

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan. Ref Expiry Date
J. D. Weatherspoon plc 'A'	Pavement café seating area, located to the front of the building, to include free standing demountable screens and removable furniture (as amended by plans received 30.05.2007) - Golden Cross Hotel, 20 High Street, Bromsgrove	PSS TCZ CA	<b>B/2007/0473</b> 29.06.2007

Councillor Mrs. R. L. Dent has requested that this application be determined at Planning Committee.

**RECOMMENDATION:** that permission be **REFUSED**.

### Consultations

- WCC(HP) Consulted - views received 23.05.2007 - no objection: subject to a condition.
- "Recommends that any permission which the District Planning Authority may wish to give include the following conditions:-
- Prior to the implementation of any consent granted, a licence under Section 115E of the Highways Act 1980 inserted under the Local Government (Miscellaneous Provisions) Act 1982 must be acquired from the District Council or County Council. Reason: To ensure that the pedestrian passage is protected by a regulated proposal.
- Without a licence this proposal would be considered to be an obstruction of the Public Highway which would be an offence and may result in enforcement action being taken.
- It should also be noted that the establishment of tables and chairs for Public Amenity benefit in principle is acceptable, but the area cannot be enclosed by barriers or screens, this would result in an objection from the Highway Authority."
- CO Consulted 09.05.2007 - views received 31.05.2007
- "In principle I have no objection to seating outside the pubs and cafes in the High Street. However the Golden Cross is not located on the pedestrianised part of the High Street, and the pavement is relatively narrow here. I therefore consider that the positioning of a seating area outside the pub especially as proposed, two rows of tables, will result in visual clutter. In addition part of the application is for the provision of heaters. A description of the heaters has not been provided. If some sort of wall mounted electric heater is being proposed we would need to know what they look like, how large they are likely to be, and any likely impact on the façade of the building.
- I therefore have to object to this proposal."
- I note that the main aim of this application is to cater for smokers, but they are currently catered for to some degree in the beer garden to the rear, and there is an application in to provide a protected area for smokers here.

- EH Consulted 23.05.2007 - comments received 30.05.2007 relating to the "Smoke Free (Premises and Enforcement) Regulations 2006" which states that "the canopy must not create an area which is enclosed or substantially enclosed."
- WMC Consulted - comments received 17.05.2007 - Does not object but asks that conditions are imposed:
1. Whilst the police do not object to pavement seating we request two planning conditions should this application be granted.
  2. Firstly that no alcohol be consumed in this area as it fall within the area of The District Council of Bromsgrove Designation Order (Various Locations) 2007 (No. 1) that came into force on 31.01.2007. This order was granted under The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001.
  3. Secondly that all free standing screens and removable furniture be cleared away from the site by 20.30 hours. This is in order to reduce the fear of crime and discourage groups from gathering when the bar is closed. There is a risk that the screens and furniture may be damaged or used to cause damage.
  4. I fail the see the requirement for this application as there is already a suitable beer garden at the rear of the premises.
- Publicity Site notice posted 23.05.2007 - expires 13.06.2007  
Press Advert 18.05.2007 - expires 08.06.2007  
2 letters sent - expire 30.05.2007

### The site and its surroundings

This application relates to a public house located on the High Street. The building is within the town centre Conservation Area and is adjacent to a Listed Building.

The public house known as the Golden Cross Hotel is run by the national chain J. D. Wetherspoon. It is located on the south end of the High Street, where vehicular traffic is allowed to travel but near to the main pedestrianised High Street.

To one side of the public house is an Estate Agent (Class Use A2) and to the left hand side is a premises currently used for A1 retail but a recent planning application was approved to use the ground floor of this building for restaurant (Class Use A3).

### Proposal

This application relates to the placement of tables and seating outside the front of the public house, to include glazed screening, which will section the seating area off from the existing pedestrian's pavement. The amount of seating proposed is substantial and consists of seating for approximately thirty people.

The tables and seating proposed are to be freestanding and the screening is also demountable. The applicant has also stated that all the equipment will be removed every evening, at a time agreed by the Local Planning Authority.

## Relevant Policies

WMSS	QE1, QE5
WCSP	CTC.19 CTC.20, SD.2
BDLP	S35a, BROM22, DS13, BROM11, BROM13, S42, S45
Others	PPS6, PPS1, PPG15, SPG2

## Relevant Planning History

B/2003/1321	Extend the existing beer garden into existing allocated staff car parking spaces - Listed Building Consent Granted 27.11.2003
B/2003/1319	Modification of condition number 6 of B/1994/0812. Granted 14.11.2003
B/1994/1063	Display advertisement. Granted 13.02.1995
B/1994/0812	Ground floor rear and side extension. Granted 07.11.1994
B/1993/0635	Alterations and extension of existing building. Granted 23.09.1994

## Notes

There are no policies within the Bromsgrove District Local Plan or the Worcestershire County Council Structure Plan that specifically relate to the provision of outdoor seating. However, National Planning Policy Statement 6 "Town Centres" states that Local Planning Authorities must seek to encourage vitality of town centres and this is supported by guidance within the WCSP to enhance the quality of the county's town centres. I am of the view that external seating area would add interest and vitality to the town centre. However, there are other considerations to be addressed with regards to determining this application.

1. Access; and
2. The effect of the proposal on the Town Centre Conservation Area.

I will now address each concern in more detail.

## **Access Issues**

The proposed screening as indicated on the original submitted drawings is to section of the whole width of the area in front of the public house. The plan also shows that from the columns either side of the main entrance, the screens will section of an area of 3.7 metres into the pedestrian pavement. The same plan shows that this screens off approximately half of the public highway, leaving 3.8 metres in between the screening and the end of the public pavement which meets the road. However, upon checking measurements on site, your officer can report that this distance is less than 2 metres, which is substantially less than indicated on the plan. I raised this issue with the agents who have now submitted a revised drawing which has reduced the area to be enclosed for seating slightly to 3.5 metres but still leaves only 1.9 metres for pedestrians to pass by. This distance is not felt to be adequate for a busy shopping street and is my primary concern of this application.

The Worcestershire County Council Highways Partnership have been consulted and raise no objections subject the granting of planning permission, subject to a condition

being attached. They also advise that the proposal requires a separate licence from them, even if this proposal is to gain planning permission. They comment that the "establishment of tables and chairs for Public Amenity benefit in principle is acceptable" but they would object to the seating being enclosed by barriers, as it is proposed in this instance.

In my opinion it is not only the screening that will cause disruption to the Public Highway but also the table and seating which are the fundamental part of this application. The accommodation of such equipment will obstruct pedestrian movement.

Policy BROM22 states that the District Council highlights that particular attention should be given to the needs of disabled people and pedestrians. This proposal will introduce a clear obstruction to both pedestrians and furthermore disabled people and therefore does not comply with this policy.

Policy S29 of the Bromsgrove District Local Plan also states the council should ensure adequate provision is given to access by the disabled.

Members will also note the views of the WMC in relation to this application.

### **Conservation Area Issues**

The proposed new seating is proposed not only on a pedestrian shopping street but also on a public viewpoint for the Town Centre Conservation Area. In addition, the building next door is a Listed building. The Council must seek to preserve and enhance the special character of both the Conservation Area and adjacent Listed Building.

Policies S35a of the Bromsgrove District Local Plan and CTC.20 of the Worcestershire County Council Structure Plan emphasise the importance of preserving and enhancing the quality of the appearance within Conservation Area and this guidance is supported by Planning Policy Guidance Note 15. Policy S39 of the Bromsgrove District Local Plan and CTC.19 of the Worcestershire County Council Structure Plan states that development must not be permitted if it would adversely affect the settings of listed buildings.

Outdoor seating to the front of the premises will not enhance or complement the setting of the Conservation Area. It will add unnecessary clutter and therefore deter away from the historic buildings which are contained within the Conservation Area, including the adjacent Listed Building.

The applicant has not specified designs of the type of tables and chairs to be considered as part of this application. They have, however, submitted some examples for indicative purposes. The designs are of a modern design and, whilst your officer does not object to modern designs within the Conservation Area, they must still be sympathetic to the character of the Conservation Area. In this instance, no design consideration to its historic setting has been given consideration. The CO has raised objections to the scheme.

## **Conclusions**

While accepting that the introduction of seating onto the High Street may add to the vibrancy of the Town Centre, this proposal raises concerns which I do not believe can be overcome by imposing conditions. These issues relate to Highway safety, due to obstruction of the Public Highway; and harm to the character and appearance of the Conservation Area. The importance of these issues could warrant refusal independently so, as they stand collectively, they make a robust reason for refusal.

In addition I have taken into regard the fact that this particular public house already has a beer garden and seating to the rear.

**RECOMMENDATION:** that permission be **REFUSED**.

The proposed development would obstruct pedestrian flow along the High Street. It does not, therefore, safeguard the shopping environment and is contrary to policy DS13 of the Bromsgrove District Local Plan. The addition of table, chairs and screens will also add clutter to the Town Centre Conservation Area and therefore cause visual harm to the character and appearance of this historic setting, contrary to Policy QE5 of the West Midlands Spatial Strategy, Policy S35a of the Bromsgrove District Local Plan, Policies CTC.19 and CTC.20 of the Worcestershire County Structure Plan, and the provisions of PPG15.