

**4/02930/15/FUL - INTERNAL AND EXTERNAL REFURBISHMENT WITH NEW STAFF ROOM, EXTENDED BEER GARDEN AND NEW ALLEYWAY BEER GARDEN (REVISED SCHEME)..
THE CROWN, 145 HIGH STREET, BERKHAMSTED, HP4 3HH.
APPLICANT: JD Wetherspoon PLC.**

[Case Officer - Nigel Gibbs]

Background

The application was deferred at the previous Development Control Committee meeting.

It was proposed by Councillor C Wyatt-Lowe and seconded by Councillor Tindall to defer the application to allow for a representative from JD Wetherspoon to answer Members questions.

Members were concerned about opening times and had questions regarding smoking hours and cut off times for the beer garden.

Before this deferment Members had been updated upon various issues including:

1. The receipt of a composite plan.
2. Additional representations (see below).
3. The revised wording of recommended Condition 13.
4. It is JD Wetherspoon's policy to have an employee at the front of the public house at all times, there will be a plaque stating the capacity and once levels are reached the management will stop people from entering. The Crown's Management will not have any means of electronic monitoring of customer numbers.

Since the meeting the agent has been advised of the application's deferment and its rescheduling for further consideration at this meeting. The agent has updated JD Wetherspoon and is seeking confirmation upon whether a representative (s) of JD Wetherspoon can attend the meeting, in addressing the issues identified by Members.

Additional Representations reported at the Previous DCC Meeting

Building Control

There are no objections regarding the fire access requirements from a Building Regulations perspective.

Representation from 142/142 High Street

At present the noise from the garden is often intolerable in the adjacent flats of Cavalier Court, continuing late into the evening. Increasing the seating will incur 200% increase in noise at the flats and also the cottages bordering in Chesham Road. Flat 9 overlooks the current garden pub garden and extending the seating area to the

boundary means that the pub clients are only one metre from our sitting room walls.

Considerations

If a representative(s) of JD Wetherspoon is able to attend the meeting this will enable Members to request more information upon their concerns.

The previous Report's Conclusions confirmed:

'The wide range of modifications to the building are important in maintaining and upgrading this Grade 2 listed building in the Town Centre and Conservation Area which is supported by the Conservation Officer.

However, the provision of the extended beer garden is far from straightforward. With the issue of fire access and safety so very recently resolved, the pivotal issue is whether the extended beer garden can harmoniously co-exist with the adjoining residential development and offices. This is in terms of the effect of noise and disturbance.

This issue has been comprehensively considered from the outset as expressed through detailed pre application advice. The absence of a Noise Assessment in the initial and withdrawn application has now been addressed in association with the proposed acoustic canopy to serve the extended beer garden, complemented by a Management Strategy specific to The Crown and reflecting JDW wider national approach in managing its licensed premises.

The Environmental Health Unit supports the proposal subject to adherence to the Management Plan. In this context the establishment of a harmonious relationship between the beer garden and the adjoining residential and office uses. It has been only upon this basis and the applicant's preparedness to confidently commit itself to a very continuous exacting operational daily site management plan that the application is recommended for permission. This is because the proposed physical mitigation measures on their own are insufficient.

In the event that problems do arise for residential amenity action can be taken under the Environmental Protection Act, with reliance upon the applicant's commitment to an effective management plan.

For clarification the question of the licence renewal would have to be considered wholly independently'.

Again there is a case to recommend permission. This is based upon the information provided to date, JD Wetherspoon's proposed daily management plan and the imposition of a range of conditions.

PREVIOUS REPORT

Summary

The application is recommended for approval.

This Grade 2 listed building is located in Berkhamsted Town Centre where a mix of uses including catering establishments are supported. The proposal will reinforce The Crown's long established role as a public house within the Town Centre in accordance with Dacorum Core Strategy Policies CS4 and CS16.

The proposed external alterations and acoustic canopy are compatible with the listed building and its setting and will maintain the vibrant character and appearance of Berkhamsted Conservation Area in accordance with Dacorum Core Strategy Policy CS27 and saved Dacorum Borough Local Plan Policies 119 and 120. The provision of the beer garden will diversify the facilities at the public house which is in the interests of enlivening the town centre facilities in accordance with Dacorum Core Strategy Policies CS16.

Fundamentally there is a need for a harmonious coexistence between the town's recreational facilities and the adjoining uses, especially residential. The Crown Public House adjoins long established and modern housing. To date the LPA is unaware of environmental problems arising from the public house. Support for the extended beer garden can only be supported if this compatible environmental relationship is maintained at all times.

The proposed extended beer garden and the role of the enclosing canopy (incorporating a rear wall) has been considered in conjunction with the submitted Acoustic Report, the specialist advice of the Council's Environmental Health Team, the Applicant's Site Management Strategy with the closure of the proposed beer garden at 21.00 hours each day until 07.00 hours the next day. It is only on the basis of the permanent installation of the noise mitigation measures, the imposition of conditions and JDW's commitment to its daily Management Plan that the beer garden can be supported with due regard to the environmental issues subject to Policies CS12, CS16 and CS32 of Dacorum Core Strategy.

With due regard to the recently received revised layout plan it is understood from Hertfordshire Fire & Rescue Service that there are now no overriding fire access/safety objections. In this sustainable location the loss of parking is acceptable with highway safety benefits resulting from the reduced use of the existing access on the High Street. There are no other detailed objections.

Site Description

The application site is a Grade 2 listed public house located on the south west side of the High Street within the defined Berkhamsted Town Centre and Conservation Area and an Area of Archaeological Significance no.21.

The site occupies an elongated narrow plot extending deeply behind its narrow frontage to the High Street. The pub is served by a long rising accessway/ carriageway yard linked to the existing beer garden/ customer area to the rear of the site and a parking area.

There is housing adjoining and surrounding The Crown's outdoor customer and parking areas. The closest is to the immediate south at nos. 8 to 11 Cavalier Court.

The ground level at Cavalier Court is approximately 2m above the ground level in the Crown car park. There are also office windows overlooking the beer garden area at no. 2 Prince Edward Street and dwellings to the east at nos 1 to 6 Cavalier Court. Sunnymede and Haven, both feature rear gardens adjoining the existing external customer area at the Crown with seating for approximately 50 patrons, split into four sections at different heights. The existing car park and customer area are surrounded on three sides by a walling /fencing at varying heights between 1.5m to around 4m.

The Crown's trading hours are 08:00 to 00:00 Monday to Thursday, 08:00 to 01:00 Friday to Saturday and 08:00 to 00:00 on Sunday. There will be no amplified music at the premises.

Proposal

This is for a range of external alterations to the listed building, the installation of a side gate and the provision of a beer garden within an existing parking area.

The beer garden proposal involves converting the existing car park into an additional outdoor customer area at the south western end of the site. There will be 107 seats provided externally combining the existing and the new areas, excluding an enclosed seating area, featuring an astroturf finish. The applicants have confirmed that the beer garden capacity will be limited to a maximum of 120 customers at all times to accord with the requirements of Hertfordshire Fire & Rescue Service.

The enclosed seating area involves the installation of a timber fire resistant acoustic curved canopy and a brick back wall adjoining Cavalier Court. The canopy is designed to reduce noise from the enlarged beer garden.

The application is also supported by a Noise Impact Assessment which addresses noise from customers from the entire garden, encompassing both the existing and proposed new areas. The Assessment's conclusion is that the impact will be **significant notwithstanding the noise mitigation measures**. It excludes the effects of the rear brick wall which has been recently incorporated for fire safety reasons. Extracts of the report are at Annex 1. The whole report will be circulated to DCC Members.

With due regard to the Council's Environmental Health Unit's advice the applicant has responded through a commitment to the provision of a comprehensive daily Management Plan for the beer garden (see below).

The extended beer garden will be closed at 21.00hours every day through the submitted Management Plan. This has been based upon the Noise Assessment's Conclusions/ Recommendations. The beer garden will be enclosed by a low fence and one lockable gate compared with the earlier proposed roped arrangement. A second gate is to installed for fire access reasons.

(Important Note: Since the application's receipt there have been modifications to the Original Scheme and the provision of new information regarding the beer garden's daily management. Very recently the scheme has been further updated- known as the Revised Scheme. This combines parts of the Original Scheme with previous updates with a revised layout plan and a Management Scheme/ Plan, as referred to below. The Revised Scheme has reduced the seating arrangements in order to address fire

access and safety).

Recent Background History

Withdrawn Application - 4/03139/14/FUL for Alterations to the Building and the Provision of an Extended Beer Garden

This was submitted without any acoustic mitigation measures and no Acoustic / Noise Assessment. The application was withdrawn due to the fundamental inbuilt problems arising from the proposed relationship between the beer garden and the adjoining dwellings/ offices in terms of noise and disturbance. The application would have been recommended for refusal.

Listed Building Consent - Internal and external refurbishment with new staff room , extended beer garden and new alleyway beer garden (Revised Scheme)

Recently listed building consent has been granted for the upgrading of the public house including the refurbishment external alterations subject to the current planning application. The beer garden works were exempt from requiring listed building consent.

Earlier Planning History

4/01513/07/LB GLAZED CANOPY/SMOKING SHELTER
C

Granted
17/08/2007

4/01514/07/FU GLAZED CANOPY/SMOKING SHELTER
L

Granted
17/08/2007

4/01465/06/TC WORKS TO TREES
A

Raise no objection
10/08/2006

4/02633/03/DR DETAILS OF EXTERNAL LIGHTING SCHEME REQUIRED BY
C
CONDITION 8 OF ADVERTISEMENT CONSENT 4/02057/03
(REPLACEMENT FASCIA SIGNAGE, RELOCATION OF MENU
BOX, PROVISION OF FOUR UPLIGHTERS AND HERITAGE

PLAQUE)
Refused
30/03/2004

4/02634/03/DR DETAILS OF EXTERNAL LIGHTING SCHEME REQUIRED BY
C CONDITION 4 OF LISTED BUILDING CONSENT 4/02058/03
(REPLACEMENT FASCIA SIGNAGE, RELOCATION OF MENU
BOX, PROVISION OF FOUR UPLIGHTERS AND HERITAGE
PLAQUE)
Refused
30/03/2004

4/02058/03/LB REPLACEMENT FASCIA SIGNAGE, RELOCATION OF MENU
C BOX, PROVISION OF 4 UPLIGHTERS AND HERITAGE PLAQUE
Granted
26/11/2003

4/02057/03/AD REPLACEMENT FASCIA SIGNAGE, RELOCATION OF MENU
V BOX, PROVISION OF 4 UPLIGHTERS AND HERITAGE PLAQUE
Granted
26/11/2003

4/00200/01/ INSTALLATION OF RETRACTABLE AWNING TO REAR WALL IN
GARDEN
Granted
15/03/2001

4/00155/01/ ADVERTISEMENT ON REAR AWNING
Refused
29/03/2001

4/00157/01/ REAR AWNING
Granted
15/03/2001

- 4/01869/99/4 EXTENSION OF EXISTING HARD LANDSCAPED GARDEN AND RE-ARRANGE CAR PARKING
Granted
18/02/2000
- 4/01870/99/4 EXTENSION OF EXISTING HARD LANDSCAPED GARDEN AND RE-ARRANGE CAR PARKING
Granted
18/02/2000
- 4/01784/98/4 SUBMISSION OF DETAILS PURSUANT TO CONDITION 2 OF PLANNING PERMISSION 4/0507/98 LBC (RELOCATION OF EXTERNAL CONDENSERS AND ERECTION OF SCREEN FENCING)
Granted
23/10/1998
- 4/01785/98/4 SUBMISSION OF DETAILS PURSUANT TO CONDITION 2 OF PLANNING PERMISSION 4/0312/98 (EXTERNAL CONDENSERS & TIMBER FENCE SCREENING)
Granted
23/10/1998
- 4/00162/98/4 WORKS TO TREES
Raise no objection
06/03/1998
- 4/01381/98/4 RETENTION OF CCTV CAMERA TO FRONT FACADE
Temporary permission
08/10/1998

- 4/00507/98/4 RELOCATION OF EXTERNAL CONDENSORS AND ERECTION OF SCREEN FENCING
Granted
03/09/1998
- 4/01001/98/4 ALTERATIONS, SINGLE AND TWO STOREY EXTENSIONS AND REFURBISHMENT OF EXISTING PUBLIC HOUSE AND MANAGER'S FLAT (REVISED SCHEME)
Granted
08/10/1998
- 4/01002/98/4 INTERNAL AND EXTERNAL ALTERATIONS
Granted
08/10/1998
- 4/00312/98/4 RELOCATION OF EXTERNAL CONDENSERS AND ERECTION OF TIMBER FENCE
Granted
03/09/1998
- 4/00251/97/4 ALTERATIONS, SINGLE AND TWO STOREY EXTENSIONS AND REFURBISHMENT OF EXISTING PUBLIC HOUSE AND MANAGERS FLAT
Granted
23/09/1997

**Pre Application Advice Predating the Submission of Application 4/03139/14/FUL:
The Context**

There was extensive advice provided by the LPA involving a previous Case Officer. It was in this context that the withdrawn and current application was submitted.

The key issues were:

- Noise Pollution .The primary concern would be the impact on the amenity of dwellings at Cavalier Court to the rear/side of the proposed extended beer garden.
- Light Pollution.
- Impact on Car Parking.
- Access , especially for emergency vehicles.
- Impact on the setting of Listed Building and Conservation Area

Referral to Committee

The application is referred to the Development Control Committee due to the contrary views of Berkhamsted Town Council based upon the consultations for the Original Scheme and the Additional Information.

Please Note: The LPA has not consulted the Town Council upon the very recent Revised Scheme. This takes into account the scheme which still involves the loss of parking and BTC is aware of the previously detailed approach to noise mitigation and the applicant's daily management plan as referred to by the second consultation.

Policies

National Policy Guidance

National Planning Policy Framework (NPPF)

National Planning Guidance Notes

Adopted Core Strategy

NP1 - Supporting Development

CS1 - Distribution of Development

CS9 - Management of Roads

CS10 - Quality of Settlement Design

CS12 - Quality of Site Design

CS13 - Quality of Public Realm

CS16 – Shops & Commerce

CS27 - Quality of the Historic Environment

CS29 - Sustainable Design and Construction

CS32 - Air, Water and Soil Quality

Berkhamsted Place Strategy

Saved Policies of the Decorum Borough Local Plan

Policy 10

Policy 12

Policy 13

Policy 42

Policy 51

Policy 54

Policy 58
Policy 61
Policy 62
Policy 63
Policy 113
Policy 119
Policy 120
Appendices 3, 5 and 8

Supplementary Planning Guidance / Documents

Area Based Policies: Berkhamsted Conservation Area
Environmental Guidelines (May 2004)
Water Conservation & Sustainable Drainage (June 2005)
Energy Efficiency & Conservation (June 2006)
Accessibility Zones for the Application of car Parking Standards (July 2002)

Advice Notes and Appraisals

Sustainable Development Advice Note (March 2011)
Refuse Storage

Representations

Berkhamsted Town Council

Original Submission

Object. The original objection remains. Notwithstanding the proposed revised opening hours for the pub there is still likely to be noise disturbance to the neighbours and the extension of beer garden will lose existing car parking for staff. It was noted that the staff will be working very late and that some of them travel considerable distances to work. Contrary to Core Strategy Policies CBS 11, CBS 12 and CBS 27 and Saved Local Plan Policies 119 and 120.

Additional Information

The grounds for the previous objection remain i.e. disturbance and loss of parking. The proposed rope barrier after 21.00 would have little effect regarding generated noise. The committee did not believe that noise amelioration would be achieved.

Contrary to Core Strategy Policies CBS 11, CBS 12 and CBS 27 and Saved Local Plan Policies 119 and 120.

(30 November 2015)

Conservation & Design

The Crown Public House is on the south side of Berkhamsted High Street, within the Conservation Area. It is a Grade 2 listed building, dating to the late 16th century. Its timber frame origins are evidenced by the jettied first floor but the front has been refaced with modern stucco and has early 20th century decorative timber framing within the hipped gable. To the rear is a 19th century extension with large decorative windows facing the carriageway and adjoining this are 20th century extensions. The

property has a carriageway / yard to the right which runs past the side of the property and the existing beer garden to the parking area at the rear. The land level slopes up to the rear.

The property has suffered from a lack of maintenance in recent years. The external refurbishment entails various minor repairs to the listed building, its render, guttering and timber windows and is considered acceptable. The internal alterations mainly relate to the replacement of modern fabric / additions (carpet/ re-decoration), no objection.

Various forms of additional lighting are proposed internally and externally within the side yard area, details will need to be provided in relation to this. Two new lanterns are proposed to the front elevation/ It is recommended that these are omitted – the two lanterns either side of the front entrance are sufficient.

At first floor level the staff room is being altered through the addition of two further partitions to create Male and Female WC's, there is an existing WC in this room (a later insertion) which is being removed, so the new toilets can link to the existing soil pipe. Further lightweight partitions to create changing rooms are to be inserted. The existing fireplace within this small room has been blocked up and any surround removed so the alterations are not considered to harm the layout of this already altered room and are easily reversible.

New freezers are also proposed within one of the first floor rooms, if they are free-standing and will not have any impact upon the fabric of the listed building then there is no objection to this.

The removal of the car park to the rear, extension of the beer garden and provision of a canopy is not considered to harm the setting of the listed building. More details of the new external lighting and the material and colour finish of the canopy should be provided, this could be dealt with by a condition.

A gate to the alleyway, set back from the entrance to the alley way is acceptable in principle, the design / material construction has not been established but this could be dealt with by a condition.

The proposed alterations to the listed building are considered to preserve the character, fabric and appearance of the grade II listed building in accordance with Local Plan Policy 119, Policy CS27 and the relevant conservation policies within the NPPF, recommend approval.

The following details should be provided as a condition of any approval
:

- Details of the new gateway within the carriageway to the side to be submitted for approval.
- Details of the new lighting (internal and external) to be submitted for approval.
- Details of the new canopy to be submitted for approval.

- All new internal and external works and finishes and works of making good shall match existing original work adjacent in respect of materials used, detailed execution and finished appearance, except where indicated otherwise on the drawings hereby approved or as required by any condition(s) attached to this consent.

Reason: To safeguard the character and appearance of the Listed Building.

Building Control

Background

Following the receipt of the earlier plans the Building Control Team Leader confirmed that there was a need to address the fire safety implications of the timber canopy adjoining residential properties and the need for a secondary means of escape. This was notwithstanding the advice at that time of Hertfordshire Fire & Rescue Service raising no objections.

Subsequent Advice

There has been the subsequent liaison with the Building Control Team Leader upon the need for the timber canopy to be fire resistant and the resultant provision of a brick wall within the canopy's design adjoining Cavalier Court for inbuilt fire protection. Building Control is aware of the ongoing dialogue between the agent and Hertfordshire Fire & Rescue Service. Members will be updated at the DCC meeting upon any Building Control advice with due regard to the recently received Revised Layout/ Scheme and HFRS's advice, albeit it is expected that the revised approach to be acceptable.

Noise/ Pollution

Main Advice

In accordance with the Noise Impact Assessment Report, ref: MM186/15173 carried out by Spectrum Acoustic Consultants Noise/ Pollution would like to indorse their mitigation recommendations as conditions.

- The noise barrier and canopy detailed in the drawings in Appendix A should be included.
- Use of the proposed new beer garden area should be limited to between the hours of 07:00 and 21:00. After 21:00 patrons should be directed into the existing beer garden area. This represents a cautious approach to preventing significant impact and is in keeping both with the existing use of the beer garden and the background noise levels (both of which are likely to gradually reduce in the late evening).
- The beer garden should not be used during the night time (23:00 – 07:00).
- J D Wetherspoon should adopt the management plan which is already generally in place at their existing sites throughout the UK. This includes the following

measures:

- Members of staff conduct regular checks of the front and rear of the premises at all times it is accessible to the public. The area will also be subject to CCTV coverage with images retained for 30 days.
- Signage erected at the front and rear of the premises to remind customers of the need to respect the rights of our neighbours to the quiet enjoyment of their homes, businesses and other activities.
- If on occasion customers are found to be making excessive noise a member of staff will take immediate action to rectify the situation, e.g. ask the customer to talk more quietly or if problems persist, ask them to return inside the premises or leave the premises entirely.
- A manager's telephone number is available to nearby residents to contact the pub at any time and allow any complaints relating to noise from the premises or as to any other elements of its operation to be communicated easily.
- If any complaints relating to noise disturbance are received by a member of staff, the complaint will be brought to the attention of the manager on duty and immediate steps will be taken to prevent a recurrence of the situation.

Advisory

If planning permission is granted then the Applicant needs to contact the Licensing Department here at the Council Offices as JDW will need to apply for a variation to their Licence regarding the extended beer garden and the new alleyway. The current Licence does not cover these areas.

Additional Information

As JDW have agreed to the recommendation of the Environmental Health Department this department would have no objections save the conditions issued previously by this Department.

Note: The advice excludes any reference to the effect of the canopy's rear wall which has been incorporated for fire protection reasons.

Scientific Officer

Comments awaited.

Hertfordshire County Council: Highways

Recommendation

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

Note: Whilst the provision of off street parking (for staff parking) is a matter for the LPA to determine in accordance with their local plan/policy, the change of use of the off street parking area to outside tables and chairs would eliminate the need for vehicles to use the access road, which in turn has poor inter-visibility at the point where it converges onto the highway network. For this reason the Highway Authority considers this to be a net gain. Of course the issue of any displaced parking on the highway network interests the highway authority, most of the surrounding roads have some form of waiting restrictions and of course there are many pay and display car parks nearby that the staff that do travel in can use.

Hertfordshire Fire & Rescue Service

Original Scheme

HFRS has examined the drawings and noted that the access for fire appliances and provision of water supplies appeared to be adequate.

Further comments will be made when HFRS receive details of the Building Regulations application.

Revised Scheme

Background. It is understood that the Revised Approach is not the preferred option to HFRS. The preferred option is for a gated access onto adjoining land for emergency access. This is however dependent upon access to Cavalier Court or similar requiring approval of the adjoining landowner / with concerns regarding security/ safety and potential anti social behaviour.

The proposed alternative option in the Revised Scheme is understood to be acceptable to HFRS on the following basis:

- The alley/ access way is kept free from obstruction at all times the premises are open to the public.
- A recommendation that the maximum number of people does not exceed 120 in the garden area.
- An audibility test of the fire alarm system is carried out to ensure that it can be heard at the furthest point of the garden in the event of a fire occurring in the premises.
- The management policy and evacuation planning will need careful consideration and regular practice.

Hertfordshire Constabulary: Crime Prevention Design Advisor | Crime Prevention Design Service

HC has consulted with the Police Licensing Officer and as regards designing out crime issues and HC have no comment to make.

Potential noise issues. HC considers the Councils Environmental Health Department should comment upon this.

Hertfordshire County Council : Historic Environment

The site occupies a prominent position within the Medieval core of Berkhamsted, in

Area of Archaeological Significance 21. This includes a number of important prehistoric, Roman and medieval sites. The Crown P.H. [Historic Environment Record 9285] is a designated heritage asset, being a significant timber framed building of early post-medieval or earlier date. It is Listed Grade 2.

The impact of the proposal on the significance of the Listed Building will be best assessed by the DBC Conservation team. However, other than the repairs to be undertaken on the facade of the building, the works would appear to be relatively minor (new decorations, new carpeting, new lighting etc.). However, given the lack of detail provided on the impact of the proposal on the significance of the heritage asset, it is recommended that a properly researched historic building recording is carried out. This should be supplemented by the archaeological monitoring of any interventions affecting the historic fabric of the building (e.g. repairs to the facades, the removal/repair of existing plaster, repairs to flooring, etc.). This work could be secured as part of a negative condition on consent, should planning permission be granted.

The impact of the proposal on buried heritage assets with archaeological interest. It is difficult from the documents submitted to ascertain the level of ground disturbance involved in the creation of the extended beer garden. The site however has the potential contain heritage assets with archaeological interest, and particularly those of medieval date, given its location.

Therefore it is recommended that the following provisions be made, should you be minded to grant consent:

- The archaeological recording of the standing structure in its present form, and the subsequent archaeological monitoring of any structural interventions during the proposed internal and external refurbishment works.
- The archaeological monitoring of the removal of existing concrete, hardstanding, etc. from the rear carpark and alley way, and of any ground reduction or landscaping works necessary to construct the new beer garden.
- The archaeological investigation of any archaeological remains encountered during the monitoring programme.
- The analysis of the results of the archaeological work, with provision for the subsequent production of a report and an archive, and the publication of the results, as appropriate.
- Such other provision as may be necessary to protect the archaeological interest of the site.

These recommendations are both reasonable and necessary to provide properly for the likely archaeological implications of this development proposal. These recommendations closely follow para. 141, etc. of the National Planning Policy Framework, relevant guidance contained in the National Planning Practice Guidance, and the recently Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision-Taking in the Historic Environment (Historic England, 2015).

In this case two appropriately worded conditions on any planning consent would be sufficient to provide for the level of investigation that this proposal warrants.

Condition A

No demolition/development shall take place/commence until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

1. The programme and methodology of site investigation and recording,
2. The programme for post investigation assessment,
3. Provision to be made for analysis of the site investigation and recording,
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation,
5. Provision to be made for archive deposition of the analysis and records of the site investigation, and
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Condition B

1. Any demolition/development shall take place in accordance with the Written Scheme of Investigation approved under Condition A.
2. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition A and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Comments received from local residents/ Response to Site Notice/ Newspaper Advertisement

Original Submission

- Flat 9 Cavalier Court. Objection.
- 8, Cavalier Court. While there is no objection in principle to the proposed development there one concern relating to staff parking. Currently no.8 overlooks the area of the proposed development and the kitchen has a good overview of the site. Accordingly, no.8 notes how much the staff rely on the current arrangement (i.e. parking facilities). If these were to be lost there are questions where they will park. The parking facilities at Cavalier Court and adjoining roads will be unduly impacted by the loss of parking in The Crown. At the very least, the company should be asked for their response to such an issue?

Additional Information. No responses.

Considerations

Policy and Principle

The principle of upgrading The Crown's facilities in this town centre location are acceptable subject to no adverse environmental implications.

Berkhamsted Place Strategy acknowledges that the Town Centre is an attractive commercial, cultural and social focal point with a strong district shopping and service centre. In delivering the Place Strategy Vision paragraph 21.9 expects that the key shopping/ service role will be maintained.

Core Strategy Policy CS1 (Distribution of Development) expects that new development is accommodated subject to its compatibility with the local environment and that it helps to maintain the vitality and viability of the town.

Under Policy CS4 (Towns and Villages) a mix of uses are acceptable in the Borough's town centres. These include shopping, compatible leisure, business, residential and social and community uses. It is expected that retail, business and residential uses will be controlled to enable a broad range of uses to be maintained/ achieved.

Core Strategy Part 13 addresses the Borough's Retailing and Commercial Environment. Table 5 – The Retail Hierarchy—identifies Berkhamsted as a Secondary Town Centre which features a defined Shopping Area. Para 13.6 confirms the role of a lively and diverse evening and night time economy as being an important part of the vitality and vibrancy of a town centre. This is subject to ensuring '...the negative impacts in areas such as community safety, litter and noise 'needing to be '.. controlled for the evening and night time economy to have a positive effect in town centres'.

The associated Core Strategy Policy CS16 specifically addresses the support for 'development proposals which promote a diverse evening economy in town centres will be supported provided that the social and environmental impacts are controlled". The environmental impact is addressed below.

The Crown's refurbishment will also accord with the expectations of Para 11.17 of the Core Strategy in supporting tourism within the town.

Impact upon the Listed Building /Character and Appearance of the Conservation Area

This is with due regard to Dacorum Core Strategy Policy CBS 27 and saved DBLP Policies 19, 119 (Development affecting Listed Buildings) and 120 (Development in Conservation Areas) and its relevant Appendices. The Crown's proposed upgrading is in the interests of maintaining and improving the public house's commercial role which will benefit the current vibrant character of Berkhamsted Conservation Area.

The external alterations, canopy and provision of the beer garden will be compatible with the setting of the listed building. The refurbishment's external alterations are positive, in upgrading the building's appearance within the Conservation Area, subject to conditions addressing the external lighting and gate, as recommended by the Conservation Officer who raises no objections to the extended beer garden and canopy.

The commercial benefits for Berkhamsted Town Centre and its Conservation Area resulting from the provision of the enlarged beer garden have to be **very carefully** weighed against the environmental implications resulting from its use. This is addressed below and in summary the proposal's positive aspects are dependent upon the provision of the acoustic canopy and use of the area within the canopy after 21.00 hours each day, with entire reliance upon the applicant's commitment to carry out its daily management plan to mitigate the harm to the adjoining residential properties.

Impact upon Residential Amenity of the immediate Locality and the Adjoining Offices

This is with regard to the aforementioned policies, Dacorum Core Strategy Policies CS12 and CS32. Lighting is addressed separately.

Notwithstanding the presence of an existing beer garden as a starting point/ fallback position, the proposal is materially very different to the prevailing conditions.

In this respect the absolutely fundamental issue is whether the extended beer garden can harmoniously coexist with the adjoining residential development and offices. This is clearly far from straightforward in terms of the effect of noise and disturbance, which resulted in the previous application being withdrawn.

The issue has been comprehensively considered from the outset as expressed through the detailed pre application advice. The absence of a Noise Assessment in the initial and withdrawn application has now been addressed in association with the proposed acoustic fence and canopy to serve the extended beer garden, complemented by a Management Strategy specific to The Crown and reflecting JDW wider national approach in managing its licensed premises.

In recommending permission this is entirely based upon the overriding weight given to the expert/ specialist advice of the Council's Environmental Health Unit which is satisfied with the submitted Noise Assessment Report's approach, findings, conclusions and recommendations. This is with regard to the noise mitigation benefits of the canopy and fundamentally the associated Management Plan (see Annex B).

The Council's Environmental Health Unit's approach is a precautionary recommendation representing a pragmatic and workable way forward. Whilst the canopy's acoustic qualities are essential to noise mitigation these are insufficient. In this respect JDW's Management Plan is pivotal with a closure of the extended area after 21.00hours each day. JDW is aware also that the recent incorporation of the canopy's rear wall (for fire safety reasons) as an alternative to the earlier proposed timber back will assist noise mitigation.

Without this daily management restriction there would be an unacceptable relationship between the use of the beer garden and the adjoining dwellings due to the identified demonstrable harm to residential amenity as confirmed by the submitted report prepared on behalf of JDW and recognised by the Council's Environmental Health Unit.

A condition requiring strict accordance with the Management Plan at all times is therefore recommended. An alternative to a condition would be an unilateral planning obligation to provide certainty ensuring all operators – now and in the future- to accord

with the Management Plan on a daily basis.

It also needs to take into account that from a holistic perspective if there is resultant noise and disturbance the Council's Environmental Team can serve a Noise Abatement Notice. This 'parallel environmental control' in conjunction with JDW's Management daily commitments and the recommended amenity based conditions are individually and collectively important as a way forward. The onus will be very much on the basis of the applicant's continual commitment to daily management, which is reinforced by the need to ensure fire safety measures/ management are fully adhered to at all times.

Also the elimination of the car parking close to existing dwellings will be beneficial to local residents by reducing late night disturbance.

With due regard to the foregoing and with full regard to the objections raised by Berkhamsted Town Council, the specialist and the applicant's unequivocal commitment to daily management, the informed recommendation is that, on balance, there is a case to support the proposed beer garden with conditions.

Note: Should there be an application under the now established 'Prior Approval' Permitted Development Rights to convert the nearby offices to residential the daily restrictions upon the post 21.00hours use will be a positive environmental benefit.

Highway Safety (Vehicle/ Pedestrian), Sustainable Location/ Parking / Traffic Generation/ General Access/ Fire Access/ Access for Persons with Disabilities- Inclusive Access/

Highway Safety/ Access/ Traffic Generation. The access is very poor/ dangerous in terms of its width and closeness to such very busy section of the High Street with an extremely high level of pedestrian movements. As observed by HCC Highways any reduction of the use of the access by vehicles is in the interests of highway safety. The the priority to fire and service vehicles will be a benefit.

- Fire access. Hertfordshire Fire Rescue Service raised no objections to the earlier scheme. However, it has been necessary to review this following the fundamental concerns raised by Building Control regarding the safety of the canopy close to adjoining dwellings and the means of emergency escape. In summary and after considerable dialogue it is now understood HFRS is satisfied with the Revised Scheme.
- Sustainable Location and Parking. The agent has confirmed:

'The scheme proposes to eliminate the existing car parking spaces that are situated on site. JD Wetherspoon feel that the elimination of the car parking facility is in the best interest for the conservation area as it provided a natural external environment for both staff and customers. The town already has good existing transport links and there are also two car parks located close to the pub that could be utilised if members of staff need to drive'.

Few commercial properties in the Town Centre feature curtilage parking to the

appropriate standards. Due to the site's highly accessible sustainable location it is considered that a flexible approach should be adopted to both the loss of the curtilage parking and providing additional parking to serve the beer garden. In this respect significant weight can be given to Core Strategy Policy CS8 criteria (h) confirms that the application of the car parking standards will take into account of the accessibility of the location, promoting economic development and regeneration, supporting shopping areas, safeguarding residential amenity and highway safety. In these respects given the excellent accessibility, the economic and Town Centre, shopping and tourist benefits, improved highway safety and benefits for residential amenity, these individually and collectively provide a robust case for not expecting the provision of car parking. In this respect JDW has confirmed that the provision of parking is not an operational prerequisite. Propriety to be given to fire and service vehicles.

- Inclusive Access/ Access for Persons with Disabilities/ Limited Mobility. The beer garden can be designed to incorporate access, with a recommended condition.
- Servicing (other than fire access). This remains feasible with reliance upon the historic access which remains intact in the revised scheme, with external refuse storage.

Crime Prevention/Security/ Community Safety

Hertfordshire Constabulary's Crime Prevention Team has raised no objections being fully aware of the comprehensive Public House Management Plan. This has been on the basis of the earlier scheme.

There will be consultation upon the exterior lighting.

Approach to Sustainable Construction

A condition is recommended.

Drainage/ Contamination

Surface water and contamination conditions are recommended.

Exterior Lighting

The proposed external lighting scheme is unacceptable and is addressed by a recommended condition. This will need to address the expectations of saved Core Strategy Policies CS12 and 32 and saved DBLP Policy 113 and where relevant it's Appendix 8.

Archaeological Implications

Archaeological conditions are recommended in accordance with Hertfordshire County Council's Historic Advisor.

Ecological Implications/ Biodiversity

There are no apparent implications. There is limited opportunity to incorporate bat or bird boxes within the canopy.

Contamination /Drainage

Conditions are recommended.

Approach to Sustainable Construction

A condition is recommended.

Environmental Impact Assessment

This is not necessary.

Conditions

A range of conditions are necessary.

Community Infrastructure Levy

A contribution is not necessary.

Article 35 Requirements

As clarified there has been very extensive LPA / Agent positive dialogue commencing with the previous Case Officer.

Conclusions

The wide range of modifications to the building are important in maintaining and upgrading this Grade 2 listed building in the Town Centre and Conservation Area which is supported by the Conservation Officer.

However, the provision of the extended beer garden is far from straightforward. With the issue of fire access and safety so very recently resolved, the pivotal issue is whether the extended beer garden can harmoniously co-exist with the adjoining residential development and offices. This is in terms of the effect of noise and disturbance.

This issue has been comprehensively considered from the outset as expressed through detailed pre application advice. The absence of a Noise Assessment in the initial and withdrawn application has now been addressed in association with the proposed acoustic canopy to serve the extended beer garden, complemented by a Management Strategy specific to The Crown and reflecting JDW wider national approach in managing its licensed premises.

The Environmental Health Unit supports the proposal subject to adherence to the Management Plan. In this context the establishment of a harmonious relationship between the beer garden and the adjoining residential and office uses. It has been only upon this basis and the applicant's preparedness to confidently commit itself to a very continuous exacting operational daily site management plan that the application is recommended for permission. This is because the proposed physical mitigation measures on their own are insufficient.

In the event that problems do arise for residential amenity action can be taken under the Environmental Protection Act, with reliance upon the applicant's commitment to an effective management plan.

For clarification the question of the licence renewal would have to be considered wholly independently.

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

- 2 The beer garden hereby permitted shall operate at all times strictly in accordance with the Site Management Plan submitted with the application to limit the use of the beer garden with due regard to the applicant's submitted Noise Assessment.**

Reason: To safeguard the residential amenity of the locality in accordance with Policy CS12 of Dacorum Core Strategy. Permission has been granted entirely upon the applicant's commitment to a daily management plan to strictly limit the use of the beer garden in response to the Council's Environmental Health Division's precautionary approach to the provision of the beer garden with due regard to the applicant's submitted Noise Assessment.

- 3 No development shall be carried out until details of the new gateway within the carriageway to the side have been submitted to and approved in writing by the local planning authority. The development shall be carried out fully in accordance with the approved details.**

Reason: To ensure that the development is compatible with the existing listed building and the character and appearance of Berkhamsted Conservation Area to accord with the requirements of Policies CS10, CS12 and CS27 of the Dacorum Core Strategy and the saved Policies 119 and 120 of the Dacorum Borough Local Plan.

- 4 Before the first use of the beer garden hereby permitted the acoustic canopy (incorporating at all times a full rear wall) and fencing hereby permitted shall be installed fully in accordance with the approved details and there shall be no loudspeaker system installed or used within any part of the beer garden/ external area of the application site including the area of the acoustic canopy. Once installed the approved canopy and fencing shall be retained at all times.**

Reason: To permanently safeguard the residential amenity of the nearby

dwellings and the amenity of adjoining offices and in the interests of fire access and safety at all times in accordance with Policy CS12 of Dacorum Core Strategy.

- 5 **Notwithstanding the submitted details this planning permission does not extend to any of the submitted details of the external lighting. Before the commencement of the development hereby permitted an alternative external lighting scheme shall be submitted to the local planning authority and shall only be installed and thereafter shall maintained fully in accordance with the approved details.**

Reason:To safeguard the local environment in accordance with accord with the requirements of Policies CS12, CS27, CS29 and CS32 of the Dacorum Core Strategy and Policy 113 and Appendix 8 of the saved Dacorum Borough Local Plan.

- 6 **All external alterations and finishes shall match the existing original work in respect of materials used, detailed execution and finished appearance, except where indicated otherwise on the drawings hereby approved or as required by any condition(s) attached to this permission.**

Reason: To ensure that the development is compatible with the existing listed building and the character and appearance of Berkhamsted Conservation Area to accord with the requirements of Policies CS10, CS12 and CS27 of the Dacorum Core Strategy and the saved Policies 119 and 120 of the Dacorum Borough Local Plan.

- 7 **Notwithstanding the details shown by Drawing No. AL10.A this planning permission excludes the submitted details of :**

- the replacement troughs as referred to by Note 1.13, and
- the archway's timber surround as referred to by Note1.06.

Before the commencement of any development relating to the replacement troughs, or archway alternative/ additional details/ working drawings for these shall be submitted to the local planning authority. The development for the replacement troughs and archway shall be carried out fully in accordance with the approved details.

Reason: To ensure that the development is compatible with the existing listed building and the character and appearance of Berkhamsted Conservation Area to accord with the requirements of Policies CS10, CS12 and CS27 of the Dacorum Core Strategy and the saved Policies 119 and 120 of the Dacorum Borough Local Plan.

- 8 **No demolition/development shall take place/commence until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:**

1. The programme and methodology of site investigation

and recording,

2. The programme for post investigation assessment,
3. Provision to be made for analysis of the site investigation and recording,
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation,
5. Provision to be made for archive deposition of the analysis and records of the site investigation, and
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Reason: In order to ensure investigation and preservation of archaeological findings in accordance with Policy CS27 of the adopted Core Strategy

- 9 **Development shall take place in accordance with the Written Scheme of Investigation approved under Condition 8 and the development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 7 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.**

Reason: To safeguard the site's archaeology to comply with Policy CS27 of Dacorum Core Strategy.

- 10 **The beer garden hereby permitted shall be provided at all times with access for persons with disabilities.**

Reason: To accord with Policies CS8 and CS12 of Dacorum Core Strategy and saved Policy 63 of Dacorum Core Strategy.

- 11 **The development hereby permitted shall be carried out in accordance with a submitted sustainable construction statement.**

Reason: To ensure the sustainable development of the site in accordance with Policy CBS 29 of Dacorum Core Strategy.

- 12 **Unless otherwise agreed in writing by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Conditions (a) to (d) below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Condition (d) has been complied with in relation to that contamination.**

- (a) **Site Characterisation**

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- **a survey of the extent, scale and nature of contamination;**
- (ii) an assessment of the potential risks to:**
 - (i) human health,**
 - **property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,**
 - **adjoining land,**
 - **groundwaters and surface waters,**
 - **ecological systems,**
 - **archeological sites and ancient monuments;**
- **an appraisal of remedial options, and proposal of the preferred option(s).**

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

(b) Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(c) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the

remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

(d) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition (b), which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Condition (c).

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS32 Dacorum Core Strategy.

- 13 The extended beer garden hereby permitted shall not be brought into use until a sustainable surface water scheme system is installed fully in accordance with an approved scheme. No soakaways which shall be constructed on contaminated land.**

Reason To ensure that the site is served by an acceptable drainage infrastructure to accord with Policy CS31 of the Dacorum Core Strategy and to protect groundwater to accord with the requirements of Policies CS31 and CS32 of the Dacorum Core Strategy.

- 14 A scheme for signage regarding the restricted use of the beer garden shall be installed before the beer garden's first use fully in accordance with a scheme submitted and approved in writing by the local planning authority. Thereafter all the approved signage shall be retained at all times.**

Reason: To safeguard the residential amenity of the locality in accordance with Policy CS12 of Dacorum Core Strategy.

- 15 Subject to the requirements of other conditions of this planning permission the development hereby permitted shall be carried out in**

accordance with the following drawings:

Location Plan

AL 10A

AD01D Layout and Canopy received on 27 April 2016

Reason: For the avoidance of doubt and in the interests of proper planning.

ARTICLE 35 STATEMENT

The Council acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.

Informative

The primary basis of the local planning authority's decision is the applicant's commitment to a comprehensive management plan, without which there would be certainty upon limiting the effect upon the residential amenity of the locality. The applicant is expected to ensure that on a daily basis there is strict adherence by its management team at the site to all of the management measures. This is in the interests of the residential amenity of the locality and fire safety at all times.

ANNEX A : EXTRACTS FROM THE SUBMITTED NOISE ASSESSMENT REPORT

Noise Modelling etc

Initial results from the numerical noise model of the proposed layout indicated that noise levels from the extended beer garden would exceed the guideline levels recommended in the WHO Guidelines on Community Noise. As a result, a series of physical noise mitigation measures were modelled and the effect of these included in the analysis. Following discussion with the architects, two specific measures have been agreed. These measures are considered to provide the best achievable mitigation of noise while maintaining proposals that area acceptable in other respects.

The first mitigation measure involves increasing the height of the southern boundary wall from 1.8m to 3m. The second measure involves the installation of a solid canopy extending 4.6m out over the proposed beer garden area from the top of the raised boundary wall and sealed to it.

The assessment of predicted beer garden noise against the WHO absolute guideline levels indicates that during night-time periods the noise impact will be significant, even with the physical mitigation measures that have been incorporated into the design. Considering these indicators the impact of the proposal during night-time hours is expected to be significant.

During normal and peak trading, in external amenity areas at residential receptors, the predicted noise level from patrons in the proposed extended beer garden would be below the WHO daytime guideline for 'few people being moderately annoyed'.

Patron noise levels in living rooms at residential receptors during the daytime are predicted to be below the WHO daytime guideline level for speech intelligibility and moderate annoyance. During the relatively infrequent periods when peak trading occurs, noise levels in living rooms at nearby sensitive receptors exceed the guideline levels by up to 10 dB. Patron noise in nearby offices is below the guideline level during normal trading. Again however, during infrequent peak trading periods, noise levels are predicted to exceed the guideline level by up to 9 dB.

During the night-time, patron noise levels in bedrooms at the nearest residences would exceed the WHO guideline levels for sleep disturbance during normal trading. During the relatively infrequent periods of peak trading WHO guideline levels would be exceeded by 11 - 15 dB.

This comparison indicates that the noise impact of the proposed beer garden extension is likely to be low during daytime hours under normal trading conditions, as levels fall below WHO guidelines at all sensitive receptor locations.

Whilst operating at peak trading levels, during daytime hours, levels are predicted to be higher than WHO guidelines by up to 10 dB. This indicates a potentially significant impact but will be considered in context in the following sections.

During night-time hours the WHO guideline levels are exceeded at the nearest sensitive receptors during both normal and peak trading. This indicates a significant noise impact and night-time use of the external customer area is unlikely to be acceptable.

Summary Of Noise Impact

Under normal trading conditions, during the daytime period, predicted noise from patrons in the proposed beer garden is below WHO absolute guideline levels, both in external amenity areas and in living rooms.

Patron noise is also below the guideline level for noise inside offices. Noise from patrons in the proposed beer garden is also predicted to be either below or within 1 dB of existing external ambient noise levels. Considering both indicators, the impact of the proposal is expected to be low during daytime hours, under normal trading conditions.

Under infrequent peak trading conditions, during the day-time period, predicted noise from patrons in the proposed beer garden exceeds the WHO guideline level for speech intelligibility and moderate annoyance in living rooms but falls below the maximum guideline level for external amenity areas. Patron noise under these conditions is predicted to exceed guideline levels in offices. Noise from patrons is also predicted to exceed existing ambient levels by up to 12 dB.

Considering these indicators, the impact of the proposal during peak trading periods is expected to be significant. Experience has shown that the 'normal' trading scenario models the typical occupancy and behaviour in JD Wetherspoon customer areas outdoors for the vast majority of the time. It should be noted that the peak trading scenario typically occurs for only a limited number of hours, during some summer weekends when the weather is warm. Additionally, it is important to note that the character of the noise is not likely to change from the existing established noise environment which currently includes noise from patrons in the existing beer garden.

The assessment of predicted beer garden noise against the WHO absolute guideline levels indicates that during night-time periods the noise impact will be significant, even with the physical mitigation measures that have been incorporated into the design. Considering these indicators the impact of the proposal during night-time hours is expected to be significant.

Summary of Mitigation Recommendations

In order to minimise the likelihood of noise from patrons in the proposed beer garden having a significant impact nearby residential receptors during peak trading hours, the following mitigation measures should be employed.

1. The noise barrier and canopy should be included.
2. Use of the proposed new beer garden area should be limited to between the hours of 07:00 and 21:00. After 21:00 patrons should be directed into the existing beer garden area. This represents a cautious approach to preventing significant impact and is in keeping both with the existing use of the beer garden and the background noise levels (both of which are likely to gradually reduce in the late evening).
3. The beer garden should not be used during the night time (23:00 – 07:00).
4. J D Wetherspoon should adopt the management plan which is already generally in place at their existing sites throughout the UK. This includes the following measures:
 - Members of staff conduct regular checks of the front and rear of the premises at all times it is accessible to the

public. The area will also be subject to CCTV coverage with images retained for 30 days.

- Signage erected at the front and rear of the premises to remind customers of the need to respect the rights of our neighbours to the quiet enjoyment of their homes, businesses and other activities.

Conclusion

A noise assessment has been conducted to consider the potential impact of noise generated by patrons.

Predictions of noise from patrons in the proposed beer garden has been carried out using a proprietary numerical noise model. Comments on the nature of the noise environment, mitigation measures and likely noise impact have also been provided.

Noise from patrons in the beer garden has been predicted during normal trading (which occurs for the great majority of the time) in daytime hours (07:00 – 23:00). No significant noise impact as a result of patron noise is predicted under these conditions.

Noise from patrons in the beer garden has been calculated for occasional peak trading periods during daytime hours. Noise impact during these periods is predicted to be significant. However with the relevant mitigation in place, including the recommended barrier and canopy, J D Wetherspoon's management program and the recommended usage limitations, the significance of this impact will be sufficiently mitigated.

Noise from patrons in the beer garden has been calculated for normal and peak trading during night-time hours (23:00 – 07:00) and the noise impact is predicted to be significant. This impact should be avoided by ensuring that the new beer garden area is not used during night-time hours.

Annex B - J D Wetherspoon's Daily Site Management Plan based upon the Noise Assessment Report

In order to adhere to the times proposed by the Council's Environmental Health Team (see Representations) JDW has confirmed that it would implement a detailed site management scheme. An earlier version was sent to the various technical consultees, Berkhamsted Town Council and neighbours. It has been very recently updated, taking into account the requirements of Hertfordshire Fire & Rescue Service and the previous response from Berkhamsted Town Council.

The Management Plan reflect the recommendations of the Noise Assessment Report. The agent has clarified the applicant's preparedness to adhere to the times proposed by the Noise Impact Assessment Report by implementing the following management plan:

- The separation between the extended beer garden and the existing beer garden will be defined with permanent timber fencing system with a gate. This will make the extended beer garden area only accessible between the hours of 07:00 and 21.00 hours.
- At 07:00 the public house manager will open up the extended area with consideration to the neighbouring occupiers.
- Leading up to 21.00 the public house manager and/or their staff will request that any remaining patrons kindly vacate the extended beer garden area and either move to the existing beer garden or inside the pub. The extended beer garden will be completely vacated and the gate shut by 21.00.
- Any patrons not conforming to the rules of the public house and gaining unmitigated access to the beer garden outside of operation will be removed from the premises.
- The use of the beer garden will be policed by the public house manager and/or their staff using CCTV and periodic inspections.
- Signage will be utilised to ensure that Patrons are aware that the extended beer garden will be closed off at 21.00 hours.
- The beer garden will not be used during the night time (23:00 – 07:00).

JDW advise that it is currently in the process of extending and developing numerous pub beer gardens in their existing estate and this strategy has been successfully used numerous times before. The most recent example of this is the new public house development in Hednesford, where one of the planning conditions stipulated that the beer garden had the same opening times as the times described in this application.

As part of this proposed scheme JD Wetherspoon would adopt the management plan which is already generally in place at their existing sites throughout the UK. This is defined in additional documents (Code of Conduct for Responsible Retailing and Management Plan). The management plan includes the following measures which are thought to be of importance to this scheme:

- Members of staff conduct regular checks of the front and rear of the premises at all times it is

accessible to the public. The area will also be subject to CCTV coverage with images retained for 30 days.

- Signage erected at the front and rear of the premises to remind customers of the need to respect the rights of our neighbours to the quiet enjoyment of their homes, businesses and other activities.
- If on occasion customers are found to be making excessive noise a member of staff will take immediate action to rectify the situation, e.g. ask the customer to talk more quietly or if problems persist, ask them to return inside the premises or leave the premises entirely.
- A manager's telephone number is available to nearby residents to contact the pub at any time and allow any complaints relating to noise from the premises or as to any other elements of its operation to be communicated easily.
- If any complaints relating to noise disturbance are received by a member of staff, the complaint will be brought to the attention of the manager on duty and immediate steps will be taken to prevent a recurrence of the situation.

In response to dialogue with Hertfordshire Fire & Rescue Service the Agent has confirmed that JDW will accord with the following:

- The maximum number of people will not exceed 120 in the garden area.
- An audibility test of the fire alarm system is carried out to ensure that it can be heard at the furthest point of the garden in the event of a fire occurring in the premises.
- The management policy and evacuation planning will need careful consideration and regular practice.