

SITE PLAN ATTACHED

FIRST FLOOR 40 HIGH STREET BRENTWOOD ESSEX CM14 4AJ

CHANGE OF USE FROM SNOOKER HALL (D2 ASSEMBLY AND LEISURE) TO BAR/NIGHTCLUB(SUI GENERIS), USE OF FIRST FLOOR TERRACE AS SMOKING AREA, INSTALLATION OF RETRACTABLE CANOPY TO THE REAR AND CONSTRUCTION OF A WALL TO THE WEST SIDE OF THE FIRST FLOOR REAR TERRACE. (PART-RETROSPECTIVE)

APPLICATION NO: 22/01290/FUL

WARD Brentwood South **8/13 WEEK DATE** 07.11.2022

PARISH **Ext. Of Time** 16.12.2022

CASE OFFICER Brooke Pride

Drawing no(s) relevant to this decision
1490-01/REV B; 1490-02; 1490-03; 1490-04; DESIGN ACCESS AND HERITAGE STATEMENT;
:

**The application is reported to the Planning and Licensing Committee as it has been referred by Cllr. Gareth Barrett. The reasons given are:
The smoking area/the balcony impacts the residents of Alfred Road and High Street properties directly. For context, noise needs to be considered when development may create additional noise, or would be sensitive to the prevailing acoustic environment (including any anticipated changes to that environment from activities that are not permitted but not yet commenced).**

1. Proposals

Planning permission is sought for the change of use of the first floor from snooker club to a bar/nightclub and for the rear terrace area to be used as an outdoor smoking area with the construction of a perimeter wall and installation of a retractable canopy. The application has been accompanied by a Design, Access and Heritage Statement along with a Roof Terrace Structural Report, a technical noise note, and a copy of the Premises Licence dated 8 September 2021. The D&A Statement sets out that the site

has been occupied as a night club since at least April 2019 and prior to this, as a Sports Bar and Lounge.

The site is located approximately half way along the south side of Brentwood High Street and comprises a three storey building with retail units at ground floor, an undercroft vehicle access (for service vehicles) and a pedestrian access to the first and second floors of the building. The entire first floor is given over to the night club, with residential flats on the second floor. An outdoor terrace area is located to the rear of the first floor, accessed via the night club. A fire escape stair way is located at the rear providing a route down from the terrace.

Alfred Road, a residential street lies to the south east, approximately 70m away to the nearest house; Beckett House lies 50m away to the south. The site lies within the Brentwood High Street Conservation Area and the building is adjacent to a Grade II* Listed Building and the ruins of the Old Chapel of St Thomas Becket, which is a scheduled ancient monument.

2. Policy Context

The Brentwood Local Plan 2016-2033

The Plan was adopted as the Development Plan for the Borough on 23 March 2022. At the same time the Brentwood Replacement Local Plan, August 2005 (saved policies, August 2008) was revoked.

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

- Brentwood Town Centre Design Guide
- Policy BE14 Creating Successful Places
- Policy BE16 Conservation and Enhancement of Historic Environment
- Policy PC05 Brentwood Town Centre
- Policy BE13 Parking Standards
- Policy PC09 Night Time Economy

3. Relevant History

- 96/00012/ADV: Retention Of Internally Illuminated Fascia Sign, Internally projecting Box Sign, Together With The Display Of A Fascia Sign Illuminated Externally By 5 Existing Lamps.- Application Refused
- 95/00229/FUL: First Floor Extension At The Rear Together With External staircase. – Application Approved

4. Neighbour Responses

Where applications are subject to public consultation those comments are summarised below. 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/>

No neighbour representations were received.

5. Consultation Responses

- **Highway Authority-**

A site visit has been undertaken and the information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal includes an addition in height to a brick wall at first floor level that is adjacent to a footway below. The applicant must apply to Essex Highways for a license for any associated scaffolding etc. that may be required during the construction phase, therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority as it is not contrary to Development Management policies.

- **Historic Buildings And Conservation Officer-**

Thank you for consulting on this application within Brentwood Town Centre; the description pertains 'Part-Retrospective application including, change of use from D2 Assembly and Leisure to Sui Generis Bar/Nightclub. Use of terrace as smoking area, the installation of retractable canopy and the construction of a wall to the west side of the terrace'.

The site is a Non Designated Heritage Asset (refer to adopted Local List) located within the core of Brentwood Town Centre Conservation Area and within the setting of Heritage Assets, these include, the Scheduled Monument of The Chapel of St Thomas a Becket (List Entry Number:1017452), the Grade II listed building of RUINS OF OLD CHAPEL OF ST THOMAS A BECKET (list entry number 1197221), the setting of the Grade II listed buildings of 44 High Street (List Entry number 1025027) 60, HIGH STREET, List UID: 1197218, 62, HIGH STREET List UID: 1025033.

This advice relates to the impact of the proposals upon the NDHA and the setting of designated heritage assets only. For transparency the Heritage Statement (page 17)

refers to a 'Grade I listed building' of 'Peverell House', this statement is made in error; I confirm there are no Grade I listed buildings within the setting of the application site. The proposed approach to match identically in material, bond and coping a vertical extension at the flank wall of this structure is considered of neutral impact, as such no adverse comments are offered in respect of the works to the NDHA and its setting. I trust the above is of assistance.

- **Environmental Health & Enforcement Manager-**

I refer to your memo in connection with the above-mentioned application and would make the following comments.

The premises have been operating as a nightclub for several years and most of the issues relating to noise breakout have been resolved through Licensing conditions on the premises licence.

The addition of a lobby to the rear door onto the roof terrace is seen as an improvement which will reduce the level of sound from the main bar area being emitted when the door to the roof terrace is opened.

The details of the roof terrace provided are acceptable; however the installation of the solid brick wall to one elevation and roof covering may need to be checked for compliance with the requirements of the legislation around smoking areas to ensure that the area is sufficiently open to allow this use.

CONDITIONS

The lobby to the bar area shall be provided as indicated in the submitted plans. Details of the acoustic insulation shall be agreed with the Local Planning Authority and the doors shall be fitted with self-closing devices to reduce the likelihood of both doors being left open.

The proposed alterations and improvement of the roof structure to the external roof terrace shall be implemented prior to use of this area. Details of the wall surfaces shall be assessed to ensure compliance with the legislation to permit this area to be used as an external smoking area.

The level of amplified sound within the premises shall be controlled by the premises management incorporating the use of a sound limiting device to the amplification equipment. The amplified sound shall be controlled during operation of the premises to a level agreed with the Local Planning Authority.

- **Historic England-**

T&CP (Development Management Procedure) (England) Order 2015
& Planning (Listed Buildings & Conservation Areas) Regulations 1990

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Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

We suggest that you seek the views of your specialist conservation and archaeological advisers. You may also find it helpful to refer to our published advice at <https://historicengland.org.uk/advice/find/>

It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.

6. Summary of Issues

The starting point for determining a planning application is the Development Plan, in this case the Brentwood Local Plan 2016-2033. Planning legislation states that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant material considerations for determining this application are the National Planning Policy Framework 2021 (NPPF) and National Planning Practice Guidance (NPPG). Although individual policies in the Local Plan should not be read in isolation, the plan contains policies of particular relevance to this proposal which are listed in section 4 above.

The Brentwood Town Centre Design Guide is also of relevance for any development within this area and encourages the use of the upper floors within the High Street. Developments should enhance the upper floors of the High Street as shown within the TCDG SPD of good and bad examples of development found within the surrounding area.

Background

The area within the current application sits above two retail units, and the terrace is located to the rear over shops below. An earlier Planning Enforcement investigation determined that a material change of use of the site had occurred including the use of the terrace area for smoking. The requirements of the Premises Licence necessitated a safety cage to be erected in this area, however no planning permission was ever sought for either the change of use or the erection of the cage which is deemed to be operational development. Since that time, the new owners have sought to resolve the planning breach, resulting in the current application.

Permission is sought for the change of use, the erection of a perimeter wall along the west and southern edges of the terrace and the installation of a retractable canopy. An internal lobby will also be constructed although as this sits within the envelope of the building, does not require specific consent.

Design, Character and Impact upon Heritage Assets

S66 (1) of the Planning and Listed Building and Conservation Areas Act 1990 makes it clear that a Local Planning Authority should have special regard to the desirability of preserving the Listed Building and its setting or any features of special architectural or historic interests which it possesses. Paragraph 199 of the NPPF states that great weight should be given to conserving a designated heritage asset's significance. Local plan policy BE16 is of relevance here and further enforces that new development should seek to preserve or enhance the conservation area, providing clear justification and supported by a Heritage Statement.

The external changes proposed are to the rear of the site which will include a wall to the west elevation which faces towards the scheduled ancient monument and a highly visible vantage point by users of the Baytree Centre. The wall will be constructed up to first floor eaves height with a brick, mortar and stone coping to match the existing wall.

As the materials proposed are to match the existing wall, it is considered that there would be no material harm to the setting of nearby Listed Buildings, the Scheduled Ancient or the appearance of the Conservation Area, because of the wall.

The terrace area will be contained within the new wall and the retractable roof canopy over, to be used when required such as in inclement weather. The new wall will remove the existing security railings and as such, be an improvement to the aesthetics of the building and the overall appearance of the Conservation Area. This would be compliant with the Local Plan policies BE14 and BE16 and meet the aims and objectives of the NPPF and Brentwood Town Centre Design Guide.

Brentwood Town Centre and Night Time Economy

Local Plan Policy PC05 requires development to conserve the positive qualities of the Brentwood Town Centre while enhancing and improving negative aspects of its function and appearance, and is also encouraged by the Town Centre Design Guide. The proposal seeks to retain a use of a first floor within the High Street which is encouraged, but not to the harm of the activation and vibrance of the area. The proposal seeks no changes to the external fenestration of the building retaining its front elevation appearance within the High Street as well as retaining an activation of a first floor unit.

The Brentwood Local Plan also requires developments that are within the night time economy i.e. nightclubs and bars, should not detrimentally effect the character or amenity of the surrounding residential area through smell, litter, noise or traffic problems and provide evidence of responsible management and stewardship arrangements to ensure there is no disturbance to surrounding properties and residents or harm to surrounding area amenity.

In terms of the use of the building, it contributes to the night time economy of the Town Centre and meets the criteria of policy PC05. The impact of its external area is considered under the next section.

Effect on residential Neighbour Amenity

The main issue for consideration is the effect of noise spillage from the use of the outside terrace for smoking and from people leaving and entering the club to access the terrace. The nearest residents are to the south of the building within Alfred Road and residential flats within the Town Centre, and the 3 residential units at second floor of the building.

The application is accompanied by a technical note which details how the external wall could be constructed against the existing wall that sound absorption materials can be added to the internal surface of the wall. The note also details that the club's noise management plan should restrict and control numbers on the terrace at night and no music is to be played on the terrace. An internal lobby area is also proposed to be constructed and traffic through the doors controlled by club staff, with one on the club side and one in the lobby, to remove the temptation of holding doors open between the club and outside to maximise noise control.

Based on the comments of the Environmental Health officer, it is considered that the insertion of the lobby would result in a reduction in noise emanating from the club and an improvement to surrounding residential amenity.

It is recommended that any permission includes a condition requiring the club to provide a Noise Management Plan to provide details of how many people will be allowed to use the terrace at any one time (no more than 30), how the terrace area will be managed by staff, and how the club will ensure the lobby is used correctly

Otherwise, it is considered that the proposed use and development is reasonable and appropriate within an urban area and high street setting.

Highways and Parking Considerations

The site lies within a highly sustainable area with public transport available as well as car parking. The proposed use would not significantly increase the visitors to the Brentwood Town Centre and no further parking provisions would be required.

Conclusion

Subject to conditions, it is recommended that the application be approved.

6.0 RECOMMENDATION

The Application be APPROVED subject to the following conditions:-

1 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.

2 Construction of wall

The materials, mortar, stone detailing 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.

3 Construction of wall (#2)

The terrace wall shall not be constructed until such time as a plan detailing the method and materials to be used, including external or internal sound proofing, has been submitted to and approved in writing by the local planning authority. The wall shall be constructed in accordance with the approved plan and retained thereafter. The terrace area shall not be used or occupied until such time as the wall is constructed as approved.

Reason: In the interests of neighbouring amenity.

4 Opening times

The premises shall not be open for customers outside the following hours: 11:00 to 02:30 Monday to Sunday and Bank Holiday.

Reason: To allow the local planning authority the opportunity to manage activity on the site that may impact on surrounding premises and amenity.

5 Terrace Area

Prior to first use of the terrace, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority setting out the ways in which the terrace area shall be managed. The Plan shall set out details including (but not limited to),

- The number of clients using the terrace at any one time.
- The way in which the terrace area will be always managed by the club staff, including ways in which the doors within the lobby area shall be controlled.
- Restrictions on the times of use
- Confirmation that no music will be played or seating areas provided
- Number and placement of cigarette butt utensils
- Signage (placement and wording)
- Sound limiting device to reduce amplified noise

The approved plan shall be implemented on first use of the terrace area and continued thereafter.

Reason: To protect residential amenity of surrounding occupiers.

6 Lobby

The lobby to the bar area shall be provided as indicated in the submitted plans. Prior to construction of the lobby, details of the acoustic insulation and self closing doors shall be submitted to, and approved in writing by the Local Planning Authority. The lobby shall be fully constructed before first occupation of the terrace as a smoking area.

Reason: To ensure that noise spillage is kept to a minimum, in the interest of neighbour amenity,

Informative(s)

1

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

The following Development Plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: BE14, BE16, PC05, BE13, PC09; National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

3

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

BACKGROUND DOCUMENTS

DECIDED: