon significant areas of previously developed land. The majority of new residential development in the area will remain viable at this level.
31. Concerns have been raised regarding the cost of the levy and its impact on housing delivery by reference to rates used elsewhere. However, the rates proposed are based on the circumstances and evidence available in Brentwood. There is nothing in the PPG or the Regulations to suggest that charging authorities in the same region must adopt similar rates. Furthermore, with the exception of the strategic sites, I am unaware of any contradictory viability assessments to demonstrate that the rates will undermine housing delivery, either in terms of total housing numbers or the pace at which development is brought forward. Whilst it is accepted that the CIL rate could affect the viability of some individual sites, for example sites where abnormal costs are significantly greater, the Regulations are concerned with the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across the area. In those specific circumstances where additional costs are incurred to bring forward land, it would be for the Council as the decision-making authority to determine the suitability of a scheme should the cost of CIL result in other policy requirements not being met.
32. The residual valuation approach has also been used for older person's accommodation. Rates above £220 per square metre would have a notable impact on land prices with values potentially falling over 25%. Using this as the proposed levy rate is therefore appropriate and adequately reflects the evidence. No persuasive evidence has been provided to suggest that this type of development (where applicable) would be undermined in Brentwood.

CIL rates for Industrial and Distribution and Logistics Development

33. Local Plan Policy E11 allocates around 29 hectares of land for employment uses at the Brentwood Enterprise Park. It is the only strategic employment site in the Plan.
34. The Viability Assessment Update does refer to the Brentwood Enterprise Park, but acknowledges that if determination of the planning application is delayed then it will be necessary to model the site taking account of any strategic infrastructure and mitigation costs¹⁴. Following completion of the viability evidence a Statement of Common Ground has been prepared between Brentwood Borough Council and St Modwen Properties. It identifies site costs, with an additional allowance of 5% for abnormal items (consistent with the Viability Assessment Update). A further cost of £40m is then identified for strategic infrastructure, the majority of which relates to highway improvements. In very broad terms, this strategic infrastructure cost is the primary reason why there is no capacity for CIL on the site. Its identification on a plan and its zero rating is therefore justified.
35. For non-strategic sites, the Viability Assessment Update has tested brownfield and greenfield scenarios. It has also tested sites based on size, using a threshold of 2,000 square metres. This is derived from the BCIS cost data which provides information for units up to 500 square metres, 2,000 square metres and above. Using this threshold also differentiates between smaller, start-up units and larger commercial premises.
36. Using the same methodology as for housing sites, the evidence shows that, regardless of size, industrial development on brownfield land would be unable to support CIL. Conversely, where the type of development proposed involves the development of greenfield land, the evidence points to a figure of around £80 per square metre before CIL starts to exceed 5% of GDV. As with housing, whilst the use of this threshold is not an exact science, nor is it prescribed in policy, the judgements used in the Viability Assessment Update to gauge the effects of CIL are reasonable. Moreover, no alternative evidence of a similar level of detail has been provided to substantiate the use of a lower figure.
37. Distribution and logistics developments are modelled in the Viability Assessment Update appendices based on a standard unit size of 4,000 square metres. Although some larger schemes may come forward, the Brentwood Enterprise Park is the only development of its type identified in the Local Plan. All the other employment site allocations generally have much smaller land parcels available. The assumptions used in the modelling are therefore reasonable and seek to reflect the type of development likely to occur in Brentwood. As identified above, the evidence is not intended to cover every

¹⁴ Viability Assessment Update paragraph 12.75

possible eventuality, but instead consider the effects on economic viability across the area as a whole and ensure that CIL does not undermine the deliverability of the Plan. Using CIL as a percentage of GDV, in the same way as industrial development, demonstrates that distribution and logistics development would typically remain viable at £140 per square metre.

CIL rates for Retail and Town Centre Development

38. Retail developments have been categorised into supermarkets, retail warehouses and 'general' retail shops. For supermarkets, the Viability Assessment Update models different sizes to reflect different operators. Supermarkets are defined as convenience retail developments over 1,000 square metres.
39. The evidence supports the use of separate rates for supermarkets and retail warehouses, which are helpfully defined in the Charging Schedule as schemes selling predominantly comparison goods over 2,000 square metres. Both show comfortable capacity for CIL when looking at the residual valuation approach, with rates determined principally by the need to limit the amount of CIL as a percentage of GDV.
40. For general retail development, the Charging Schedule applies a levy of £80 per square metre in all areas except Brentwood Town Centre High Street, where the levy is £340 per square metre. It is accepted by the Council that the rate for retail development on the High Street is significant, especially when considering the challenges that high streets are facing from changing retail habits, such as online shopping. However, the Schedule reflects the evidence. It is also relevant to consider that the boundary for the Schedule has been drawn tightly around the footprint of the buildings on the High Street. It is not the same as the town centre boundary defined by the adopted Local Plan. When taking this into account, and the fact that the levy would only apply to new developments over 100 square metres (and not changes of use), I am satisfied that the rates are unlikely to undermine the viability of retailing on the High Street.

CIL rates for All Other Development

41. All other forms of main town centre uses would fall into the final category and are zero-rated in the Charging Schedule. This reflects the Viability Assessment Update which found that uses such as offices and hotel developments have no capacity for a CIL charge.

Other Matters

42. The Statement of Modifications rectified an error in the proposed instalment policy, which now provides the necessary clarity for users of the Schedule. Having a payment schedule is appropriate and justified when considering that

developments (especially larger ones) could be built out and occupied in phases. In doing so it reflects the approach in planning obligations.

43. Discretionary relief for exceptional circumstances would be a matter for the Council going forward. There is no need to repeat sections of the PPG or the Regulations in the Charging Schedule.
44. Finally, as for monitoring the levy, future Infrastructure Funding Statements will be published, as required, and will set out the necessary transparency on how contributions have been collected in the relevant reporting period.

Does the evidence demonstrate that the proposed charge rate would not put the overall development of the area at serious risk?

45. The Council's decision to set out rates as presented in the Charging Schedule is based on reasonable assumptions about development values and likely costs. The evidence suggests that new development will remain viable across the area if the charge is applied. Only if sales values drop significantly and/or build costs increase more than 15% would development in some parts of the borough become unviable. However, the levy as been set at a rate which, based on the evidence available, allows for changes in economic circumstances without putting the delivery of development in Brentwood at significant risk.

Conclusion and Legal Requirements

46. In setting the CIL charging rate, the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Brentwood. The Council has tried to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the area.
47. I conclude that the Brentwood Community Infrastructure Levy Charging Schedule satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that the Charging Schedule be approved.

Matthew Birkinshaw

Examiner



BRENTWOOD BOROUGH COUNCIL ADOPTION STATEMENT

Notice of the adoption of the:
Community Infrastructure Levy (CIL) Charging Schedule

in accordance with:
The Planning Act 2008
The Community Infrastructure Levy Regulations 2010 (as amended)

Notice is hereby given that in accordance with Part 11, Section 213 of the Planning Act 2008 and Regulation 25 of the Community infrastructure Levy Regulations 2010 (as amended), Brentwood Borough Council formally adopted the CIL Charging Schedule on 27 September 2023.

The Charging Schedule will take effect from 15 January 2024. Any applications decided from that date are CIL liable, subject to any specified exemptions in the Regulations.

The Charging Schedule and supporting Instalment Policy are available to view on the Councils website:

www.brentwood.gov.uk/community-infrastructure-levy-cil

Paper copies of the Charging Schedule and this Adoption Statement are available for public inspection at Brentwood Borough Council Offices - Town Hall, Ingrave Road, Essex, CM15 8AY (Weekdays 9am to 4pm), and at the library locations listed below:

Brentwood Library, New Road, CM14 4BP	9am to 5.30pm Mon, Wed, Thur, Fri; 9am to 7pm Tue; 9am to 5pm Sat
Ingatestone Library, High Street, CM4 9EU	2pm to 7pm Mon; 9am to 1pm Wed; 9am to 5pm Sat
Shenfield Library, Bishop Hill Adult Community Learning Centre, Rayleigh Rd, Hutton, CM13 1BD *This is a temporary location due to redevelopment work.	9am to 5:30pm Mon, Tue, Wed, Fri; 9am to 5pm Sat

A copy of this Adoption Statement will be sent to all parties who have asked to be notified of the adoption of the Charging Schedule and to each of the relevant consenting authorities.

For further information please refer to the Council's website www.brentwood.gov.uk/community-infrastructure-levy-cil or contact the Planning Policy Team by email at planning.policy@brentwood.gov.uk or by telephone on 01277 312 500

Phil Drane

A handwritten signature in black ink, appearing to be 'PD' or similar initials, written in a cursive style.

Director – Place

27 September 2023



**ORDINARY COUNCIL
27 SEPTEMBER 2023**

REPORT TITLE:	Report of the Constitution Work Group (CWG)
REPORT OF:	Claire Mayhew, Joint Acting Up, Director – People & Governance & Monitoring Officer

REPORT SUMMARY

Following a motion at Ordinary Council on 21 June 2023, which stated:-

“The Council notes:

- *‘Chairs Reports and Questions’ at Ordinary Council should provide democratic accountability of its leadership.*
- *Recently, Leaders have chaired PRED committees, allowing a very broad range of questions to be put to them. This may not be the case when a Leader chairs a Policy Committee with a more focused remit, or none at all.*
- *This motion therefore calls for immediate amendment to Procedural Rule 7.2 that limits the scope of questions to (and omits specific inclusion of) the Council Leader.*

This council resolves to:-

1. *Require the council’s leader to be fully involvement in chairs questions sessions across all areas of Council activity to promote public trust, encourage robust discussions, and enable greater scrutiny of actions and policies;*
2. *Introduce with immediate effect changes to fully include the Council Leader in Ordinary Council’s ‘Chairs Report and Questions’ session (to be renamed Leaders and Chairs’ Report and Questions) to cover “all areas of Council responsibility within the council’s area”;*
3. *Request the monitoring officer, in liaison with the Constitution Working Group, to bring forward to the next Ordinary Council the necessary changes Procedural Rule 7 (Chair Report and Questions) to give effect to this change.”*

Under chapter 4, 8.3.7 (a) (i) The motion was referred to an appropriate body (CWG) for consideration with a report being brought back to the next meeting of Council.

RECOMMENDATIONS

- R1 To adopt the Leader’s Report under the chapter 4 paragraph 7, 1-3 to form part of the Chair’s Reports and Questions within the Constitution.**
- R2 The Monitoring Officer to make the change required to the Constitution with immediate effect.**

SUPPORTING INFORMATION

1.0 BACKGROUND INFORMATION

- 1.1 The Constitution Working Group (CWG) met on the 10 August 2023 to consider the motion.
- 1.2 The CWG discussed the structure of the Leader’s Report, and it was recommended that members of the council would benefit from matters that are not captured in Chair’s reports or within the business of the Council.
- 1.3 It was suggested that the Leader’s Report should focus on updates concerning ASELA, Local Government Association together with the outside organisation which that are a representative, i.e. Brentwood Community Safety Partnership, Armed Forces Covenant Champion, Essex Police and Crime Panel and issues that the Leader of the Council considers applicable.

2.0 REASONS FOR RECOMMENDATIONS

- 2.1 Section 37 of the Local government Act 2000 required that the Council has in place a document, known as its Constitution, which should be regularly reviewed.

3.0 CONSULTATION

- 3.1 No consultation is required in advance of submission of the report. Constitution Working Group propose recommendations to Council for final approval.

4.0 FINANCIAL IMPLICATIONS

Name & Title: Tim Willis, Interim Director – Resources (Section 151 Officer)

Tel & Email: 01277 312500/tim.willis@brentwood.rochford.gov.uk

4.1 There are no direct implications arising from this report.

5.0 LEGAL IMPLICATIONS

Name & Title: Claire Mayhew, Joint Acting Up, Director – People & Governance (Monitoring Officer)

Tel & Email: 01277 312500/claire.mayhew@brentwood.gov.uk

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

6.0 EQUALITY & HEALTH IMPLICATIONS

Name & Title: Kim Anderson, Corporate Manager - Communities, Leisure and Health

Tel & Email 01277 312500/kim.anderson@brentwood.gov.uk

6.1 The Public Sector Equality Duty applies to the council when it makes decisions. The duty requires us to have regard to the need to:

- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for b) or c), although it is relevant for a).



**ORDINARY COUNCIL
27 SEPTEMBER 2023**

REPORT TITLE:	Honorary Titles – Aldermen and Alderwomen
REPORT OF:	Claire Mayhew, Joint Acting Up, Director – People & Governance & Monitoring Officer

REPORT SUMMARY

To confer honorary titles under section 249 of Local Government Act 1972.

RECOMMENDATIONS

Members are asked:

- R1. That, in pursuance of section 249(1) of the Local Government Act 1972 and in recognition of the Council being of the opinion that eminent services have been rendered to the Council by former Councillors Tony Sleep, Roger Keeble, Pauline Myers and Jean McGinley, that the Council confers them with the title of Honorary Alderman/Alderwoman.**
- R2. That the presentation of these honorary titles will take place at the Civic Dinner on 5 April 2024.**

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATIONS

- 1.1 The Council wishes to recognise those who merit the highest awards that the Council can bestow on a person or organisation.

2.0 BACKGROUND INFORMATION

- 2.1 The title of 'Honorary Alderman/Alderwoman' are as the name suggest honorary and are conferred in recognition of eminent past services to the Council.

- 2.2 The role attracts no remuneration and involves no entitlement to take part in decision-making. The last vestige of the time when “aldermen” did have a decision-making role was removed by the Local Government Act 1972.
- 2.3 The names of Honorary Aldermen/Alderwomen will be displayed on honours board in the Council Chamber.
- 2.4 Honorary Aldermen/Alderwomen may attend and take part in such civic receptions and functions to which all Members of the Council are invited. However, Aldermen/Alderwomen shall not have the right, as such, to attend meetings of the Council or a Committee, or to receive any such allowances or payments to which Councillors are entitled.

3.0 CONSULTATION

- 3.1 Members were asked to put forward suitable nominations.

4.0 FINANCIAL IMPLICATIONS

Name & Title: Tim Willis, Interim Director – Resources (Section 151 Officer)

Tel & Email: 01277 312500/tim.willis@brentwood.rochford.gov.uk

- 4.1 There are no direct financial implications with this report. If necessary, the Council will utilise existing budgets and resources available within service area.

5.0 LEGAL IMPLICATIONS

Name & Title: Claire Mayhew, Joint Acting Up, Director – People & Governance (Monitoring Officer)

Tel & Email: 01277 312500/claire.mayhew@brentwood.rochfordgov.uk

- 5.1 Section 249(1) of the Local Government Act 1972 enables the Council by resolution to confer the title of Honorary Alderman/Alderwoman at a meeting of the Council. The resolution must be passed by not less than two-thirds of the Members voting at that meeting if the resolution is to be effective.
- 5.2 The relevant criteria are set out in the body of the report.

6.0 EQUALITY & HEALTH IMPLICATIONS

Name & Title: Kim Anderson, Corporate Manager - Communities, Leisure and Health

Tel & Email: 01277 312500/kim.anderson@brentwood.gov.uk

- 6.1 The Public Sector Equality Duty applies to the council when it makes decisions. The duty requires us to have regard to the need to:
- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for b) or c), although it is relevant for a).
- 6.3 The proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

7.0 ECONOMIC IMPLICATIONS

Name & Title: Phil Drane, Director - Place

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

- 7.1 There are no economic implications.

REPORT AUTHOR:	Name:	Claire Mayhew
	Title:	Joint Acting Director of People and Governance and Monitoring Officer
	Phone:	01277 312471
	Email:	claire.mayhew@brentwood.rochford.gov.uk

APPENDICES

None

BACKGROUND PAPERS

None

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Ordinary Council	02/12/2020



**ORDINARY COUNCIL
27 SEPTEMBER 2023**

REPORT TITLE:	Substitute appointment of representatives on an Outside Organisations 2023/2024
REPORT OF:	Claire Mayhew, Joint Acting Up, Director – People & Governance (Monitoring Officer)

REPORT SUMMARY

Following the appointments to Outside Organisation at Ordinary Council on 21 June 2023.

Essex Police & Fire Panel has asked that we nominate a substitute to attend meeting in replace of the nominate representative, when necessary, as a statutory requirement. No other requests for substitutes for any of the other outside organisations have been made.

An annual Outside Organisation review has been undertaken to ensure effective partnership working wherever appropriate to help deliver the Council's objectives and to ensure that the Council's time is spent productively and effectively and forms part of the Scrutiny Work Programme.

RECOMMENDATIONS

- R1 That the substitute appointment on the Essex Police & Fire Panel in Appendix A be approved.**

SUPPORTING INFORMATION

1.0 INTRODUCTION

- 1.1 Consideration on any nominations to ensure effective use of Councillors resource and support for outside organisations it is considered appropriate to categorise the list in the following:

- a) Statutory Representatives
- b) Trustee
- c) Council has interest whether financially or otherwise
- d) Others – point of contact

1.2 Where a Councillor is required to be a point of contact it is considered appropriate for the outside organisation and the Councillor to make contact and discuss the best approach.

2.0 REASONS FOR RECOMMENDATIONS

2.1 All appointments to Outside Organisations need approval of Ordinary Council.

3.0 OTHER OPTIONS CONSIDERED

3.1 Members are now appointed to a number of outside organisations by the Ordinary Council. Many of the outside organisations support and advance the broad objectives of the Authority. Representations come about either through the Authority initiating the appointment, an organisation requesting a representative being nominated or a Charity Commission rule that a Council.

3.2 The Council's Partnership Policy encourages effective partnership working wherever appropriate to help deliver the Council's goals and overcome constraints. The Policy aims to ensure that the Council's time is spent productively and effectively.

3.3 When a Member is appointed to an outside organisation, they act on behalf of that organisation and may participate fully in the activities as set out Chapter 4, Paragraph 27 of the Constitution. Where it is felt appropriate the nominated Member can act as a point of contact and make agreement with the outside organisation how the Member can best serve them.

4.0 BACKGROUND INFORMATION

4.1 The Council will need to be satisfied, and remain satisfied throughout the year, that the list of outside bodies only contains bodies upon which the Council could properly or would wish to nominate representatives and to be represented. Or where a Member could be an appropriate point of contact.

4.2 No nomination for a role should be put forward where a conflict of interest is likely to arise to a significant degree.

- 4.3 Members who serve on outside bodies must exercise independent judgment in the interests of the organisation in which they are involved.
- 4.4 Where a Member is serving on the outside body in a representative capacity (i.e. representing the Council), this should be made plain to that body and the Member, whilst being aware that they have a commitment to representing the Council on the outside organisation, must also be aware that it is their responsibility to decide what view to take on any question before the outside organisation.
- 4.5 Where a Member is acting as an Independent Trustee, Director or Member of a Management Committee of an outside body, the Member must act in accordance with that body's interests, and not those of the Council or even the council tax payers at large.
- 4.6 Whilst there could, in exceptional circumstances, be a situation in which a representative on an outside body may find themselves unable to adequately carry out their responsibilities properly, both as a Member of the Council and as a member of the outside body, there are advantages to having Members carefully appointed to relevant outside organisations.

5.0 ENGAGEMENT/CONSULTATION

- 5.1 Details of outside organisations and their nominated Member representatives are published on the Council's website.
- 5.2 Further work is being undertaken to work with some organisations that appointed Members of the Council that have been appointed on the Outside Organisation as Trustee and are listed on Companies House under that organisation. The Council are consulting with these organisations to appointing a council representative instead of a Trustee to encourage the ongoing support that will benefits both the Council and the organisation.

6.0 FINANCIAL IMPLICATIONS

Name & Title: Tim Willis, Interim Director – Resources (Section 151 Officer)

Tel & Email: 01277 312500/tim.willis@brentwood.rochford.gov.uk

- 6.1 There are no direct financial implications arising from this report. However financial implications may need to be taken into consideration when reports are reviewing outside organisations each municipal year.

7.0 LEGAL IMPLICATIONS

Name & Title: Claire Mayhew, Joint Acting Up, Director – People & Governance (Monitoring Officer)

Tel & Email: 01277 312500/claire.mayhew@brentwood.gov.uk

- 7.1 Those appointed to serve on outside bodies will need to remain alert and exercise careful judgment to avoid conflicts of interest (actual and perceived). The concept of bias or perceived bias is wider than the Members' Code of Conduct.
- 7.2 The Members' Code of Conduct applies whenever a Member (a) conducts the business of the Authority, or (b) acts as a representative of the Authority.
- 7.3 When a Member acts as a representative of the Authority (a) on another relevant authority, the Member must, when acting for that other authority comply with that other authority's code of conduct; or (b) on any other body, the Member must, when acting for that other body, comply with the Authority's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- 7.4 A Member appointed to an outside body as a trustee will need to be aware of the legal duties of a trustee and the implications that may have on them.

8.0 EQUALITY & HEALTH IMPLICATIONS

Name & Title: Kim Anderson, Corporate Manager - Communities, Leisure and Health

Tel & Email: 01277 312500/kim.anderson@brentwood.gov.uk

- 7.1 There are no direct equality and diversity implications arising from this report.

8.0 ECONOMIC IMPLICATIONS

Name & Title: Phil Drane, Director - Place

Tel & Email 01277 312500/phil.drane@brentwood.rochford.gov.uk

- 8.1 The Public Sector Equality Duty applies to the council when it makes decisions. The duty requires us to have regard to the need to:
- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - b) Advance equality of opportunity between people who share a protected characteristic and those who do not.

c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for b) or c), although it is relevant for a).

8.3 The proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

9.0 ECONOMIC IMPLICATIONS

Name & Title: Phil Drane, Director - Place

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

9.1 There are no economic implications.

REPORT AUTHOR:	Name:	Claire Mayhew
	Title:	Joint Acting Director of People & Governance and Monitoring Officer
	Phone:	01277 312741
	Email:	zoey.foakes@brentwood.gov.uk

APPENDICES

Appendix A: Nomination for substitute on the Essex Police & Fire Panel – Outside Organisation 2023/24

BACKGROUND PAPERS

None

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Ordinary Council	21.06.2023
Audit and Scrutiny Committee	07.03.2023
Audit and Scrutiny Committee	08.03.2022
Ordinary Council	28.07.2021

Organisation	Nomination for 2023/2024	Proposed Substitute 2023/2024
Essex Police and Crime Panel	Cllr B Aspinell (JAG)	Cllr J Laplain (JAG)

JAG – Joint Administration Group

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ORDINARY COUNCIL

27th SEPTEMBER 2023

REPORT TITLE:	Notices of Motion
REPORT OF:	Claire Mayhew – Joint Acting Up Director of People & Governance & Monitoring Officer

REPORT SUMMARY

Any one or more Members of the Council may, by notice received by the Monitoring Officer no later than 10.00 am eleven working days before the day of the Council meeting, require the Council to consider a motion about a matter relating to which the Council has powers or duties or which affects the Council's area. A notice of motion may be accompanied by a statement of not more than 200 words setting out the reason for the proposed motion.

The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received.

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

Motion 1 – Received 16th August 2023 @ 14:54

Mover: Cllr Dr Barrett

Seconder: Cllr Aspinell

Statement:

Brentwood High Street was redeveloped into its current form over a decade ago, at a cost of over fourteen million pounds, and considerable negative impact on local businesses during the implementation of the works.

Currently large areas of paving slabs on the High Street are broken, dislodged sunken or move. The Road condition also suffers from major dips and sunken sections.

Brentwood Access Group has consistently raised concerns over the state of the High Street and its impact on local residents. Residents, businesses and Councillors have also raised numerous issues regarding the state of repair of the High Street both directly and indirectly with appropriate stakeholders.

Motion

This Council believes:

- Brentwood residents and businesses deserve a High Street environment that is in good order and a beacon for the Borough.
- The current state of Brentwood High Street is unacceptable and is causing a direct negative impact on both resident enjoyment and economic development of our main retail area.

The Council resolves:

- To demand Essex County Council, as the Highway Authority, acts on their responsibility to maintain Brentwood High Street to a good standard.
- That it will request Essex County Council completes a full audit of the high street and within three months produce a schedule of repairs to be made publicly available.
- That Brentwood Borough Council will provide all appropriate assistance necessary to deliver this audit and any repairs programme.
- That we will work with SEPP on any element that requires changes to parking, waiting areas or enforcement activity to assist in this programme of repairs.

Motion 2 – Received 10th September 2023 @ 21:40

Mover: Cllr Heard

Seconder: Cllr Barber

Pigeon droppings under Shenfield Railway Bridge

The situation regarding pigeon droppings under the Shenfield Railway Bridge has deteriorated badly over the summer months and has become totally unacceptable. Such waste material contains harmful fungal spores which can lead to respiratory disease.

Effective measures such as erecting wire and fencing, use of a falcon or deployment of sound devices can all help to provide a solution.

It is the council's view that the health risks to members of the public from the current unhygienic situation cannot be allowed to persist.

This Council resolves to :

- Deploy the necessary resources to treat the affected area to effect a deep clean and maintain a regular cleaning regime until adequate measures are taken to deter the pigeons from the area.
- Arrange an urgent meeting with Network Rail and the relevant Borough Council officers to secure delivery of the necessary work to both the Bridge and the Railway Station roof to deter pigeons from nesting.
- Bring back a report to the Clean and Green Committee with the details of steps taken and progress made.

Motion 3 – Received 11th September 2023 @ 08:17

Mover: Cllr White

Seconder: Cllr Hirst

This Council recognises the critical importance of a healthy natural environment to the overall wellbeing and quality of life of our residents, and the pressing need to protect nature.

The coronavirus (COVID-19) pandemic lockdowns raised awareness of how human health and wellbeing is intrinsically linked to the health of the natural environment. Use of parks and public green space, such as woodland, increased as people sought solace, exercise and recreation in nature.

Considering the responsibility this Council has for the management of local parks, local planning policies and land it owns, this Council resolves to:

1. Establish a climate and nature advisory committee to guide Members and council officers.
2. Include ecological impact assessments alongside climate and sustainability considerations in all committee and council reports.
3. Work towards making nature recovery a top strategic priority in planning policies and design guidelines for new developments. This includes:
 - a. Identifying suitable areas for habitat restoration, establishing 'green allocated sites' and embedding Local Nature Recovery Strategies (LNRSs) in local plans and policies.
 - b. Promoting Biodiversity Net Gain (BNG), extending the minimum requirement from 10% to 20%.
 - c. Minimising the impact of development on existing habitats.
 - d. Enhancing access to nature-rich green spaces within a 10-minute radius for all residents.
 - e. Requiring new developments to commit to a minimum of 30% tree canopy cover.
 - f. Increasing tree canopy cover in existing housing estates where it is below the 16% urban average for England.
4. Support initiatives, including community run tree nurseries, to increase the supply of local saplings.
5. Prioritise the use of council land holdings, for habitat creation and restoration, by transitioning where appropriate from maintaining grass to planting trees.

Finally, Council urges all stakeholders to come together to protect and restore our natural assets, recognising their intrinsic role in securing a sustainable future for our community.

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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.

Ordinary Council Terms of Reference

General Powers of Council

The Council is the ultimate decision making body of Brentwood Borough Council and the principal forum for major political debate. All 37 Councillors who have been elected to represent the borough attend the Council meeting.

The Council decides the overall objectives, major policies and financial strategies of the Council. It also considers recommendations from the Scrutiny and Regulatory Committees on issues of significance.

Through the Constitution, it delegates responsibility for carrying out many of the Borough Council's functions and policies to its committees. It also agrees the membership of the committees/sub-committees.

Only the Council will exercise the following functions:-

- (a) adopting and approving changes to the Constitution;
- (b) adopting and amending Contract Standing Orders and Financial Regulations;
- (c) agreeing and/or amending the terms of reference for committees and any joint committees, deciding on their composition chairmanship and making initial appointments to them;
- (d) appointing representatives to outside bodies and consultative groups unless the appointment has been delegated by the Council;
- (e) adopting and amending a members' allowances scheme under Chapter 6;
- (f) to elect the Leader and Deputy Leader of the Council;
- (g) to designate the Chairs and Vice Chairs of the Council;
- (h) adoption of the Code of Conduct for Members;
- (i) electoral and ceremonial matters relevant to the Council
- (j) changing the name of the area, conferring the title of honorary alderman or freedom of the borough;
- (k) setting the Council's Budget and Council Tax;
- (l) approving the making of a virement or payment from the Council's reserves for values exceeding £200,000;

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