DELEGATED APPLICATIONS

ASSESSMENT SHEET

APPLICATION NO./ADDRESS

WB/10/1108/FULL

(Sir Timothy Shelley PH) 47-49 Chapel Road
Worthing
West Sussex

DESCRIPTION OF DEVELOPMENT

Change of use of external lobby and adjacent highway at the front of the premises to an external seating area for customers comprising 3 tables of two chairs apiece (6 covers).

This follows granting of planning permission WB/10/0008/FULL in March 2010 for

Change of use of external lobby and adjacent highway at the front of the premises to an external seating area for customers comprising 3 tables of two chairs apiece (6 covers).

on a temporary basis for one year and earlier temporary one year planning permission of 6.3.09 (WB/09/.0018/FULL)

The new application is identical to the last approved scheme. It comprises three tables of 2 chairs arranged hard up and partly onto the forecourt created by the recess in the existing building frontage leavings a 3 metres deep (chair to inside of kerb) unobstructed pavement.

DATE OF SITE VISIT: 2.2.11

NEIGHBOURS CHECKED : Y / ~~N~~

ADDITIONAL NEIGHBOUR NOTIFICATIONS (LIST ADDRESSES):

SITE AND SURROUNDINGS:

The property which is the subject of this application is a public house established in 1999 and located in the northern part of the town centre. The first floor is used by the pub and the second floor is a manager's flat. It is surrounded by commercial uses., including restaurant to the north and Three Fishes PH at No 56 closeby to the north. This has seating outside the 4.5 metres deep pavement but, so far, rarely uses its full quota set out in the successive temporary planning permissions of 3 tables of 3 chairs,

the detailed siting of which remains to be agreed. Other restrictions imposed by condition are equipment to be removed by 5pm and stored inside the premises; no planters or barriers, patio heaters or other chattels or equipment stationed on the forecourt area except by agreement with the Local Planning Authority.

The pavement outside the Sir Timothy Shelley PH is 3.69 metres deep but unobstructed by any street furniture, save an A Board for the pub. Parking is strictly controlled in Chapel Road which falls in a Controlled Parking Zone. The road was the subject of traffic calming scheme in 2009/2010 which entailed builds outs at side road junctions and closure of access to Union Place form the north to improve conditions for pedestrians and improve town centre ambience.

The existing building sits in an attractive 3 storey Victorian terrace within a Conservation Area which. It also falls within designated Secondary Area of the Central Shopping Area in the Saved Worthing Local Plan.

The previous temporary planning permissions for outdoor seating have not been implemented at any time.

RELEVANT PLANNING HISTORY:

In addition to the recent approval this is as follows

Application Number	Development Description	Decision	Decision Date	Appeal Decision	Appeal Decision Date
02/00017/ADV	Installation of two externally illuminated banner signs	REFUSE THE APPLICATION	13-02-2002		
02/00590/ADV	Installation of neon back lit individually applied lettering to existing fascia	GRANT CONDITIONAL CONSENT	31-07-2002		
05/1197/FULL	Variation of Condition 2 of planning permission WB/99/00002/FULL to enable the public house to open in accordance with the hours as follows: 1. Sunday to Thursday: 7am-1am (with alcohol sales commencing at 9am and ceasing at 12.30am) .2. Friday-Saturday and Thursday preceding Good Friday and Sunday preceding Bank Holiday Mondays: 7am-1.30am (with alcohol sales commencing at 9am and ceasing at 1am). 3. Christmas Eve, Boxing Day and New Years Eve (regardless of what day they fall on) 7am - 2.30am (with alcohol sales commencing at 9am and ceasing at 2am). 4. Burns Night (25th January); Australia Day (26th January); St David's Day (1st March); St Patrick's Day (17th March); St George's Day (23rd	REFUSE THE APPLICATION	16-12-2005		

	April) and St Andrew's Day (30th November); i 7am-2am - if the day falls on Sunday to Thursday (with alcohol sales commencing at 9am and ceasing at 1.30am);ii 7am - 2.30am - if the day falls on Friday-Saturday (with alcohol sales commencing at 9am and ceasing at 2am).		
06/0671/FULL	Variation of Condition 2 of planning permission WB/99/00002/FULL for the Public House to operate as follows: Mondays - Sundays: 7am to 1am the following day (with alcohol sales commencing at 9am) (Revision of refused application WB/05/1197/FULL).	REFUSE THE APPLICATION	07-08-2006
07/0745/FULL	Installation of retractable awnings to front elevation.	REFUSE THE APPLICATION	23-08-2007
08/0852/FULL	Installation of two retractable awnings to front elevation. (Revision to Application WB/07/0745/FULL).	REFUSE THE APPLICATION	19-11-2008
09/0018/FULL	Change of use of external lobby and adjacent highway at the front of the premises to an external seating area for customers comprising of 4 tables (16 covers) with removable barrier.	APPROVED	09-03-09
1277/87	ALTERATIONS TO EXISTING SHOPFRONT INCORPORATING REDUCTION IN HEIGHT OF STALLRISER. 47 CHAPEL ROAD	APPROVED WITH CONDITIONS	19-01-1988
206/50	NEW BOILER HOUSE. 47 CHAPEL ROAD, 20 LIVERPOOL GARDENS	APPROVED WITH CONDITIONS	18-04-1950
216/76	CHANGE OF USE FROM RETAIL SHOP TO BUILDING SOCIETY BRANCH OFFICE AS EXTENSION TO EXISTING PREMISES AT 49 CHAPEL ROAD. 47 CHAPEL ROAD	REFUSED	23-03-1976
303/49	DEMOLISH EXISTING PROPERTY, EXTEND SHOWROOM & PROVIDE STAFF ROOM AND TOILETS ON GROUND FLOOR WITH STORAGE & UNPACKING SPACE, BOILER ROOM, FUEL STORE, ETC. NO 47 CHAPEL ROAD, NO 20 LIVERPOOL GARDENS	APPROVED WITH CONDITIONS	19-04-1949
306/50	ALTERATIONS TO SHOPFRONT. 47 CHAPEL ROAD	APPROVED WITH CONDITIONS	18-07-1950
482/76	CHANGE OF USE OF GROUND FLOOR FROM RETAIL TO	APPROVED WITH	19-10-1976

	BUILDING SOCIETY BRANCH OFFICE. 47 CHAPEL ROAD	CONDITIONS	
483/76	CHANGE OF USE OF GROUND FLOOR FROM BUILDING SOCIETY BRANCH OFFICE TO RETAIL PURPOSES. 49 CHAPEL ROAD	APPROVED WITH CONDITIONS	25-05-1976
499/49	CHANGE OF USE OF FIRST AND SECOND FLOORS FROM LIVING ACCOMMODATION TO OFFICES. 47 CHAPEL ROAD	APPROVED WITH CONDITIONS	21-06-1949
526/62	ALTERATIONS AND ADDITIONS TO GROUND, FIRST AND SECOND FLOORS OF PROPERTY TO FORM OFFICES. 49 CHAPEL ROAD	APPROVED WITH CONDITIONS	24-07-1962
557/86/A	INSTALLATION OF INTERNALLY-ILLUMINATED FASCIA & PROJECTING BOX SIGN. 47 CHAPEL ROAD	APPROVED WITH CONDITIONS	07-07-1986
61/49	OUTLINE APPLICATION TO DEMOLISH EXISTING BUILDING & ERECTION OF 3-STOREY BUILDING FOR SHOWROOM (GROUND FLOOR) OFFICE ACCOMMODATION ON 1ST/2ND FLOORS & VEHICLE/PEDESTRIAN ACCESS TO PROPOSED PRIVATE FORECOURT. NO 47 CHAPEL ROAD, NO 20 LIVERPOOL GARDENS	REFUSED	18-01-1949
646/49	EXTEND SHOP/SHOWROOM & PROVIDE STAFF LAVATORIES & STOCKROOM. 47 CHAPEL ROAD, 20 LIVERPOOL GARDENS	APPROVED WITH CONDITIONS	20-09-1949
685/62	INSTALLATION OF NEW SHOPFRONT. 49 CHAPEL ROAD	APPROVED WITH CONDITIONS	18-09-1962
70/75	INSTALLATION OF NEW SHOPFRONT. 47 CHAPEL ROAD	APPROVED WITH CONDITIONS	04-02-1975
704/73/A	INSTALLATION OF INTERNALLY-ILLUMINATED DOUBLE-SIDED PROJECTING BOX SIGN AT FASCIA LEVEL. 47 CHAPEL ROAD	APPROVED WITH CONDITIONS	26-06-1973
791/61	CHANGE OF USE OF EXISTING GROUND FLOOR SHOP TO BUILDING SOCIETY OFFICE 49 CHAPEL ROAD	APPROVED WITH CONDITIONS	17-10-1961
881/76	INSTALLATION OF NEW SHOPFRONT WITH INTERNAL ALTERATIONS TO IMPLEMENT PROPERTY USE OF GROUND FLOOR OF NO. 47 AS BUILDING	APPROVED WITH CONDITIONS	19-10-1976

	SOCIETY BRANCH OFFICE AND TO IMPLEMENT APPROVED USE OF GROUND FLOOR OF NO. 49 AS A RETAIL SHOP. 47 & 49 CHAPEL ROAD		
882/76/A	INSTALLATION OF AN INTERNALLY-ILLUMINATED FASCIA AND PROJECTING BOX SIGNS. 47 CHAPEL ROAD	APPROVED WITH CONDITIONS	19-10-1976
91/0654/A	INSTALLATION OF INTERNALLY-ILLUMINATED FASCIA AND PROJECTING SIGN. 47 CHAPEL ROAD	REFUSED	15-10-1991
95/0316/A	INSTALLATION OF ONE INTERNALLY-ILLUMINATED FASCIA SIGN AND ONE INTERNALLY-ILLUMINATED PROJECTING BOX SIGN. 47 CHAPEL ROAD	REFUSED	04-07-1995
95/0707	INSTALLATION OF A NEW SHOPFRONT. 49 CHAPEL ROAD	REFUSED	20-11-1995
96/0138	INSTALLATION OF A NEW SHOPFRONT : 49 CHAPEL ROAD	APPROVED WITH CONDITIONS	02-04-1996
967/73/A	INSTALLATION OF INTERNALLY-ILLUMINATED SINGLE-SIDED FASCIA BOX SIGN. 49 CHAPEL ROAD	APPROVED WITH CONDITIONS	28-08-1973
97/51	DEMOLISH EXISTING PROPERTY FRONTING LIVERPOOL GARDENS, EXTEND SHOWROOM & PROVIDE STAFF ROOM & LAVATORIES ON GROUND FLOOR STORAGE/UNPACKING SPACE, BOILER ROOM, FUEL STORE ETC, (RENEWAL WB/303/49). 47 CHAPEL ROAD, 20 LIVERPOOL GARDENS	APPROVED WITH CONDITIONS	20-02-1951
98/00863/FULL	Change of use from class A1 and A2 to form A.J.D.Wetherspoon Traditional Ale Wine and Food Bar (class A3) at ground and first floor, with one residential unit of accommodation at second floor	WITHDRAWN	07-12-1998
98/00864/FULL	Change of use from class A1 and A2 to form A.J.D Wetherspoon Traditional Ale,Wine and Food Bar (class A3)at ground and first floor with one residential unit of accommodation at second floor.(duplicate application)	WITHDRAWN	07-12-1998
99/00001/FULL	Change of use from class A1 & A2 to form AJD Wetherspoon Traditional ale,wine & food bar(class A3)at ground & first floor,with residential	GRANT CONDITIONAL CONSENT	23-02-1999

	accommodation at second floor together with alterations,extensions and new shopfront		
99/00002/FULL	Change of use from class A1 and A2 to form A J D Wetherspoon Traditional ale, wine and food bar (class A3) at ground and first floor, with residential accommodation at second floor together with alterations, extension and new shop front. (duplicate application).	GRANT CONDITIONAL CONSENT	23-02-1999
ADVT/1011	INSTALLATION OF AN INTERNALLY-ILLUMINATED PROJECTING BOX SIGN 3FT 3IN BY 2FT 1 & 1/2IN TO READ `LEEDS PERMANENT BUILDING SOCIETY'. 49 CHAPEL ROAD	APPROVED WITH CONDITIONS	05-11-1963
ADVT/1034	INSTALLATION OF AN INTERNALLY-ILLUMINATED PROJECTING BOX SIGN 3FT X 3IN BY 2FT 1 & 1/2IN AT FIRST FLOOR LEVEL OF PREMISES TO READ `LEEDS PERMANENT BUILDING SOCIETY'. 49 CHAPEL ROAD	REFUSED	18-02-1964
ADVT/1105	INSTALLATION OF AN INTERNALLY-ILLUMINATED PROJECTING BOX SIGN 2FT 6IN BY 1FT 6IN AT FASCIA LEVEL TO READ `LEEDS PERMANENT BUILDING SOCIETY'. 49 CHAPEL ROAD	APPROVED WITH CONDITIONS	06-10-1964
ADVT/906	INSTALLATION OF 2 ILLUMINATED SIGNS, 1 AT FASCIA LEVEL 16FT 6IN BY 3FT 4IN ADVERTISING `LEEDS PERMANENT BUILDING SOCIETY' AND 1 SIGN BELOW FASCIA LEVEL 16FT 6IN BY 9IN ADVERTISING `49 LEEDS PERMANENT BUILDING SOCIETY 49'. 49 CHAPEL ROAD	APPROVED WITH CONDITIONS	18-09-1962

RELEVANT PLANNING POLICIES:
(Refer to national, structure and local plan policies where relevant)

Saved Worthing Local Plan Polices BE1, H18, S10 and RES7
Saved West Sussex Structure Plan policies CH1, CH4, CH5, DEV4, NE12, NE14,and DEV1
PPS1: Delivering Sustainable Development
PPG13: Transport
PPG15: Planning and the Historic Environment
PPS6: Planning For Town Centres

REPRESENTATIONS AND RELEVANT CONSULTATION RESPONSES :

Highway Authority;

This application has been dealt with in accordance with the Development Control Scheme protocol for small scale proposals which include up to 5 residential units or extensions to single units accessed from roads that do not form part of the Strategic Road Network (SRN). As such the comments provided by Local Development should be considered to be advice only, with respect to this planning application.

This proposal has been considered by means of a desktop study, using the information and plans submitted with this application, in conjunction with other available WSCC map information. A site visit can be arranged on request.

I refer to your consultation in respect of the above planning application and would provide the following comments.

West Sussex County Council was consulted previously on Highway Matters for this location under planning application no. WB/0008/10 to which no objections were raised.

No concerns would be raised to this application however the applicant should be aware that the items placed within the public highway are not to be permanently fixed and are to be removable. This is to permit the maintenance of the public highway and to ensure that a permanent obstruction does not result. If Planning Consent is approved, the applicant must ensure the have a Licence agreement in place which will be required to be entered into with the Highway Authority, WSCC. It will be a requirement of the Highway Licence that tables and chairs must be removed from the highway each and every night and only placed out at times stated within the Licence agreement.

INFORMATIVE
The applicant is advised to contact the Area Engineer, West Sussex County Council the Area Engineer, West Sussex County Council, Clapham Common, Clapham, Worthing, BN13 3UR, (Tel no: 01903 878500) to obtain formal approval and the necessary license from the highway authority to place the items within the public highway.

Environmental Health Manager :

No comments received on the current application but previously commented as follows:

Comments on this application are the same as those made to Engineers/Highways back in November 2007 when a very similar application was made to WSCC.

The pavement outside the Timothy Shelley is a busy thoroughfare less than 4M wide. The provision of outside tables on the public highway is undoubtedly intended to provide seating accommodation for their smoking customers. As well as general pavement obstruction, this would result in any passing pedestrian or potential patron of the Timothy Shelley being exposed to the very second-hand smoke that the smoke free premises legislation was designed to avoid exposure to.

The existing scenario ensures that any pub patrons who need to pop out for a cigarette can do so and then return to the bar to enjoy their drinks. Should tables be provided, this will encourage people to remain at those tables, drinking on the street, talking and chatting. Later in the evening this will have implications for noise escape from the premises and potential crime and disorder issues caused by the interplay of intoxicated patrons and passing pedestrians.

There is also concern about the potential for persons (including children) to be knocked into the road, caused by the limited pavement space that would be available and/or intoxicated customers.

On balance, this application is not supported by Environmental Health.

Sussex Crime Prevention Officer;

No comments received on the current application but previously commented as follows:

As per our discussion yesterday - police have no objection to the siting of four tables and eight chairs in the manner depicted on the plan of this application, as long as the furniture is removed from the street and stored securely away by 5pm daily.

Strategic Housing and Planning Manager

No comments received on the current application but previously commented as follows:

As this is a change of use from highways to pub (A4) there is no planning policy it relates to and we do not have any comments to make.

It would be up to the Development Control officer to consult the County Council and see how this proposal fits in with the current Chapel Road improvements.

Conservation Area Advisory Group

No objections .

Representations

HUMAN RIGHTS:

Article 8 (Right to Respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application. It is accepted that the proposal, if approved, would have some impact on the neighbouring properties. However, it is considered that the level of development proposed would not cause undue harm in terms of additional noise, disturbance and loss of privacy and that, on balance, existing residential quality of life would not be adversely affected as a result of the proposal. Accordingly it is considered that it is acceptable with regard to Article 8 and Article 1.

PLANNING ASSESSMENT: (Include any impact on Crime & Disorder and Issues identified above)

The principle of the development was established in granting planning permission for WB/09/0018/FULL on 6.3.09 and reaffirmed in WB/10/0008/FULL in March 2010 . The current scheme is identical. For completeness the scheme is, nonetheless, reassessed

The main issues raised by this proposal are:-

- *Acceptability of principle and impact on vitality and viability of the town centre*
- *Impact on the amenity of neighbours, including health of passers by from secondary smoking*
- *Impact on the appearance of the property and character of the Conservation Area and setting of listed building*
- *Impact on access*
- *Impact on crime and disorder*

Acceptability of principle and impact on vitality and viability of the town centre

The parent premises are an established feature of this part of the town centre and A3 uses (predating recent revisions to Use Classes Order) permit A3 uses in this Secondary area. Smokers currently regularity gather outside the pub in the recessed forecourt and do, occasionally, spill onto the street.

There are no such forecourt uses closeby, apart from Que Pasa, but this has set an important precedent and licensed an important change in character/function of this part of Chapel Rd which has previously been relatively quiet in terms of frontage and pavement activity. The extra activity generated by the proposal would add to street life, vitality and colour and also meets a need for a patrons' smoking area. The pedestrian/traffic calming improvements undertaken in the area as part of the Master Plan enhance pedestrian safety and encourage pedestrian activity and the proposal would complement these works. The seating sits in front of some service doors to the south but these are only used in the early morning and therefore no functional conflict would arise.

Impact on the amenity of neighbours including health of passers by from secondary smoking

This is a commercial area but the applicants have agreed to restrict the use to 5pm. Given this and the small area used together with the ambient noise and activity levels

and separation distance to nearest residential dwellings, no unacceptable impact would result. A temporary trial planning permission would allow any harm to be assessed.

Harm to health from secondary smoking is a recognised medical fact and passersby would, accordingly, experience some discomfort from persons smoking in the outside seated area, as well as potential risk to health. However, the Government in framing the smoking ban legislation did not see fit to prevent smoking in any outside public area and pedestrians would be exposed to such smoking effects from other pedestrians in this busy town centre anyway. In these circumstances, the proposal could not be resisted on health grounds

Impact on the appearance of the property and character of the Conservation Area

The revised proposal of 3 tables of 2 seats set back largely in the recessed forecourt is now modest in scale and the use and style not out of keeping with the commercial function of the town centre and parent premises. No significant harm to the Conservation Area would result. Further clutter may be controlled by condition.

Impact on access

The pavement is narrower than Que Pasa and pedestrian flows generally higher in this section of the road. The numbers of chairs/tables has been significantly reduced and their siting altered to minimise obtrusion into the pavement as well as safeguard a fire exit. A 3 metre deep (chair to inside of kerb) pavement is left unobstructed and this arrangement is supported by the Highway Authority. Ancillary clutter such as barriers has been removed and other paraphernalia excluded by condition.

The proposed restricted hours avoid conflict with pedestrian movement in the evening.

The proposal is compatible with emerging informal guidance prepared by the Highway Authority Local Office to protect pedestrian safety.

Impact on crime and disorder

Restricted to a day time use only, the proposal avoids potential clashes between patrons and other revellers in the evenings. Chairs/tables may be removed in the evening by condition.

The other issue raised by the application is the need for a temporary planning permission of one year sought.

The two earlier planning permissions were allowed on a temporary trial basis to allow the impact to be monitored but above all to allow time for the proposed Chapel Road alfresco eating /drinking plan to be developed and the seating scheme at The Sir Timothy Shelley to be reviewed and refined in this light. This Plan is a joint West Sussex County Council Highway Authority and Worthing Borough Council Planning initiative and would also embrace the Town Centre Initiative, The Police and traders. Work began in 2010 and informed the determination of the last planning permission but has not progressed any further since that time due to lack of resources. It

currently comprises draft plans prepared by the Highway Authority, principally to meet its highway safety objectives and also informs the Highway Authority inputs to allied licensing application for stationing of chairs and tables on the pavement.

The issue is whether a further temporary is justifiable in the circumstances to allow for the Council to progress its proposed Chapel Rd alfresco eating /drinking plan to an appropriate stage to ensure the scheme at The Sir Timothy Shelley harmonises in an optimal fashion.

Certainly, the scheme at The Sir Timothy Shelley has not given rise to any problems in practice but this is because it has not been implemented and so no trial has taken place.

That said, the prospects of advancing the Chapel Road alfresco eating /drinking plan do seem limited in the current climate and so further delay is likely. The value of such further refinement of the scheme may be considered questionable in this case, in any event, as the scheme The Sir Timothy Shelley is consistent with the draft Chapel Road alfresco eating /drinking plan.

Moreover, Circular 11/95 advises in paragraphs 112 that :

A second temporary permission should not normally be granted. A trial period should be set that is sufficiently long for it to be clear by the end of the first permission whether permanent permission or a refusal is the right answer. Usually a second temporary permission will only be justified where highway or redevelopment proposals have been postponed, or in cases of hardship where temporary instead of personal permission has been granted for a change of use.

However, the applicant has not sought a permanent planning permission and in similar circumstances, (excepting the planning permission was implemented) at the Three Fishes, nearby a temporary 3 year planning permission was given as a suitable compromise.

Whilst it would be difficult to justify a further temporary planning permission on grounds of prematurity of a non statutory plan with no official status in this light, the need for a trial run to assess impacts in practice remains important.

A temporary planning permission of one year remains, on balance. The other conditions imposed remain justified

RECOMMENDATION:

In view of the potential impacts on pedestrian safety and amenity a temporary planning permission of one year is justified to allow monitoring

Grant Permission subject to 1 year temporary restricted to 3 tables of 2 chairs; .equipment to be removed by 5pm and stored inside the premises; no planters. Patio heaters or other chattels or equipment stationed on the forecourt area except by agreement with the Local Planning Authority.

REASONS FOR RECOMMENDATION:

The proposal is acceptable in principle in the town centre and the reduced number and rearrangement of covers would not harm the visual appearance of the area, would not restrict unduly pedestrian movement; would not give rise to unacceptable neighbour amenity and health impacts or crime and disorder and accords with the relevant policies of the Development Plan.

Saved Worthing Local Plan Polices

BE1, H18, S10 and RES7
PPS1: Delivering Sustainable Development
PPG13: Transport
PPG15: Planning and the Historic Environment

National Policy

PPS1: Delivering Sustainable Development
PPG13: Transport
PPG15: Planning and the Historic Environment
PPS4: Planning for Sustainable Economic Growth

IS RECOMMENDATION CONTRARY TO LETTER(S) OF REPRESENTATION?
Y / ~~N~~

DELEGATED

Case Officer sign..... Date..... 8 4 11

Authorising Officer sign..... Date..... 13·4·11