

**ROYAL BOROUGH OF KENSINGTON AND CHELSEA
REPORT BY EXECUTIVE DIRECTOR,
PLANNING AND BOROUGH DEVELOPMENT**

APP NO. PP/11/02421/Q13

PLANNING APPLICATIONS COMMITTEE 06/03/2012

AGENDA ITEM NO. S20

SITE ADDRESS

**The Phene Arms
9 Phene Street
LONDON
SW3 5NY**

APPLICATION DATED 25/07/2011

APPLICATION COMPLETE 29/07/2011

**APPLICATION REVISED 02/12/2011
19/01/2012
03/02/2012**

APPLICANT/AGENT ADDRESS

**Ms K Walton
Trevor Lahiff Architects
99 Knatchbull Rd
LONDON S
E5 9QU**

<u>LISTED BUILDING</u>	No	<u>CONS. AREA</u>	Cheyne	WARD	Royal Hospital
<u>CAPS</u>	Yes	<u>ENGLISH HERITAGE</u>	N/A	ART '4'	No

<u>CONSULTED</u>	<u>OBJECTIONS</u>	<u>SUPPORT</u>	<u>PETITION</u>	<u>COMMENTS</u>
4	29	13	0	0

Applicant RAB Pension Trust

PROPOSAL: Change of use to single family dwelling, basement extensions and external alterations.

RBK&C Drawing No(s): PP/11/02421, PP/11/02421/A, PP/11/02421/B & PP/11/02421/C

Applicant's Drawing No(s): (00) 001, (02) 001, (02) 002, (02) 003, (02) 005, (02) 006, (02) 008, (02) 009, (02) 011, (02) 012 all version P5, (02) 013 and (05) 001 both version P6, (20) 001, (20) 002, (20) 003, (20) 004, (20) 005 all version P7, (20) 006, (20) 007, (21) 002, (21) 004, (21) 005, (21) 006 all version P6, (21) 003, (21) 007 version P7 all received 03/02/2012 and sketch (plan and section) of relationship between tree and car parking area received via email 03/02/2012

RECOMMENDED DECISION: Refuse planning permission

REASONS FOR REFUSAL

- 1. The loss of this historic public house to residential use would be damaging to the value and significance of this heritage asset, and would cause harm to the character, identity and distinctiveness of the conservation area. Therefore, the proposal would fail to meet the requirements of Planning Policy Statement 5, Core Strategy policies C05, CK1, CL1 and CL3 and 'Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment' published by English Heritage (2008).**
- 2. In the absence of a satisfactory s106 agreement to secure ineligibility from obtaining car parking permits, the proposed development would put undue pressure on on-street parking and would therefore be contrary to policy CT1 (b) and (c) of the Core Strategy and the Transport Supplementary Planning Document.**
- 3. In the absence of a satisfactory s106 agreement to secure necessary planning obligations, the proposal would result in unacceptable pressure on local infrastructure (including education, health and community facilities) and would therefore be contrary to policy C1 of the Core Strategy and the Planning Obligations Supplementary Planning Document.**

INFORMATIVES

- 1 You are advised that this application was determined by the Local Planning authority with regard to Development Plan policies including relevant policies contained within the London Plan Spatial Development Strategy for Greater London adopted July 2011; the Core Strategy adopted 8 December 2010 and the 'Saved' policies of the Unitary Development Plan adopted 25 May 2002. The relevant policies of the Core Strategy were C1, CK1, CT1, CL1, CL2, CL3, CL4, CL5, CE1, CE2, CE3, CH1, CH2. The relevant policies of the UDP were CD63. Weight was also given to relevant local Supplementary Planning Guidance/Documents and Statements, including: Cheyne adopted 2 June 1983, Transport adopted 10 December 2008, Subterranean Development adopted 26 May 2009, Planning Obligations adopted 17 August 2010, Access Design Guide adopted 17 December 2010, Noise adopted 21 May 2009. These documents were prepared in line with Government guidance and adopted following public consultation.
- 2 The applicant is advised that completion of a satisfactory s106 agreement would overcome the second and third reasons for refusal listed above.

1.0 SITE

- 1.1 The application property is a four storey (including basement) end of terrace building located on the corner of Phene Street and Margaretta Terrace. The building is currently in use as a public house and restaurant within Class A4 (Drinking establishments) at basement, ground and part of first floor level, with ancillary residential accommodation occupying the remaining floor space at first floor level and above.
- 1.2 The property is within the Cheyne Conservation Area and is partially within flood zone 2. A Tree Preservation Order (TPO) applies to the front garden area of the site. The residential houses north of the application site on Margaretta Terrace are grade II listed.
- 1.3 The Phene Arms is identified in the Cheyne Conservation Area Proposals Statement (CAPS) as built between 1850- 51 and forms a "typical example of a Victorian pub, surviving in good order commemorating the eccentric who was responsible for much of the development of the Area [Dr Phene]".

2.0 PROPOSAL

- 2.1 The application seeks permission for a change of use from a public house (A4 use) to a single family dwelling (C3 use). One off street car parking space would be provided, accessed via an existing crossover on Margaretta Terrace.
- 2.2 The proposal also involves a substantial extension of the existing basement, replacement of the existing first floor rear extension with a slightly larger lift shaft, fenestration alterations, replacement boundary treatment, rooflights and lightwells to Margaretta Terrace elevation and the insertion of replacement roof lights in the main roof.
- 2.3 An application (PP/11/03352) for change of use, but without the extensions, is also on this agenda.

3.0 RELEVANT PLANNING HISTORY

- 3.1 In April 2001, under Council reference PP/01/0781 and PP/01/0780, applications were received for a change of use of the building from a public house into two residential units, the erection of an additional mansard storey and enlargement of the rear extension with roof terrace above. These applications were subsequently withdrawn.
- 3.2 In June 2007, under Council reference PP/07/1662 and PP/07/1662, applications were received for a change of use from vacant public house to single dwelling house, excavation works and construction of extensions to existing basement and ground floor and minor fenestration alterations. These applications were

subsequently withdrawn.

- 3.3 In August 2009, under Council reference CA/09/1194 advertisement consent was approved for replacement advertisements and the installation of two awnings to the Phene Street elevation.
- 3.4 In November 2009, under Council reference PP/09/0746, planning permission was approved for the enclosure of the open courtyard area to the rear ground floor level.
- 3.5 There is a current application requesting retrospective permission for the retention of parasols in the pub garden (ref. PP/10/3955).
- 3.6 There is also a current application for a change of use of the application property from a public house to residential use was received (no physical alterations to the building proposed) being considered under Council reference PP/11/3352. This application is also included on the Planning Committee agenda.
- 3.7 It is also noted that an application for a change of use of the nearby Cross Keys public house to residential was recently refused permission by the Planning Committee for the following reason:

“The loss of this historic public house to residential use would be damaging to the value and significance of this heritage asset, and would cause harm to the character, identity and distinctiveness of the conservation area. Therefore, the proposal would fail to meet the requirements of Planning Policy Statement 5; Policies 3.1, 3.16, 4.8 & 7.1 of the London Plan (2011); Core Strategy Policies C05 & CL1; and 'Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment' published by English Heritage (2008)”.

- 3.8 Although the refused application and the current application raise a number of similar issues, it must also be recognised that there are differences between the properties and proposals.

4.0 PLANNING CONSIDERATIONS

- 4.1 The main considerations in this case include the principle of the change of use, the impact of the change of use on the character of the conservation area, the impact of the extensions and alterations on the character and appearance of the building and conservation area, the impacts on residential amenity, the suitability of the subterranean development, the impacts on local transport infrastructure, flooding and necessary planning contributions.

4.2 The most relevant policies include the following:

Core Strategy 2010

C1 (Infrastructure Delivery and Planning Obligations)
CK1 (Social and Community Uses)
CT1 (Improving alternatives to car use)
CL1 (Context and Character)
CL2 (New buildings, extensions and modifications to existing buildings)
CL3 (Heritage Assets – Conservation Areas and Historic Spaces)
CL4 (Heritage Assets – Listed Buildings, Scheduled Ancient Monuments and Archaeology)
CL5 (Amenity)
CE1 (Climate Changes)
CE2 (Flooding)
CE3 (Waste)
CH1 (Housing Targets)
CH2 (Housing Diversity)

'Saved' Unitary Development Plan 2002 (amended 2007)

CD63 (Development in conservation areas)

4.3 Also relevant is the Cheyne Conservation Area Proposals Statement (CAPS), and the Transport, Subterranean Developments, Noise, Access Design Guide and Planning Obligations Supplementary Planning Documents.

4.4 **Principle of the change of use**

4.4.1 PPS1 and the National Planning Policy Framework both seek to create strong, vibrant and healthy communities and aim to deliver the facilities and services that the community needs.

4.4.2 Public houses are recognised as community facilities in the draft National Planning Policy Framework, which requires decisions to “safeguard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs” and “ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community” (paragraph 126). This document, although afforded limited at the present time, is a material consideration.

4.4.3 The vision and strategic objectives within the Core Strategy reflect these objectives and seek, amongst other things, to ‘build on success’ (policy CV1) and ‘keep life local’ (policy CO1).

4.4.4 Core Strategy policy CK1 seeks to protect and enhance social and community uses and supports the provision of new facilities throughout the Borough. Public houses, although not included in

the definition, are recognised within the supporting text to this policy as social and community facilities and the recent concern over their loss is noted. The text goes on to note however, that at present time there is too little evidence to resist their loss.

4.4.5 It is noted however, since the adoption of the Core Strategy in 2010, there has been growing concern about the loss of public houses and the detrimental impact such changes of use have on communities and the character of conservation areas. The growing concern amongst Members culminated in a full Council meeting on the 7th December 2011 where the following motion was unanimously agreed:

“That this Council is greatly concerned at the loss of community Public Houses which afford great amenity to local residents. We urge this Council to carry out a review of LDF policy to protect community Public Houses, especially historic pubs in conservation areas”.

4.4.6 Whilst the review of the Core Strategy is too early in the process to be given any weight, it does reflect the Councils direction of travel. These concerns are also consistent with the concerns raised by the Planning Committee on the 6th December 2011 when considered a change of use of the Cross Keys public house to residential.

4.4.7 Concerns over the loss of community public houses, particularly within conservation areas, add weight to the concerns identified below.

4.5 **Impact of the change of use on the character of the conservation area**

4.5.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 defines Conservation Areas as being of ‘special architectural and historic interest, the character or appearance of which it is desirable to preserve or enhance’.

4.5.2 Planning Policy Statement 5 (Planning for the Historic Environment) seeks to conserve England’s heritage assets in a manner appropriate to their significance, by ensuring:

- decisions are based on the nature, extent and level of that significance, investigated to a degree proportionate to the importance of the heritage asset
- wherever possible, heritage assets are put to an appropriate and viable use that is consistent with their conservation
- the positive contribution of such heritage assets to local character and sense of place is recognised and valued; and
- consideration of the historic environment is integrated into planning policies, promoting place-shaping.

- 4.5.3 Core Strategy policy CL1 requires all development to respect the existing context, character, and appearance, taking opportunities available to improve the quality and character of buildings and the area and the way it functions, including being inclusive for all.
- 4.5.4 English Heritage's publication 'Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment' (EH, 2008) states it is necessary to understand and articulate the values and significance of a place in order to inform decisions about its future (para. 3.4). This document makes clear that heritage values go beyond the physical appearance of an asset, and include evidential, historical, aesthetic and communal values, all of which should be taken into account when making sound decisions about its future (para. 23).
- 4.5.5 The use of the application property as a public house is considered historically significant and is a use which is considered to contribute to the identity and distinctiveness of 'Old Chelsea' and the Cheyne Conservation Area. The property's significance as a heritage asset relates not only to the fabric of the building, but also the historic and communal value of the long standing public house use in this location. The Phene Arms is a purpose built public house which has been in existence for over 150 years. The use of the building as a public house is intrinsically linked with the development of Phene Street and the wider area and this history contributes to the character of the conservation area. The conversion of the building to a residential use would bring to an end over a century of public house use at the site and would result in the loss of part of the familiar and cherished history of the site and conservation area. Similarly, the patterns of behaviour associated with the use which differentiate this building from its residential neighbours will be lost, diluting the vibrant residential character of the conservation area.
- 4.5.6 It is noted that a recent appeal against the refusal of an application to convert a public house to residential was allowed (Prince of Wales public house ref. PP/10/02734, appeal ref. APP/K5600/A/11/2152776). The points raised by the Inspector in determining the appeal are a material consideration and have been taken into consideration in reaching a decision on this application. However, in addition to every application having to be considered on its own merits, it is considered that there are significant differences between the nature of the public houses, the areas and the proposals, which warrant a different approach here.
- 4.5.7 On this basis, the loss of this historic public house to residential use would be damaging to the value and significance of this heritage asset, and would cause harm to the character, identity and distinctiveness of the conservation area. On this basis, the

proposal is considered contrary to the aims and objectives of Planning Policy Statement 5, policies 3.1, 3.16, 4.8 & 7.1 of the London Plan (2011), Core Strategy policies C05, CL1 & CL3, and 'Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment' published by English Heritage (2008).

4.6 Impact of the extensions and alterations on the character and appearance of the building and conservation area

4.6.1 Externally, the architectural detailing which differentiates the use of this building from the residential uses of adjacent and nearby buildings is largely confined to the ground floor (with the exception of a single hanging sign just above fascia level on the Phene Street elevation). The visibility of the public house is further reduced by the presence of a garden to the Margareta Terrace elevation, the boundary treatment, trees and large umbrella structures obscuring much of the public house detailing from view.

4.6.2 With the exception of the removal of the modern signage (replaced in 2009), all other architecturally significant detailing to the front elevations, including existing windows, ground floor panelling, stallrisers and lighting fixtures, would be retained.

4.6.3 An additional window would be inserted in the single storey rear extension to the building. This would replicate the detail of the adjacent window and subject to conditions would be of an acceptable appearance.

4.6.4 Replacement roof lights are proposed in the main roof, replacement windows proposed in the rear elevation and replacement doors are proposed at ground floor level facing Margareta Terrace and at first floor level in the rear elevation of the building. Subject to conditions in relation to proposed detailing, these alterations are acceptable.

4.6.5 The existing first floor rear brick structure is to be removed and replaced with a slightly larger structure to accommodate and internal lift. This would be set back from external boundaries by no less than 3.0m and would be separated from the road by approximately 12.0m. Given these setbacks, the small size and unobtrusive design of the structure, this is considered an acceptable addition to the building which would preserve the character of the conservation area.

4.6.6 The existing timber trellising between the front boundary piers would be replaced by cast iron railings. Subject to conditions in relation to the detailing, this restoration is a welcomed improvement which is identified as desirable in the Cheyne CAPS.

4.6.7 The existing beer garden would be partially re grassed, and re

landscaped. Conditions are recommended to assess the replacement hard and soft landscaping. Long narrow roof lights are proposed to sit behind the existing boundary wall along the Margaretta Terrace frontage. These would be flush with ground level and would be partially obscured by adjacent planting. Subject to conditions requiring the submission of detailed drawings, the rooflights are considered appropriately sized for the garden and would be sufficiently screened from view to ensure they do not adversely affect the character of the building or conservation area.

- 4.6.8 Two light wells are also proposed on the Margaretta Terrace elevation. These would both extend 1.2m from the external wall of the building and would each have a length of 3.5m covered by a horizontal grille. This detailing complies with the design requirements set out in the Subterranean Development SPD and lightwells are prevalent in both Margaretta Terrace and Phene Street. Subject to conditions in relation to the detailing, this element of the proposal is considered acceptable.

4.7 **Impacts on residential amenity**

- 4.7.1 Unlike other public houses nearby (namely the Cross Keys public house), the Phene Arms appears to have generated a long history of complaints from neighbouring residents, evidenced by lengthy Environmental Health records and a significant level of support from local residents for this application and application reference PP/11/3352.

- 4.7.2 That said, the public house use has been within the locality significantly longer than the current residents and often, the impacts of noise and disturbance can be effectively controlled through robust private management and using controls under the Environmental Health Act. As such, although the impact of the existing use is a material consideration, it is considered that only limited weight should be given to such when determining this application.

- 4.7.3 However, putting the impact of the existing use aside, conversion of the building to a residential use would be unlikely to result in an adverse impact on neighbouring properties.

- 4.7.4 The slight increase in the size of the lift shaft to the rear of the building is unlikely to have a detrimental impact on neighbouring properties, given its small size and the separation distance between this any neighbouring properties. A small increase in height of the existing boundary wall to no. 8 Phene Street is proposed, however given the small increase in height proposed (cm) and the relatively open aspect this property has to the north and northeast (by virtue of the perpendicular positioning of properties in Oakley Gardens) this is not expected to result in undue a loss of light, outlook or undue sense of enclosure to the residents of this property.

4.7.5 All other alterations are minor and sufficiently separated from neighbouring properties to ensure there would be no adverse impacts on amenity.

4.7.6 A noise report has been submitted with the application to demonstrate that any noise and disturbance generated by a outdoor air condenser unit (to be located in sub-basement lightwell) and the swimming pool ventilation system would not adversely affect neighbouring residents. This report has been reviewed by the Director of Environmental

Health and subject to conditions is considered acceptable.

4.8 **Suitability of subterranean development**

4.8.1 Policy CL2 (g) and the Subterranean Developments SPD sets out the necessary criteria in terms of basement construction and design. With respect to the former, the proposal must meet three criteria (criteria i does not apply as the building is not listed).

4.8.2 To address matters of stability safeguarding required by point ii, the applicant has submitted a structural engineering report, including a construction method statement and site investigations report. These reports include site specific borehole results, details of the drainage and hydrogeological conditions on site, construction methodology and detailed site specific drawings showing pile locations. The structural engineer has confirmed that the works, if properly undertaken by suitably experienced contractors, will pose no significant threat to the structural stability of adjoining properties. On this basis, it is considered that the proposal is unlikely to harm the structural stability of the building itself or neighbouring buildings and therefore would comply with the requirements of criterion ii.

4.8.3 Point iii requires that there is no loss of trees of townscape or amenity value resulting from the proposed development. The SPD provides further guidance in this regard, requiring no mature trees to be removed or otherwise affected by subterranean development. Paragraph 9.1.2 states that where in exceptional cases the removal of trees is permitted, the Council will require that they are replaced or substituted either adjacent to the subterranean development within the curtilage of the property or through the use of sufficiently sized 'tree pits' with access to subsoil and water movement.

4.8.4 Council records indicate that there were until recently, two mature trees on the site covered by the TPO. A young silver birch appears to have been recently planted to replace a mature tree of heaven. Photos taken of the tree before its removal appear to show the tree in failing health, however, there is no

record of any application being submitted regarding this protected trees removal. The second tree is a mature sycamore, also of questionable health. The Council's arboricultural officers have assessed the health of the tree and consider it acceptable for this tree to be removed due to its limited safe life expectancy.

- 4.8.5 The failing health of both the existing tree and recently removed tree provide exceptional circumstance justifying the removal and replacement of these trees as part of the redevelopment. Replacement trees are proposed within close proximity to the originals, one on the corner of Phene Street and Margareta Terrace and a second tree in the area adjacent to the off street parking space. The 1.0m of subsoil beneath the car parking space has been designed to avoid compaction and accommodate root movement. The Council's arboricultural officers have assessed the proposal and are satisfied, that subject to conditions, the replacement trees would provide an appropriate level of townscape and amenity value, worthy of both the TPO and conservation area designations.
- 4.8.6 Point iv requires adequate soil depth and material to be provided above subterranean developments to ensure sustainable growth. These requirements are set out in more detail in the SPD. The excavation would not exceed more than 85% of the garden space and a soil depth of 1.0m would be retained above the subterranean extensions allowing for suitable plant growth and rainwater attenuation. In addition a Sustainable Drainage Strategy has been submitted in support of the application that demonstrates that the proposal will limit surface water discharge, prevent pollution of groundwater and attenuate all storm events (up to and including the 1 in 100 year storm).
- 4.8.7 Whilst the majority of habitable accommodation within the basement would be provided with natural light and/or ventilation, a number of habitable rooms (the library, gym, spa, sauna and stream rooms) would not have direct access to either. Whilst this is unfavourable, given the nature of these rooms, and the extent of suitably lit and ventilated rooms at ground level and above, a refusal on this basis is not considered justified.
- 4.8.8 Policy CE1 requires development to make a significant contribution to achieving national targets relating to the reduction of carbon dioxide emissions. Criteria (c) requires, where subterranean extensions are proposed, the sustainability credentials of the entire dwelling to meet a Eco-Homes 'Very Good' rating. In addition, the applicants are required to demonstrate in a report prepared by a suitably qualified specialist that, the development would achieve 40% of credits in the energy, water and materials sections.

4.8.9 The applicants have submitted an Ecohomes summary reviewed by a registered code assessor, which sets out how the building would be retro-fitted to achieve the various credits. The pre assessment predicts the development will achieve 63% of energy credits, 74% of the materials credits and 60% of the credits overall, obtaining a 'Very good' rating. As the development includes a swimming pool, the proposal cannot achieve the required water credits. To offset this impact of this, the applicant proposes a rainwater harvesting system which is suitably sized to meet the needs of the development.

4.8.10 On this basis, the proposal would meet the aims and objectives of policy in this regard.

4.9 **Transportation**

4.9.1 In accordance with Core Strategy policy CT1 (c) and the Transport SPD all new residential units are required to be permit free. The applicant has agreed to enter into a legal agreement to secure such. However, in the absence of a satisfactory s106 agreement to secure such, the proposal is contrary to policy CT1 (b) and (c) and the Transport SPD.

4.9.2 One off street car parking space has been provided to meet, but not exceed, the Councils parking standards in accordance with Core Strategy policy CT1 (d). A suitable area for cycle parking facilities has been identified adjacent to the off street parking area. Subject to conditions, the Director of Transportation and Highways raises no objection to the proposal.

4.10 **Refuse and recycling**

4.10.1 An area for storing refuse and recycling has been identified on the plans adjacent to the off street parking area. Subject to a condition to secure the detailing, this would provide sufficient space for the storage of refuse meeting the requirements of Core Strategy policy CE3.

4.11 **Flooding**

4.11.1 The application site is partially located within flood zone 2. In accordance with Core Strategy policy CE2 a Flood Risk Assessment has been provided in support of the application, which includes details of flood protection measures. This has been reviewed by Policy Officers and is considered acceptable.

4.12 **Planning contributions**

4.12.1 The Planning Obligations Supplementary Planning Document requires all new development resulting in a net increase in residential units to make a financial contribution. Should the scheme have been found acceptable a contribution of £3998.88 (excluding legal fees) would have been required, broken down

as follows:

- An Education Contribution of £2618.88
- A Health Contribution of £800
- A Community Facilities Revenue Contribution of £80
- A Monitoring Fee of £500

4.12.2 The applicant has agreed to the payment of the above contributions. However, in the absence of a satisfactory s106 agreement to secure such, the proposal is contrary to policy C1 and the Planning Obligations SPD.

5.0 PUBLIC CONSULTATION

5.1 Four neighbouring properties were consulted, a site notice was displayed outside the building and an advertisement was placed in a local newspaper. 29 representations in objection to the proposal have been received, including representations from the following:

- Cllr Will
- Oakley St Residents Association
- Markham Street Residents Association
- Campaign for Real Ale (CAMRA) West London branch
- Chair of The Kings Road Trade Association
- Radnor Walk Residents Association
- Kings Road Association of Chelsea Residents
- Ten Acres Residents Association
- Astell Street et al Residents Association

13 representations in support of the proposal have also been received from residents of Phene Street, Margareta Terrace and Oakley Street.

The main points raised are set out and responded to below.

5.2 Loss of a public house detrimental to character of area, amenity of residents and visitors

As outlined above, Officers agree that the loss of the public house would have a detrimental impact on the character of the area.

5.3 Loss of community meeting and mixing place

As outlined above, Officers agree that the loss of the public house would have a detrimental impact on the character of the area.

5.4 Loss of too many public houses in Borough

Concerns over the loss of public houses are noted in the Core Strategy and have resulted in a decision to review the Core Strategy.

5.5 **Loss of a historically significant use**

The importance of the use historically is recognised in paragraphs 4.5.1 – 4.5.7 above. Officers agree that the change of use will result in harm to the value of this particular heritage asset.

5.6 **Loss of a use that will never be replaced**

Officers agree that the public house use is unlikely to be reinstated once lost, and for the reasons outlined above recommend refusal of the application.

5.7 **Increased noise and disturbance at neighbouring pubs**

Although there may be some increase in the number of customers frequenting nearby pubs as a result of the change of use, this is unlikely to be significant in comparison to existing noise and disturbance levels and would in any event, be controlled by existing conditions and licenses at these premises.

5.8 **Loss of employment**

The property is not within an employment zone and is not a business use (as defined by the Use Classes Order) and therefore the employment associated with the use is not protected by Core Strategy policy CF5.

5.9 **Unacceptable noise, disturbance and disruption to residents during extension/alteration**

The impact of the construction process can be partially mitigated, where appropriate, through the use of planning conditions to supplement powers under other legislation such as the Environmental Protection Act and Highways Acts. Such conditions are recommended in this case, in order to minimise the impact of the construction process on the amenity of local residents, and function of local highways, as far as can reasonably be achieved under the Town and Country Planning Act.

5.10 **Change of use contrary to London Plan policies**

The proposal has been assessed against relevant London Plan policies as outlined in the relevant sections above.

5.11 **Existing beer garden provides valuable amenity space for people without gardens**

The garden is not designated public open space, at its use by the public is at the discretion of its owners and therefore cannot be protected under planning policy.

5.12 Concerns/complaints made by local residents about the existing use are false

As discussed above, it is recommended that only limited weight is given to the impact of the existing use on the amenity of the area when assessing the proposed development.

5.13 Existing use is having a detrimental impact on local residents in terms of noise, disturbance, traffic and parking problems and anti social behaviour

As discussed above, it is recommended that only limited weight is given to the impact of the existing use on the amenity of the area when assessing the proposed development. Such concerns can generally be resolved through robust private management and the controls afforded under the Environmental Health Act

5.14 Existing use is no longer a traditional pub and is therefore out of character with quiet residential street and conservation area

The particular style of public house use is not something the Council can control. However, it should be noted that the public house was in situ when the conservation area was designated and therefore is considered part of its character.

**JONATHAN BORE
EXECUTIVE DIRECTOR, PLANNING AND BOROUGH DEVELOPMENT**

List of Background Papers:

The contents of file PP/11/02421 save for exempt or confidential information in accordance with the Local Government (Access to Information) Act 1985.

**Report Prepared By: SAJO
Report Approved By: EL/DT/JB
Date Report Approved: 22/02/2012**

PSC03/12/SAJO.REP

24/02/2012 10:45:32