

Recommendation: **GRANT PERMISSION**

Listed Building Grade: Not applicable.

Conservation Area: Brockhampton

5 Statutory and Non Statutory Consultations

Conservation Officer

This is a locally listed building within the Borough and is specifically highlighted in the Conservation Area Appraisal document:

'The Prince of Wales public house is a notable local building (Q) prominent on the corner with Staunton Road. Dating from the late 19th century, it still retains much of its original character externally with its pyramidal slate roof and green glazed tiles on its ground storey walls. The traditional sign on the side road reads..... 'Portsmouth and Brighton United Indian Pale Ale'.

A Heritage Statement by Brywell Southern has been submitted with the planning application, which sets out the significance of the conservation area and the public house and what impact the proposed development would have on the significance of the designated and non-designated heritage assets.

Due to the height of the brick boundary wall along Staunton Road, the existing cellar structure is not visible from public vantage points. This extension features a flat roof and does not appear to be part of the original structure and is not internally linked. Therefore, its removal will not affect the form of the main building.

The proposed pergola would compromise a timber structure with a poly carbonate roof. The structure would be no higher than the existing cellar and would therefore be screened from public vantage points by the existing brick wall. When using the pub garden, the pergola will be visible in context of the main public house. However, this style of structure is not uncommon for a pub garden and will provide the benefit of an improved external seating space.

Overall there is no objection to the pergola, nor the proposed lighting and other minor alterations to the garden area.

Conclusion

No Objection

Environmental Health Manager, Community Group

Although we do not have any objection to this application, should permission be granted we recommend the inclusion of suitable conditions to control noise and lighting. The provision of a covered external area as proposed, is likely to result in an intensification of use of the external garden. We note there are currently no planning or licensing conditions restricting hours of use of this area. As the business is within a predominantly residential area, patron noise is likely to be problematic, especially when people are trying to get to sleep. For this reason the potential impact should be reduced and mitigated. We therefore recommend use of the covered area is restricted to 22:00 hours Monday to Sunday. The proposed lighting should also be restricted to this time. I note the proposal to change the side gate. In principle I assume this side entrance already has permission to be used as an access/egress point, and so I assume use of this entrance does not require planning permission.

Second consultation with Environmental Health team :

When working out whether a structure complies with the smoking regulations (Health Act 2006), the roof is excluded. I note from the plans what appear to be planters. If these form part of the structure, then I do not think the shelter would comply with the Act. The shelter would be classed as 'substantially enclosed' under the Act.

Premises are considered to be substantially enclosed if they have a ceiling or roof, but there are permanent openings in the walls which are **less** than half of the total wall area, including other structures that serve the purpose of walls and constitute the perimeter of the premises. When working out the area of an opening, no account can be taken of openings in which doors, windows or other fittings can be opened or shut. This is known as the 50% rule.

Environmental Health's food and safety team actually comment on 'smoking shelters' and may have overlooked this when looking at the planning application. Should you wish to discuss further then please contact a member of that team.

Consultation with Food and Safety Team :

I have checked the planning application and the application is for "Alterations to the garden...erection of a timber framed pergola". No mention made of a smoking shelter. Hence my "no comments" made on 19/12/2019 and the observation that it was for an outdoor seating area.

If smoking is allowed in the premises/area then it needs to comply with the standards. If smoking is not allowed then the legislation will not apply, so it all depends upon the use of the structure. I think to refuse permission because it may be used for smoking is not a valid reason.

Officer comments :

In regards to the condition recommended by Environmental Health they will not be imposed on this application as it is deemed that a curfew on the use of the pergola would not meet the tests set out in Paragraph 55 of the National Planning Policy Framework and amplified in Paragraph 3 of the National Planning Practice Guidance (NPPG). The framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests :

1. necessary
2. relevant to planning
3. relevant to the development to be permitted
4. enforceable
5. precise; and
6. reasonable in all other aspects

In this instance the curfew condition for the use of the pergola is not deemed to be necessary in that it would not cover the use of the entire garden- the increase in space alongside the covered area would mean there would be some additional seating. Despite this, the rest of the garden would not be covered and therefore this would only cover a very small space. Additionally if there were to be a curfew imposed on the pergola , this may encourage people to congregate closer towards the North of the garden which is would actually be closer towards the surrounding residential properties.

This condition would not be considered relevant to planning or the development to be permitted - this pub has been in use for a long period of time with no conditions enforced on the garden. Although it is noted that the pub is situated in a residential area, the proposal to the garden could also be seen as an improvement both a community use and in the updating of the current yard area. Policy DM2 of the Havant Local Plan specifies the protection of existing community facilities - public houses fall within this.

This condition is not deemed to be enforceable- it would be difficult for the Planning Enforcement Team to control the use of this covered area. Additionally for the reasons outlined above, it is not considered that this would actually achieve a significant reduction in noise pollution. and may create other problems such as smoking on the street or closer to the residential properties.

In regards to the smoking shelters regulation act- this has been considered and the pergola has been specified as an outdoor seating area and not a smoking shelter . If the pergola were to be used as a smoking area, any shortfall in the requirements would be minimal and would not be considered as reason for refusal.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 8

Number of site notices: 1

Statutory advertisement: 27/12/2019

Number of representations received: 2 None

Comment	Officer Comment

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity

- (i) Principle of development

The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria.

(ii) Impact upon the character and appearance of the conservation area

This proposals seek to improve the usability and appearance of the existing outdoor seating area. This application comprises of the demolition of the existing cellar to be replaced with a timber framed pergola with a polycarbonate roof alongside other alterations to the garden including change of flooring including the addition of artificial grass and additional seating of which do not fall under planning considerations. The polycarbonate roof would cover the same area as the existing cellar and would have a depth of approximately 3.9 metres in width and 3.5 metres in length and 4.8 metres against the wall bordering the highway. The plans also include a replacement wrought iron gate and frame, with the existing external store room to be converted into a cellar. These are several lighting installments also proposed as part of this application including up down lighting beneath the pergola area, wall mount lights and festoon lighting in the garden area. The existing bin shed would also be removed and replaced with a timber framed fence structure. Other aspects of this proposal including the television as noted on the plans are not material planning considerations and therefore will not be considered as part of this proposal.

This application site is a landmark building situated within the Brockhampton Conservation Area and therefore the Council's Conservation Officer has been consulted in regards to this application. They have stated no objection to the proposal on the grounds that the cellar is not an original part of the building and therefore its removal would not cause harm to the fabric of the main building. The pergola would not be visible from the public realm, and would not appear out of keeping with a pub garden once viewed from inside.

As previously stated, the proposed pergola would not be visible from the public domain and therefore it is considered that the proposal would preserve the character and setting of the conservation area.

(iii) Impact upon residential amenity

The main impact of this proposal includes potential impact of increased noise pollution on the surrounding area and concern has been expressed in regards to this. As the space for potential seating has been increased there are concerns that an increase in seating may increase the use of the garden and therefore the noise levels would increase. It is noted that this is a residential area, with residential properties located within close proximity to the pub and garden, although it is noted that the PH has been situated here for many years, with no planning restrictions on the use of the use of the garden other than the premise's license.

Environmental Health have been consulted in regards to this application and have stated that the increase in floor space and seating would likely result in some intensification of the outdoor space. For this reason a condition has been suggested and agreed with the applicant to limit the use of the sheltered pergola area until 22:00 pm Monday - Sunday and restrict the lighting also to this time. The justification for not imposing this condition has been outlined in the 'Consultations' section of this report. In summary, it has been considered that a condition such as this would not be justifiable from a planning perspective as it does not meet the tests as set out in

Paragraph 55 of the National Planning Policy Framework and amplified in Paragraph 3 of the National Planning Practice Guidance (NPPG). It has been concluded that a curfew condition imposed solely on the pergola could create further issues and would not be adequately enforceable from a planning view point. It is not considered that any additional use of the garden would warrant a refusal for this application, considering that many of the proposed changes could be implemented without planning permission from the LPA.

Environmental Health have also recommended a condition in regards to the reduction in use of lighting- a condition shall be imposed as part of this application stating that no lighting as proposed shall be installed until further details have been submitted stating details of measures to reduce light pollution to the surrounding area.

8 **Conclusion**

This proposal to create a timber framed, polycarbonate roof pergola in the place of the current cellar as well as alterations to the bin store and garden of the Prince of Wales P.H. is considered acceptable in terms of impact on the building, preserving the character and appearance of the Conservation Area . Any additional impact on residential amenity is considered acceptable. It is therefore recommended that permission be granted.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/19/01218

(A) subject to the following conditions

- 1 The development must be begun not later than three years beginning with the date of this permission.

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Location plan received 19.12.2010
Block plan received 19.12.2019
Block plan- cellar to be removed received 19.12.2019
Existing and proposed roof plan POW-003B
Moodboard POW 01A
Existing and proposed floor plan POW -02C
Existing and proposed elevations POW-04
Heritage Statement received 19.12.2019

Reason: - To ensure provision of a satisfactory development.

- 3 No external lighting shall be installed on the site until details of the position,

height and type of lights, including measures to prevent light pollution have been submitted to and approved in writing by the local planning authority. The external lighting shall be installed and operated in accordance with the approved scheme and no other lighting shall be installed or operated.

Reason: To prevent light pollution and in the interests of the amenity of the area and neighbouring properties in accordance with policy CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011.