

## DELEGATED REPORT

**DATE LIST EXPIRES: 3 November 2017**

**OVERALL CONSULTATION EXPIRY DATE: 18 October 2017**

**Reference:**  
17/01442/FUL

**Site:**  
The Brave Nelson  
138 Woodman Road  
Warley  
Essex  
CM14 5AL

**Ward:**  
Warley

**Proposal:**  
Single storey rear extension to create kitchen and restaurant with entrance onto car park, internal alterations to layout and convert first floor from C2 Residential use to ancillary W.Cs, Office and bedsit, alter, car park layout and widen vehicular access.

**Parish:**

**Plan Number(s):**  
S01; S02; S03; L01; L02; 3D06; STATEMENT; 3D01;

**Applicant:**  
Mr Duley

**Validated:**  
15 September 2017  
**Date of expiry:**  
10 November 2017

Extension of time (if applicable):

**Case Officer:** Mrs Charlotte White

### 1.0 RELEVANT HISTORY

- 17/00551/FUL: Change of use to first floor area from C2 residential to A3 restaurant, construction of a single storey side and rear extension to create a new bar area -Application Refused
- 14/00630/FUL: Construction of a pair of semi-detached dwellings. Creation of a new vehicular access. -Application Refused

## **2.0 SUMMARY OF CONSULTATION RESPONSES**

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

- **Highway Authority-**

The Highway Authority would not wish to raise an objection to the above application, given the proposed and existing use and provision of additional off-street car parking as shown on the planning drawing 2395 LO1, therefore;

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions including compliance with the Authority's requirements for vehicular access.

- **Great Warley Conservation Society-**

No response received.

- **Environmental Health & Enforcement Manager-**

The applicant has not submitted any details of the extraction system. If you are minded to approve this application, it is recommended that full details for mechanical ventilation are approved. It is noted that the EH Manager considers the potential of noise disturbance caused by customers is minimal. In fact, the premises are better suited for a restaurant where the focus is on food rather than drinking and music. In this respect the Environmental Health Department support this application.

## **3.0 SUMMARY OF NEIGHBOUR COMMENTS**

This application has been advertised by way of individual neighbour notification letters and public site notice which has been displayed nearby.

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

24 letters of objection have been received the relevant planning issues are summarised below:

- Inappropriate to have a noise generating business surrounded by residential properties. Traffic, parking and highway concerns. Existing congestion problems occur along Woodman and the development will compound these problems if not make them worse.
- Extension to business will create further annoyance and noise to residents especially from beer garden.
- Residential amenity concerns; intrusion on privacy and quality of life. Overlooking due to changes in levels from steps and new windows.
- Noise from building work.
- Application better suited to a High Street or busy thoroughfare.
- Concerns relating to bin store behind garden causing smells and health hazard, potentially attracting rodents. Increase vermin in area.
- Car park exaggerated in size on plans.
- In 2013 Brave Nelson as granted Community Asset status – recent renovations have been detrimental to the pub with noise from garden and events including firework displays occur causing havoc to Woodman Road. Proposal goes against 2013 Community Asset award. Was meant to protect pub from re-development. ACV is a building to further social wellbeing and interests of local community – there are lots of restaurants in area and therefore local community does not need another restaurant.
- Object to removal of trees and hedgerows which will impact wildlife.
- Is not materially different from previous refused application. New application does not address previous concerns raised.
- Excessive development for a small pub. Is a substantial enlargement which will increase the number of customers and allow bigger events to be hosted here causing more noise and disruption.
- Unsustainable location: Modern and out of character with area. Wider entrance and open car park would also be out of keeping with residential road.
- Loss of a view.
- Large glazing areas cause loss of privacy and impact private life and is not a good noise barrier.
- Smells from extractor fans all year round. And rubbish smells and attracting rodents, foxes, badgers and flies.

3 letters of support have been received which make the following summarised comments:

- Business needs investment, a new identity and direction.
- Application to secure Brave Nelson's future should be welcomed and pursued.
- Pub already brings deliveries and traffic along Woodman Road – differences in traffic volumes from bar/restaurant are tolerable.
- Would increase accommodation inside rather than worsening locals' privacy and disturbance from noise.
- Other examples of pubs that are better with restaurants e.g. Masons, Fat Turk and The Headley.
- Is a local amenity and development would improve amenities for local residents.
- Would welcome any redevelopment whether it an overhaul or renovation of pub or investment in a quality restaurant.
- Something well-kept and run would enhance the area and be an asset to the local community.

#### **4.0 POLICY CONTEXT**

National Planning Policy Framework (NPPF)

National Planning Policy Guidance (NPPG)

Policy CP1 General Development Criteria

Policy PC4 Noise

Policy T2 New Development and Highway Considerations

#### **5.0 ASSESSMENT**

The site comprises an existing public house set within a residential area. The building is of some architectural merit and is listed as a community asset (an asset of community value ACV). The proposal is to extend to the rear of the property to provide a restaurant creating approximately 44 covers, a kitchen, a larger bar, new toilet facilities and seeks to change the use of the upper floor to provide a small bedsit and new toilet and office facilities. It is also proposed to alter the parking arrangements and widen the vehicular access to the site.

## History

Most recently planning permission was refused for the construction of a side extension to provide a restaurant for two reasons (17/00551/FUL).

1. The proposed development by reason of its size, siting and design would be harmful to the character and appearance of the host building and the surrounding area. The proposal is contrary to Policy CP1 (i) & (iii) and the provisions of the Framework.
2. The proposed development by reason of its siting and design would create a significant degree of overlooking to the neighbouring residents situated opposite the site, which would be harmful to their living conditions. The proposal would be contrary to Policy CP1 (ii) and the provisions of the Framework.

## Principle

The site is located in a residential area; however, the public house use is clearly established, and the site has been used as a public house for a significant length of time. The Brave Nelson is also designated as an asset of community value. The NPPF states that to help achieved economic growth, local planning authorities should plan proactively to meet the development needs of businesses (paragraph 20) and planning decisions should ensure established facilities and services are able to develop and modernize in a way that is sustainable and retained for the benefit of the community (paragraph 70). The principle of expanding the building to provide larger facilities for the public house and a restaurant is therefore considered acceptable.

## Asset of Community Value

The Brave Nelson is a designated Asset of Community Value (ACV). However, the proposal seeks to retain the Brave Nelson as an asset for the local community to use albeit a public house and restaurant rather than just a public house.

## Design and character of the area

The proposed extension is located to the rear of the site and whilst it would be visible from the street, it is considered that the design and size would be in keeping with the existing building. The side elevation facing east which is open to public views across the car park would not appear unusual or out of character. The rear elevation and western side elevation facing the beer garden are less visible from public view and as such the more contemporary design with large areas of glazing is not unacceptable. The proposed extension projects beyond both side elevations however, given the position of the extension and its overall design and scale, it is considered that the development would not result in any material harm to the character and appearance of the host building or the wider surrounding area.

The proposed extension is materially different from the previous refused proposal – the quality of the design is improved, and is considered ‘is of its time’ rather than being a pastiche of the existing building, enabling the evolution of the building to be interpreted.

Overall, it is considered that the effect on the character and appearance of the area is acceptable, and therefore the development complies with National and Local Planning Policy CP1(i) and CP1(iii) of the Local Plan.

#### Effect on residents living conditions and amenity

Concerns have been raised regarding noise emanating from the use and overlooking into private amenity areas.

#### *Overlooking:*

The design retains large windows, but the revised position of the extension to the rear of the site will result in no material harm in terms of overlooking or loss of privacy. It is therefore considered that the revised proposal has overcome the previous reason for refusal on this basis. It is not considered that the raised steps leading to the entrance from the car park would result in any material overlooking or loss of privacy.

Concerns have been raised to the development in terms of the existing use causing overlooking from, for example, children climbing trees and looking into neighbouring gardens, however, this is an existing situation which cannot be controlled by planning legislation.

The development would not result in any material dominance, overbearing impact or loss of light, overshadowing or loss of outlook to nearby residents given the significant isolation spaces provided between the proposed extension and the adjoining dwellings.

#### *Noise and disturbance*

Emanating from the existing use and concerns that any existing problems will be exacerbated by the proposed use are noted, as is the inference that licensing conditions are not being adhered to. The Environmental Health Officer (EHO) comments are reported above, and acknowledges complaints are received relating to noise from children playing outside and from music. However, this is an existing situation and it is not considered that this proposal to provide further inside facilities and a restaurant would result in any material greater harm to the adjoining residents than the existing situation.

Planning policy recognises that there is a balance to be struck between inevitable noise created from existing businesses wanting to develop in continuation of their business and the impact on health and quality of life as a result of that new development. Paragraph 123 of the NPPF indicates that business should not have unreasonable restrictions placed upon them because of changes in nearby land uses since they were established.

In this regard it is not unusual nowadays to have public houses and restaurants combined and it is apparent that the public house has been on this site for a significant length of time. The proposal would not result in any material harm in terms of noise and disturbance over and above that of the existing situation and no objection is therefore raised on this basis in terms of Paragraph 123 of the NPPF or Policy PC4 of the Local Plan.

### *Smells*

In terms of smells, subject to the conditions recommended by the Environmental Health Officer with regards to extraction the proposal is considered acceptable.

The refuse store area would not result in any material harm if used correctly and a condition can be attached to any grant of consent requiring full details of the refuse store to ensure adequate provisions are made. There is no evidence that a refuse area in this area would unduly attract vermin, foxes or other animals. The public house will already benefit from refuse facilities.

Given the existing lawful use of the site and the nature and scale of the proposed development, the development would not result in any material harm to the residential amenity of the adjoining residents. The development would not materially harm the quality of life of the adjoining residents in this regard.

On this basis it is considered that the proposal complies with the aims and objectives of Paragraph 17 and 123 of the NPPF and Policies CP1(ii) or PC4 of the Local Plan.

The existing issues with the public house in terms of breaches of the license conditions should be reported to the Council's licensing department.

### Parking and Highways

A number of objections have been received from residents based on parking, access and highway safety concerns. It has also been commented that the site is not located in a sustainable location

The proposal seeks to provide 30 parking spaces; two of which will be accessible spaces. The Highway Authority has raised no objection to the proposed development given the proposed and existing use and the off-street parking to be provided. Subject to conditions the proposal is acceptable to the Highway Authority.

A condition can also be imposed requiring the parking spaces to be utilized by users of the site only which may alleviate some concerns relating to some of the parking spaces currently being let out to a nearby bank causing off-street parking issues.

### Trees and landscaping

A condition can be imposed on any grant of consent requiring a landscaping scheme to be provided in the interests of the character and appearance of the area.

### Other matters

In terms of the neighbour objections received a number of concerns raised have already been considered including: design and character of the area, noise concerns, the residential location of the site, traffic, parking, public transport and highway safety concerns, residential amenity concerns including noise, smells and loss of privacy, sustainability, refuse storage and that the Brave Nelson as an asset of community value.

Whether there is a need for a restaurant in the area as there are others is not a material planning consideration; the local planning authority must not determine an application based on competition or need in this respect. Noise during the construction process would be transient and a condition requiring a construction method statement can be imposed on any grant of consent in this regard. Issues such as drink driving, drug taking, and anti-social behavior should be reported to the police. There is no evidence that the proposed extension to the public house and provision of a restaurant would cause any additional antisocial behavior or crime. It is not possible to control a view beyond the land you own. The plans and information submitted are sufficient to determine the application. Property values, salability and developer profits are not material planning considerations.



Concern has been raised regarding the number of public houses that have been lost in the area which is noted within Warley, however, this proposal seeks to retain the public house and expand its size and provide a restaurant; often diversification of this kind can make public houses more viable. Adequate neighbour consultation was undertaken to meet the Council's statutory requirements. The restaurant is linked to the public house rather than representing an entirely new business. Whilst residents have raised concerns regarding the Highway Authority and Environmental Health comments, the relevant officers have fully considered the proposed development. Pre-application advice is provided without prejudice and does not constitute the pre-determination of applications; it is a service offered by the Council to aid applicants and agents.

The development is materially different from the previously refused application. Each planning application must be considered on its own merits and the application referred to at Masons is not a material consideration in the determination of this proposal nor will this development set a precedent.

The letters of support and their comments are noted, and the majority of the comments contained within the letters of support have already been considered including economic benefits, traffic and privacy.

With regard to the comments made in the letter that neither explicitly objects to or supports the application, the comments made have already been considered including comments relating to viability, loss of other pubs in the area, parking and traffic and licensing.

### Conclusion

The neighbour comments in support and objection to the proposed development have been fully considered. However, it has been determined that the revised proposal complies with National and Local Planning Policy and is therefore recommended for approval, subject to conditions.





## 6.0 RECOMMENDATION

The Application be APPROVED subject to the following conditions:

1 TIM01 Standard Time - Full

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

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

2 DRA01A Development in accordance with drawings

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

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

3 MAT03 Materials to match

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

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

4 U21946

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. hours of working and hours during which deliveries may be taken at the site

Reason: In the interests of highway safety, visual and neighbour amenity. Given the nature of these necessary details, it is fundamental that this information is provided prior to any development being commenced.

5 U21947

Notwithstanding the width of the extended vehicular access shown on planning drawing 2395 LO1. The vehicular access for the car park and shall be relocated towards the east of the proposal site frontage and shall be provided with a dropped kerb crossover with a total width of no more than 8 metres. The access shall be constructed at right angles to the existing carriageway and shall be provided with an appropriate dropped kerb vehicular crossing of the footway. Full details to be submitted and agreed with the Local Planning Authority prior to its first use. The development shall be undertaken in accordance with the approved plans.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

6 U21948

A minimum width of 9 metres of part of the existing and redundant dropped kerb access immediately to the west of the re-provided vehicular access shall be suitably and permanently closed incorporating the reinstatement to full height of the footway and kerbing immediately the revised access (as described in condition 5 above) is brought into first beneficial use. Full details to be submitted and agreed with the Local Planning Authority.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

7 U21949

Any mechanical ventilation must be capable of supplying fresh air to the kitchen with at least 20 air change/hour. Additionally, a ventilation hood located over the oven and heating appliance equipped with a grease filter should be installed. An activated carbon filtration system will need to be installed after the grease filter.

The extraction system will require adequate noise and vibration attenuation measures and details, assessment and recommendations of the system will be required by the Planning authority concerning its proposed acoustic performance. The system will normally be required to terminate at least 1m above the highest roof level.

The level and the efflux velocity of the discharge shall be a minimum of 15m/sec.

A suitable flue termination such as Scandinavian sleeve must be provided.

These details shall be submitted to and approved in writing by the local planning authority prior to the occupation of the development hereby approved and the approved details shall be provided prior to the first occupation of the development hereby permitted.

Reason: In the interests of the residential amenity of the adjoining residents.

8 U21950

A suitable and sufficient grease trap shall be installed within the foul drainage system. Details of which shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development hereby approved. The development shall be constructed in accordance with the approved details and the grease trap shall be provided prior to the first occupation of the development.

Reason: In the interests of the residential amenity of the adjoining residents.

9 U21951

No development above ground level shall be undertaken until full refuse facility details have been submitted to and approved in writing by the local planning authority. The approved facilities shall be provided on site prior to the first occupation of the development hereby approved and thereafter permanently retained.

Reason: In the interests of the residential amenity of the adjoining residents.

10 U21952

The parking provisions within the site shall only be used by occupiers and customers of the site and for no other purposes without the further formal consent of the local planning authority.

Reason: In the interests of maintaining adequate parking provisions for the proposed development and in the interests of highway safety in the area.

11. U22014

No development above ground level shall be undertaken until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. The submitted scheme shall indicate the existing trees shrubs and hedgerows to be retained, the location, species and size of all new trees, shrubs and hedgerows to be planted or transplanted, those areas to be grassed and/or paved. The landscaping scheme shall include details of all hard-surfacing materials. The landscaping scheme shall be completed during the first planting season after the date on which any part of

the development is commenced or in accordance with a programme to be agreed in writing by the local planning authority. Any newly planted tree, shrub or hedgerow or any existing tree, shrub or hedgerow to be retained, that dies, or is uprooted, severely damaged or seriously diseased, within five years of the completion of the development, shall be replaced within the next planting season with another of the same species and of a similar size, unless the local planning authority gives prior written consent to any variation.

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

#### Informative(s)

##### 1 INF04 Amendments to approved scheme

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

##### 2 INF05 Policies

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

##### 3 INF21 Approved Without Amendment

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

##### 4 U05031

From visiting the site, it was noted that the public house currently benefits from a dropped kerb crossover of approximately 30 metres in length. The proposal alters the car park layout and provides additional spaces. In the interests of highway safety, the reduced width of the car park access would allow for vehicles to enter and leave the highway in a controlled manner and the access shall be defined by an appropriate dropped kerb crossover. This would allow for a considerable length of unused and redundant crossover to be reinstated to full height kerbing and footway. This would also allow for the dropped kerb to remain to the front of the public house to provide access for vehicles making deliveries to the cellar.

5 U05032

The applicant should be made aware of the potential relocation of the utility apparatus in the highway; any relocation shall be fully at the applicant's expense.

6 U05033

All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be addressed for the attention of the Development Management Team at SMO3, Essex Highways, Unit 36, Childerditch Industrial Park, Childerditch Hall Drive, Brentwood, CM13 3HD or emailed to [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

[www.brentwood.gov.uk/planning](http://www.brentwood.gov.uk/planning)

**APPENDICES TO THIS REPORT**

**Appendix A – Site Map**