

<b>APPLICATION NO.</b>	<a href="#">P09/E0066</a>
<b>APPLICATION TYPE</b>	FULL
<b>REGISTERED</b>	03.02.2009
<b>PARISH</b>	HENLEY-ON-THAMES
<b>WARD MEMBER(S)</b>	Mr Terry Buckett Ms Roswitha Myer
<b>APPLICANT</b>	Mr J Hobbs
<b>SITE</b>	Hobbs of Henley Ltd Station Road Henley-on-Thames
<b>PROPOSAL</b>	Application under S73 of the 1990 Town and Country Planning Act to vary conditions 9 and 12 of Planning Permission P08/E0886 (which granted permission for the change of use from A1 (shop) to A3 (restaurant)) to allow the use of outside areas between 09:00 and 23:00 and to allow the opening hours for customers to be between 09:00 and midnight.
<b>AMENDMENTS</b>	
<b>GRID REFERENCE</b>	476387/182393
<b>OFFICER</b>	Mrs H.E.Moore
<b>APPLICATION NO.</b>	<a href="#">P09/E0067</a>
<b>APPLICATION TYPE</b>	FULL
<b>REGISTERED</b>	03.02.2009
<b>PARISH</b>	HENLEY-ON-THAMES
<b>WARD MEMBER(S)</b>	Mr Terry Buckett Ms Roswitha Myer
<b>APPLICANT</b>	Mr J Hobbs
<b>SITE</b>	Hobbs of Henley Ltd Station Road Henley-on-Thames
<b>PROPOSAL</b>	Application for works to deck an outdoor seating area linked to planning permission for a restaurant (P08/E0886).
<b>AMENDMENTS</b>	
<b>GRID REFERENCE</b>	476391/182398
<b>OFFICER</b>	Mrs H.E.Moore

**1.0 INTRODUCTION**

- 1.1 These applications are referred to Committee due to the conflict between the officer's recommendations and the views of the Town Council. Two applications have been submitted and as the issues are interlinked, they are considered together in this report.
- 1.2 The site lies adjacent to the River Thames within the Henley-on-Thames Conservation Area. The building fronts the river with its side facing Station Road, and its rear facing Meadow Road. The ground floor, now vacated, was used as a chandlery shop, and the first floor is in office use. Under planning application P08/E0886, planning permission was granted for the change of use of the ground floor of the building to restaurant use, but work has not as yet commenced.

## 2.0 THE PROPOSALS

2.1 Planning permission for the restaurant use was granted subject to compliance with 13 conditions. Planning application P09/E0066 seeks to vary two of those conditions, and planning application P09/E0067 seeks planning permission for the construction of a decked outside eating area fronting onto the river.

2.2 Planning application P09/E0066 seeks to vary conditions 12 and 9 of planning permission P08/E0886. Condition 12 requires that:

“The use of the premises hereby permitted shall be restricted to between 09:00 and midnight”.

In the information accompanying the application the applicant explains he is concerned that this will not give time for staff to prepare food in the morning before the restaurant is open and time to clear up after customers have left in the evening. In these circumstances, the applicant has requested that the condition be amended to read:

“The use of the premises hereby permitted shall not be open to customers outside the hours of 09:00 and midnight”.

The second condition which the applicant seeks to vary is Condition 9, which requires:

“That no part of the external areas of the site shall be used by customers after 18:00 and before 09:00 hours on any day”.

The applicant considers that the hours of use specified are unduly restrictive, and in view of the riverside setting, requests that the condition be amended to read:

“That no part of the external areas of the site shall be used by customers between the hours of 23:00 and 09:00 on any day”.

2.3 Planning application P09/E0067 seeks permission for the construction of an outdoor decking area in front of the restaurant to be used for outdoor dining in connection with the restaurant use. The proposed decking is some 6 m long and 13 m wide.

2.4 Planning statements accompany the applications, full details of which are available on the Council’s website [www.southoxon.gov.uk](http://www.southoxon.gov.uk).

2.5 In brief, the applicant considers that the suggested amendment to condition 12 would bring it more in line with Government Guidance. With regard to condition 9, the applicant noted there was some Member support expressed for the ability to dine outdoors at the restaurant in the evening. Restrictions ranging from daylight hours only and up to 23:30 were discussed by Members. The outside dining area at the Imperial Hotel is also referred to, together with advice contained in Planning Policy Guidance 24 to the effect that people’s normal sleeping hours are from 23:00 hours to 07:00 hours.

2.6 The applicant confirms that the decking area would be constructed on piers with a permeable area underneath to provide flood storage capacity. In his view the decking would create an attractive area in character with the riverside setting where people would be able to sit and enjoy views of the river and soak up the atmosphere.

2.7 Plans **attached** to the report at Appendix 1 show the location of the site and details of the proposed decking area.

2.8 A copy of planning permission P08/E0886 is **attached** at Appendix II for information.

3.0 **CONSULTATIONS & REPRESENTATIONS**

3.1 **Planning Application P09/E0066 (variation of conditions)**

- |                                |  |
|--------------------------------|--|
| Henley Town Council            | - Objection raised. Comment – unneighbourly, out of character and will cause increased noise and lighting pollution.   |
| Conservation Officer           | - No objection.  |
| Environmental Health Officer   | - No objection is raised to the proposed amendment to condition 12 as the preparation of food before opening and clearing up after closing is unlikely to have any significant impact in terms of noise and disturbance.<br><br>Objection raised to amendment proposed to condition 9 (hours of use for outside seating). Significant concerns are raised about the evening use of the outside area. The site is bordered by residential properties on three sides and is surprisingly quiet from early/mid evening, with relatively little traffic noise. It is strongly recommended that the existing condition is retained, so that the use of the external area is restricted to between 09:00 and 18:00 hours, in order to minimise disturbance to local residents. |
| Henley Society                 | - Objection raised. Comment – when permission was granted under P08/E0886 for change of use to restaurant, a restriction on opening hours was imposed to curtail the amount of disturbance caused to neighbours. We object to any relaxation of these conditions.  |
| Responses from local residents | - See below.   |

**Planning Application P09/E0067 (decking)**

- |                              |  |
|------------------------------|--|
| Henley Town Council          | - Objection raised. Comment – unneighbourly on account of the increased noise levels caused by customers on the decking.   |
| Conservation Officer         | - No objection, this small area of decking would not interfere with the original doors and will not be visually intrusive.   |
| Environmental Health Officer | - No objection raised to the provision of a decked seating area provided that the use of the decked area is restricted to between 09:00 and 18:00 hours in order to minimise disturbance to local residents. |

- Leisure & Economic Development Officer - Strong support as set out in letter of 2 September 2008. Comment – ‘The addition of a decked outside seating area will make best use of the asset that the river provides for this business and contributes to differentiating its offer from other restaurants in the town thus significantly contributing to its long-term viability. This is particularly important at a time when many businesses are struggling in the town and the eating and drinking offer has been recently reduced with the closure of some high profile venues. On that basis we would strongly support that planning permission is granted.
- Henley Society - No objection.
- Environment Agency - The proposal falls within the scope of the Environment Agency’s Flood Risk Standing Advice.
- Responses from local residents - Combined responses to both applications include the following issues:  
3 letters in support
- i) It’s surprising that use of the outside area not included in the original consent
  - ii) The restaurant has a unique riverside setting where outside dining would be an expectation of customers. It would allow applicants to maximise their unique riverside location.
  - iii) Restricted hours indicate a responsible consideration for neighbouring properties.
  - iv) The proposed hours of use are the same as on board Hobbs boats, and the proposals should not provide additional disturbance.
  - v) In difficult economic circumstances, it’s vital that small businesses are supported by the Council.
- 1 letter commenting – the front and rear outdoor areas must be clearly defined and enclosed.

11 letters of objection :

- i) This area in the evening provides peace and tranquillity to those living in the area. When planning permission was granted many Members had no local knowledge.
- ii) The proposals will adversely change the appearance of the Conservation Area.
- iii) One hundred and forty four residents living at Boathouse Reach, Hewgate Court, River Terrace, Royal Mansions and Baltic Court are affected by the restaurant.
- iv) Outdoor dining will cause significant late night noise and intrusion. It will also include gas heaters, awnings and light spillage. There are public order issues serving alcohol late at night close to the river.
- v) The proposals are contrary to local plan policies.
- vi) Planning permission was granted subject to conditions designed to safeguard the amenity of residents. These proposals are designed to remove those safeguards.
- vii) Hobbs could have had fine dining on their boats and not needed a restaurant.

Any additional comments received will be reported verbally to the Committee.

#### 4.0 **RELEVANT PLANNING HISTORY**

- 4.1 P08/E0886 – Change of use from A1 (shop) to A3 (restaurant), extension to roof to incorporate plant room. Planning permission granted.

P07/E1083 – Change of use from A1 to A3. Planning remission refused.

#### 5.0 **POLICY & GUIDANCE**

- 5.1 Adopted South Oxfordshire Local Plan 2011 Policies:

G2 – Protection and enhancement of the environment

G6 – Promoting good design

C3 – The River Thames and its valley

CON7 – Proposals affecting a Conservation Area

EP2 – Noise

EP5 – Flood risk

D5 – Promoting mixed use development

D7 – Access for all

TC1 – Extending the range and quality of facilities in town centres

TC2 – Town centre facilities

TC8 – Town centre shop uses

TSM1 – Tourism

TSM2 & 3 – Tourist attractions and facilities

Government guidance

PPS24 – Planning and noise

PPG15 – Planning and the historic environment

PPS25 – Development and flood risk

## 6.0 **PLANNING CONSIDERATIONS**

6.1 The main issues to be considered in the determination of these planning applications are:

- i) Whether the variation to condition 12 would have an unacceptable environmental impact.
- ii) Whether the variation to condition 9 would have an unacceptable environmental impact.
- iii) Whether the provision of an outdoor seating area would be satisfactory in terms of its design in a conservation area, and if so
- iv) What would be the appropriate hours of use for the outside seating area.

### **Amendment to Condition 12**

6.2 The principle of a restaurant use has been granted on the site as the Council considered that the use complies with planning policies set out in the South Oxfordshire Local Plan 2011 (SOLP) relating to town centre and leisure uses. Planning permission was granted subject to conditions to ensure that the use would preserve the character of the Conservation Area and would not materially harm the living conditions of nearby residents. With regard to condition 12 (opening hours from 9am to midnight), the reason for imposing this condition was:

‘To protect the amenity of adjoining properties in accordance with policies EP2, TC1, TSM2, and TSM3 of the South Oxfordshire Local Plan 2011.’

6.3 Officers have further considered the wording of this condition and are of the view that the proposed variation would be reasonable. It would give additional time to staff for preparation of food in the mornings before the restaurant opened to customers at 9am, and allow additional time for staff to clear up after the restaurant closed at midnight. The food preparation and clearing up would take place within the building. Officers consider that this variation would not cause material harm in terms of noise and disturbance to nearby residents and would be in accordance with Government advice on the imposition of conditions on planning permissions.

6.4 Accordingly, variation to this condition is recommended for approval.

### **Amendment to condition 9 (use of outdoor areas).**

6.5 Many of the conditions imposed on the planning permission were designed to keep noise within the building. These included conditions concerning window opening, ventilation details and extraction details. Other conditions require that there should be no deposit of waste/recycling materials or deliveries to the premises before 08.00 and after 18.00. These conditions were imposed to ensure that the restaurant use can operate satisfactorily in a primarily residential area without causing undue noise and disturbance to residents. Condition 9 which requires that outside areas shall not be used by customers after 18.00 is in line with those conditions.

6.6 Planning policies relating to town centre and tourism are subject to the proviso that the use should not detract from the amenity of an area. As stated previously, this site has a busy character during the day, which is mainly due to passing traffic. However visits to the site in the evening by Officers have confirmed that there is a very marked change in the character of the area in the evening compared with daytime activity. The amount of passing traffic after the rush hour is relatively quite low, and accordingly the area is much quieter and takes on its very residential character. In these circumstances, Officers are very concerned that the use of outdoor areas around the restaurant up until 23.00 would be likely to result in undue noise and disturbance to adjacent properties.

Accordingly, objection is raised to the variation to the condition relating to the hours of use of outside areas and the amendment to this condition is recommended for refusal.

**Design of outdoor seating area**

- 6.7 The site lies within the Henley on Thames Conservation Area. The decking is proposed to be constructed in timber and does not interfere with the original doors to the building fronting onto the river. As such the design and appearance of the proposed outside seating area is considered by Officers to be satisfactory within the Conservation Area in this riverside setting. Accordingly, the construction of the decking is recommended for approval.

**Use of the outdoor seating area**

- 6.8 The restaurant use relates to the riverfront and the provision of a seating area outside the restaurant would be a popular attraction. Use of the outdoor seating area during the day would relate to the busier nature of the area at that time of day. However, significant concern is raised to the use of the seating area after 18.00 for the reasons set out in paragraph 6.6 above, and set out in the Council's Environmental Health Officer's comments. Officers would raise no objection to the use of an outdoor seating area up until 18.00, but would raise significant concerns if its use extended beyond those hours and consider that an extended use would result in unneighbourly development. In these circumstances, Officers recommend that any permission for the construction of the outdoor decked seating area should be subject to a condition limiting its use to between 09:00 and 18:00.

7.0 **CONCLUSION**

- 7.1 No objection is raised to the variation of condition 12 of planning permission P08/E0886. However, objection is raised to the variation of condition 9 of this permission as Officer's consider that this would result in undue noise and disturbance to adjoining residents.
- 7.2 No objection is raised to the construction of an outside decked seating area, provided that the use of the area ceases at 18.00. Officers consider that an evening use of the area would result in unneighbourly development.

8.0 **RECOMMENDATION**

8.1 **Planning application P09/E0066**

**That planning permission be granted subject to all of the conditions, including Condition 9, imposed on planning permission P08/E0886 apart from condition 12 which should be amended to read**

**'That the use of the premises hereby permitted shall be restricted to between 09:00 and midnight, with the exception of staff employed on the premises.**

**Planning Application P09/E0067**

8.2 **That planning permission be granted subject to the following conditions –**

1. **Commencement 3 years.**
2. **Submission and approval of sample materials**
3. **That the seating area hereby approved shall not be used by customers after 18.00 or before 09.00 hours on any day.**

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