

2.6 REFERENCE NO - 19/500084/FULL		
APPLICATION PROPOSAL Change of use of public open space/grass area to mixed use as a public open space and beer garden (Class A4 drinking establishment), including siting of tables and chairs/picnic benches.		
ADDRESS Land Adjacent To The Albion Taverna PH 29 Front Brents Faversham Kent ME13 7DH		
RECOMMENDATION – Grant temporary planning permission		
REASON FOR REFERRAL TO COMMITTEE Town Council and called in by Cllr Henderson		
WARD Priory	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mr George Barnes AGENT Milliken & Co. Chartered Surveyors
DECISION DUE DATE 13/03/19	PUBLICITY EXPIRY DATE 15/02/19	

Planning History

SW/97/0550 & 0551

Planning permission and conservation area consent to take down existing rear extension; to erect a single storey extension together with internal alterations and changes to front elevation.

Grant of Conditional PP & LBC Decision Date: 11.11.1997

1.0 DESCRIPTION OF SITE

- 1.1 The Albion Taverna is an attractive established C19th public house and Mexican restaurant situated within the Faversham conservation area on Front Brents, facing onto Faversham Creek, with its own private car park to the rear accessed off Church Road/Upper Brents (hereafter referred to as Upper Brents). It also has a small enclosed outside seating area, and it also often has tables on the frontage overlooking the Creek. The car park and outside seating area are beside and behind private houses fronting Upper Brents; two of which are in a grade II listed building which itself used to be another public house (The Willow Tap) that closed some years ago.
- 1.2 The Albion Taverna faces the Creek between Council owned land, including a car park to the south of the site in which ten to twelve cars can be parked. This small car park is reached via a track that also leads on to a number of dwellings on Front Brents on either side of the public house. The whole area is very low lying alongside the Creek and is subject to significant flood risk.
- 1.3 Immediately to the south-west side of the public house (and at the end of the gardens of the two houses formed from the other previous public house in Upper Brents) is an area of grassed open space which sits between the public house and the car park. This small area of grass is the current application site. It measures approximately 20m x 12.5m (or approximately 250sq m) and is part of a far wider designated Local Green Space under Policy DM18 of the newly adopted Local Plan, and Policy NE2 of the Faversham Creek

Neighbourhood Plan. This Local Green Space does not include the actual car park and the application site is separated from the larger open spaces by the car park itself.

- 1.4 The application site itself is bounded by the side wall of The Albion Taverna, by the well vegetated rear boundaries of houses fronting Upper Brents, by trees and timber bollards lining the northern boundary of the car park, and by stone bollards preventing vehicle access from the Creekside track. It has no fence or other means of enclosure on the car park or Front Brents sides, and is open to access by the public at all times. A temporary stage for the Faversham Hop Festival has previously been erected here.
- 1.5 The Faversham conservation area appraisal describes the Creekside area here as follows;

Front Brents

4.14. Small C19 terraced houses, now punctuated by green areas, are set out along Front Brents on the north-west bank of the creek, although the more substantial stuccoed bulk of Bridge House (built in the early C19 and once a place of mercantile exchange) defines the corner with Church Road. Whilst the terraced houses mostly now have painted or rendered brickwork, replacement windows/doors and concrete roof tiles, their modest form and character still contributes positively to the character and history of the creekside scene. The early C19 Albion public house is distinctive for its white-painted weatherboarding and slate-covered roofs; with twelve-paned sash windows overlooking the creek, and tables and chairs spilling out into the roadway, it is the attractive focus for eating, drinking and conversation which brings welcome life and vitality to the creekside.

4.15. Green spaces (sometimes taking the place of demolished terraced houses) are now a significant feature of Front Brents and give the place a rather informal and relaxed feel. The largest of these is at the northern end of the road, where the lower unkempt section is historically important for embracing a severed loop in the creek left by the straightening of the channel in 1843.

4.16. Front Brents itself is a private street with restricted vehicular use so that it has the character of a path-cum-road where views of the creek can be enjoyed in peace and comfort. The creek-side verge (Town Green) forms an attractive green edge with well-spaced willow, birch and hawthorns trees. Kerbs, footways and all the clutter often prevalent in public streets are absent from the roadway so that an attractive and relaxed character predominates. There is access here to a timber jetty built in 1985 with moorings for a dozen or so small leisure craft; this trickle of life and activity on the water, important though it is, is not however on a scale to compensate for the demise of commercial craft. The view here confirms that the 'gritty' working waterside character of the creek has largely vanished and that it is now a quieter and more orderly place.

2. PROPOSAL

- 2.0 The proposal is for the change of use of the application site from public open space to a mixed use for public open space and for use as a beer garden including the stationing of 12 six seater timber picnic tables/benches to serve the restaurant. No physical

development such as decking, hardsurfacing, fencing or other means of enclosure of the space is proposed.

- 2.1 A Heritage Impact Assessment accompanies the proposal. This contends that the proposal would have no adverse effect on the character and appearance of the conservation area and is consistent with the provisions of the Faversham Creek Neighbourhood Plan, with regard to economic policies and the regeneration of the Creek. It would *“add to the life and vitality of the creek-side. The development proposals (picnic tables) are in any event a non permanent fixture which could, if required, be removed at anytime in the future – thereby immediately restoring the land to piece of grassland”*.
- 2.2 It is also suggested that the development will not have a negative effect on the setting of the former Willow Tap public house as a grade II listed building, which *“in any event is separated from the application site by a rear garden and screened by a tall hedge”*.

3. PLANNING CONSTRAINTS

Council Owned Land
 Land is Designated Local Green Space
 Conservation Area Faversham
 Adjacent to grade II listed buildings
 Environment Agency Flood Zone 3

4. POLICY AND CONSIDERATIONS

The National Planning Policy Framework (NPPF)
 National Planning Practice Guidance (NPPG)
 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017
 Supplementary Planning Guidance (SPG): Conservation Areas and Listed Buildings

- 4.1 At paragraphs 99 to 100 the NPPF states in relation to Local Green Spaces;

99. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.

100. The Local Green Space designation should only be used where the green space is:

- a) in reasonably close proximity to the community it serves;*
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- c) local in character and is not an extensive tract of land.*

- 4.2 More detailed national advice in the Governments' Planning Practice Guidance (NPPG) states;

What is Local Green Space designation?

Local Green Space designation is a way to provide special protection against development for green areas of particular importance to local communities

How is land designated as Local Green Space?

Local Green Space designation is for use in Local Plans or Neighbourhood Plans. These plans can identify on a map ('designate') green areas for special protection. Anyone who wants an area to be designated as Local Green Space should contact the local planning authority about the contents of its local plan or get involved in neighbourhood planning.

How does Local Green Space designation relate to development?

Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making.

Can all communities benefit from Local Green Space?

Local Green Spaces may be designated where those spaces are demonstrably special to the local community, whether in a village or in a neighbourhood in a town or city.

What if land is already protected by designations such as National Park, Area of Outstanding Natural Beauty, Site of Special Scientific Interest, Scheduled Monument or conservation area?

Different types of designations are intended to achieve different purposes. If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space.

What types of green area can be identified as Local Green Space?

The green area will need to meet the criteria set out in paragraph 100 of the National Planning Policy Framework. Whether to designate land is a matter for local discretion. For example, green areas could include land where sports pavilions, boating lakes or structures such as war memorials are located, allotments, or urban spaces that provide a tranquil oasis.

How close does a Local Green Space need to be to the community it serves?

The proximity of a Local Green Space to the community it serves will depend on local circumstances, including why the green area is seen as special, but it must be reasonably close. For example, if public access is a key factor, then the site would normally be within easy walking distance of the community served.

How big can a Local Green Space be?

There are no hard and fast rules about how big a Local Green Space can be because places are different and a degree of judgment will inevitably be needed.

However, paragraph 100 of the National Planning Policy Framework is clear that Local Green Space designation should only be used where the green area concerned is not an extensive tract of land. Consequently blanket designation of open countryside adjacent to settlements will not be appropriate. In particular, designation should not be proposed as a ‘back door’ way to try to achieve what would amount to a new area of Green Belt by another name.

Is there a minimum area?

Provided land can meet the criteria at paragraph 100 of the National Planning Policy Framework there is no lower size limit for a Local Green Space.

What about public access?

Some areas that may be considered for designation as Local Green Space may already have largely unrestricted public access, though even in places like parks there may be some restrictions. However, other land could be considered for designation even if there is no public access (eg green areas which are valued because of their wildlife, historic significance and/or beauty).

Designation does not in itself confer any rights of public access over what exists at present. Any additional access would be a matter for separate negotiation with land owners, whose legal rights must be respected.

What about public rights of way?

Areas that may be considered for designation as Local Green Space may be crossed by public rights of way. There is no need to designate linear corridors as Local Green Space simply to protect rights of way, which are already protected under other legislation.

Does land need to be in public ownership?

A Local Green Space does not need to be in public ownership. However, the local planning authority (in the case of local plan making) or the qualifying body (in the case of neighbourhood plan making) should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.

Would designation place any restrictions or obligations on landowners?

*Designating a green area as Local Green Space would give it protection consistent with that in respect of Green Belt, but otherwise there are no new restrictions or obligations on landowners.***

Who will manage Local Green Space?

Management of land designated as Local Green Space will remain the responsibility of its owner. If the features that make a green area special and locally significant are to be conserved, how it will be managed in the future is likely to be an important consideration. Local communities can consider how, with the landowner’s agreement, they might be able to get involved, perhaps in partnership with interested organisations that can provide advice or resources.

** National Green Belt policy is set out in the NPPF. Paragraph 133 states that 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 134 says that Green Belt serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.3 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies CP1 (Building a strong, competitive economy); CP8 (The historic environment); DM1 (Enhancing the viability of town centres and other areas); DM7 (Vehicle Parking); DM14 (General development criteria); DM18 (Local Green Spaces); DM32 (Listed buildings) and DM33 (Conservation areas);

4.4 Policy DM18 relates particularly to Local Green Spaces and states;

Local green spaces

Sites are designated as Local Green Spaces, as shown on the Proposals Map. Within designated Local Green Spaces planning permission will not be granted other than for:

- 1. The construction of a new building for one of the following purposes: essential facilities for outdoor sport or recreation, cemeteries, allotment use, or other uses of land where preserving the openness of the Local Green Space and not conflicting with its purpose;*
- 2. The re-use or replacement of an existing building, provided the re-use does not include any associated uses of land around the building which might conflict with the openness of the Local Green Space or the purposes of including land within it; and*
- 3. The carrying out of an engineering or other operation or the making of any material change of use of land, provided that it maintains the openness and character of the Local Green Space.*

4.5 The Faversham Creek Neighbourhood Plan is the most detailed planning guidance for this area. It contains a number of relevant policy statements. There are no site specific policies for the application site, but the plan has 16 overall objectives including;

04 Reinforce the Creek's public destination potential by including, within development, opportunities for the arts and culture, youth facilities, tourism, leisure, retail, moorings, slipways, and a public toilet and changing facilities for water users.

05 Encourage greater use of the Creek, especially by communities at Davington/ North Preston, by creating multi-function green space on the Front Brents and in the Stonebridge allotments for wildlife, water management, cultural, recreational and tourism activities.

12 Protect and enhance the Creek's rich and outstanding maritime, industrial and landscape heritage for educational and economic purposes.

13 Create living and working environments that respond to the Creek's rich and outstanding maritime heritage, the demands for high-performing standards

of sustainable development, whilst supporting existing businesses and their aspirations.

4.6 Policy BTE2 of the Neighbourhood Plan states that;

Any new business activities in the plan area that contribute to the strength and diversity of Faversham's wider tourism and employment offer, and do not undermine the town centre economy, will be supported.

4.7 Policy NE2 states;

The green spaces to either side of the Albion Taverna and between the Upper Brents and Crab Island and shown on the plan on page 39 shall be designated as Local Green Spaces.

4.8 The Council has a statutory duty under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and to conserving or enhancing the character or appearance of a conservation area.

4.9 The NPPF seeks to safeguard heritage assets and their settings. Paragraph 196 states that less than substantial harm to a heritage asset is balanced against the public interest.

5. LOCAL REPRESENTATIONS

5.1 The Faversham Society originally supported the application based on encouraging a visitor attraction and contributing to the strength and diversity of Faversham's tourism and employment offer for tourists. However, the Society now comments that;

'In the light of additional information which has been drawn to the attention of the Board of the Faversham Society, the Board has changed its view of this planning application.

The Board wishes to

"Object as an inappropriate use of public space owned by Swale Borough Council, and a loss of public amenity"

5.2 The Faversham Footpaths group comments as follows:

'In general the Group considers that it is important that public open spaces are retained as such. While no footpath crosses the area concerned and it is not used, as far as we are aware, by pedestrians as a means of access to existing paths in the area, we think that, if the current application is approved, the conditions should make it clear that nothing should be done to deter members of public (i.e. those who are not customers of the taverna) from accessing the land when it is in use by the taverna; that no permanent or semi-permanent structures should be permitted; and that there should be some provision whereby the land can be used for, say, up to 10 days a year for public/community events, with the taverna being required to clear the land for this purpose. This last proposed condition reflects the fact that we are aware that this piece of land has been used in the past in connection with the popular Faversham Creek Nautical Festival.'

5.3 The Brents Community Association raises objection to the proposal. Their comments may be summarised as follows:

- Loss of public amenity - *'It is, in effect, an attempt to privatize a local amenity by stealth.'*
- Loss of privacy, noise and disturbance – *'Local residents already experience some noise and disturbance from the existing 75 outdoor eating and drinking spaces at the restaurant...The beer garden will cause a significant intrusion of both houses' privacy and will cause noise pollution.'*
- Effects on listed buildings and the character of the conservation area – *'...both Creek House and Willow Tap Cottage are Grade 2 listed buildings; they would now have a beer garden next to their own gardens.'*
- Parking provision – *'The addition of 72 eating/drinking spaces will significantly increase the pressure on car parking, particularly along the Front Brents and on Church Road'*
- Drainage issues – *'The Albion's own car park has drainage problems and occasionally floods, making it sometimes unusable.'*
- Public nuisance – *'The proposed scheme will increase [overall seating] capacity by over 40%. No additional toilet facilities appear to be planned – this is likely to increase public nuisance.'*

5.4 The Chairman of the Faversham Creek Trust has written to object to the application, on the following summarised grounds;

- The Faversham Nautical Festival has used this area for a sound stage in July each year, and are proposing to use it again for a children's fun area, with bouncy castle and entertainers, and use as a pub garden would be an inappropriate use of the land
- The Brents Community Association have used the area in the past and would wish to continue to do so
- Once the Creek bridge is restored there may be opportunities for increased use of the area
- Potential noise and other disturbance
- The pub is essentially a restaurant with customers from far and wide. Parking will be made worse
- The Council will need to check restrictions on use of the Town Green before offering a licence.

Note. This is a Designated Local Green Space, not a Town Green.

- Members of the public will retain a right to use the area whether or not they are customers of the Taverna

5.5 Fourteen objections have been received from local residents (from 13 different addresses); one from a prospective purchaser of Creek House. The comments contained therein may be summarised as follows:

- Immediately adjacent to the rear boundaries to Creek House and Willow Tap Cottage
- Problems of noise and litter
- *'Significant intrusion into our privacy'*
- Parking and highways issues already experienced; this will exacerbate the situation
- Parking on verges and pavements will increase
- Drainage and flood risk issues
- Adverse effect on nearby listed buildings and conservation area
- Green space is used for public events such as the Faversham Nautical Festival
- Adjacent houses have small gardens, so the patrons of the restaurant would be situated very near to the properties, with concomitant noise problems
- Will take designated Town Green public open space and turn it into a private

commercial use, thus overturning the reason why such designation was conferred

- Granting permission would be immoral and arguably illegal
- If approved, this will double in space the outside eating area
- Increase in light pollution and anti-social behavior
- Have the Green Spaces Team been made aware of the proposal?
- This is not a pub; it is a very busy Mexican restaurant
- The space would be occupied by tables, umbrellas, patio heaters, etc., so the site will no longer be open space
- Tables would in practice become a permanent feature
- This is a residential area
- Front Brents is a footpath and a private road
- Successful restaurant – many patrons travel some distance by car; likely to increase and cause highway safety and parking issues
- Increased traffic will pose increased risks for walkers, children, dogs and trees
- *'Rowdiness and drunkenness will increase'*
- Area is for community use and should remain so
- *'I refer to current problems because Shepherd Neame has been unhelpful in resolving them to date, which does not bode well for the future.'*
- *'The public spaces on the Front and Upper Brents were created for the express purpose of public recreation and not for the private use of a pub/restaurant.'*
- *'At the Local Plan hearings the Inspector requested a review of green spaces as she felt there was not sufficient importance placed on them.'*
- *'Public open space is a category of land use with special protection provided by Section 123 of the Local Government Act 1972. Although it might be possible to circumnavigate the protection provided by the Act by granting only a license or short lease to the developer, Parliament clearly intended that public open spaces should be protected and only disposed of in special circumstances and with the consent of the Secretary of State. It is therefore unacceptable that planning permission should be granted to develop land subject to the protection of the Act.'*
- *'The proposed beer garden will potentially provide a late night gathering place for youngsters drinking illegally or taking drugs. This would result in noise, disturbance and litter along the Front Brents and of course around Creek House and Willow Tap Cottage.'*
- Potential difficulties if cars park in front of the Creek flood gates
- Lack of public consultation

6. CONSULTATIONS

6.1 Faversham Town Council *'Strongly Object'* for the following reasons:

- 1) *Inappropriate use of public open space.*
- 2) *Loss of public amenity.*
- 3) *The external eating space would be doubled causing noise disturbance to neighbouring properties.*
- 4) *There are parking problems in the area which would be exasperated by additional diners in the outside area. Visitors to eat at the venue drive rather than walk.*

6.2 Natural England makes no comments on the proposal.

6.3 Kent Highways and Transportation have raised no objection to the application.

6.4 The Environmental Health Manager has commented as follows:

‘The proposed use of this public open space as a beer garden is a cause of concern due to a potential compromise to residential amenity in the area, in particular, properties directly adjacent to the open space.

I note the premises is currently licensed to open from 10.00 till 01.00 Monday through till Sunday, and with the potential to seat up to 72 persons in this relatively small area, the potential for noise nuisance to residents cannot be underestimated.

*This department, however, has received **no** complaints of noise or disturbance emanating from the Albion Taverna. To this end, I am finding it difficult to justify an objection at this stage, as it could be argued that certain noise mitigation measures can be imposed by condition. Also, as no complaints have been received, suggests that no noise nuisance is being created from the existing outside seating area associated with the Albion Taverna, and this may be the case for the proposed new seating area.*

Following some consideration, I propose that any permission granted be of a temporary nature, no longer than 2 years, in order that the use of this area as a beer garden can be monitored. I also recommend that any permission granted, as well as being of a temporary nature, be subject to the following conditions restricting the hours of use and prohibiting music of any kind:

The area to which this planning approval relates shall not be used for the use of a beer garden, or any other use associated with the Albion Taverna, after the hours of 21:00 on any day without the express permission of the local planning authority.

The area to which this planning approval relates shall not be used, at any time, for any live music, and no recorded or amplified music shall be played from the site.’

6.5 The Council’s Green Spaces Manager comments as follows:

‘The land is owned by Swale Borough Council and designated as Public Open Space. It is available for informal use, although its usability is somewhat limited due to it’s size and location between the car park and Albion Taverna. It does however provide visual amenity and helps create the setting of the building and open aspect adjacent to the creek. Actual physical open space usage is limited given the alternative larger open spaces located to the north east & south west and Village Green Creekside.’

7. BACKGROUND PAPERS AND PLANS

All plans and papers submitted with application 19/500084/FULL

8. APPRAISAL

8.0 Having examined the site its surroundings, considered the planning policy issues involved here, and considered the representations from organisations and members of the public, I consider the main issues arising from this application are the principle of use of public open space for a mixed use including use as a beer garden, the effect on the conservation area and on the setting of nearby listed buildings, amenity issues and highway matters.

Principle of Development

- 8.1 This is to my mind a finely balanced proposal. Policies pull in different directions. On the one hand the loss of public open space is always regrettable, but the benefits to tourism and the economy are positive and in line with plans to enhance the Creekside a place of interest. If the proposal were to be approved, it would increase the business and tourist offer that the Albion now offers to local residents and tourists, thus giving support to a local business and potentially attracting people to the town to spend further money in the town's shops, etc. This is particularly in tune with Policy BTE2 of the Faversham Creek Neighbourhood Plan which seeks to support the plans of local businesses. It does not introduce a wholly new source of activity here, and it may be that the licence can specify that the picnic tables are removed when certain community events take place. However, this must be weighed against the potential loss of amenity and other issues raised by local residents.

It should be noted that the proposed use is in accordance with a number of policies in the Local Plan, particularly Policies CP1 and DM1, which promote supporting the local economy. Crucially, Policy BTE2 of the Neighbourhood Plan states that;

'Any new business activities in the plan area that contribute to the strength and diversity of Faversham's wider tourism and employment offer, and do not undermine the town centre economy, will be supported.'

- 8.2 The main conflict appears to be with the continued use of the land as open space. Here Local Plan policy DM18 is the key policy as this site is within a newly defined Local Green Space. This policy seeks to protect Local Green Spaces for the enjoyment of the local community. However, this is quite different from these areas having public access. Many of the Local Green Spaces in the Local Plan are not accessible to the general public, either because they are school playing fields, allotments or are simply privately owned. The NPPG advice above makes it clear that public ownership or public access to Local Green Space are not expected. Nor do they confer any public right of way.
- 8.3 The key part of policy DM18 relevant to this case is clause 3 which states (**with my boldening**):

Local green spaces

Sites are designated as Local Green Spaces, as shown on the Proposals Map.

Within designated Local Green Spaces planning permission will not be granted other than for:

3. The carrying out of an engineering or other operation or the making of any material change of use of land, provided that it maintains the openness and character of the Local Green Space.

- 8.4 This mixed use proposal will retain the open character of the space, and no-one would object to public benches being provided in an area like this. No physical works including means of enclosure are proposed in this application and the essentially open character of the area will not be changed. Very importantly, it should be noted that the application is for a *mixed use* of public open space and a beer garden. The site will retain the right to

be used for its current use as public open space, albeit in conjunction with the Albion's use as a beer garden.

- 8.5 I see no direct conflict with the aims of Local Green Space policy, and the applicant's will have to accept that without any physical boundaries their investment in benches may result in some people who are not pub customers using them from time to time. This may in fact be of benefit to visitors who are not pub customers. A number of objectors have raised the issue of whether or not the use of the land as proposed would be legal. However, as this is a planning application, the proposal can only be decided under planning law.
- 8.6 Set against the potential benefits to trade and tourism, at one of the few public premises on either side of the Creek, I see the benefits to the Creekside as very welcome. The area has been protected to be an amenity for all, and this is not a proposal that takes land away to be used only by members of a private organisation.
- 8.7 On balance, I conclude that the lightweight nature of the use can be accepted on a temporary basis to see how it affects the use of the space, and I have recommended a suitable condition below.

The Effect on the Conservation Area and nearby Listed Buildings

- 8.8 The Creekside already functions as a place of open air recreation and leisure. In my view this proposal will enhance that function with minimal alteration, and none that is not easily reversible. The open Creekside setting of nearby listed buildings with public house use and activity will not be affected, and their relationship to the Creek and the town will continue to be appreciated and conserved.

Residential Amenity

- 8.9 A number of objectors have raised concerns regarding residential amenity, and I have carefully considered the effect that the proposal would have on local residents, particularly the two properties which immediately adjoin the site, Creek House and Willow Tap Cottage. I am reassured by the expert views of the Environmental Health Manager who notes that no noise complaints have been received regarding the Albion and, as such, it might be construed that, as there is already an area for outdoor use used by the restaurant close to houses, no undue disturbance would be generated if the proposal is approved. The Environmental Health Manager has suggested that any permission given be of a temporary nature only, for a period of two years, and that hours of use of the area be limited to 9.00pm on any day. I am happy to recommend so.
- 8.10 In my view this represents a pragmatic approach to the situation. By granting a temporary permission only, the effects can be fully tested to examine whether or not the proposal will produce unacceptable levels of noise and disturbance and, if that proved the case, any subsequent application can be refused and the situation returned to the status quo. If, however, no erosion of residential amenity has taken place, consideration could then be given to extending the permission via a new planning application, which of course, could be commented on by local residents.

Highway Safety and Parking

- 8.11 Many local residents have raised concern with regard to an increase in car parking in the area which may be generated if the application were to be approved, and the inability of

local parking provision to cope with this possible increase. I note that the Albion's private parking area is small, and the adjacent Council owned parking area is not much larger. However, in this case, I must take the expert advice of Kent Highways and Transportation, who *'having considered the development proposals and the effect on the highway network, raise no objection on behalf of the local highway authority.'*

8.12 The location is close to the town centre from where convenient pedestrian routes exist. It is also easily reached on foot from large parts of the town, and it is not in a location where use of a car is essential to reach it. Peak times of use will not coincide with working times when Upper Brents is at its busiest, and the road here has few residential properties on it that might generate evening and weekend parking requirements. The fact that there are not any parking restrictions here indicates to me that this is not an area of severe parking pressure.

9. CONCLUSION

9.0 This is a finely balanced application, and I share some concerns expressed by local residents. However, I see potential benefits from this simple mixed use and I would suggest that a temporary permission with restrictions on hours of use, on any physical development, and on artificial lighting, to allow the applicant to demonstrate whether or not the land can in fact be used as proposed with minimal interruption to local residents and the wider public as a whole.

10. RECOMMENDATION

GRANT Subject to the following conditions:

CONDITIONS

(1) The use of the land hereby permitted shall cease on or before 31 March 2021.

Reason: In order that the position may be reviewed at the end of the period stated.

(2) No decking, hard surface, fence, gate, wall or other means of enclosure shall be erected within or surrounding the application site.

Reason: In the interests of residential amenity.

(3) No artificial lighting floodlighting, security lighting or other external lighting shall be installed or operated at the site in connection with the use hereby permitted.

Reason: In the interests of visual amenity and the residential amenities of occupiers of nearby dwellings.

(4) The land shall not be used by customers of the adjoining public house before 11.00am or after 9.00pm on any day.

Reason: In the interests of the residential amenities of occupiers of nearby dwellings.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful

outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this case, the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

