

APPENDIX A

Community Comments in Full (Application Number: 4/02514/16/FUL – 104 High Street, Berkhamsted HP4 2BL)

Orchard Cottage, Bellingdon

The brewery shop is extremely popular and meets the growing demand for quality beers and wines in a contemporary setting, attracting all age groups and social mixes. I am a frequent customer.

40 Durrants Road, Hemel

Quite possible the best thing that has come into Berkhamsted, never any trouble here as opposed to "regular public houses".

173 Lawn Lane, Hemel

The Brewery Shop is a great asset to the area and should be fully supported by the council.

102 High Street, Berkhamsted

I'm very surprised that as immediate neighbours and probably most effected by the brewery that we have not been contacted by the council. I object as I do not want my family living next to a pub, I don't want my young son hearing foul language, breathing in smoke or seeing strangers urinate in our back yard. Also the noise is still a problem.

1st Floor Office, Buckland House, Dower Mews, 108 High Street, Berkhamsted

I am writing to formally document my objections to the planning application 4/02514/16/FUL for A1/A4 planning for the Berkhamsted Brewery Shop located at 104, High Street, Berkhamsted, Hertfordshire. HP4 2BL.

I operate a business in the offices in Dower Mews and have worked out of there since 2011. I can confirm that I have never met or been approached by anyone from The Brewery Shop or indeed anyone from the council. I do understand that one office was visited once by the applicants who spoke aggressively to one temp, who was not authorised to speak for that business before being asked to leave. The applicants expressed their views that we had no right to complain. Therefore any suggestion that the applicants tried to mediate or solve this problem in any serious way is completely wrong. The noise and disturbance caused by the applicant's use of the courtyard and the hop garden is horrendous, and chronic. It is completely disruptive to my business and a continuous daily nuisance to my life. The business I own often requires me to work late in to the night as a number of my customers and suppliers are based internationally and are based in different time zones. I often conduct business using FaceTime or the phone although a certain amount of my day is taken up by face to face meetings in the office. Since the applicants took over the lease began trading the noise level has been horrendous, shouting, smoking, swearing etc. As well as the general disruption associated with someone selling cheap alcohol, people visibly

drunk, even on occasion vomiting and urinating. They regularly have played loud recorded music and hosted live music events in their courtyard which begin when they open and always causes a serious amount of disturbance. Again the license application says that they won't be playing live or recorded music. I also know of at least one occasion when a co-workers wife was verbally abused by someone drinking in the garden and was so distressed that a complaint was made to the police. So there would be a record should you want to check. Taken as a whole the presence of this premises directly affects my business. The fact is that it doesn't appear professional or look good to have that sort of behaviour occurring in front of my door just 30 feet away. The clients and suppliers see and hear it and judge me accordingly. The inference that we should be forced to close our windows especially in summer is not appropriate.

The applicants should remember that the license application and the minutes of the meeting where the license was granted are public documents freely available on line. They clearly show that the committee sought to reduce the hours that the applicants asked for as the application originally applied for opening "traditional pub hours." The applicants are technically correct that their website currently shows that the hours that they trade are within what was asked for but a quick look at their social media shows that this is not normally true. This is only because they have temporarily reduced their hours to make their business seem more like a shop and less like the pub that it is while this planning permission is sought. Perhaps the committee could seek an assurance that these will always be the hours traded and use these to set definitive hours for the 'shop' to trade. Why does a shop need to sell beyond 6pm anyway?

The fact of the matter is that when my colleagues and I took over the leases on these offices 104, High Street was trading as a bridal shop. So apart from the occasional squeal of an excited bride, peace and quiet reigned. Then the applicants took over the lease. At first this didn't appear to be a problem as the license application clearly stated that it was to be "a craft beer and bottle shop supported by a tasting bar to inform the purchases" and that the upstairs and outdoor areas were to be used for "educational beer seminars and private functions." This clearly shows that they wanted to be seen as an off license. I cannot state strongly enough that this is not the business model that is trading today and so the inclusion of A1 is not appropriate and should be removed to leave only A4. This is being used as a pub with people drinking on site for hours at a time. If anyone is taking beer home you would never know. Nearly all the money taken is for pints of cheap beer or glasses of wine drunk on site. Believe me or pop round and ask customers yourself but no one drinking at this site is there for tutelage or an educational beer seminar. I would suggest that as this was clearly stated as the purpose that onsite drinking would take place that the fact that it never has would be a perfect reason to refuse this application and reduce it to the off license that it was supposed to be.

The applicants took over the property and created the outside space on waste ground next to the shop. This involved building decking and raising a platform to create a courtyard area with outdoor seating and later heat lamps and an awning were added. This decking was extended in the summer to include a hop garden with plenty of seating for drinking. Both of these two areas brought the onsite drinking to within feet of the offices and allowed the people drinking to look directly in to the office windows. To be clear, we were never asked to approve of this and no planning application was submitted for us to be consulted on. No one from the council has ever been to ask. It just appeared and this is the only time we have had to make our feelings known. I would suggest that viewed like this that the application should be rejected on the grounds of disturbance and noise to neighbours. The references sited could not be traced and don't seem to exist. But to counter the view that a site that is part of the town centre can expect activity up to 23.00. I would suggest that the applicants should acquaint themselves with Mokoko verses Patel, which showed that you cannot complain about a business that was trading before you took up residence. But by extension you may complain and affect a businesses trading if you were in residence before they opened. The applicants have arrived and created raised decking, used seating, heat lamps and an awning to ensure that people drink outside at all times. This has exasperated the problems and

disturbance. The idea that additional training would help is misguided. This cannot be controlled except by removing the decking and preventing its use. I notice that the Town Council has already sought to prevent the use of this area after 6pm. This suggests that the council accept that the problems I described are real and need to be prevented. But I would argue that the problem with noise and disturbance begins with the shop opening and that 6pm is a very arbitrary decision which doesn't take into account this complaint. After all according to the applicants they are running a shop and only 18% of the sales are consumed on site. This being the case, why do they need an outside area at all? This is not usual for a shop and so they should be fine if told not to use the area. After all, on site drinking according to the applicants this is a tiny part of their total sales. Perhaps you should focus as well on the unauthorised consumption of alcohol in an A1 area. To use a "tasting bar" for drinking in A1 it would need to be free, like Majestic Wine.

As a related issue why is the awning still there? The business was told in January to put in a planning application to address this or to remove it directly. Nothing has been done and this visible eyesore still remains. Allowing it has clearly damaged the building and large cracks are visible.

I would suggest that helping one neighbour is better than nothing but it does not begin to address the issue of the daily disturbance that the neighbours experience from the use of the premises. I suspect that the arguments put forward from the Core Strategy and the Development Plan would be exactly the same if we were discussing the opening of a public house. As such I suggest that this in itself is proof that even in the planning department's eyes that we are talking about allowing a public house to trade which is confirmation that the business is not trading as it stated that it would. I would also point out that under NPPF9 it states that the development is supposed to positively improve the conditions in which people live and work. And further I would suggest that the local circumstances of this application have not been taken into consideration as they should have under NPPF 10. The case can surely not be made that the Town needs another drinking establishment or would be enriched by it opening. The applicants themselves point out that there are other pubs in the area. Although as the others are on the other side of the High Street so they do not directly the immediate area in the way that this business has.

There is also a question of cumulative development as the applicants stated aim while crowdfunding was to expand quickly and then to sell at a profit. This would mean that the Town was left with a building that could trade as a public house in any way it wished i.e. a sports bar etc.

The application has been said to be supported by various policies drawn from National Policy Guidance, the Adopted Core Strategy and the saved policies of the Dacorum Borough Local Plan. I assume that the policies sited will be the same as the last time as it is basically the same application. The problem is that the policies you are using would be exactly the same if you were proposing that this was an A4 business. This shows that in policy terms you regard this as a drinking establishment or public house. Consequently you have accepted that the disruption of the neighbourhood is a result of this trade and is in no way mitigated by saying that it is a 'shop' or a 'crossover'.

I would suggest that considering the weight of evidence that you should reconsider supporting this application and recommend that it should be refused on the grounds that I have outlined above. Further I would argue that this application should be rejected by the committee as it does not reflect the type of business trading at this address and that the continued existence of it causes excessive noise, harm and disturbance to the neighbours. I would suggest that the committee should also begin enforcement to prevent the business trading beyond the A1 perimeters set out in the license application. Dacorum's own website states that businesses carrying on licensable activities will require both a license and appropriate planning consent before they are legally entitled to operate. This means that the license alone was never enough for the site to operate and therefore is invalid. As the applicants have never had Planning permission that they have never had a valid license and therefore were always subject to closure. The Council has been seriously negligent in allowing this to operate even after they were informed of its status. The disturbance and

harm caused to the neighbours that they endured for over a year should have been prevented.

I have been told that others have put in objections which have not been put up on the website and for this reason I have chosen to email directly. I would also prefer that my words were not edited.

Thornehill, Sugar Lane, Bourne End

I am writing with regard to the objection letter that I wrote concerning the planning application 4/02514/16/FUL for The Berkhamsted Brewery Shop at 104, High Street, Berkhamsted, Hertfordshire HP4 2BL. Upon more research I have come to the conclusion that this application cannot be supported by the NPPF, Core Strategy or the Saved Policies and therefore should be rejected. To this end I would like to add the following arguments to my original objection letter.

The application for this site is to change an A1 site to a mixed A1/A4. Firstly this is a misleading statement as if you analysis the plans you will see that the concept is to grant segregated areas of A1 and A4 which only intersect in a small area of the "shop" which is where the bar is situated. Given that the presence of the A4 areas for the "courtyard" and upstairs "beer tutelage room," mean that it is accepted that drinking alcohol will occur on the premises then it must follow that that alcohol must be dispensed from a bar and carried to the areas where the drinking will occur. The law states that alcohol can only be purchased dispensed and consumed within an A4 area. The planning department accepted that this was true when they required the addition of the A4 to the A1 room labelled as a "Shop" to form the A1/A4 area. Incidentally this proves that the first application had it been successful would not have been adequate to authorised the sale of alcohol. However this still neglects the fact that people will be standing in an A1 area to order and purchase alcohol in an unsealed container and then either consume it there or travel through unplanned areas to reach the A4 areas. Some of the internal spaces presumably retain the A1 planning from the previous use, but this would not apply to areas that did not form part of the bridal shop, nor would it cover the external areas that have been created by the applicants and therefore have never been designated for any usage. This all contravenes the fact that a drinking establishment, where alcohol is sold for onsite consumption must have A4 planning permission to validate its license to allow it to operate. This means that the amount of onsite drinking is irrelevant, it is the fact that any alcohol is purchased and drunk on the premises that matters, not the number of drinkers. Similarly the ancillary use of take away sales, regardless of the percentage as it relates to turnover, should be handled under the A4 planning and not defined separately.

NPPF 1 details that proposals will be approved unless "material considerations indicate otherwise." The council will grant an application unless "policies in the NPPF or other material circumstances indicate otherwise." This is explained as "planning permission can be refused if there are specific policies in the NPPF which indicate that the development should be restricted or that there are adverse impacts which would demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole." There are specific policies within the NPPF which provide proof that the application should be rejected and there are certainly adverse impacts which outweigh the benefits. This would obviously cover the adverse impact of the planning department advocating a specific type of planning that permits this business to trade in an identical manner to a public house while paying a fraction of the business rates that are paid by their competitors. It is a published fact that this business paid minimal rates and was rated as a shop in 2015-16. They are still rated as a shop and as a small business will pay zero rates for 2016-17. Meanwhile every public house in town will see their rates increase as a result. The planning department maintain that this is not a valid objection and yet this would definitely seem to be the very definition of an adverse impact and therefore should be addressed under NPPF 1. Particularly as the planning

department have stated openly that the application would have been similarly supported if it was A4. This demonstrates that the planning department have no specific policies to support A1/A4. This admission also reveals that this application is viewed by the planning department as a public house while enabling it to avoid business rates.

The application has chosen to include NPPF 2 presumably because they feel that it should support the application. However I would suggest that this should be included as a reason for the rejection of this application. NPPF 2.23 states clearly that planning policies should, "promote competitive town centre environments." It continues, " local planning authorities should recognise that town centres are the heart of the communities and pursue policies to support their viability and vitality. Local planning authorities should retain and enhance existing markets..... ensure that the markets remain attractive and competitive." The whole of NPPF 2 can in fact be viewed as an argument that supports the existing businesses operating in the town centre. This is therefore a compelling case for arguing that this unique form of planning and the idea that the business is a shop proves that they could never contribute to the creation of a competitive and vibrant town centre. The reality is that this 'shop' has undercut prices and provided a venue for the consumption of cheap alcohol and preloading and if unchecked will lead directly to the closure of the towns public houses and the loss of many more jobs than the applicants could offer at their business. This again is an argument is relevant. The planning department should accept that this application is clearly not supported by NPPF 2.

The idea that this application would adversely impact the neighbourhood and outweigh its benefits is continued in CS12. CS12a states that the application should provide a safe and satisfactory means of access for all users. The original application was rejected by the councillors because of the lack of disabled access and facilities. This property was extensively refurbished and considerably altered, but at no time were the disabled considered which violates the council's policies for equality and disabled rights. CS12C stated that the application should avoid the visual intrusion, loss of sunlight and daylight loss of privacy and disturbance to the surrounding properties. The premises and especially the use of the outside space has caused an enormous amount of noise and disturbance.

CS27 concerned the developments responsibility to enhance the appearance and character of conservation areas. It is hard to see how the application could be said to have done that especially considering the installation of the awning and its prominent logo. This locally listed building has been extensively remodelled and stripped of all of its original character and charm. This has drastically altered the inside layout to completely change it from the neighbouring premises. The frontage of the building has been altered by the stripping off of the original iron work that supported an awning dated back to the buildings construction. This change has been exacerbated by the addition of a hanging pub sign. This is completely out of character for the area and should be removed at once. It is hard to see how this could be viewed as "only minor changes" considering that there is little of the original structure that remained unchanged. This would definitely suggest that this should form grounds to refuse the application. Regardless these alterations have not been "complementary and sympathetic to the established character of the building." And so would seem to go against Saved Policy 120.

The applicants have stated that all the toilets have been approved by building control. The toilets may well have been signed off but one cubicle is not enough for women to use. Either the applicants need to create another cubicle or they need to reduce the number of people allowed in to the premises to under 50. These are standard throughout the country. Every business that operates as a drinking establishment has to provide adequate toilet facilities.

There is a serious case for proving that this application should not be approved as the policies do not support it. The application has been badly constructed with many problems

and issues. Not the least of which is the failure to provide A4 planning for the entire premises. Therefore as the above objection stated, this application should be refused as it is opposed by the policies that were used to support it.

Flat C, 142 High street, Berkhamsted

I am writing to complain about the planning application known as 4/02514/16/FUL for the premises known as a The Berkhamsted Brewery Shop at 104, High Street, Berkhamsted, Hertfordshire. HP4 2BL. This application has been poorly conceived and doesn't actually reflect the way this business has been trading.

Dacorum's own website states that

"a business carrying on licensable activities will require both a licence and appropriate planning consent before they are legally entitled to operate."

This application will not provide the appropriate planning consent for the business to trade. This site is a drinking establishment and as such requires the entire premises to be authorised for A4 usage. This application has divided the space up between A1 and A4 areas in some sort of arbitrary way and it appears that you have allowed them to do so. The large outdoor space with seating everywhere is subdivided between the 'courtyard' with A4 planning and the rest of the decking and the 'hop garden' which have A1 planning. Practically there is nothing in place to prevent anyone from buying a drink and wandering around in to an A1 area which isn't authorised. The upstairs room has A4 for the 'beer tutelage area' but not for the ancillary areas of the staircase, hallway, kitchen and toilets. The downstairs 'shop' is mainly A1 with a small area of A1/A4 which is tucked away in a corner of the room. You wouldn't know from the plans but this is where the bar is located. The addition of this little area of A4 with the A1 is the only significant difference between the two applications. This is very important as it is vital for the sale of alcohol. As without the A4 you are not authorised to sell alcohol for onsite consumption in unsealed containers from a bar in the A1 area. The important part is the fact that it was not there in the first application but the planning officers still swore that it wasn't necessary. So if the first application had been approved by the councillors then it would have broken the law. Remember that as I now discuss the fact that you cannot stand in an A1 area to order, purchase and consume alcohol from an unsealed container. The container either has to be sealed or the alcohol has to be free. This is how off licenses like Majestic Wine trade with A1 planning and a tasting bar. But this is not true of the applicants who charge for every fluid ounce of alcohol that they serve from their "tasting bar." Even if you they changed the A1 area to an A4 area that would not solve the additional problem that once you have purchased the alcohol legally you cannot take it Out of an A4 area in an unsealed container or consume it. The applicants have been poorly informed; every drinking establishment in the country has A4 planning and applied to have that extended over the entire premises, inside and out. This application has areas of A4, areas of A1, even a A1/A4 area but most importantly areas that have no planning applied for at all. This is bad practice and should have been corrected before the applications plans were submitted. As it stands now the basement with the male toilets cannot be used at all as the basement plans have not been submitted at all. The planning department spend a lot of time discussing the fact that this discussion of A1/A4 is a licensing issue and therefore nothing to do with planning. I take the point that the licence is equally flawed with equally spotty coverage which was obtained for a business model that doesn't exist. However that doesn't explain On the one hand they can select and actively promote a type of planning consent with segregated A1 and A4 areas that has never previously been approved by any council. While saying on the other hand that you can never

question him or his judgement. This is undeniably a planning matter as it concerns the use of a planning class (from the 1987, Town and Country planning order) to authorise the use of this premises for certain activities. It is unreasonable to suggest that the planning department's word is law and can never be discussed; I was unaware that we now live in a communist state! The fact that the planning department cannot provide any policy justification aside from those that they would put forward to advocate for a public house opening suggests that they're desire to support this application is nothing more than a vanity project that they must now defend at all costs.

The officers' actions are ill advised especially considering that they were equally convinced of their powers on the last application for this site and that confidence proved to be unfounded. Aside from any of the technical issues and legal implications a very basic problem with this application is the fact that the application proposed is not appropriate for the business that is trading on the premises. The application is not in any shape or form a shop. This is clearly a drinking establishment or public house, we were all duped and misled, everyone can see this so why can't you? The shelving is largely decorative and results in maybe 10% of the trading and I'm being extremely generous here. The point is that the A1 is irrelevant anyway as it could easily be conducted under A4s umbrella rights. The amount of A1 covered by A4 has never been quantified and here is minimal anyway.

This application came about because Ms Watson of Planning Enforcement visited the premises at the insistence of the Councillors and stated that the presence of the bar and the fact that one person was drinking beer at the bar meant that it was A4. Here Ms Watson is describing the 'shop' the main A1 area of the business. Her response is echoed on social media which is littered with photos of people drinking in the 'shop', what more proof do you need that we were all misled? A petition gathered 4,000 plus signatures for the councillors to grant A4 planning to let people drink in the 'tasting bar.' Then you have to consider the fact that when the Brewery Shop in High Wycombe proposed the same segregated areas of A1 and A4 and this was REJECTED by the planning department who told the applicants that

"In our view you need to apply for mixed A1/A4 use on the whole of the building and not divide the floor space up in to A1 or A4..... The mixed use also needs to cover the ancillary facilities i.e. WC's which are all to be used in direct convention with the mixed use of the building and therefore form part of the use." From an email from Sarah Nicholson on 22 April 2016 concerning application 16/05906/FUL.

The fact is that the weight of evidence does not support Mr Newton and his segregated areas of A1 and A4 planning and the idea of moving and flowing between different zones regardless of planning like they do at Costa! Not only has another counties planning department judged them illegal but his own council's enforcement officer has stated that the A1 area required A4 planning to authorise the activities occurring. The communication between branches of the planning department could be improved it seems!

This application would appear to have been created and pushed through without any serious consideration of the obvious mistakes that blight this submission. The plans themselves are a complete shambles and appear to have been created to advise the builders. They fail to show significant details of the application like the location of the bar which after all is a defining feature of this drinking establishment. Other features and areas are defined in green marker pen which is almost illegible. This does not seem to be a professional submission nor is it at all adequate for the task at hand. The application does not include plans for the basement area which contains the toilets that are presumably to be used daily as part of the business. However as it stands they should not be used as they will have neither the correct licence or planning for such inclusion. The application segregated certain areas for A1 and A4 planning but in doing so has left some parts of the business with no planning classification at all. The A1 planning is specifically to cover the 'shop' area which does infer that it did not exist already and should no longer be considered to cover the undefined areas of the building.

Further, as it stands the business has only declared the presence of a single toilet cubicle in the submitted plans. Setting aside the fact that it, and the hallway and stairwell, would require A4 planning which has not been applied for. It is not appropriate for a business that makes its money from onsite consumption of alcohol to not provide adequate toilet facilities for the public. The council will have guidelines for this but in line with accepted standards used for the other businesses in town there should be two or three urinals and a cubicle toilet for men and two or three cubicle toilets for women. Given that a new application can include the newly created "Gents" toilets in the basement that would still mean that the facilities for women are completely inadequate for the use of the premises and therefore the application should be rejected on these grounds.

The applicants took over and doubled the trading area of the business by converting waste ground into an extensive outside area. This extension, given that it was created to accommodate seating areas for outdoor drinking, inevitably caused huge issues and disturbance for the neighbourhood. This is against NPPF 10. This was previously a bridal shop and although there are other similar businesses in the area they are on the opposite side of the High Street and do not impact the area in the way that this business has. The onsite drinking and the subsequent problems associated with the consumption of cheap alcohol inevitably eroded what were previously quiet and disturbed hours of peace and quiet. It is nice that soundproofing helped out one neighbour but does little to mitigate the harm caused to others. The applicant's state that they close earlier than others doesn't excuse the disruption that they cause when they are. The applicants deliberately mislead by saying that they close at 8. In practice they often trade beyond 9 and often extend their hours to play live music and trade with pub hours. This application has not made a positive improvement to the quality of the people's lives which is against NPPF 9. The application has never been in the public interest.

This application should be rejected for the reasons that I have included in this email. I would suggest that the case for withdrawing your support is a compelling one and therefore should be acted on. Further as this is a retrospective application I would suggest that as I stated above that as the applicants have never had appropriate planning for their onsite drinking that as this voids their licence that enforcement should act to prevent the A4 activities from continuing.

6 Manor Court, Berkhamsted

I believe that you are the officer handling the application for the Brewery Shop in the High Street.

I have been in to the shop on several times and posed as a normal customer with friends and I can tell you that there is no question that this is a pub/bar

The Brewery Shop took over the lease of the shop and then extended outdoors to use the waste ground next to the building to build an area of decking. This later was doubled in size to accommodate even more people drinking.

I live a short distance away & behind this place but even here the noise can be really annoying, intrusive and upsetting. It is just there in the background all the time. You just don't get to have a break from it. This also gets much worse in the evening as more people go in and goes on late into the evening on most nights and sometimes you get the noise of the band that they've booked to play as well for additional disturbance and nuisance. This annoys me more than anything because we never had any noise or disturbance before this was allowed to open. No one ever asked us if we wanted this or if we were bothered by it, we simply were not consulted at any point. Surely you owe us a duty of care in this regard and to make sure we are not unnecessarily, unfairly and unduly inconvenienced? You seem to have decided unilaterally that our quality of life does not matter to you. I don't think that it's fair to let a pub pop up and not ask if everyone is ok about that. Why weren't we on the list of people to be contacted about this application? The people on the other side of the High Street were. We are the ones who live closest to it.

Please consider this as an objection to this application.

The Gatsby, 97 High Street, Berkhamsted

I am writing to you with regard to the formal objection to the planning application 4/02514/16 for the granting of A1/A4 planning for 104, High Street, Berkhamsted, Hertfordshire HP4 2BL. I want to amend my original objection letter to include the following information regarding how the NPPF and the Core Strategy apply to this application. I trust that as one of those officials consulted that you would have no objection to including my further objections. To be clear this does not replace my original objection letter as it contains additional details which I would now like added to the record.

The application is not significantly different from the previous version aside from a small area of A4 being added to the "shop" to create an A1/A4 area where the bar is located. The last application was supported as it complied with policies found in the NPPF, the NPPG and CS4, CS11, CS12, CS16, and CS27 from the Core Strategy and saved policies 42, 51, 120 of the Dacorum Borough Local Plan. It would seem sensible to suggest that this application will be supported using the same policies.

NPPF 1 states plainly that, "proposals that accord with the development plan will be brought forward and approved unless material considerations indicate otherwise. If the development plan contains no policy relevant to the consideration of a planning application or policies are out of date the council will grant permission unless

- Policies in the NFFP, or
- Other material circumstances

Indicate otherwise.

The footnotes state that this means that

"Planning permission can be refused if,

-there are specific policies in the NPPF which indicate that the development should be restricted.

-there are adverse impacts which would demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole."

Certainly there are specific policies within the NPPF which provide proof that this application should be rejected and there are certainly adverse impacts which outweigh the benefits. The obvious one being that the effect of the planning department suggesting the creation of a specific type of planning that permitted the business to trade in an identical manner to a public house while paying a fraction of the costs involved and avoiding the restrictions placed on public houses. They have paid minimal rates since they opened in 2015. But the applicants will not pay any rates for this year as a small business whereas a drinking establishment of similar size would not be exempt. This is not a valid objection according to the planning department but it would appear that this would definitely be the definition of an adverse impact and therefore permitted under NPPF 1. Especially as the planning department stated in their own words that the application would have been similarly supported if it was A4. This proves that there are no specific policies that would support A1/A4. The fact that the planning department are admitting to supporting the application using policies for A4 provides evidence of how the application is viewed by the department, i.e. as a public house. The planning department have nothing in policy terms to support A1/A4, the only mention of a mixed use development comes in CS4.

The policy CS4 clearly states that, "a mixed use development will be supported where it supports the principles of sustainable development and does not conflict with other policies. In all these areas ancillary uses will be acceptable and protected provided that they support the primary function of that area." 8.20 of the Core Strategy states that, "In many instances

land will not be used for a single use. Mixed use development involving a mix of compatible uses on a site and/or the mix of compatible uses in a building will be encouraged where it makes the most efficient and sustainable use of land." The actual CS4 does not specifically address the application as the term "mixed use development" is a term used to refer to a larger scale development which includes residential, commercial and industrial areas within the development. The 8.20, does apply that term to a specific building where the uses are compatible. This only legitimised the use of the premises as a drinking establishment and even permitted the use of the site for retail sales. The fact that this is permissible is not a surprise as it only details the exact way in which every pub trades. However nowhere in CS4 or 8.20 is the idea of A1/A4 or separating the activities previously considered as A4 stated. In fact the statement "does not conflict with other policies," would seem to rule out the A1/A4 concept. This idea definitely conflicts with The Town and Country Planning (Use Classes) Order 1987, which definitely states that the correct designation for a drinking establishment is A4 and that the ancillary activities are permitted under that designation. Therefore CS4 obviously does not provide the authorisation that the planning department suggests; in fact it refutes it entirely.

The NPPF provides further policies which demonstrate that the application should be rejected. The application includes NPPF 2 which seems to have been included to justify the application by suggesting that it is justified as it builds a vibrant and competitive town centre providing employment. However NPPF 2.23 states that planning policies should, "promote competitive town centre environments." It continues "local planning authorities should recognise that town centres are the heart of the communities and pursue policies to support their viability and vitality. Local planning authorities should retain and enhance existing markets...ensure that the markets remain attractive and competitive." There is an argument to be made that this entire section focuses on supporting the existing businesses operating in a town centre which this application would undermine by undercutting the existing businesses because of the zero rates. The unique form of A1/A4 planning means that this application can never create a competitive and vibrant town centre as the business has already traded in a favourable position to undermine the competition which will ultimately lead to the closure of the town's public houses and the loss of many more job opportunities than the applicants could offer at this site. Again the planning department suggest that these arguments are not relevant but not only do they ignore what is described in NPPF 2 but then attempt to use it to justify their position! If this is relevant then the planning department need to accept that a counter argument is equally acceptable to the discussion.

NPPF 7.57, 7.58e, and 7.59 would refer in part to the fact that the application should contribute positively to making places better for people by creating safe accessible spaces for all. This implies that disabled facilities should have been included. 7.67 refers to the negative impacts that poorly placed advertisements can have on the appearance of the built environment. This would suggest that the awning which has been widely criticised on both applications does not contribute positively to the idea of making places better for people. NPPF 7.67 details that Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Considering the opposition to the awning under this section of the NPPF the committee would be able to reject the application.

Moving forward to NPPF 8 and the Promotion of healthy communities, 8.70 states that planning policies and decisions should plan positively for the provision and use of shared space, and community facilities such as public houses and to enhance the sustainability of communities and residential environments. Further that they should guard against the unnecessary loss of valued facilities and services particularly where this would reduce the communities ability to meet its day to day needs. The NPPF echoes Government policy that public houses are valued community assets that are worthy of protection. This application undermines the idea of protecting and conserving these assets which is something that

Dacorum and by extension the planning department are required to promote. The practice of putting forward an alternative to A4 planning directly contradicts 8.70a and 8.70b.

The Core Strategy similarly described reasons for opposing the application. CS11a refers to the enhancing of spaces between buildings. When you consider that the applicants have used the outside area to create a large area of decking which is covered with extensive seating to accommodate outdoor onsite drinking. This can be used in all weathers and times of day because the applicants installed the awning and several heat lamps. This has become an area which is heavily populated with people drinking alcohol throughout the hours of operation. Considering that this is the use to which the space has been put and considering the noise and disturbance to the peace of this area it is dubious as to whether this has enhanced the space. The Hop Garden, which has been created by the applicants, has never been designated for any authorised use therefore although it contains seating and is clearly for onsite drinking the usage will be unauthorised as it has not been included in the A4 area. This too would not seem to be enhancing the space. CS11b details that the development should preserve an attractive streetscape which the applicants have failed to do when you think about the number of objections to the awning and the resentment that its prominent advertising logo has created.

The fact that the application would adversely impact the neighbourhood and outweigh the benefits of it being granted. This should therefore be rejected under CS12. CS12a states that application should provide a safe and satisfactory means of access for all users. The issue of disabled access and facilities was a reason for the application being rejected the first time and nothing has been done to address this. The applicants extensively rebuilt this building removing walls and adding doors and toilets so it is a mystery why the council's policies for equality and disabled rights were not enacted on. CS12c details that the development should avoid visual intrusion, loss of sunlight and daylight, loss of privacy and disturbance to the surrounding properties. The site and especially the use of the external areas has created a considerable amount of noise and disturbance which has been well documented and been the subject of several complaints from neighbours. These issues would suggest that CS16 should not be included in justification of the application as the complaints would prove that the social and environmental impact has not been controlled. The applicants state in their supporting letter that they do not trade for the hours that they have been given. This is not strictly true as they often serve beyond their hours and could be expected to apply for the pub hours that they originally applied for when they applied for their license.

The fact that CS27 has been included to justify this application is not an obvious choice as it concerns the developments responsibility to enhance the appearance and character of conservation areas. The evidence would suggest that the applicants have not enhanced the appearance and character of the conservation area as is proved by the opposition to the awning and its prominent logo. The extensive alterations to the building and the outdoor space also speak to a disregard for the principles of conservation. The applicants removed walls, created two doorways to the outside decking area that they built, extensively renovated and built a large bar. They removed the original iron work which had supported the original 1940's awning attached to the front of the building. This had been maintained by every other shop in the terrace and is now starkly out of keeping with the area. This locally listed building was stripped of any original character and is therefore substantially different from the other shops in the area. How this can have been approved as only minor changes is beyond belief. Short of knocking it down and rebuilding on the site it is hard to see what else they could have done to the building. Thus the idea of using CS27 to support the application is a little farfetched considering how the original character and charm of the building has been removed; therefore the evidence would suggest that it should be opposed on these grounds. Saved Policy 120 would seem to support my view discussing how alterations should be "complementary and sympathetic to the established character of the

building." It also states that "within a conservation area, applicants are encouraged to submit detailed planning applications. Planning permission may be refused if insufficient detail is provided to judge the impact of the proposed development on the conservation area. Does writing the plans with a green marker pen and leaving out the bar and the amount and location of the seating really provide sufficient details to assess the impact on the conservation area?

The applicants have continued to provide post-truth statements to support their application. At first they stated repeatedly "we have all the correct licences" although the fact was that they did not have the required planning permission. This also failed to mention that without the planning in place their license was never valid. Dacorum's website clearly states that a drinking establishment must have both to legally trade. They have consistently tried to mislead the public on the nature of how the business trades. Remember when it was only 18% of alcohol was drunk onsite? Ignoring the fact that if a single drop of alcohol is ordered and consumed on site that it needs to happen in an A4 area. They have stated that the premises is a shop although Facebook and social media prove that their customers remain on site from 45 minutes to two hours which is a long time to be in a shop! More recently they have stated that they frequently close early and do not trade as late as they are allowed to. This is not true and frequently the hours are extended. The fact that they originally wanted to operate traditional pub hours has been forgotten. As they attempt to appear more like a shop they are trying to pretend that they close early. They have begun to charge more to drink on site after the scale of the cheap drinking was revealed. This surcharge will stop as soon as the application has been granted as it has only ever been applied to Berkhamsted it is not company policy. They have claimed that they have A1/A4 planning permission for their businesses in High Wycombe and Amersham. This is not true. Amersham and Chesham still trade in a completely unauthorised manner under the A1 designation that they inherited with the property and High Wycombe does have A1/A4 but the entire premises has A4 all over. This is very different from the segregated areas proposed in this application. Then there is their statement to the Town Council that 70 jobs will be created. The Town Council questioned the validity of this and it was reduced to 4 jobs with a heavy use of zero hour contracts.

The fact that the toilets have been inspected by building control is not the point. No one suggests that they don't work; we are clearly stating that there are not enough of them. You cannot have a site where on site drinking is authorised and the number permissible on the premises is up to 100 and expect women to have only one toilet cubicle. This is not something that can be ignored.

The evidence would suggest that the application is not supported by the policies that were previously used to support it. It is an indisputable fact that although the idea of a building being used for more than one use is accepted that the idea of splitting the uses in planning terms is NOT authorised and as it clearly conflicts with other policies it therefore should not be approved. If this application is approved then it would form the subject of a formal complaint and ultimately will not stand up to scrutiny. I would suggest that I have clearly demonstrated that there are plenty of reasons to justify the refusal of this application as it is opposed by the NPPF and the Core Strategy and that the adverse impacts would outweigh the granting of the application.

No1 Canal Side, George Street, Berkhamsted

Objects on the grounds of the proposal should be considered as an A4 use and not A1 / A4 mixed use. Considers that the proposal conflicts with a number of national and local planning policies as discussed in detail within the full representation which is provided within Appendix A of this report.

I am writing to amend my original objection letter to include the following points that I want to raise as part of my objection to the application 4/02514/16/FUL for a change of use from A1 to A1/A4 for The Berkhamsted Brewery Shop that trades at 104, High Street, Berkhamsted, Hertfordshire. HP4 2BL.

The heart of my objection has always been that alcohol can only be dispensed in an unsealed container for consumption on the premises in an area which has A4 planning where the primary function of the business is to provide a venue for the alcohol to be consumed. The requirement for A4 planning permission is absolute and applied from the Consumption of the first drop of purchased alcohol. Due to this the hours of operation, the closing time or the amount consumed are irrelevant. Therefore this would still apply even if they were to close at 10pm, 8pm or even 6pm. This it is clearly the case with the above premises where the primary purpose is to provide an environment for the consumption of alcohol. This application was previously referred to as 4/03329/15/FUL and was presented to the Development Control Committee on 14th January 2015 with the full support of the Planning Department according to Mr Seed and Mr Newton who defended it to the committee. 4/03329/15/FUL was a zoned A1/A4 application which was proposing to cover the entire ground floor "shop" area, where the bar is located (but not shown on the plans), with A1 planning. This application was rejected by the Committee and was subsequently replaced by 4/02514/16/FUL. The only variation from the first application was the inclusion of a small area of A1/A4 in the corner of the "Shop" area where the bar is located (but still not shown). The inclusion of that little piece of A4 within this A1 area is very significant as it provided proof that the Planning Department now accept that a central tenant of my original objection was correct, namely that alcohol cannot be sold from a bar for onsite consumption in an A1 area and so A4 had to be included. However the current application still does not address the fact that you cannot order, purchase alcohol in an unsealed container and consume it onsite whilst standing in an area which has A1 planning. However, assuming that the Planning Officers will now "fully support" 4/02514/16/FUL then it must prove that they were wrong to back 4/03329/15/FUL. Obviously this was a significant mistake, and one that should lead to them admitting that 4/02514/16/FUL has similar errors and should not be supported as it does not provide the appropriate authorisation required for the premises given the way that it trades.

The Planning Department will doubtless point out that alcohol can be legitimately be consumed in other use classes such as A3 (restaurants) and D2 (nightclubs or concert halls). This of course I fully accept, however in both A3 and D2 the sale and consumption of alcohol is ancillary to the primary function of the business and more significantly no one has ever suggested that this business is being used as anything other than as a drinking establishment. It is important to stress that these are situations where alcohol is sold and consumed in an ancillary form rather than allowing the consumption of alcohol as a primary function of the businesses trade which would require A4. A business like Majestic Wine Warehouse may also allow alcohol to be dispensed in an unsealed container for consumption on the premises in an A1 area. This is because the alcohol is dispensed and consumed as a free sample to inform the purchase of a sealed bottle. Again this could not be applied to this business as every drop of alcohol dispensed in the unsealed containers is changed for directly before consumption.

The last application was supported by the Planning Department on the grounds that as both A1 and A4 or a combination of both uses are considered appropriate to authorise within a town centre location that numerous examples of each of these uses within Berkhamsted High Street. This statement draws heavily on CS4 and the supporting material organised under 8.20 in the Core Strategy, and will be dismissed as an argument later in this objection. However whilst it is true to say that A1 and A4 activities are present in numerous examples within the town it would be completely wrong to believe that there are any specific examples of combinations of areas of A1 and A4 coexisting in any business within the town. Off

licenses with tasting bars exist at Majestic Wine Warehouse with A1 planning permission. The Berkley Gallery operates as a mixed use business but under A4 Planning. Every single drinking establishment and public house performs both on and off sales but does so under A4 planning. And we can dismiss restaurants with alcohol licences as they trade under A3. Therefore the argument that this application is supported because the A1 and A4 activities are acceptable within the town does provide a precedent that the Planning Department suggests.

The Planning Department also referred to the fact that they believe that the proposed use of A1 and A4 are fluid and that it is inevitable that given the nature of the use that some crossover would be likely to occur between the various parts of the site. This would be true if the separate zones of A1 and A4 were to be authorised. However this situation has never occurred before because the A1 activities have always been addressed by being conducted under A4 planning permission. Therefore the fluid argument cannot be used as a justification for the application and as I will show cannot be authorised by CS4. Precedent would seem to prove that the Planning Classes are absolute and provide coverage for, in this case, drinking establishments that operate primarily for the retail sale of alcohol for onsite consumption. Any flexibility comes after the granting of the required consents.

The previous form of this application, which as I said is almost identical to 4/02514/16/FUL, was presented to The Development Control Committee on 14th January 2015 by Mr Newton and Mr Seed. During that meeting they made several statements that I'm sure will be repeated when this application goes before the committee. They promoted the idea that it was not necessary to license the entire premises with A4 as the individual designation of an area doesn't matter because like Costa you can drift from one area to another. He repeated the claim that the Town was full of mixed use businesses but conveniently chose to ignore the fact that none of them sell alcohol or operate as the Brewery Shop does. He also drew heavily on the phrase that there was nothing in the Core Strategy to prevent it from being approved and so even if it was declined it would succeed on appeal. I have refuted the first two statements and will go on to discuss at length how the Core Strategy and other policies do not support this application at all. The first application was not appealed because it is a flawed application that would not stand up to scrutiny. Even the planning officers involved have to admit that there is no legitimate evidence to support it and instead they are forced to propose it using the same policies that they would have to use to support an A4 application. However the most worrying statement from Mr Newton concerned his statement that in other authorities such businesses have been allowed to trade under A1 planning permission. This suggests that a senior planning officer is saying that because other local authorities ignored the law and allowed alcohol to be sold and consumed without the correct authorisation that this has set a precedent that allows Dacorum to be similarly negligent in applying the law. Does the Council share Mr Newton's view that precedent can be created from negligence?

The applicants have allowed their other Brewery Shops in Amersham and Chesham to trade openly as bars with only A1 planning, in Chesham's case since 2013, in spite of being informed that their type of business required A4 planning. The applicants told Berkhamsted Town Council that they had been granted A1/A4 for the Amersham site and for their High Wycombe site. This was deliberately misleading as no planning application has ever been applied for the Amersham or Chesham sites and the Planning Officer at High Wycombe rejected an identical planning application to this one, based on the idea of separating the areas of A1 and A4 into different areas. Ms Nicholson, the Planning Officer for High Wycombe explained that the separation of A1 and A4 would not provide the required coverage for the premises. The applicants were also told that they were required to include the ancillary areas of the premises i.e. toilets, corridors etc. Therefore this proves that this application has already been rejected by one Council and judged inadequate by a different

Planning Department. This fact was withheld from Berkhamsted Town Council and should certainly be considered as a further reason to reject this application.

The idea that both A1 and A4 activities are acceptable in planning terms within the town will come as a great relief to every publican in the country as these comments accurately describe how they have operated our businesses for years.

The Planning Department also proposed the idea that the application is justified as it is a matter of fact and degree when assessing whether the business is operating as an A1 shop or an A4 public house. They have suggested that this is not clear cut and can depend on the layout of the premises in terms of the floor space dedicated to the respective shop and pub areas and the turnover of the business again in the proportions of the respective uses. However this position should be rejected as the evidence demonstrates beyond any doubt that the vast majority of the businesses revenue has been derived from the onsite consumption of alcohol. This was definitely revealed by over 4,000 people signing a petition to ensure that they could continue to be allowed to consume alcohol on the premises. Even the supporters of this application all state how much they enjoy drinking in The Brewery Shop. Considering then that the take away sales cannot amount to more than 10% of their trade. The Brewery Shop's own representatives at the Development Control Committee meeting on 14th January 2015, stated that customers can enter the premises and buy a drink to consume on site, stay for at least 45 minutes and leave without buying anything else to take away. Facebook and other social media confirm that the average amount of time that a customer spent at the Brewery Shop was between 45 minutes and 2 hours. The issue that the "shop" area is in fact the site of the bar and the only point of dispense for the alcohol sold in unsealed containers for onsite consumption must also be considered. This, as Planning Enforcement will confirm is a defining feature of a drinking establishment and the fact that this and a large amount of the onsite drinking occurs in the A1 shop area must mean that it requires A4 planning. This would mean that almost the entire premises would have A4 planning. Therefore the argument that it is a matter of layout or turnover can be easily dismissed. This would always have been a tenuous argument anyway considering that this was something that the government was asked to consider before ruling that Micro pubs required A4 planning consent. Given that the Planning Department have always previously stated that they cannot consider financial matters when determining planning consent it would seem odd that they would consider the turnover of the business. This would seem to be a matter that would be decided by the ratings department and the statement regarding the turnover would seem to be a statement borrowed from an explanation of how business rates are determined rather than a statement of how to work out planning designations. Moreover, historically public houses have always operated off sales when it is permitted under the premises license. While this has declined since the opening of off licenses and further with the government's decision to permit supermarkets to retail alcohol. Regardless the historical precedent remains unchanged and guarantees that any amount of off sales would be permitted under A4 planning. Therefore a business operating purchased on site consumption of alcohol may under A4 planning perform any amount of A1 activities without the need for A1 planning permission. If the Planning Department, and by extension Dacorum Council, are taking a different view of this then it would be useful to know what is the precise point where A4 planning is no longer adequate to authorise A1 activities? At what percentage of turnover would A4 not be adequate? I would like to press for a response to this question, as every landlord in the country whether a freeholder or a leaseholder has always viewed their A4 planning as providing the freedom to modify their business to include unlimited amounts of A1 and A3 activities. The freedom that this allowed has formed an intrinsic part of the value of those leases. Therefore many individuals, groups and companies who have a vested interest in pubs and the value of their leases and would want to be informed of any developments that might adversely affect the value of their investments.

This leads neatly on to a previous planning application (4/03754/15/FUL) which ran contemporary with the original Brewery Shop application. This was for The Berkley Gallery in Lower Kings Road, Berkhamsted, HP4 2AB. The application was applying for permission to become a mixed use business. This would authorise the owners to allow people to enjoy a glass of wine while they viewed the artwork. Even though Mr Seed, the planning officer recognised that this was a mixed use site, he chose to grant A4 permission for the entire premises under delegated powers. A1/A4 was not recommended although Mr Seed was simultaneously handling the Brewery Shop's application. In fact Mr Seed chose to support the gallery's application with a virtually identical set of policies to those that would be used to justify 4/03329/15/FUL. This proves that even the Planning Department and Mr Seed view the Berkhamsted Brewery Shop as an A4 business but also that the Planning Department have no specific policies to justify their promotion of an A1/A4 application.

The treatment of The Berkley Gallery underscores a significant problem with the concept of A1/A4 planning. Given that the Planning Department would like to suggest that this is the future of planning in Dacorum it would seem astonishing that a gallery serving wine to a small number of discerning customers was forced to apply for A4 planning consent. In spite of the previous statements neither the layout of the premises or the turnover of the respective uses were considered at all. This application, 4/03754/15/FUL would seem to prove that that this concept is not being applied evenly on merit but has instead been created specifically to favour The Berkhamsted Brewery Shop over its rivals which would be in contravention of NPPF 1, NPPF 2 and NPPF 8.

Another central tenant of my objection is that because of the Planning Department's continued support for the idea that this business is a shop, even in the face of overwhelming evidence to the contrary, that the various departments consulted were seriously misled as to how the business would trade and as a result failed to judge it correctly. The upstairs room was originally stated as a space for educational beer seminars and even on the current plans is labelled as a beer tutelage area. This is deliberately misleading as the overwhelming majority of the usage has been as a room to facilitate onsite drinking. The fact that the room was created as a venue for customers to consume alcohol and possibly becoming increasingly impaired as a result is a salient point that should have been discussed by health and safety and the fire department. Obviously the rules and regulations are very different for a shop and a drinking establishment. The Council and the Planning Department have to explain why they have allowed this drinking establishment to operate with only one female toilet cubicle and no upstairs fire escape. No other drinking establishment has ever been allowed to act in this way. For example the Gents toilets have never been licensed, the plans for the basement containing them do not form part of this application which would mean that they could not be used as they would have neither of the required authorisations necessary for their legal use. I am sure that the Council will require that the applicants provide additional toilet facilities for women as a single cubicle would not be adequate for a drinking establishment. This would be in line with the toilet facilities required for every other drinking establishment in the town.

The Planning Department have been quite evasive in providing a detailed explanation of how A1/A4 planning is supported by legislation to support their belief that this is a viable alternative to A4 planning. The planning department have stated that this is acceptable in principle according to the adopted Development Plan of Dacorum. This is revealing as what is acceptable in principle may not be acceptable in fact especially with the admission that the application would be supported using exactly the same policies regardless of whether it was an A4 or an A1/A4 application. However as no further detail has been provided, it has been easier to turn to the first version of this application and how that was supported as it complied with policies found in the NPPF and the NPPG, and CS4, CS11, CS12, CS16, and CS27 from the Core Strategy and the saved policies 42, 51, 120 of the Dacorum Borough

Local Plan. These upon closer scrutiny do not provide the grounds to prove that an A1/A4 application can be supported in policy terms.

NPPF 1 clearly states that an application should be brought forward and approved unless material considerations indicate otherwise. If the Development Plan contains no relevant in date policies then it would be granted unless either policies in the NPPF or other material circumstances indicate otherwise. Therefore an application should be rejected if "there are adverse impacts which would demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole." As there are certainly plenty of adverse impacts to outweigh the benefits. The most obvious one being the effect of the planning department suggesting the creation of a specific type of planning that allows a business to trade openly as a drinking establishment while being rated as a shop and therefore avoid paying any business rates at all for this year, having only paid minimal rates for 2015. The planning department argues that this is not a valid objection and Mr Doe states that

"the council is not entitled to take into consideration the effects any business might have on the success or otherwise of another business: that is a matter for the market and open competition to decide."

The fact is that the planning department does not have the right to create a situation which would deliberately favour The Berkhamsted Brewery Shop over its competitors, by allowing it to avoid its obligations to business rates through allowing it to be viewed as a shop, and then preventing people from objecting to their creation. Unless Dacorum Borough Council and its planning officers have decided to set aside democratic principles and dissenting views are banned. As such behaviour would obviously provide proof that the Council through its Planning Department had abandoned the principles of fair competition and free trade. Seen in this light I would suggest that this is the very definition of an adverse impact and exactly what is covered by NPPF 1. Especially considering that the planning officers have chosen policies that could equally provide specific support for an A4 application. This proves that the planning officers are choosing to accept that the business is trading as a public house with ancillary off sales but continue to support and promote the idea that it is a shop. To add insult to injury, the application even included NPPF 2 to support the application as building a vibrant and competitive town centre providing employment. This would be the antithesis of the true meaning of the policy. NPPF 2.23 states that planning policies should,

"promote competitive town centre enforcements....local planning authorities should recognise that town centres are the heart of the communities and pursue policies that to support their viability and vitality. Local planning authorities should retain and enhance existing markets... ensure that the markets remain attractive and competitive."

An argument could be proposed that the entire NPPF 2 is really about building and maintaining a vibrant and competitive town centre which would be undermined by undercutting the existing businesses because of the zero rates and leading to the closure of the town's public houses and the loss of many community facilities and places of employment.

These statements are echoed in NPPF 8 which concerns the promotion of healthy communities. 8.70 stresses that planning policies and decisions should plan positively for the provision and use of shared space and community facilities such as public houses and to enhance the sustainability of communities and residential environments. This continues to warn that they should guard against the unnecessary loss of valued facilities and services particularly where this would reduce the community's ability to meet its day to day needs. This is in line with government policy that public houses are valued community assets and that they are worthy of protection. The protection and conservation of these assets are something that Dacorum through its planning department are required to promote. This

application would undermine the status of A4 planning and make a complete nonsense of the government policy of protecting pubs with ACV's, because it contradicts 8.70a and 8.70b.

The Council has already accepted that this business has been allowed to trade advantageously and has not been correctly rated. This has been proved by the fact that Mr Doe states that the council has reported the change of use at 104, High Street to the VOA. This is obviously a recent development but a welcome one. However it does require an explanation. If it is the responsibility of the Council to notify the VOA of a change of use then why was that not done when the premises opened or at least after Ms Watson visited? This business has been allowed to trade unauthorised and to avoid the burden of paying rates which has allowed it to sell alcohol at rock bottom prices to undercut the competition. This is a direct consequence of the Council's A1/A4 policy and the planning department's insistence that the business is trading as a shop. This is a direct violation of NPPF 2 and by extension NPPF 8

The policy CS4 documents that,

"a mixed use development will be supported where it supports the principles of sustainable development and does not conflict with other policies. In all these areas ancillary uses will be acceptable and protected provided that they support the primary function of that area."

Similarly 8.20 of the Core Strategy states that,

"In many instances land will not be used for a single use. Mixed use development involving a mix of compatible uses on a site and/or the mix of compatible uses in a building will be encouraged where it makes the most efficient and sustainable use of land."

CS4 itself does not specifically address this application, as the term 'mixed use development' is actually referring to the large scale developments that provide residential, commercial and industrial areas within the development. The point 8.20, does apply that term to a specific building where the uses are compatible. This is only providing authorisation to use the premises as a drinking establishment and even the ancillary use of the premises for retail sales. This should not come as a surprise as it only authorises the exact way that every public house trades. Still, this only covers the use of the building but nowhere does it state in CS4 or 8.20 that the planning department can separate the off sale activities previously included under A4 planning to create A1/A4. Actually the statement "does not conflict with other policies," absolutely rules out the A1/A4 concept which deliberately conflicts with The Town and Country Planning (Use Classes) Order 1987 that definitely states that the correct designation for a drinking establishment is A4 and that the ancillary activities are permitted under that designation. Considering this then CS4 does not provide the authorisation for A1/A4 that the planning department suggests, in reality it refutes it entirely.

The NPPF includes several other policies that applied to opposing the application. NPPF 7.57, 7.58e, and 7.59 refers to the fact that the application should contribute positively to making places better for people by creating safe, accessible spaces for all. CS12a states that the application should provide a safe and satisfactory means of access for all users. The inference being that disabled people should be provided for. According to Mr Doe the council's view is that the provision of disabled facilities and access will not meet the test of necessity and may not be relevant to planning. Dacorum should be ashamed of itself for this decision. The applicants ripped the building apart and created not one but two doors to the outside area, built decking throughout the outside area and remodelled the toilets. It is absolutely not acceptable that provision for the disabled was not a requirement in view of the

extensive building work. Is the council's view that accessing public houses is not a case of necessity? Is it Dacorum's view that it is doing the disabled a favour by denying them access and facilities? I cannot see why the doors could not have been built a little wider or the decking built with a ramp etc. The applicants, enabled by Dacorum and its planning department have taken the view that the disabled are not welcome on these premises. Considering the lack of access or facilities it is hard to believe that should anyone with a disability manage to get in that they would feel the love in the brewery shop.

NPPF 7.67 refers to the negative impact of poorly placed advertisements can have on the built environment. These should contribute positively to the environment and be efficient, effective and simple in concept and operation. This should be used in conjunction with CS11a to enhance the spaces between buildings. Considering that the applicants have used the outside space to create a large decking area, that they covered with an extensive amount of outdoor seating which they use to accommodate the large number of people indulging in the onsite drinking. This can be used in all weathers and times of the day because of the installation of a large awning, that has itself been the subject of a significant amount of scrutiny and objections. This has become an area which is heavily populated with people drinking alcohol throughout the hours of operation. The use of the space has created a significant amount of noise and disturbance to the peace of the area and generated many complaints. Planning Enforcement did state that the applicants would be required to either put in a separate planning application to authorise the awning or remove it at once. This was back in January and to date no application has been submitted and no enforcement action has been taken. The Hop Garden was created by the applicants to extend their drinking area. In spite of this it has not been included in the application although it has never existed before and therefore has never been given any planning designation, let alone A4. How has this enhanced the space? CS11B explains that the development should preserve an attractive streetscape. The applicants have failed to achieve this when you consider the number of objections to the awning and the resentment that its prominent logo advertising the business has created.

The application would adversely impact the neighbourhood and outweigh the benefits of it being granted permission, therefore it should be rejected under CS12. CS12c states that details that the development should avoid visual intrusion, loss of sunlight and daylight, loss of privacy and disturbance to the surrounding properties. The site and especially the external areas has created a considerable amount of noise and disturbance which has been widely documented and been the focus of several complaints by neighbours. This would obviously suggest that CS16 should not be used to support this application as it pertains to specifically proving that the social and environmental impact has been controlled which it obviously has not been. The applicants state in the supporting material that they only trade for limited hours. This is not strictly true as they often serve beyond their stated hours. When they were applying for the license they stated that they would never trade beyond 9pm however once they had a license that allowed them to open until 10.30pm suddenly that was the closing time. This would definitely suggest that the limited hours would only apply until planning permission is granted.

CS27 would also be considered an uncomfortable choice to support the application as it covers the developments responsibility to enhance the appearance and character of conservation areas. The complaints about that awning and its prominent logo should provide proof for that. The extensive alterations to the building and the outdoor space also reveal a disregard for the principles of conservation. The applicants removed walls, created two doorways to the outside decking area that they created, they extensively renovated and built a large bar. They stripped out the original ironwork that had supported the original awning that dated back to the 1940's. This original feature had been maintained by every other shop in the terrace and is now obviously absent. Considering the way that the original character

and charm of the building was stripped away it is amazing that this development was only viewed as minor changes.

Saved Policy 120 also discussed how alterations should be "complementary and sympathetic to the established character of the building." It also states that " within a conservation area, applicants are encouraged to submit detailed planning applications. Planning permission may be refused if insufficient detail is provided to judge the impact of the proposed development on the conservation area." The plans were written in green permanent marker pen which is difficult to read. The applicants have left out the bar and deliberately only zoned small areas of the business with A4 planning and deliberately used misleading labels like 'beer tutelage area', 'shop' and 'tasting bar.' This represents a deliberate attempt to conceal the true nature of the business and the true extent of the area and amount of onsite drinking that will occur. This has meant that the Hop Garden, and ancillary areas of the outside space have not been included in the A4 planning although they will be used for drinking. The basement which contains the Gents toilets has not been included in the application and so cannot be used. Large areas of the building have not been given any planning designation. Surely this should be considered a textbook example of an application that provides insufficient detail to judge the impact of the proposed development on the conservation area. The plans are certainly inadequate and in Mr Doe's words I would suggest that the extent of alterations required would represent a material change to the proposal and would require further consultation.

I have stated repeatedly that when alcohol is consumed in the way that the applicants business trades and the primary purpose is to provide a venue for the onsite consumption of alcohol that the only acceptable planning permission is A4. To discuss A3, and D2 is a deliberate attempt to undermine the argument and deflect from the facts of this particular case. Further I would suggest that this would be fully supported by the Town and Country Planning Act and the Use Classes Order. I also maintain that while the government has tried to invigorate town centres by easing the restrictions on A1, A2, and A3 and even A4 as it applied to turning closed pubs into something else but that the A4 has otherwise remained untouched and completely separate. This should mean that the A4 use class should still be the sole authorisation for a drinking establishment. Therefore in conclusion I would suggest that this application does not provide the correct authorisation for the way that the applicants choose to operate their site and should be rejected for that and the other objections that have been raised, not least because it cannot be supported by policies in its own right whilst all the valid objections can be fully supported by both facts and policies.

3 Gravel Path, Berkhamsted

The Brew Shop is a wonderful presence on the High Street. Their local brewery makes excellent quality beers and their shop offers an incredibly warm and inviting place to taste different ales and learn about craft brew - as well as meet friends in a polite and quiet atmosphere. I wholly support their application.

55 Durrants Lane, Hemel

Since the opening of the Red Squirrel ship in 2015 I have seen a revitalisation of Berkhamsted at this side of the town. Great products, great service, both adding terrific value and revitalising this section of the high street. Totally support this application.

Andrea Tropea Dental Laboratory, Dover Mews, Berkhamsted

I've been working at Buckland House for the past two years and the Red Squirrel brewery shop is not causing any problem whatsoever.

I am very often working late and I haven't noticed any problem from 104 high street shop.

Objections to Planning Application 4/02514/16/FUL in respect of 104 High Street Berkhamsted, change of use from A1 to A4

74 High Street, Berkhamsted

We continue to object to this change of use for reasons previously stated:

- There is already a number of late night outlets in this 200 metre radius of 104 High Street (Gatsbys, The Goat, Crystal Kebab takeaway, Bobbys off license, the Rex Cinema) and the cumulative effect of another licensed premises will seriously jeopardise this conservation and residential area of town.
- A4 use of this property will significantly contribute to the late night comings and goings and will exacerbate continuing problems experienced in this area at the weekend, relating to low level/non reportable disruption as well as more serious disturbances.

Additionally:

- The building is unsuitable for A4 use as it's essentially a narrow terraced property over 3 floors with narrow twisting stairs.
- It's out of character with the other properties on this parade which are shops and residential flats.
- Its toilets facilities are not suitable for A4 use
- The property does not have proper disabled access or disabled facilities.
- It is a locally listed building located in a residential area of town.
- A4 use will exacerbate the already impossible parking problems for residents in this area - the car parking spaces the application refers to are not for customer use and are situated in a locked car park without public access.
- Finally, allowing this application will set a precedent for all other similar applications, impacting on the ability of the LA to control this type of development.

We would also like to point out that we have found previous planning and alcohol license applications from this company misleading - in earlier applications it claimed its upstairs lounge and outside areas would be for "educational seminars and functions" -this has clearly not been the case.

Red Squirrel has flouted current A1 restrictions and has been functioning as a bar since it opened so it's difficult to accept that once A4 use is granted the next step for this business will not be to the apply for extended drinking hours (regardless of what its application states), and so creating another late night drinking venue in this area.

Felden house, Dower Mews, 104 High Street, Berkhamsted

I am project Director for a company called Weedi that operates out of Felden house, Dower Mews behind 104 High Street in Berkhamsted. We recently heard that the brewery shops licence is under review and wanted to give our views. We have worked alongside the brewery shop now for over a year and a half and in that time both noise levels and general atmosphere has been very good. Some of our staff are patrons on Thursday or Friday nights and is a preferred venue to a lot of the pubs due to its great selection of beers and its friendly atmosphere. I think it would be a real shame if the shop was to lose its licence. It has slowly built a reputation around the town for a place to go for good unusual beer, something which is unique to the town currently.

I hope these comments will help in a positive way.

35 Broadwater, Berkhamsted

I am writing to formally register my opposition to the above application (4/02514/16/FUL) because of the following points.

1.) The planning application submitted is not valid as it is not an accurate representation of how the business actually trades which I know from visiting the premises and passing by the shop. The applicants say that it is a shop with tasting to help customers select items to take home and that the garden and upstairs are for educational beer seminars or tutelage however as a previous customer I can see that the majority of sales are (at peak times) for consumption on the premises. The applicants say that only 18 percent of sales are drunk in the shop however as a regular passer-by and previous customer I see the outside heaters on and I believe a recent local petition was put together by those who enjoy drinking in the shop with a considerable number of names behind it (over 4,000 I believe) which once again points to this operating as a pub.

2.) The large awning (as mentioned in point 1) with a prominent logo attached to the side of the building was the subject of four separate complaints last time the applicant submitted planning. The applicants were told to put in a planning application to cover this being put up. But they never have as far as I am aware. This and the heat lamps encourage people to stay and drink. The awning also adversely affects the street scape in the Berkhamsted Conservation Area. I have detailed these points in a photo taken at 15:30 on Saturday 22nd October 2016 which clearly show the issues with the awning, heaters (denoting the continued intention of the establishment to promote and encourage customers to sit outside and drink). The image also shows the location of the planning application notice which is located a considerable distance from the window (which could have been used to display this - they are promoting other events/notices in their window). The notice itself is wrapped around a narrow post with the text facing into the road and not the pavement - this could have been pointed towards the pavement on a laminated board to assist with visibility at the very least. I feel that the planning notice could have been more clearly displayed to let local residents, who may not have been contacted as part of the consultation, to be aware of the planning application.

3.) Despite extensive remodelling of the premises the applicants did not take the opportunity to make any alterations to the building to allow for disabled people to visit. Dacorum's website adopts national strategies and states that wherever development or refurbishment occurs opportunities to improve conditions arise and should be taken into account. Considering the scale of the changes to the building and how the building was treated it is not unreasonable to have included disabled access or toilets, level access etc.

4.) As the application states that the majority of the business is devoted to onsite drinking (A4) then the applicants should have to provide facilities to support this use. The business is widely accepted as a drinking establishment (as supported by the well supported petition) or bar both on social media and by the general public. There is only one toilet in a cubicle and one hand basin in the entire area. When their license application went before the committee Greg Blesson, The Director of The Brewery Shop Ltd. stated that they the number of people onsite will be 100. To accommodate that many drinkers you are required by building regulations to provide adequate toilet facilities. For a 100 people on site drinking you are required to provide for men two urinals, a cubicle toilet and a hand basin, while for women you need to install at least three cubicle toilets and a hand basin assuming that half of the customers are female. The Berkhamsted Brewery Shop does not have enough toilets to be a drinking establishment.

5.) I also believe that the plans submitted do not provide sufficient detail with areas not defined and a new application with sufficient detail should be submitted.

6.) This is exactly the same application (with insufficient detail that is mentioned in point 5 above) as came before the Development Control Committee on 14th January 2016. It was rejected then and as it is practically identical apart from minor changes to the plans to extend the A4 area, it should be rejected now. Nothing has changed one way or another apart from work to a party wall to help one neighbour. All the other neighbours will still be disturbed, and the disabled facilities are still not included. The applicants had every opportunity to appeal the last decision to the Planning Inspectorate but didn't do so because the Inspectorate would have told them to apply for A4 only. The question is how long will they be allowed to trade as a bar while only resubmitting the same application. Surely it is time for enforcement to do a proper visit on a Friday evening to observe the extent of drinking in the shop and to demand that it stops at once. Indeed there used to be videos on Social Media which showed the Chesham (the same business model) operating as a pub with the tagline of it being a "proper boozier". These videos, which were shown at an investor event which I attended have since been removed from YouTube. Previous comments on applications have mentioned that the Chesham Shop (which follows the same business model and mode of operation as the Berkhamsted site) is rated highly on TripAdvisor with reviews clearly indicating the true nature of the business with the vast majority of income coming from on-site drinking/sales and not off site as detailed in point 1.

7.) The council have already allowed this business to pay rates as a shop since they took over the lease in 2014. A shop pays rates based on the area of floor space but a bar of equivalent size pays rates based on turnover and how good its operator is. Berkhamsted's pubs that are the same size pay an additional £10,000 a year in rates and if they are bigger like The Gatsby directly opposite then it's even more. To make that £10,000 the pub has to take £100,000 in trade to pay their rates bill. Since discovering that the rates payable by The Brewery Shop, the issues with the licence it holds and the way it operates, I have stopped being a customer of the Brewery Shop, as I believe the way in which it trades and the applications it has submitted are dishonest and underhand.

8.) There are sufficient establishments in the town that provide the necessary choice for people to drink on site, including establishments that provide and promote craft ales and ciders which the Brewery Shop tries to promote as its unique appeal currently lacking in the town which is not the case with excellent award winning CAMRA pubs in the Town already. To this end I cannot see the need for planning to be granted for another licensed establishment in the town as in doing so this would go against national policy.

I thank you in advance for your consideration of the above points and hope that the Committee comes to the right and obvious decision in regard to the above application and refuses the application.

4, Church Street, Berkhamsted

I write with reference to the above planning application for A1 to A1/A4. I would like to inform you that as I live within close proximity to the shop that this is not a shop. It is definitely operating as a pub. If you go in, as I have on occasion, you just see people standing around and propping up the bar. No one does any shopping at all. I'm no expert but if I can walk in off the street, sit at the bar, buy a beer and drink it and then walk out without buying anything else, then I can't see what's different from going to a pub!

The noise from the beer garden and decking area is pretty continuous all day. Judging by the voices and shouting people drink for several hours at a time. The space is the same all day even in bad weather thanks to the heat lamps and the awning. I don't see why you would need an outside space for a shop. Could this awning not be taken down? It is very large with a huge logo and visible from the High Street. Which does spoil the view from the street.

This used to be a quiet, peaceful place to live. Now the noise is just always there. In the evening it just gets worse as more people use the space. The application says they stop at 8

but they often go on until 9 or 10 pm and often later. Sometimes they have live amplified music playing until late. I have tried phoning the Brewery Shop to complain about the noise several times. They either say that there's nothing they could do or once they laughed and put the phone down. This is not a business who take any responsibility or care about their obligations to their neighbours.

I know that there are other businesses locally that open later i.e. The Goat, The Gatsby, Crystal Kebabs etc. But we don't get any noise or disturbance from them as they are further away. This garden and pub backs on to us. There are no buildings to block the noise.

When this business opened we thought it was going to be a shop. That's what they said.

They said under 18% of drinking was done in the shop. No one said anything about building the decking or if letting people drink outside would upset anyone. It is hard to see how this has helped or benefited anyone who lives in the town. I feel that I was never asked about this before it happened and even now I remain uncontacted about it. I would have expected to be sent a letter to tell me about this application instead I had to learn about it from a friend who heard about it locally. Why would you ask the people in The Rex and not us? We live with that noise. They just watch it over the road!

Please consider this a strong objection to this application. I would be happy to discuss this further but unfortunately we will be away on holiday until 11th November.

74 Ellesmere Road, Berkhamsted

This is a letter to complain about the application that has been resubmitted to the grant A1/A4 planning permission to The Berkhamsted Brewery Shop at 104, High Street, Berkhamsted, Hertfordshire HP4 2BL. Also called 4/02514/16/FUL.

The fact is that this business is not a shop it is a PUB. If you look in at any time of day you see people drinking everywhere. In the shop, the bar, in the garden courtyard and hop garden and probably upstairs. People drink in this pub for hours at a time and you never see anyone buying anything to take away or any shopping. The garden is popular with a large number of people and their largely unsupervised children. This creates a lot of noise from when the business opens. The applicants have said only 18% of alcohol is consumed on site. This I would suggest is far from true which is not only observable every day but also by the number of toilets constructed on site.

The main complaint I have against this application, the owners and the council, is that there has been no consideration at all for the needs of disabled people. No disabled access, no disabled toilets. No consideration given at all. As someone who is registered as disabled myself I am shocked, insulted and horrified that any business opening from scratch would not take these responsibilities in to account when planning a business. Or that any council would not insist on work being done when extensive building work is under taken.

The applicants attempt to explain away the needs of disabled customers as being unimportant, and in their application which was refused for lack of disabled access stated: "which is somewhat ironic given that not all licensed premises in Berkhamsted offer disabled access." They have a nerve - how insulting! Firstly they should be more concerned with their own business and making it a shining example of inclusion to allow disabled people to be welcomed in to their business. Secondly this shows how little they understand or care about disabled facilities. If their planning consultant knew his stuff he would have informed his clients that the law changed to require NEW businesses to provide disabled access and facilities but that legislation does not apply retroactively unless that business decides to do major renovations. The idea that we shouldn't do it because others haven't is morally reprehensible and really means 'we shouldn't spend the money on it because we don't care.'

Dacorum council has adopted The Town and Country Planning Act 1990 by which they accepted their obligation to draw attention to the provision for the Chronically Sick and

Disabled Persons Act 1970 and the British Standards Institute Code of Practice BS 5810(1979) relating to Access of the Disabled to Buildings. Under the Council's Environmental Guidelines the access to all buildings for the disabled is clearly stated as an important planning consideration. "As well as new buildings this would also apply in cases where a building is being refurbished." The stated policy of the council is that "appropriate access and provision for disabled people will be a requirement of ALL DEVELOPMENT PROPOSALS. Whenever development occurs opportunities to improve conditions arise and should be taken into account in decision making. The team at Dacorum Council's Planning, Development and Regeneration failed to ensure that Government and Council policy was adhered to when enforcing this application, supposedly referenced as B/15/02082.

The applicants have removed internal walls, created doors to the outside, built the outside area from scratch, remodelled the interior and added shelving and a large bar. Even in the applicants own words, "the proposed refurbishment, CREATION of GROUND FLOOR TOILETS and fit out of the building." Shows the extent of the building work undertaken. Yet, Dacorum's Planning, Development and Regeneration team did not require that a ramp was included to the outside area that was built from scratch nor did it suggest that while installing the ground floor toilets that one of them should be suitable for disabled use. This is a problem especially as the toilet that you have to use at the Brewery Shop is upstairs. As it stands and as a disabled person I do not believe that I would be able to exit the premises in the event of a fire.

I am sure that the work that was undertaken has been inspected and approved. But I maintain that the rights of disabled people have been ignored and by doing this the council deliberately chose not to apply Government and Council policy even though the building was all but gutted and rebuilt from scratch.

By the way the toilets on the ground floor are for male use only. No female could use them as they include urinals and it would be completely unacceptable for a woman to have to go past urinals to access a cubicle. This means that as a disabled woman I would have to climb a steep and narrow staircase to access the only other toilet on the premises. As presumably half the people using the premises are female and considering that there are three urinals and a sit down for men. I would suggest that by providing only one female (or unisex as it's the only toilet included in the application), toilet that this premises does not meet the criteria for providing the required number of toilets for women in a drinking establishment. The requirement assuming that the fire regulations restrict numbers to under a 100, is normally for two or three cubicle toilets for women but certainly never one. This is something, "that all licensed premises in Berkhamsted offer." Therefore it would seem given the clear difference between the way that men and women's needs are catered for here that the disabled are not the only minority discriminated against by Red Squirrel.

I would urge you to reject the application 4/02514/16/FUL for A1/A4 for the Brewery Shop at 104, High Street, Berkhamsted, Hertfordshire.HP4 2BL as the reasons I have outlined prove that it should not be granted and would be an insult to disabled people if you did.

I would be grateful if you would ensure that this email is up loaded to the application website and that it is seen by the required people.

My name and address are listed below and please feel free to contact me if you require any further details.

3 Highfield Road, Berkhamsted

The best thing to happen in Berko for ages.

Homefield, Potten End

One of my favourite place in the world.

The Rex, Berkhamsted

Thank you for consulting on this application for class A4 permissions well as A1. I have no objection to the Brewery shop having A4 permission to enable the sale of their craft ales for consumption on the premises.

Berkhamsted Citizens Association

At the meeting of its Townscape Committee on 18 October 2016 the Berkhamsted Citizens Association (BCA) expressed its deep concern at the implications of granting permission for a 'drinking establishment' at this location under current circumstances. However, if Dacorum Borough Council were minded to grant permission for the change of use, the BCA would wish to see greater restriction of its opening hours, better facilities for disabled access, and adequate toilet facilities.

The BCA recognises that regulation of the use of these premises, and indeed its designation, is a matter for the Licensing Authority.

In addition the BCA would like to remind the Conservation officer that the awning and advertisement currently attached to the side wall of the property are incompatible with its position in the conservation area, in particular on a locally-listed building and affecting the setting of a listed building (The Dower House) adjacent. An application for advertisement consent should be submitted as a matter of urgency.

Kingsley Smith Solicitors

Please see appendix B