

Proof of Evidence

The Phene Arms, 9 Phene Street, London, SW3 5NY

Council References: PP/11/02421 and PP/11/03352 (non-determination)

Appeal References: APP/K5600/A/12/2175522 and APP/K5600/A/12/1272028 (non-determination)

Appeal by Bell Cornwell LLP on behalf of Mr Tadhg Flanagan, RAB Pension Trust against the Council's refusal of planning permission (PP/11/02421) for the 'change of use to single family dwelling, basement extensions and external alterations' and against the non-determination of planning permission (PP/11/03352) for the 'change of use to single family dwelling'

Proof of evidence by David McDonald BSc Dip TP Dip Cons(AA) IHBC

Summary

- i. I am a heritage consultant, specialising in training other built environment professionals in conservation. I was, until late 2011 Conservation and Design Team Leader at the Royal Borough Kensington and Chelsea. I am familiar with the site and its surroundings.

- ii. I have been employed by the Royal Borough to provide historic environment evidence for this public inquiry. I shall describe the history and assess the significance of the Phene Arms pub and its contribution to the Cheyne Conservation Area in terms of the NPPF, Conservation Principles, Government guidance and Council's Core Strategy. I shall demonstrate that the proposals would cause harm to both a designated and non-designated heritage asset. All other issues relating to the reasons for refusal will be dealt with by the Council's other witnesses.

- iii. The appeal site is located in Chelsea. Until the late eighteenth century it was a riverside village. Despite the construction of the embankment in the nineteenth century, the old centre is still recognisable with its narrow streets running back from the river. The eastern part of riverside Chelsea is dominated by Charles II's Royal Hospital. The area fused together during the explosion of population and development during the nineteenth century. The Kings Road was transformed from a country highway to a suburban thoroughfare connecting squares and streets. There was further redevelopment, mainly by public agencies in the twentieth century.

- iv. The Cheyne Conservation Area was designated in 1969. The conservation area is broadly centred on the medieval village of Chelsea positioned at the point where Cheyne Walk meets Old Church Street. The conservation area as a whole is rich, with a complex history and features a wide variety of

architectural styles and building scales. Like many conservation areas within the Royal Borough, Cheyne Conservation Area remains in predominately residential use. However, some historic non-residential uses survive, including churches, artists' studios, small shops and public houses.

- v. The area to the east in which the appeal site is located was mainly developed during the nineteenth century. Oakley Street superseded Old Church Street as the principal north-south route through the conservation area. It was laid out in 1857, before the construction of the Albert Bridge (1874) and originally led to Cadogan Pier.

- vi. Phene Street itself, built in 1850/51, runs approximately west to east along the southern end of Margareta Terrace and connects Oakley Gardens to Oakley Street. The Phene Street houses and pub form a cohesive group of mid-nineteenth century properties in an Italianate style.

- vii. The conservation area contains a number of public houses. Historically, they were positioned along the main thoroughfares or built as part of larger housing developments. In Cheyne Conservation Area, this pattern is evident in that the majority of public houses were originally built on the busy river frontage, along King's Road, the main thoroughfare into London, with a few additional public houses nestled into residential neighbourhoods built as part of housing developments including the Phene Arms.

- viii. The Phene Arms public house was built in 1850/51 by, and named after local eccentric, Dr Phene as part of the Victorian development of this part of Chelsea. It was purpose-built as a public house, and is a three storey corner property, constructed of London stock bricks with stucco mouldings. It has a

curved corner at which is the main entrance. The ground floor has a typical pub frontage. The public house is connected to Margaretta Terrace by a stucco-fronted single storey extension surmounted by a bottle balustrade. There is a pub garden on the corner.

- ix. The pub can be seen as a corner statement, providing a transition between the rather grand formal composition of Margaretta Terrace and the more modest domestic properties of Phene Street and Oakley Gardens.

- x. The Phene Arms has been identified by the local planning authority as a non-designated heritage asset. The NPPF defines a heritage asset as follows: “A building, monument, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing)”. Under this definition, I consider the Phene Arms to be both a building and place of heritage interest. Overall, I concur with the Royal Borough’s view that this is a non-designated heritage asset.

- xi. The Phene Arms is not a listed building, but is clearly of some local interest and significance. It is a building of the middle of the nineteenth century which is little altered externally. It is of an Italianate style, similar to that of nearby properties which form this part of the Cheyne Conservation Area. However, what sets it apart as a building of local interest is its use and appearance. In appearance it is clearly different to its residential neighbours. The ground floor pub frontage, with its corner entrance leading directly from the street, the signage and the set back with pub garden clearly mark it as something different and a punctuation in the local townscape.

- xii. English Heritage's Conservation Principles recognises that activity may contribute to significance. In this case, it is clear that the patterns of activity relating to a pub are different to that of residential buildings. Phene Street, in contrast with Oakley Street is a quiet cul-de-sac. The pub gives it more than a residential character. When operating as a neighbourhood pub, it is a place for residents to meet and socialise. It has the added advantage in an area not well endowed with public open space, that it has a garden which can be used by patrons. In the evening when the residential streets are quiet, the public house is distinguished by light and bustle. It is not only the comings and goings which contribute to its character, but the fact that it is a destination in which to socialise whether indoors or outdoors.

- xiii. Conservation Principles defines the following heritage values: evidential, historical aesthetic and communal. Here, the main associative historical value is with Dr Phene. His importance here is more than just the preservation of a name. As the developer of the very fine grade II listed Margareta Terrace and the Phene Arms itself, he was an important local figure. As I have discussed above, the Phene Arms was not an afterthought but an integral part of the development. This historical value is borne out by some of the comments made by local residents about the planning applications.

- xiv. According to Conservation Principles, "Communal value derives from the meanings of a place who relate to it, or for whom it figures in their collective experience or memory" (paragraph 56, Appendix 21). In this case, the responses by some residents either by letter or email to the planning applications have demonstrated this value. It is of note that some of these comments make particular reference of the value of the pub garden, an amenity which is lacking in most other pubs in the conservation area.

- xv. The Cheyne Conservation Area is a designated heritage asset of which the Phene Arms is a component part. From the history and description of the Phene Arms above, its contribution to the appearance of the area is obvious. It is an externally well-preserved mid-nineteenth century Italianate building, which forms part of a cohesive group with its neighbours.

- xvi. Its contribution is also from its character as a public house and consequently the value of its significance to the conservation area as a whole. Policy CL3 of the Core Strategy requires development to preserve and to take opportunities to enhance the character or appearance of conservation areas.

- xvii. Public houses, in addition to being open to the public, provide contrasting patterns of behaviour which help differentiate them from surrounding dwellings. As I have described above, the Phene Arms was a planned part of the surrounding residential development and provided just such a meeting place, with the added benefit of a garden. It helps distinguish this vibrant residential area from a dormitory suburb.

- xviii. The appellants also include in their proposals, the removal of the existing trellis fencing to the garden and its replacement by traditional railings. This was identified in the CAPS as a worthwhile enhancement of the conservation area. I agree that this would be an enhancement, but it could be implemented while the building remains as a pub rather than being dependent on the change of use. It should be given little weight.

- xix. It is the loss of activity associated with the pub use which causes most harm and loss of significance to the heritage asset. A place where members of the public can meet and socialise, would no longer be there. A garden in which to

enjoy food and refreshment would be lost to the local community. The comings and goings which give this distinctive building life would have disappeared. This is recognised in the Partial Review of the Core Strategy, which states in relation to pubs, “They are part of that fine grain mix of uses, which provide not only historical continuity, but contribute economically and to the vitality of our residential communities and the character of an area”. The link between use and character is clear.

xx. The other unacceptable impact is on the significance of the Cheyne Conservation Area, a designated heritage asset. It has been shown that the character of the conservation area is made up of more than just its residential qualities and that other uses such as shops, schools, churches, studios and pubs all contribute to the significance of the heritage asset. Once lost, the pub use will never return. As I have demonstrated above, there is a loss of historic significance because of the connection to Dr Phene and this planned Victorian development. There is also the significant loss of communal value in terms of the benefits of the pub and its garden to the local community and the sense of vibrancy and interest it brings to the Cheyne Conservation Area. This would entail substantial harm to the heritage asset.

xxi. The argument that use is important to the character of conservation areas has been supported by Inspectors at appeal. I have included in my main proof of evidence a number of examples where the effect on the character of the conservation was a key factor in the appeal.

xxii. In this proof of evidence I have shown that the Phene Arms is a non-designated heritage asset, and is a key part of the character and appearance of the Cheyne Conservation Area (a designated heritage asset). I have analysed the significance of these heritage assets, and shown that the loss of

the pub would be harmful to not only the building itself, but to the character of the Cheyne Conservation Area. For these reasons, I support the Local Planning Authority's case and that it is my expert opinion that these appeals are dismissed.

1. Introduction

1.1 I am a heritage consultant, specialising in training other built environment professionals in conservation. I was, until late 2011 Conservation and Design Team Leader at the Royal Borough Kensington and Chelsea, a post held for over twenty years. I previously worked as a town planner at the London Borough of Camden during which time I completed the Diploma in Conservation at the Architectural Association. Formerly a member of the Association of Conservation Officers, I joined the Institute of historic Building Conservation (IHBC) at its inception in 1997. I have been chair of its London Branch since 2004 and was elected national Education Secretary earlier this year. I was a member of the RTPI for over thirty years before giving up membership on leaving employment with the Royal Borough. I am currently a member of the Southern Buildings Committee of the Victorian Society.

1.2 I am familiar with the site and its surroundings.

1.3 I have been employed by the Royal Borough to provide historic environment evidence for this public inquiry. I shall describe the history and assess the significance of the Phene Arms pub and its contribution to the Cheyne Conservation Area in terms of the NPPF, Conservation Principles, Government guidance and Council's Core Strategy. I shall demonstrate that the proposals would cause harm to both a designated and non-designated heritage asset. All other issues relating to the reasons for refusal will be dealt with by the Council's other witnesses.

1.4 I do not discuss archaeological issues. The appeal site is just outside an Area of Archaeological Importance, and the Historic Environment Record for London has not revealed anything of interest. I do note however that there is some interest in the area to the south of Oakley Gardens, particularly the listed Tudor walls (see Appendix 25).

1.5 An introduction to the appeal site and surroundings is described in the Council's main proof of evidence, but I shall deal with more detailed heritage and conservation aspects of the proposals.

2. The Planning Applications

2.1 Again, these, along with the reasons for refusal are described in the Council's main proof of evidence, but it is worth making brief comment on them here from a heritage perspective, before considering the proposals in detail. The main issue with both applications is the change of use from a pub to residential. Whilst this clearly has policy implications in terms of land use, there are also heritage issues to be addressed, and these are the substance of this proof of evidence.

2.2 The first planning application (PP/11/2421) includes substantial excavation to provide a basement which would extend under the front garden. This proof of evidence does not deal with the merits or otherwise of the basement proposals. However part of these alterations would include extension of the front boundary wall to enclose the existing forecourt across which access is gained to the front door of the pub. This would change the existing relationship of the building to its garden. The application also includes the installation of railings between the piers of the boundary wall as an enhancement. Whilst the elevations of the building would remain substantially unaltered, the existing signage and lighting would be removed.

2.3 The second application (PP/11/3352) seeks to minimise the external alterations to the building. In fact, there appear to be virtually no alterations, including the retention of signage and lighting. It would appear that the application has been submitted to test the principle of the change of use, rather than being a realistic proposal. I note that the signage shown on the elevations does not reflect that currently existing.

3. Chelsea – Historical Background and Development

3.1 The appeal site is located in Chelsea a term generally considered to cover that part of the Royal Borough of Kensington and Chelsea which is situated to the south of Fulham Road and Brompton Road. It extends from Knightsbridge and Sloane Square in the east to Lots Road in the west. According to Pevsner (Appendix 22), until the late eighteenth century it was a riverside village. Despite the construction of the embankment in the nineteenth century and World War II bombing, the old centre is still recognisable with its narrow streets running back from the river. A number of grand mansions surrounded the village of which only three relatively modest examples remain today. The eastern part of riverside Chelsea is dominated by Charles II's Royal Hospital, begun in 1682, and still home today to the red uniformed Chelsea Pensioners.

3.2 From the early eighteenth century the large mansions began to give way to smaller brick buildings and terraces in a pattern familiar from other expanding villages around London at that time. There are many surviving examples in Cheyne Row and Cheyne Walk. In 1777, Henry Holland began to develop Hans Place and Sloane Street, heralding a new type of growth: that of the expanding London metropolis rather than the concentric expansion of an independent village.

3.3 The area fused together during the explosion of population and development during the nineteenth century. In the early 1800s, this development was in the Regency style of classical terraces, based on the Georgian tradition such as Paultons Square. As the century progressed, the style of building changed to the more elaborate Italianate appearance which is associated with Kensington and Chelsea. This can be seen both in Phene Street and Oakley Street (see Appendix 26, Photographs 1 and 3). To the east, most of Holland's late eighteenth century development was replaced by tall red brick terrace houses for the wealthy, in a variety of continental town

architecture: named by Osbert Lancaster as 'Pont Street Dutch'. Similarly inventive and picturesque houses were constructed along the embankment in Cheyne Walk. The architects for these houses included Richard Norman Shaw and C R Ashbee. The Kings Road was transformed from a country highway to a suburban thoroughfare connecting squares and streets. In the latter half of the century a number of artists' studios were built throughout the area, cementing Chelsea's reputation as a hotbed of artistic activity.

3.4 The end of the nineteenth century and the beginning of the twentieth saw the development of public buildings including Chelsea Town Hall on Kings Road. At the same time the Borough of Chelsea was clearing the overcrowded cottages of the poor and building mansion flats. A number of housing associations including the Peabody and Guinness Trusts were also active in the area. Residential redevelopments continued between the World Wars and into the 1960s. The tower blocks at World's End, only completed in 1977 heralded the end of that era of redevelopment. Subsequently redevelopment has been more piecemeal and there has been much more of an emphasis on conservation.

4. The Cheyne Conservation Area

4.1 Chelsea, as described above is widely covered by conservation area designation. Because of its size and the variety of architectural styles and character it is divided into a number of separate conservation areas. The area between Kings Road and the Thames is divided into two distinct areas: Cheyne to the west and Royal Hospital to the east.

4.2 The Cheyne Conservation Area was one of the first in the Royal Borough, having been originally designated in 1969. The conservation area is broadly centred on the medieval village of Chelsea positioned at the point where Cheyne Walk meets Old Church Street. Old Church Street is Chelsea's oldest thoroughfare and Lawrence Street is the second oldest street in Chelsea (Appendix 3, Cheyne CAPS, pp.12). The townscape of the

conservation area is largely dictated by the medieval boundaries and ancient village lanes.

4.3 The conservation area as a whole is rich, with a complex history and features a wide variety of architectural styles and building scales. Like many conservation areas within the Royal Borough, Cheyne Conservation Area remains in predominately residential use. However, some historic non-residential uses survive, including churches, artists' studios, small shops and public houses. These uses make a significant contribution to the diverse vibrant and varied character of the conservation area.

4.4 The area has as a changed remarkably over the past 300 years from a rural village with an exceptional number of grand mansions in their own grounds overlooking the river to a well-loved part of the modern day capital retaining high level of buildings of exceptional architectural quality and an enviable mixture of land uses which makes this part of the borough a highly desirable place to live and work.

4.5 The conservation area is bounded to the north by the Kings Road, a bustling commercial shopping parade and busy transport route featuring large scale commercial properties. The southern boundary meets the 19C Chelsea Embankment, a busy transport route with central London which features substantial residential buildings fronting on to the Thames.

4.6 The area between the two busy thoroughfares can broadly be categorised into two groups. The first area to the north features the formal terraces and square developed during the early-mid 19C (Paultons Square, Oakley Street and Bramerton Street). The appeal site is situated on the eastern edge of this area.

4.7 The second, the oldest part of the conservation area is often referred to as 'Chelsea village' or 'Old Chelsea' (including Lawrence Street, Old Church Street, Lordship Lane, Justice Walk, Cheyne Row & Upper Cheyne Row).

4.8 Despite the destruction caused by the creation of the Chelsea embankment and World War II bomb damage, the old centre of Chelsea village remains evident. The centre is marked by the presence of the 16C brick church of All Saints at the southern end of Old Church Street, the narrow residential streets running back from the river and the surviving commercial shop units and public houses.

4.9 The area has cherished and familiar residential 'village ambience' which is derived from not only from the architectural aesthetic and historic patina of age, but also the surviving variety of small scale commercial uses. It is these uses, small shops, offices and public houses that are crucial to the overall vitality, buzz and character of this part of the conservation area.

4.10 The area to the north in which the appeal site is located was mainly developed during the nineteenth century. Oakley Street superseded Old Church Street as the principal north-south route through the conservation area. It was laid out in 1857, before the construction of the Albert Bridge (1874) and originally led to Cadogan Pier. The CAPS, which describes its architecture in detail, defines it as: "mainly a series of formal terraces in the late Georgian style, the impact of which has been lessened by indiscriminate alteration, rebuilding and later infilling". The stock brick and stuccoed terraces might also be described as Italianate and share decorative flamboyance of much of Victorian Kensington and Chelsea (Appendix 26, Photograph 1).

4.11 The CAPS provides the following account of Margaretta Terrace:
"Running parallel with Oakley Street and originally conceived to be separated from it by gardens which were, however, abandoned to development soon after its building. Margaretta Terrace, a group of thirty houses the composition with central pediment supported on five Corinthian columns, derives from the regency period but the details betray the early Victorian origins. Three storey, the ground floor with rusticated stucco, brick above, with aediculated windows, string course, cornice and balustrade in stucco". It now faces the backs of terraces in Oakley Street and even further extensive development undertaken by the building of nos. 32-38 in the back gardens of part of these.

This has led to the rather odd situation of the front of one terrace of houses facing the rear gardens of another rather than having another series of front elevations directly opposite. Although unusual, it can be seen elsewhere in the Royal Borough and is a symptom of the speed and occasionally unplanned nature of Victorian development.

4.12 Phene Street itself, built in 1850/51, runs approximately west to east along the southern end of Margaretta Terrace and connects Oakley Gardens to Oakley Street. Oakley Gardens, originally named Oakley Crescent and laid out around a garden square which was later redeveloped was also built in the early 1850s. The gradual infill took place not long after. The Phene Street houses and pub form a cohesive group of mid-nineteenth century properties in an Italianate style.

4.13 To the east of Oakley Gardens is the boundary of the Royal Hospital Conservation area. The boundary is in part formed by the natural 'buffer' of the twentieth century buildings of Chelsea Manor Street and Flood Street, but towards the river it is less well defined with mid to late Victorian house and flats of similar style and character on each side of the boundary. This again is typical of Kensington and Chelsea where one conservation area can quite seamlessly merge with another.

4.14 The conservation area contains a number of public houses. The spatial distribution of public houses within Chelsea reflects the development and redevelopment of the area, the growth and decline in population, changing social patterns and, more recently, the pressures of escalating property prices. Historically, public houses were positioned along the main thoroughfares or built as part of larger housing developments. In Cheyne Conservation Area, this pattern is evident in that the majority of public houses were originally built on the busy river frontage, along King's Road, the main thoroughfare into London, with a few additional public houses nestled into residential neighbourhoods built as part of house developments including the

Phene Arms. The most significant loss of public houses in the area resulted from the construction of the Chelsea Embankment in the 1870s which swept away a large number of pubs along the bank of the River Thames.

4.15 Richardson in his book titled 'The Chelsea Book' (2003) makes specific reference to public houses in Chelsea stating, "Chelsea has been blessed with many public houses, some with wonderful views across the river. Those near the Thames have mostly disappeared, some to the creation of the Embankment in the 1870s, other lost as trade moved northwards to the King's Road area, and others, such as the King's Head and Eight Bells on Cheyne Walk, simply to change of use".

4.16 An historical map from 1868-72 attached as Appendix 28, demonstrates the spatial distribution of public houses at the time, colour coded to show where these still existing today, or have been converted to other uses. Of the 14 public houses originally shown within the Cheyne Conservation Area on the historical map, only four remain in this use, less than 30%. The loss of the appeal premises to residential, would reduce this percentage to just over 20%. Additionally, of the four, the nearby Cross Keys, is also under threat from conversion to residential use with an appeal against a refusal currently being considered following a Hearing under appeal reference (APP/K5600/A/12/2172342).

4.17 Two additional properties (shown in red on the map, appendix 28) still retain the public house building, but only one of these remains in commercial use (the Cheyne Walk Brassiere, formally the Kings Head and Eight Bells public house), the other having being converted to residential (18 Cheyne Walk, formally Don Saltero's Tavern).

4.18 Borough wide, evidence (included as appendix 14) suggests that since 1980, there has been an overall loss of 71 public houses, and a net loss of 58 public houses (the difference reflecting the fact that a small number of new drinking establishments have been created, almost all of these being within existing retail centres).

5. The Phene Arms Public House

5.1 The Phene Arms public house was built in 1850/51 and named after local eccentric, Dr Phene as part of the Victorian development of this part of Chelsea. Rating records indicate that it was occupied from 1854 and the pub use was there from at least 1856. It was originally built as a public house and is situated on the corner of Phene Street and Margaretta Terrace (see Appendix 26, photograph 5).

5.2 Dr John Samuel Phene was a qualified as a barrister, architect and scientist and spent much of his life either as a globe-trotter or a wealthy recluse. He lived in Chelsea for sixty years until his death, aged ninety in 1912. He was the leaseholder of a large portion of land, including parts of Glebe Place, Upper Cheyne Row, Oakley Street, Phene Street and Margaretta Terrace. In the early days he was famous for his sumptuous dinner parties which were attended by the learned and famous from all over London. He had a short-lived marriage in 1850 to Margaretta Forsyth, after whom Margaretta Terrace is named. He lived at 32 Oakley Street from where he supervised the building of a very eccentric, some would say grotesque house on the corner with upper Cheyne Row. He called it the 'Renaissance du Chateau de Savenay' after his family home on the banks of the Loire. The design of the new house, nicknamed locally as 'Gingerbread Castle' was meant to represent his family history (Appendix 23). It was reputedly never occupied and was demolished and replaced by the more modest late Arts and Crafts house which occupies the site today (Appendix 26, Photograph 7).

5.3 Dr Phene is reputed to be the first man to plant trees in a London street, initially in Margaretta Terrace and later in Oakley Street. Queen Victoria and Prince Albert were said to have visited in 1851 and admired the avenue in Oakley Street. Apparently, Prince Albert was so impressed that he insisted in having trees in front of the South Kensington Museum (Appendix 23). Dr Phene's local legacy is not only in street tree planting but the development of parts of Oakley Street, Margaretta Terrace and Phene Street and parts of Oakley Street.

5.4 The Phene Arms public house is a three storey corner property, constructed of London stock bricks with stucco mouldings and has a typical London valley roof hidden behind the front parapet (Appendix 26, Photographs 5 and 6). It has a curved corner at which is the main entrance. The ground floor has a typical pub frontage with large windows separated by painted pilasters and with a high panelled stall riser. It has a narrow fascia with a cornice above, supported by scrolled corbel brackets. Applied letters indicate the pub name and street number and external lighting is provided by lamps on brackets. Two retractable awnings provide shade on the Phene Street frontage. The first and second floors, are primarily faced in London stock brick with white stucco quoins, main parapet cornice and a curved section above the front door which would have no doubt previously contained painted signage. It consists of two bays on each frontage, with large tripartite sash windows at first floor level, each of which has architrave mouldings and a bracketed cornice above. At second floor level are six-over-six timber sash windows with architrave mouldings. The composition is completed by a single-bay width house (no. 8 Phene Street) with a stucco ground floor and upper floors similar to the Phene Arms but with the second floor sash windows set beside each other. The two properties read as a single composition.

5.5 The public house is connected to Margaretta Terrace by a stucco-fronted single storey extension surmounted by a bottle balustrade. There is a pub garden on the corner. It is bounded by a low stucco wall with piers in between which is wooden trellis with planting behind. Behind the screen,

white umbrellas provide shelter for patrons of the pub. Next to no. 8, there are cellar flaps which used for the delivery of beer.

5.6 The pub can be seen as a corner statement, providing a transition between the rather grand formal composition of Margareta Terrace and the more modest domestic properties of Phene Street and Oakley Gardens.

6. Significance of the Phene Arms Public House

6.1 Before assessing the significance of the Phene Arms, it is worth considering it in terms of the development of the public house in the nineteenth century. 'Victorian Pubs' by Mark Girouard provides useful background. In the early part of the nineteenth century pubs were mainly created as ground floor conversions of residential properties rather than being purpose-built. The 1830 Beer Act allowed premises to be licensed for the sale of beer, in an attempt to lure the populace away from the infamous gin palaces. This factor along with the rapid expansion of London in the mid to late nineteenth century led to the provision of pubs as part of speculative residential development. The pub was often built ahead of the residential development, with the builder the first licensee. The pub was therefore part and parcel of the residential development of Victorian London and the Phene Arms is a typical example. Girouard describes this development in detail by reference to North Kensington and other parts of London. Chapter II of 'Victorian Pubs', 'The Development of the Pub 1840-80' is attached as Appendix 19.

6.2 The Phene Arms has been identified by the local planning authority as a non-designated heritage asset. The 'saved' Planning Policy Statement 5 (PPS5) Historic Environment Planning Practice Guide states that, "The process of deciding planning permissions, listed building or conservation area consents may also lead to the recognition that a heritage asset has a significance that merits some degree of protection. Though lacking the statutory protection of other designations, formal identification by the Local

Authority through these processes is material in planning decisions” (paragraph 15, Appendix 8). It should be noted that whilst PPS5 has been superseded by the NPPF, its Planning Practice Guide is still a material consideration. In addition, Conservation Principles states that, “Social values of a place are not always clearly recognised by those who share them and may only be articulated when the future of a place is threatened. They may relate to an activity that is associated with that place rather than the physical fabric”. The National Planning Policy Framework (NPPF) defines a heritage asset as follows: “A building, monument, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing)”. (See Appendix 7). Under this definition, I consider the Phene Arms to be both a building and place of heritage interest. Overall, I concur with the Royal Borough’s view that this is a non-designated heritage asset.

6.3 The Phene Arms is not a listed building, but is clearly of some local interest and significance. It is a building of the middle of the nineteenth century which is little altered externally. It is of an Italianate style, similar to that of nearby properties which form this part of the Cheyne Conservation Area. However, what sets it apart as a building of local interest is its use and appearance. I expand on the importance of its use in paragraph 6.5 below, but in appearance it is clearly different to its residential neighbours. The ground floor pub frontage, with its corner entrance leading directly from the street, the signage and the set back with pub garden clearly mark it as something different and a punctuation in the local townscape. I believe it to be one of only two pubs with gardens in the conservation area and one of the few in Chelsea as a whole. It has been considered for listing in 2001, but rejected by DCMS on the advice of English Heritage. The letter from DCMS, (Appendix 20) states, “The pub is a clear focal point in the area and retains a characterised interior, but overall lacks special distinctiveness, and has lost all of its bar fittings”. The important opinion expressed here is that of being a clear focal point in the area. Its quality as a focal point is not simply its appearance, but one of activity and a building which draws people to use it

rather than being a quiet backdrop to the area. Its name too, and connection with the eccentric Dr Phene make it distinctive.

6.4 As indicated above, English Heritage's Conservation Principles recognises that activity may contribute to significance. In this case, it is clear that the patterns of activity relating to a pub are different to that of residential buildings. Phene Street, in contrast with Oakley Street is a quiet cul-de-sac. The pub gives it more than a residential character. In the morning the pub will be closed, but regular deliveries bring a degree of activity and life to the street. The unloading of beer barrels into an open cellar has been a feature of London Streets for at least 150 years. At lunchtime there are the comings and goings of customers which may extend through the afternoon. When operating as a neighbourhood pub, it is a place for residents to meet and socialise. It has the added advantage in an area not well endowed with public open space, that it has a garden which can be used by patrons. In the evening when the residential streets are quiet, the public house is distinguished by light and bustle. It is not only the comings and goings which contribute to its character, but the fact that it is a destination in which to socialise whether indoors or outdoors. The Phene might also be described as a backstreet pub and one that might be searched out by the enthusiast or come across by surprise. In the adjacent, Royal Hospital Conservation Area a nearby similar 'backstreet' pub is actually called 'The Surprise' (Appendix 26, Photograph 8).

6.5 Conservation Principles defines the following heritage values: evidential, historical aesthetic and communal. In the case of the Phene Arms, evidential value is not an issue. As I have mentioned above in paragraph 1.2 above, there is no obvious archaeological interest here. Historical value is defined in Conservation Principles as being either illustrative or associative. Here, the main associative historical value is with Dr Phene. I have described his importance in mid-nineteenth century London life above (paragraphs 5.2 and 5.3), but his importance here is more than just the preservation of a name. He lived in Chelsea for sixty years and made his mark locally, not least by his construction of the eccentric 'Gingerbread Castle'. Sadly that building

no longer remains to celebrate his life in Chelsea. However, as the developer of the very fine grade II listed Margaretta Terrace and the Phene Arms itself, his presence lives on. As I have discussed above, the Phene Arms was not an afterthought but an integral part of the development. The Phene Arms did gain some fame in more recent years as the pub most frequented by the late George Best. However, the association with Dr Phene as described above is a strong and important one. This historical value is borne out by some of the comments made by local residents about the planning applications.

6.6 “The Phene is an integral part of the social and historical as well as the architectural character of the Cheyne Conservation Area and it has been and was designed as such by Dr Phene himself from the outset” (John Cooper, 36 Margaretta Terrace).

6.7 “I have lived on Oakley Street about 20 yards from the pub my whole life and believe that the pub is a huge part of our local community that was greatly missed in the years that it was unfortunately shut down. The pub has contributed to local life for over 150 years and is one of the few remaining throwbacks to old Chelsea that is seemingly being increasingly lost in recent years. Not only was the pub George Best’s local for many years but it also holds many memories for my family and friends”. (Tom Redmayne, Oakley Street).

6.8 “The Phene Arms was built by Dr Phene when developing Oakley Street/Margaretta Terrace/ Oakley Gardens, as a local amenity and a social meeting point for the local community. It remains so to this date” (Sally Turnbull, 48 Oakley Street).

6.9 “The Phene Arms is a lovely old pub in the Cheyne Conservation Area which has been there for over 150 years. Not only does it provide a useful

amenity for local residents particular as it has an unusually larger garden, but also contributes to the unique character of this part of Chelsea” (Cllr Emma Will).

6.10 According to Conservation Principles, “Communal value derives from the meanings of a place who relate to it, or for whom it figures in their collective experience or memory” (paragraph 56, Appendix 21). In particular, “social value is associated with places that people perceive as a source of identity, distinctiveness, social interaction and coherence”. In this case, the following extracts from comments received from some residents either by letter or email in response to the planning applications have demonstrated this value.

6.11 “I value the places I can go to meet other locals for no other reason than to relax and chat. It is now, when it is only a pub where people chat to strangers and to others outside their group, that a mixed community can meet and become familiar with local faces. Neighbour can get to know neighbour and people working but not living locally can get to know the community (perhaps even their customers) make friends and network”. (Hazel S Smith, resident and Chair of The King’s Road Trade Association).

6.12 “It contributes to a convivial neighbourhood atmosphere and enhances the local community”. (Amy Oman, 24 Lawrence Street).

6.13 “There used to be 8-10 pubs within 5 minutes walk of my house - that tally has crashed. In all that time, the pubs in this part of Chelsea south of the King’s Road have been a key part of its unique atmosphere and charm, as well as places I have frequented off and on. None more so than the Phene Arms with its charming aspect and lovely garden. People were always happy to come into Chelsea from outside if you suggested meeting at the Phene. It remains an enjoyable place to visit.....Chelsea is unfortunately beginning to lose its character and become a uniform residential suburb. The loss of the phene would be a particularly heavy blow and a large step on this unfortunate march”. (Michael Pryor, 25 Glebe Place).

6.14 “I would like to support the opposition to allowing this fine old pub (where my wife and I had our first date 30 years ago) to be turned into another vast mansion...” (Barry Winkleman, Beaufort Mansions).

6.15 “The Phene Arms was intended as an amenity for local residents and included the ‘beer garden’ and a meeting room on the first floor. Indeed the Oakley Street Residents’ Association has held many annual meetings there. We have lived in Oakley Street for over thirty years and love our local pub”. (Patricia Redmayne, 42 Oakley Street).

6.16 It is of note that some of these comments make particular reference of the value of the pub garden, an amenity which is lacking in other pubs in the conservation area.

6.17 Of course, other residents support the change of use because they consider that the pub is a nuisance rather than a community asset. However, this is an issue of management and licencing rather than the pub use per se. From the comments above, it is clear that the pub has engendered a strong sense of communal value which would be lost if this change of use were to take place.

7. Contribution of the Phene Arms to the Cheyne Conservation Area

7.1 The Cheyne Conservation Area is a designated heritage asset of which the Phene Arms is a component part. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the special character or appearance of conservation areas. From the history and description of the Phene Arms above, its contribution to the appearance of the area is obvious. It is an externally well-preserved mid-nineteenth century Italianate building, which forms part of a cohesive group

with its neighbours. I acknowledge that the planning applications show limited or no change to the appearance of the building, but that does not diminish its contribution to the character of the conservation area.

7.2 Its contribution is from its character as a public house and consequently the value of its significance. Paragraph 132 of the NPPF (Appendix 7, pp. 31) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

7.3 Policy CL3 of the Core Strategy requires development to preserve and to take opportunities to enhance the character or appearance of conservation areas (relevant extracts included as Appendix 9).

7.4 Paragraph 80 (pp. 26) of the saved Planning Practice Guide to PPS5 sets out those features of an area which should be taken into account in designing successful new development. These include a requirement to take into account, (2) "the general character and distinctiveness of the local buildings, spaces, public realm and the landscape", and (8) "the current and historic uses in the area and urban grain" (Appendix 8).

7.5 Also of note, English Heritage has produced a document titled 'Understanding Place: Historic Area Assessments: Principles and Practice' (published June 2010) which describes an approach for the assessment of historic areas. This document notes that values underlie the purpose of Historic Area Assessments and states the following: "The sum of an area's designated assets is not the same thing as its character or significance. Area assessment can cast the net more broadly to embrace other sets of values, which will lead to the identification of additional layers of significance. The important role that an unlisted school has played in the life of a community and still plays in views of the area, allegiances to different places of worship (or pubs), the informal uses of streets and open spaces, the enjoyment of

eccentric features of a street scene – all these things represent a community’s engagement with the wider historic environment and contribute to an area’s particular character” (Appendix 24, pp 14).

7.6 Although the terms ‘character’ and ‘appearance’ are not defined anywhere in legislation, the Courts have held that as well as proposals for building works, which will (or at least may) clearly affect the architectural character of a conservation area, there will be other proposals for development, in particular for changes of use, which may not change the appearance of an area, but may nevertheless affect its character.

7.7 Roy Vandermeer Q.C. sitting as deputy judge in *Archer and Thompson v Secretary of State*, [1991] JPL 1027 (full report included as appendix 29), held that matters such as the nature of a use and its effect could be of consequence and could affect the character of an area. He noted that a change of use might, for example affect the historic interest of an area; or its character might be affected by noise. He wholly rejected the proposition that the test was limited to consideration of matters affecting physical structures. The case concerned the change of use of premises in a conservation area at Causewayhead, Penzance, into a “family entertainment centre” and the Inspector deciding the appeal had rejected it largely on conservation grounds. Similarly in *Penwith DC v Secretary of State* (1993 E.G.C.S. 48), the duty under section 72 was one reason for an inspector refusing permission for the change of use of a basement in a central London conservation area to a wine bar on the ground that it would cause noise and disturbance to local residents. In *R. v Secretary of State, ex p. Romer*, (unreported, 2 May 2002, report included at appendix 30) permission was refused for an after-school club in south London partly because of the effect of the noise and disturbance together with activity spilling out onto surrounding streets, leading to a material harm to the character and appearance of the conservation area. In all three cases, the decisions were upheld by the courts.

7.8 Whilst all the examples cited above relate to the effect of the introduction of new use within a conservation area, for the same reasons, the removal of a use is also considered capable of having a significant effect on the character. Reference to relevant appeal decisions will be made later in this proof of evidence.

7.9 As discussed above, public houses are considered to form a key characteristic and make a significant contribution to the character of the Cheyne Conservation Area, providing a vibrancy and vitality amongst a predominately residential neighbourhood. The development of the conservation area, like many parts of London, started with a village centre which became engulfed by Georgian and Victorian development. The non-residential development of the area includes buildings from many periods. They include the remaining mediaeval parts of Chelsea Old Church on the Embankment, the Georgian Church of the Holy Redeemer in upper Cheyne Row, and the Victorian former Kingsley School in Glebe Place as well as a number of shops and pubs. Glebe Place also contains a number of artists' studio houses. Sadly, a number of them have lost their studio use and are now occupied solely for residential purposes. However, they testify to the artistic legacy of the conservation area as does the list of famous residents contained in Cheyne CAPS, (Appendix 3 pp 67). It is well-known that writers and artists are often frequenters of pubs, which makes their presence even more important to Chelsea.

7.10 One notable resident who is not listed in the CAPS is the poet, writer and broadcaster Sir John Betjeman who lived at 53 Old Church Street in his early twenties and also resided in Radnor Walk nearby in the latter stages of his life. Though not always complimentary about Chelsea, he campaigned to save Holy Trinity Church in Sloane Street, often called the 'arts and crafts cathedral'. As a sensitive writer and campaigner for Victorian architecture who celebrated the 'poetry of the ordinary' he would no doubt have deplored the loss of pubs like the Phene Arms. Dylan Thomas also lived for a short period in Old church Street in 1942. He certainly frequented a number of Chelsea pubs, but it is not known whether they included the Phene Arms.

7.11 Public houses, in addition to being open to the public, provide contrasting patterns of behaviour which help differentiate them from surrounding dwellings. In the morning they are closed, with deliveries the only obvious activity. At lunchtime there are the comings and goings of customers which may extend through the afternoon. In the evening, when the residential streets are quiet, the public house is distinguished by light and bustle. It is not only the comings and goings that contribute to its character, but the fact that it is a destination in which to socialise. As I have described above, the Phene Arms was a planned part of the surrounding residential development and provided just such a meeting place, with the added benefit of a garden. It helps distinguish this vibrant residential area from a dormitory suburb.

7.12 It is acknowledged that the provisions of Town and Country Planning (Use Classes) Order 1987 (as amended) allows for a change of use from an A4 use (drinking establishment) to an A1 use (shop), an A2 use (financial and professional service) or an A3 use (restaurant). Although the loss of the historical use of the building would be regrettable, any such conversion would retain an element of public access to the building. Although a shop or financial and professional service would not operate in the same way as a public house or provide a 'social meeting place', it would allow public access to the building to be retained to a certain extent, thereby enabling the premises to retain the life and vitality which is so much a part of this conservation area, and would also encourage residents to be reminded of connections with their past.

8. Alterations to the External Appearance of the Phene Arms

8.1 Although not part of the Council's reasons for refusal on the planning applications, it is worth commenting on these proposals from a heritage perspective. As described above, the first planning application which includes the provision of basement accommodation, also includes enlargement of the garden area to enclose the existing pub entrance. Whilst not a physical alteration which would merit refusal of planning permission, it does in my opinion impact on the character of the heritage asset. A feature of the urban

pub is that it opens directly on to the street or forecourt. In the case of the Phene Arms this expressed by the main entrance directly under the curved corner of the pub. In other words, the design of the building perfectly guides the user to the entrance. The planning application indicates that with the new use, that door would no longer be in use and would be enclosed by the garden. This indicates how a relatively minor alteration which is not harmful in itself impacts on the pattern of activity associated with the pub and hence its character. Externally, there would be little alteration to the building itself, apart from the removal of the pub signage and lamps. Whilst these are relatively minor works and ones which could be undertaken anyway without consent, they would in my opinion, as with the alteration to the garden have an impact on the character of the heritage asset. It is in part the pub signage and lighting which distinguishes it from its neighbours and adds to the vitality of the conservation area. Appendix 26, photographs 10 and 11 illustrate the effect.

8.2 The appellants also include in their proposals, the removal of the existing trellis fencing to the garden and its replacement by traditional railings. This was identified in the CAPS as a worthwhile enhancement of the conservation area. I agree that this would be an enhancement, but it could be implemented while the building remains as a pub rather than being dependent on the change of use, and could be achieved without extending the garden area. I am also sceptical that the railings would remain unaltered. As this would be the only area of private garden for the new dwelling there will be a not unexpected desire to make it private. Owners often resort to installing black painted panels behind the railings to improve privacy. This can be seen on a property in Cheyne Walk (Appendix 26, photograph 12). Based on the above, it is my view that the proposed external alterations will not present significant benefits and should be given limited weight in the balance of considerations.

9. Impact of the Loss of the Phene Arms

9.1 There are two main impacts to be considered, the loss of the pub itself (the non-designated heritage asset) and the effect of the loss on the Cheyne Conservation Area (the designated heritage asset).

9.2 Paragraph 135 of the NPPF states that: “in weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required, having regards to the scale of any harm or loss and the significance of the heritage asset”. It is also important to have regard to the Council’s Strategic Objectives set out in Core Strategy policy CO5 as set out in Sarah Jones’s Proof of Evidence which states that, “...the objective is not simply to ensure no diminution in the excellence we have inherited, but to pass to the next generation a Borough that is better than today...” These proposals, by diminishing local character do not achieve that strategic objective. This has been further reinforced by the emerging revisions to the Core Strategy. The local interest of this non-designated heritage asset has been defined in Section 6 of this proof of evidence. Whilst it is acknowledge that the external alterations to the building are minimal, even the removal of the signage and lighting produces a deadening effect on its appearance, which only serves to highlight the really significant impact, which is the loss of the vibrant non-residential use. This already been illustrated by comparison with the appearance of other closed pubs (Appendix 26, Photograph 10). The enclosure of the front forecourt area diminishes the significance of the building by altering the relationship of the main entrance of the pub to the street as described above in paragraph 8.1.

9.3 However, it is the loss of activity associated with the pub use which causes most harm and loss of significance to the heritage asset. A place where members of the public can meet and socialise, is no longer there. A garden in which to enjoy food and refreshment is now lost to the local community. The comings and goings which give this distinctive building life will have disappeared. This is recognised in the Partial Review of the Core Strategy, which in paragraph 3.3.14B includes in relation to pubs, “They are part of that fine grain mix of uses, which provide not only historical continuity,

but contribute economically and to the vitality of our residential communities and the character of an area". The link between use and character is clear.

9.4 The other unacceptable impact is on the significance of the Cheyne Conservation Area, a designated heritage asset. It has been shown that the character of the conservation area is made up of more than just its residential qualities and that other uses such as shops, schools, churches, studios and pubs all contribute to the significance of the heritage asset. Once lost, the pub use will never return. The NPPF defines significance for heritage policy as: "The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting" (Appendix 7). As I have demonstrated above, there is a loss of historic significance because of the connection to Dr Phene and this planned Victorian development. There is also the significant loss of communal value in terms of the benefits of the pub and its garden to the local community and the sense of vibrancy and interest it brings to the Cheyne Conservation Area. This would entail substantial harm to the heritage asset in which case, as the NPPF advises, in paragraph 134, local planning authorities should refuse consent (Appendix 7). It is also contrary to Policy CL3 of the Core strategy which requires development to preserve and take opportunities to enhance the character or appearance of conservation areas, historic places, spaces and townscapes, and their settings. In terms of character, these applications do not preserve the Cheyne Conservation Area, and as I have demonstrated, actually harm rather than enhance. The appeal schemes would also be contrary to the emerging revisions to the Core Strategy which resists the change of use of buildings where the current use contributes to the character of the surrounding area and to its sense of place (Appendix 10).

9.5 The argument that use is important to the character of conservation areas has been supported by Inspectors at appeal, including in a similar case considered in 2009 for the conversion of a public house to a single dwelling in Newmarket (appeal decision included in Appendix 12, example j). In reaching

a decision the Inspector made the following comments of relevance to the current appeal: “The Plumbers Arms is a pivotal building at this point in the Conservation Area both in terms of its use as a public house as well as in its location at the precise point of the road intersection. The imposing character and appearance of the pub makes a significant contribution to the character and appearance of the conservation area. *Both the history of its use and its continued use as a pub*, I consider to be important factors in preserving the character or appearance of the Conservation Area, as well as the character of the listed building itself” (paragraph 15) (emphasis added).

9.6 A similar conclusion was reached by an Inspector in January 2009 dealing an appeal against the refusal of an application for the conservation of a public house and hotel to a part commercial, part residential development in Swanage (appeal decision included as Appendix 12, example d). The following points were made: “The hotel dates from the early 19th century and was built on the site of an earlier public house. It was one of the first hotels to mark the town’s transition from fishing village to seaside resort and occupies a key location in the High Street. It is grade II listed for its special interest and for its group value with other nearby listed buildings. With them the hotel plays an important role in defining the character and appearance of this part of the town. The building was designed as a hotel and its character derives largely from the purposes for which it was built. While its external appearance would not change – indeed it may be improved- I consider that the loss of its original historic use would clearly undermine the distinctive character of the building. I therefore find that the change of use would have an adverse effect on the special interest of the listed hotel.”

9.7 A very clear example of such matters being taken into account was evident in a recent appeal decision in Croydon relating to the conversion of a public house to a residential flat (appeal decision including as Appendix 12, example f). In reaching a decision the Inspector made the following comment:

“A residential conversion, irrespective of any physical alteration, would fundamentally alter a significant aspect of the character of the building; it would no longer be a publically accessible social focus and the loss of this focus would also affect the character of the conservation area. The proposal would be a harmful alteration that would fail to preserve the historic purpose of the building; its use as a public house is inherent to its architectural and historic interest and a key feature of the conservation area” (paragraph 8). In the case of the Yew Tree in Matlock, Derbyshire, the Inspector, in dismissing the appeal recognised the large volume of representations from local residents indicated the extent to which the community regretted its loss (Appendix 12, example i).

9.8 Although the circumstances between these appeals and the current appeal differ, in three of these cases, the Inspectors clearly accepted the argument that a use can contribute to the character of a conservation area. Not only that, but that the loss of that use (in circumstances where the appearance of the building was left largely unchanged) caused harm to the heritage asset (in each case the conservation area).

9.9 Closer to the appeal site and both involving proposed changes of use from pub to residential, in the following appeal decisions, the effect on the character of the conservation was a key factor. In the case of the conversion of the Huntingdon Arms in Islington to residential, the Inspector noted that it was an integral part of the development of the mid C19 estate (paragraph 13). In paragraph 15, he stated: “conversion of the the premises to a residential use would, in my opinion, result in a significant change in the character of use. Not only would there be a reduced level of activity but by its very nature the use would be more private and restrained. I find therefore that the importance of the building as a focal point within the area would diminish. I believe that such a change would detract from the character of the immediate area and from the wider conservation area”. (Appendix 12, example g)

9.10 In the example of the Drapers Arms, Islington, it was accepted by all parties that the pub made a significant contribution to the character and appearance of the area (paragraph 11). In dismissing the appeal, the Inspector stated that in his view: “the minimal alterations suggested by the appellants would do little to disguise its former use as a public house and the domestic activities likely to take place in and around the building would significantly change the character of the building and the impact it has on its surroundings. Its use as a dwelling with such obvious visual evidence of its former use would also be an incongruous feature of the street scene. Furthermore, whilst I appreciate that a large number of local residents would welcome the quieter atmosphere likely to flow from the residential use, the reduction in activity associated with pub use would diminish the importance of the building as a focal point in the area” (Appendix 12, example h)

9.11 These decisions emphasise the importance of the pub use to the character of a conservation area, and many of the considerations also apply to the Phene Arms.

10. Conclusion

10.1 In this proof of evidence I have shown that the Phene Arms is a non-designated heritage asset, and is a key part of the character and appearance of the Cheyne Conservation Area (a designated heritage asset). I have analysed the significance of these heritage assets, and shown that the loss of the pub would be harmful to not only the building itself, but to the character of the Cheyne Conservation Area. For these reasons, I support the Local Planning Authority’s case and that it is my expert opinion that these appeals are dismissed.

