

SITE PLAN ATTACHED

HUTTON HALL HUTTON VILLAGE HUTTON ESSEX CM13 1RX

REMOVAL ON CONDITION 5 RESTRICTING SITING AND USE OF MARQUEE BETWEEN APRIL AND OCTOBER ONLY ON APPLICATION 15/00755/FUL (CHANGE OF USE OF EXISTING GRADE II* LISTED HOUSE AND GROUNDS TO WEDDING AND EVENTS VENUE WITH FORMATION OF ASSOCIATED CAR PARK AND CONSTRUCTION OF SEASONAL MARQUEE)

APPLICATION NO: 17/01547/FUL

WARD	Hutton East	8/13 WEEK DATE	22.11.2017
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PARISH

CASE OFFICER	Ms Tessa Outram	01277 312500
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**Drawing no(s)
relevant to this
decision:**

7472 100 02;
16276-ph Rev B;
747-404-02;
7472_100-00;

This application has been referred by Councillor Hossack on the grounds that the removal and re-erection of the marquee would have a greater detrimental impact on the Listed Building than if it were to be permanent structure and would result in increased disruption to the grounds. In addition, the marquee would have no visual impact on the amenity of the building or the Green Belt.

1. Proposals

Planning permission 15/00755/FUL was granted by the Planning Committee on 29th February 2016 for the change of use of an existing Grade II* Listed Building and its grounds to a wedding and events venue with the formation of an associated car park and for the construction of seasonal marquee.

The permission was granted subject to 26 conditions. Condition 5 of the permission states:

The marquee hereby approved shall only be erected and used between April and October inclusive, per calendar year and must be dismantled in its entirety no later than the first week of November and not erected within the site at any other time.

Reason: The siting and appearance of the marquee impacts negatively upon the setting of the Grade II Listed Building and therefore conflicts with National and Local Planning Policy and is therefore only permitted on a temporary basis to facilitate the use of the building hereby approved. The siting of the marquee in this location would not be permitted on a permanent basis in the interests of the setting of the Grade II* Listed Building and the character and appearance of the Conservation Area.*

The proposal seeks to remove this condition to allow the marquee to remain permanently erected.

2. Policy Context

RLP Policy: Policy CP1 General Development Criteria
 Policy GB1 New Development

 Policy GB2 Development Criteria
 Policy C14 Development affecting Conservation Areas
 Policy C16 Development within the Vicinity of a LB
 Policy PC4 Noise

NPPF Sections: Core Planning Principles
 Chapter 12 (Conserving and Enhancing the Historic Environment)

Local Development Plan:

The successor document for the Brentwood Replacement Local Plan 2005, the new Local Development Plan (LDP), underwent draft stage consultation (Regulation 18) in 2016 and as there are outstanding objections to be resolved, only limited weight can be given to it in terms of decision-taking, as set out in paragraph 216 of the National Planning Policy Framework. As the plan advances and objections become resolved, more weight can be applied to the policies within it. Nevertheless, the draft Local Plan provides a good indication of the direction of travel in terms of aspirations for growth in the Borough and where development is likely to come forward through draft housing and employment allocations. The emerging LDP was the subject of site-focused consultation (Regulation 18) between 29 January and 12 March 2018, identifying proposed development allocations. This will be followed by

the Pre-Submission Draft (Regulation 19), currently anticipated to be published in Q3 of 2018. Following this, the LDP will be submitted to the Secretary of State for an Examination in Public in Q4 of 2018. Provided the Inspector finds the plan to be sound it is estimated that it could be adopted in early/mid 2019.

3. Relevant History

- 15/00755/FUL: Change of use of existing Grade II* Listed house and grounds to wedding and events venue with formation of associated car park and construction of seasonal marquee. -Application Permitted

4. Neighbour Responses

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

Detailed below is a summary of the neighbour comments, if any 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/>

Five neighbour representation letters were received, four of which objected to the proposed development. The concerns arising from the objection letters included:

- Not clear what the benefits of the proposal are
- Original restrictions have been ignored
- Applicant is in breach of conditions
- Conflict of interest between councillor and applicant
- The original reasons for imposing the condition still stand
- Moving the marquee would be hugely detrimental to the Listed Building and neighbours
- Economic benefits are beneficial to the owner not the Listed Building
- Business plan should have taken into account the removal and erection of the Marquee
- Venue does not bring any revenue to Brentwood
- Similar conditions should be attached to prevent noise and disturbance to residents if the application is approved

5. Consultation Responses

Detailed below is a summary of the consultation responses, if any received. 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/>

- **Bats - Mrs S Jiggins-** No comments received at the time of writing this report.
- **Essex Badger Protection Group-** The Essex Badger Protection Group has no objection to this application.
- **Essex Wildlife Trust-** No comments received at the time of writing this report
- **Natural England-** Natural England currently has no comment to make on the removal of condition 5.
- **Environmental Health & Enforcement Manager-** No comments received at the time of writing this report.
- **Historic England-** Historic England were consulted regarding the original application 15/00755/FUL in 2015 for change of use of the house and grounds to a wedding and events venue with the formation of associated car park and construction of a seasonal marquee. In principle, we considered the change of use to be sympathetic and that it would not cause harm to the significance of the grade II* listed Hutton Hall. However, we were of the view that the scale of the marquee would result in an unacceptable intensification of the use of the overall site and its siting, in such close proximity to the grade II* listed building, would cause severe harm to its setting. We therefore recommended that the application for planning permission be refused by your authority. That application was approved against our advice and that of your planning officers. The current application seeks removal of Condition 5 of that approval, that restricts the use of the marquee to between April and October only. Historic England object to the removal of Condition 5 and recommend that the application be refused by your authority.

Approval is sought for the removal of Condition 5 of Application 15/00755/FUL that was imposed to restrict the siting and use of the marquee to between April and October. The marquee, which has a footprint of approximately 26m x 9m, is located immediately adjacent to the existing conservatory.

The National Planning Policy Framework establishes a presumption in favour of sustainable development. In pursuit of this it requires economic, social and environmental gains to be pursued together, an exercise which entails seeking positive improvements in the quality of the built, natural and historic environment (NPPF, 7, 9). The Framework requires, in the pursuit of good design, that development should establish a strong sense of place and respond to local character and history (NPPF,58). In respect of the historic environment, the

Framework requires local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation and new development making a positive contribution to local character and distinctiveness (NPPF, 131). It also states that great weight should be given to the conservation of heritage assets and their significance (NPPF, 132). Harm to such assets and their significance should require clear and convincing justification (NPPF, 132). Should proposals give rise to harm, planning authorities should weigh that harm against such public benefits as would also arise, including securing its optimum viable use (NPPF, 134).

When considering the original application Historic England stated that the scale and siting of the marquee - immediately adjacent to the conservatory - were wholly inappropriate. The implementation of that approval, against our advice, has already resulted in the significance of the listed building being harmed through the severe impact that the marquee has made upon the setting of the grade II* listed Hall. The proposed removal of the Condition limiting the use of the marquee between April and October would substantially exacerbate the existing contextually unsympathetic situation.

Recommendation

Historic England object to the application on heritage grounds. The scale and siting of the marquee, which was approved against our advice, have already caused severe harm to the significance of the setting of the grade II* listed Hutton Hall and the proposed removal of the time-limiting restriction on the use of the marquee would inevitably substantially aggravate the situation.

We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 131 and 134.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If, however, you propose to determine the application in its current form, please treat this as a letter of objection, inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

- **County Archaeologist-** The removal of this condition has no archaeological implications and no further work is required at this.

- **Highway Authority-** Condition 5 - restricting siting and use of Marquee between April and October only; The Highway Authority has no comments.
- **Historic Buildings And Conservation Officer-** Hutton Hall is located centrally within the Hutton Village Conservation Area; designated in 1986 - this location has origins prior to the Domesday Book. The site and its curtilage are highly significant and contribute positively to the Hutton Village Conservation Area. The earliest record from Heritage Gateway refers to the Medieval Moat (1066 AD) which lies within its curtilage. The Conservation Area is rural in nature with verdant boundaries framing Hutton Hall. The Hall has association with the Church of All Saints to the south-east; although this Grade II* church is of an earlier period, dating from early C14th.

In my advice of 2015, I highlighted concerns in respect of the marquee and its siting within the immediate context of the Grade II* listed building as follows:

'I advise this is substantial structure albeit of a 'temporary nature', its positioning is proposed as abutting the Grade II* building which is not acceptable. I note the south lawn is well screened from the Conservation Area however the setting of the listed building would be compromised by this positioning and scale'(PMCA 2015).

This grade II* listed building which also includes a grade II listed walled garden within its curtilage, is a highly significant Heritage Asset which contributes to the Hutton Village Conservation Area. Its architectural interest, landscaped gardens and social significance culminated in the designation of Hutton as a Conservation Area in 1986.

Within this application there were originally no detailed drawings of the marquee, these have now been submitted. The marquee is sited within the immediate setting of the Grade II * Listed building, it measures over 85' in length and is positioned almost abutting the listed building.

Having assessed the information, including the drawings recently submitted with block plan and elevations, I advise the permanent siting of this substantial structure would undoubtedly impact negatively. Therefore, the removal of Condition 5 would result in severe harm to the setting of the Hutton Hall on a permanent basis.

It is important to state there is an intrinsic relationship between the House, its formal gardens and how such are experienced cohesively.

Consequently, in the interests of safeguarding the setting of Hutton Hall for the future, I consider this proposed variation of the Condition to be unacceptable and severely harmful.

- **Arboriculturalist-** No comments received at the time of writing this report
- **Council For The Protection Of Rural Essex-** No comments received at the time of writing this report.

6. Assessment

The starting point for determining an application is the development plan, in this instance, the Brentwood Replacement Local Plan (RLP) 2005. Applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, since the application involves the impact on the setting of nationally recognised important listed building, the decision making has a legal duty to have regard for legislation: section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The application site is located to the East of Hutton Village and Hall Green Lane and to the north of Church Lane. The site is occupied by a large Grade II* Listed Building within extensive grounds. Within the grounds is a Grade II Listed walled garden. The site is located within the Hutton Village Conservation Area and is within the Green Belt.

The main issues for consideration are:

- Whether the proposal would be inappropriate development in the Green Belt or result in any other harm to the Green Belt
- The effect of the proposal on the significance of heritage assets or their settings - namely the Grade II* Listed Building, the Grade II Listed walled garden and the Hutton Village Conservation Area (CA) and the effect of the proposal on the character and appearance of the area.
- The effect of the proposal on the living conditions of nearby residents especially as regards to noise and disturbance
- The balance between any harm arising from the proposal and those benefits.

Green Belt

Paragraph 79 of the NPPF states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Paragraph 88 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

Is the proposal inappropriate development in the Green Belt?

The Council considered the erection of the marquee to be an exception to inappropriate development as it would be a proportionate extension to the original building (Hutton Hall).

Heritage issues

The heritage assets in this instance are the Grade II* Listed Building, Hutton Hall, and the Grade II Listed walled garden and the Hutton Village Conservation Area (CA).

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

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

Historic England (HE) is a statutory consultee and has commented on the proposal, their comments are set out above in full and there is no need to repeat them here, but in summary, it considers that the marquee already impacts negatively upon the significance of the setting of the listed building and to allow it to become a permanent structure would substantially exacerbate the existing contextually unsympathetic situation.

The Council's Historic Buildings Consultant (HBC) has also commented that the permanent siting of this substantial structure would undoubtedly impact negatively on the setting of the Listed Building by way of its scale and siting. Therefore, the removal of Condition 5 would result in severe and permanent harm to the setting of the nationally important Grade II* Hutton Hall. She concludes that the proposal to remove or vary the condition is unacceptable.

When considering heritage assets, the NPPF identifies only two levels of harm – “substantial” and “less than substantial”. The NPPF sets a high bar for “substantial” harm which is limited to a complete or substantial loss of a heritage asset. For that

reason, “less than substantial” embraces a very wide range of harms. It is instructive to note that both Historic England and the Historic Buildings and Conservation Consultant place the harm that would be caused to the listed building as ‘severe’ and officers interpret this to mean as being at the “top end” of “less than substantial”. It follows that this would also result in detrimental harm to the character and appearance of the historic curtilage including the grade II listed walled garden and the Hutton Village Conservation Area.

Policy states that where harm has been identified, permission should only be given where it is demonstrated that the harm is outweighed by public benefits; public benefits should flow from the proposed development and may include heritage benefits such as sustaining or enhancing the significance of a heritage asset and the contribution of its setting, reducing or removing risks to a heritage asset and securing the optimum viable use of a heritage asset in support of its long-term conservation.

The Council’s Historic Buildings officer confirms that the Listed Building is not currently and does not need to be placed on the ‘at risk register’ (i.e. the current condition of the building is in terms of restoration relatively good and urgent repairs are not needed). As such, permission should only be granted in this instance if it can be demonstrated that removal of the condition will result in securing the optimum viable use of the heritage asset.

The applicant states that the marquee is an important marketing tool to show the quality of the space and setting when attempting to secure bookings for the wedding venue. The applicant has submitted a ‘viability statement’ in order to demonstrate that the marquee is essential for the successful running of a wedding venue for 12 months a year and that income is being fed back into the maintenance of the restoration of the listed building.

Officers have reviewed the viability information submitted and conclude as follows:

- **Lack of commercial need** - The planning statement for the original application indicated that the smaller weddings that were likely to be held in the winter months (Nov-March) could be held internally suggesting there is no real commercial need for a marquee in the winter period.
- **Marketing the marquee** – The marquee is marketed online as part of a wedding package (mainly orientated towards spring, summer and autumn) and there is little in the submitted viability statement to provide a direct correlation between the increase in bookings and the benefits of having a physical marquee on site throughout the year. A number of factors will be leading to an increase in popularity of the venue with the marquee being a relatively small aspect of a much larger marketing or sales package.
- **Inconclusive data** – With the limited range of data presented in the viability report and the lack of any evidenced direct correlation between the presence of the marquee and an increase in bookings, it is pure supposition that the removal of the

marquee might have led to a loss of bookings, had it rightly been removed as required under condition 5 of the original planning permission. As noted, the increase in bookings could be down to a wide range of factors.

- **Business planning** - The financial information provided within the viability statement indicates the bulk of the expenditure has been on the main listed building which is its unique selling point as a wedding and events venue (not the marquee). In addition, given that there are further significant capital and revenue costs indicated over the next few years, it is concerning that no detailed information has been submitted in the viability statement on business breakeven and the forecast additional income the permanent marquee would deliver against the current temporary marquee structure. As with any commercial venture, viability will be down to a number of factors, with the marquee being potentially a very limited aspect.

Without the submission of a full business case/plan it cannot be concluded that a viability case can be made for the removal of the condition, furthermore the information provided fails to demonstrate that the retention of the marquee during the winter months would be able to provide adequate financial income to secure the maintenance of the Listed Building and its long-term conservation.

The applicant draws attention to a similar operational development for a marquee at Hylands House which was subsequently approved by Chelmsford Council, despite an objection from HE – however the two cases are not comparable - the venues have different functions and are of differing scale.

In conclusion, the information provided within the viability statement submitted fails to demonstrate a clear viability or business case for the permanent siting of the marquee as opposed to its current temporary use.

Impact on neighbours

The siting of the marquee is to the rear of Hutton Hall and the distance from the nearest neighbouring dwellings is around 120m. In determining the original application, it was held that the noise emanating from the use would not be harmful to the amenity of occupiers of those closest to the site, subject to conditions. The Environment Health Officer has made no comments regarding this proposal, and subject to the restriction of amplified noise / music in line with the original permission, the restrictive use of the marquee for dining only, hours of operation and maximum seating, the use would not be harmful to the living conditions of nearby neighbours.

Other Matters

Most of the neighbour concerns raised have already been considered above, the objections concerning a breach of condition are noted but do not fall to be considered as part of the current application. The marquee will remain in the same position as originally approved.

Planning Balance

The applicant maintains that the main benefit of the proposal is that of an income that will assist in providing funding for the ongoing maintenance of the heritage asset, thereby safeguarding the future of the Grade II* Listed Building.

However, the financial information submitted in support of the proposal fails to demonstrate that the permanent siting of the marquee would result in essential income and that if the application were to be refused, it would result in the demise of the heritage asset or that its ongoing maintenance or upkeep would be at risk. It does not demonstrate that by allowing the permanent siting of the marquee, it would result in an increased level of income that would make possible the long-term maintenance of the heritage asset.

When originally approved, the Planning Committee considered that the change of use of the site would only be acceptable if the marquee were for a temporary arrangement with a reasonable period in which summer weddings could take place. That situation has not changed. The removal of the need to comply with condition 5 would effectively approve a permanent building that would have an even more harmful impact on the setting of the grade II* listed building, listed walled garden and the character and appearance of the Conservation Area than already exists.

The NPPF indicates that any harm to heritage assets should require clear and convincing justification and "less than substantial" harm should be weighed against the public benefits of the proposal including securing its optimal viable use. In this instance it has not been demonstrated that the proposal would be the optimum viable use for the building, and nor would it preserve or enhance the setting of the listed building.

The proposal is therefore clearly in conflict with the Framework, and with the local plan policy C16 and is therefore recommended it be refused.

7. Recommendation

The Application be REFUSED for the following reasons:-

R1 The proposal would result in a permanent structure abutting a nationally important Grade II* listed building; the harm to the setting of the building would result in material detrimental impact on the significance of the Grade II* Listed Building and the Grade II Listed Walled Garden. It would neither enhance or preserve the appearance of the Hutton Village Conservation Area. This harm would be material, but in the terms of Chapter 12 of the National Planning Policy Framework (NPPF), it would be less than substantial. The public benefits of the proposal do not clearly outweigh the harm identified including making optimum viable use of the heritage assets, contrary to Chapter 12 of the NPPF, the NPPG and Policies C14 and C16 of the Brentwood Replacement Local Plan 2005.

Informative(s)

1 INF05 Policies

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1, GB1, GB2, C14,C16, PC4, the National Planning Policy Framework 2012 and NPPG 2014.

2 INF20

The drawing numbers listed above are relevant to this decision

3 INF23

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and clearly identifying within the grounds of refusal either the defective principle of development or the significant and demonstrable harm it would cause. The issues identified are so fundamental to the proposal that based on the information submitted with the application, the Local Planning Authority do not consider a negotiable position is possible at this time.

BACKGROUND DOCUMENTS

DECIDED:

Appendix A: Site Map