

App. No.: **64769** Reg. : **05/11/18** Applicant: **J D WETHERSPOON PLC**  
L. Bldg. : Expired: **31/12/18** Agent : **K D PAINE & ASSOCIATES LTD**  
Parish : **BARNSTAPLE**  
Case Officer : **Mr M Brown**

Proposal: **CHANGE OF USE OF LAND TO CREATE A BEER GARDEN**  
Location: **THE WATERGATE, 7 THE STRAND, BARNSTAPLE EX31 1EU**

## **PROPOSAL**

Change of use of land to create a beer garden along with the installation of associated fencing, seating and structures.

The beer garden will be enclosed by a metal fence with a gated access. The current plans show the provision of a band stand style seating structure, 6 sail kite shading umbrellas and approximately 84 tables with associated chairs.

## **RECOMMENDATION**

REFUSE

## **SITE AND SURROUNDINGS**

This site is located along the Strand, an historic quayside part of Barnstaple and one which is located near the core of the early town. The site is within Barnstaple conservation area. This part of Barnstaple was previously a working quayside. Prior to the linear river wall being introduced which enabled larger ships to be moored alongside the quay, boats were brought into one of several smaller quays that are still reflected in the shape and location of the publicly accessible open spaces along this part of the Strand.

At present the site is used as public open space, with seating and grass available for leisure and occasional events. Members of the public can walk across the site from The Strand to the river walk. Nearby, there are several listed buildings and many undesignated historic buildings of quality. The most significant of the listed buildings are the 13th century grade I listed Long Bridge across the Taw which has direct sight lines to and from this proposal site, and the grade II\* Queen Anne's Walk located a short distance away along the Strand. The bridge and Queen Anne's Walk also reinforce the historic relationship between the town and the river.

The grade II listed Bridge Chambers is directly to the south-east, the grade II listed Bus Station Office (now Tea on the Taw) and the grade II K6 telephone boxes are to the north-west, together with grade II listed lamp-posts to the north-east. The site also incorporates a sundial which is of historic importance.

The applicants public house, from which the site would be serviced, is located to the north of the site across the public highway. The Strand is a one way road, albeit cycles can travel both ways, it is a shared surface with no designated footways. It is subject to no parking at any time. Use of The Strand by vehicles (except buses, taxis and permit holders) is prohibited during the day between 10am and 4pm, and at night between 10pm and 3am.

## **REASON FOR REPORT TO MEMBERS**

The proposal is on Council owned land

## **POLICY CONTEXT**

The North Devon and Torridge Local Plan has recently been adopted and the following policies are relevant:

North Devon and Torridge Local Plan (2011 – 2031)

ST12 - Town and District Centres

ST04 – Improving the Quality of Development

ST15 - Conserving Heritage Assets

BAR - Barnstaple Spatial Vision and Development Strategy

DM04 – Design Principles

DM07 – Historic Environment

DM01 – Amenity Considerations

DM02 – Environmental Protection

DM05 - Highways

DM08 - Biodiversity and Geodiversity.

DM09 – Safeguarding Green Infrastructure

DM10 - Green Infrastructure Provision

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states a general duty of a Local Planning Authority as respects conservation areas in exercise of planning functions. In the exercise, with respect to any buildings or other land in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

In considering to grant planning permission which affects a listed building or its setting the LPA shall have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses in accordance with Section 66 of the Listed Building Act.

There is also a conservation area appraisal and management plan for the area which is a material consideration, as is the National Planning Policy Framework.

## **CONSULTEE RESPONSES**

**Town Council** - That the application is refused on the grounds of the loss of Public Open Space, due to the fencing in of the facility for exclusive use by the applicant. It will have a significant impact on the local amenity value of the area and the ability for this area to be used for local events and for the day to day use by members of the public and it is set between two listed premises and situated within a conservation area. It may also generate significant noise for local residents.

**Historic England** - Historic England have strong concerns about this proposal. We consider that the application proposal would not preserve or enhance Barnstaple conservation area. The development would also erode the quality of the public realm and views along the Strand, would cause harm to the significance of the historic quayside and its relationship to the river Taw, and to views to and from the Long Bridge, a grade I listed structure. Historic England believe that a much reduced scheme may be acceptable in

heritage terms, but that the current scheme causes unjustified levels of harm to the historic environment. Full response available at Insert 3.

**NDC Conservation Officer** - I do, however, have concerns about the other aspects of the scheme, which basically comprise the enclosure of a significant amount of public space with a metal fence and gates, the provision of 6 sail kite shading umbrellas, 4 seating banquettes and, judging from the plans, 84 tables with associated chairs. This is a considerable quantity of additional fittings, and will alter the character of this part of the Strand in a very noticeable way. Given that the character is currently very open and public, the addition of this quantity of furniture is likely to give rise to a sense of visual and physical clutter. The proposed fence will also reduce the amount of public space available for various activities, which again will alter the settings of the listed buildings, all of which have a public, as opposed to private, function. The choice of furniture and fittings does not relate well to other areas of the Strand, and will not generate a sense of coherence in this part of the townscape.

As it stands, I consider that this proposal will not preserve or enhance the character or appearance of the Conservation Area, nor will it preserve the settings of the various listed buildings. The proposal will result in a degree of harm to the various heritage assets therefore under the terms of paragraph 196 of the NPPF, the public benefits of the proposal will need to be weighed in the balance when the decision is made. Full response available at Insert 4

**NDC Economic Development** - From an economic development point of view, we would like to support the above application.

It has always been the ambition of North Devon Council to create a vibrant and busy leisure space along The Strand, making the most of the water frontage and historic architecture.

The area along The Strand is currently under-utilised and with the new development at Anchorwood Bank the town centre is shifting towards the river. The area has the potential to be a real draw for those looking to eat, drink, relax and enjoy events in the town.

The Barnstaple Coastal Community Team echoed these sentiments based on the findings of their public consultation events. The Economic Plan created by the team highlights the importance of re-invigorating The Strand to support the Town Centre.

North Devon Council Executive Committee resolved to appropriate the former fish market site for other purposes under section 122 of the Local Government Act 1972 (subject to consultation).

The aim of this project was to improve the space along The Strand in order to encourage café culture in this area. The vision was for a more attractive area with improved protection from the weather.

Wetherspoons are an established brand with an affordable family offering. There are two Wetherspoons pubs in Barnstaple and they are very popular with visitors and locals alike. The creation of a garden on The Strand would enhance the offering for visitors, families, locals and groups to meet, socialize and enjoy the riverside setting.

### **NDC Environmental Health -**

I do not believe I can justify an objection to the proposals on noise / amenity grounds given the context of the area and the existing presence of outside customer spaces, public areas etc. in this locality.

I note the Safety Statement includes a Cafe Management Plan, which states restricted beer garden use hours from 8am to 11pm daily. I recommend any permission include a condition to this effect.

The submitted Cafe Management Plan includes a statement that no amplified sound will be used at the beer garden area. I recommend any permission include a condition to this effect.

The applicant should be advised to contact North Devon Council's Licensing team in relation to Premises Licensing requirements.

**Environment Agency** - We have no objections to the proposal as submitted. The existing Flood Warning Evacuation Plan will need to be 'extended' to cover the proposed beer garden.

**DCC Highways** - The proposal would result in people walking between the pub and beer garden across The Strand. While this happens at the present time as people leave the pub to smoke and socialise, it is not currently permitted to do this with drinks. therefore there is likely to be an increase in people walking across the road, in both directions, with and without drinks in their hands. Cyclists are permitted in travel in either direction on The Strand.

The Strand is a one way road, a shared surface with no designated footways. It is subject to no parking at any time, although due to poor enforcement there are often vehicles parked on the road, particularly in the evening. Use of The Strand by vehicles (except buses, taxis and permit holders) is prohibited during the day between 10am and 4pm, and at night between 10pm and 3am.

Pedestrians crossing between the proposed beer garden and pub would have adequate visibility of approaching vehicles, and would only need to look in one direction. Cyclists could clearly be seen in either direction. Passing vehicles would have adequate visibility of pedestrians wishing to cross the road, and due to the shared nature of the street will be travelling slowly and carefully.

The use of the pub's smartphone app reduces the number of customers needing to cross the road, as food and drinks can be delivered to people in the beer garden by staff rather than customers needing to go to the bar to order.

The most recent available five years (1/1/13 to 31/21/17) of traffic collision data shows no recorded collisions on the whole length of The Strand.

With reasonable use of the road by drivers, acting lawful, and taking the shared nature of the street into account, I have no evidence to show nor reason to think that they proposal would be unsafe and therefore have no objection to the proposal.

**Project and Procurement Officer** - Policy DM09 does not support the loss of public open space and will only be supported where:

- a) alternative green infrastructure is provided of at least equivalent size, quality and accessibility to that being lost;  
 or  
 b) the green infrastructure network in the locality can be retained or enhanced through redevelopment of a small part of the site; and in either  
 c) there is no net loss in sustainable travel options I cannot see how either a, b or c can be met. Events are held in this area, and this change of use would result in the loss of the amenity area.

Through DM10, we could consider a commuted open space contribution to enhance the seating and amenity offer throughout the strand and improve the public realm through investment in the appearance of the existing railings. A contribution of £13,644 to cover the improvements required at The Strand could be secured.

**Police Architectural Liaison Officer** - Police have no objections in principle to this proposal. However, based on the available plans and documentation, there are a number of issues and serious concerns from a designing out crime, community conflict, public and staff safety and anti-social behaviour perspective which need to be considered and resolved. With this in mind I have sought the opinion of police colleagues from the Neighbourhood Policing Team and the Road Casualty Reduction Officer. Full response available at Insert 5

## **REPRESENTATIONS**

\*At the time of preparing this report 25 letters of objection and 1 letter of support have been received relating to the application, along with 1 representation. (Copies of all the letters have been made available prior to the Planning Committee meeting in accordance with agreed procedures).

### Summary of Issues

The application should be decided at Committee level.

Application form answers do not represent proposal.

Loss of public open space which is used by the public and organisations such as the International English Language Organisation (up to 100 students at a time) and carnival.

Impact on heritage assets.

Highway safety

Impact on business operations due to amenity

Flood risk

Lighting impact on wildlife

In the positive the generation of footfall is welcomed.

\*See attached list for representation names and addresses.

## **PLANNING HISTORY**

Reference	Proposal	Decision	Date
26917	Conversion of former bus station to café and associated works.	Approved	Sept 1999

## **SUMMARY OF ISSUES**

Business Use and Economic Benefit  
Loss of Public Open Space  
Heritage assets.  
Highway safety  
Amenity/Anti Social Behaviour  
Flood risk  
Other Matters

## **PLANNING CONSIDERATIONS**

### **Business Use and Economic Benefit**

Policy ST12 states that Employment, residential, community and health services, leisure and tourist facilities, attractive spaces and a balanced night life will be encouraged within the town centres and environs to achieve a mix of facilities and active town centres.

Policy BAR contained in the adopted Local Plan sets out that Barnstaple will develop as an exemplar of sustainable living to become a healthier, safer and more prosperous town with an attractive and inclusive environment that protects the town's historic character whilst capitalising on its built heritage. The town centre will be revitalised and expanded to promote a healthy and vibrant town centre to support its vitality, viability and economic prosperity, including a vibrant and diverse evening economy. And finally it sets out that the historic town will capitalise on its built heritage, cultural assets, open spaces and wildlife habitats to promote healthier lifestyles, enhance its distinctive identity, maximise the potential of its waterfront and public spaces.

The NPPF confirms that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. It goes on to state that planning policies should promote their long-term vitality and viability by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries.

The proposal will support the economic prosperity of the town, however, this needs to be balanced against negative impacts on the historic character which is to be capitalised upon, along with open spaces.

### **Loss of Public Open Space**

It is understood that the land in question will be let to the applicant by the District Council on a 15 year term if planning permission is secured. This would enable the Councils Estates section to apply additional controls such as maintenance of the site.

The Councils Green Infrastructure study which was prepared to support the local plan sets out in Part 2 how sites were selected. Parts 2.3 and 5.1-5.6 'audit of existing assets' and 9.7 'facilities that are surplus to requirement' are key. The application site includes an area identified as forming green infrastructure and there is not a surplus of such areas in Barnstaple.

The area in question is public open space. Besides general use it is used as part of events for the town, including the carnival, Christmas light switch on, and the tour of Britain

cycle race. It is the last public greened space abutting the water that remains in the town centre core.

The loss of POS is a fundamental issue in policy terms. Policy DM09 (Safeguarding Green Infrastructure) sets out that:-

Development involving the loss of green infrastructure including public open space will only be supported where:

- (a) alternative green infrastructure is provided of at least equivalent size, quality and accessibility to that being lost; or
- (b) the green infrastructure network in the locality can be retained or enhanced through redevelopment of a small part of the site; and in either case
- (c) there is no net loss in sustainable travel options.

Furthermore Policy DM08 sets out that Development should avoid adverse impact on existing features as a first principle and enable net gains by designing in biodiversity features and enhancements and opportunities for geological conservation alongside new development. Where adverse impacts are unavoidable they must be adequately and proportionately mitigated. If full mitigation cannot be provided, compensation will be required as a last resort.

Based on these policies there is a need to protect the open space, which the site is considered to be.

Through Policy DM10, the Local Planning Authority could consider a commuted open space contribution to enhance the seating and amenity offer throughout The Strand and improve the public realm through investment in the appearance of the railings. This could equate to a contribution of £13,644. However this would be a one off payment not providing for the physical loss of open space in perpetuity or equivalent physical area, particularly in close proximity.

### **Heritage Assets.**

The Councils Conservation Officer and Historic England have commented on the heritage assets along with those making representation, as set out above.

It is worth noting that It is understood that all the structures associated with the proposal will be in place permanently and not removed at night.

The openness of these areas, and their direct visual relationship to the river is critical to an understanding of the importance of the former quays, the river and the transportation of goods and how this contributed to the success of Barnstaple as a town.

Nearby, there are several listed buildings and many undesignated historic buildings of quality. The most significant of the listed buildings are the 13th century grade I listed Long Bridge across the Taw which has direct sight lines to and from this proposal site, and the grade II\* Queen Anne's Walk located a short distance away along the Strand. The bridge and Queen Anne's Walk also reinforce the historic relationship between the town and the river.

Historic England have strong concerns about this proposal and how it will impact on the character and appearance of Barnstaple conservation area. As set out above there is a

duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that requires local authorities to give special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. They have concluded that, this proposal does not comply with the Act and in fact causes high levels of harm. The harm is caused by the introduction of railings, the band stand features, the sail canopies and some of the additional lighting. These features create clutter in what is a characteristically open area, and further, interrupt sight lines between the Strand and other heritage assets such as the Oliver Buildings and more significantly, the grade I listed Long Bridge. The proposal does not respect the character and quality of the Strand and represents a retrograde step in the recent efforts to enhance this part of Barnstaple.

Views to and from the Long Bridge will be harmed, interrupted with the pub garden paraphernalia. Views of other listed buildings, such as Bridge Chambers, will also be reduced in quality. These views form a part of the greater setting of the heritage assets. The setting of listed buildings contribute their significance and are an important contributory factor in their special interest.

The National Planning Policy Framework (NPPF) in paragraph 189 states that local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance. Unfortunately, the application submitted is not considered to contain an appropriately robust or detailed assessment.

The NPPF at para 193 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 (and the more important the asset, the greater the weight should be). Any harm requires clear and convincing justification (NPPF 194) and, where harm is proposed, this should be weighed against any public benefits (NPPF 196).

Some change of use may be acceptable in this location with due consideration for the character and setting of the heritage assets and important views, but the current scheme would need to be radically pared back to avoid unjustifiable harm. This has been put to the applicant, (along with a reduction in size it was suggested that removal of the means of enclosure and removal of furniture outside of hours be considered, as currently happens outside the existing premises) however no revised details have been received at the time of writing this report and as such the application is to be determined as submitted.

Members therefore need to decide if the harm caused to the significance of the conservation area and to the listed buildings including the grade I listed Long Bridge (where part of that significance stems from its setting), is justified by the proposal to create an enclosed private beer garden for the use of patrons of one public house. This will be considered in the conclusion.

## **Highway Safety**

If approved the proposal will result in people walking between the pub and beer garden across The Strand. While this happens at the present time as people leave the pub to smoke and socialise, it is not currently permitted to do this with drinks. Therefore there is likely to be an increase in people walking across the road, in both directions, with and without drinks in their hands.



Cyclists are permitted in travel in either direction on The Strand. However, The Strand is a one way road, a shared surface with no designated footways. It is subject to no parking at any time, although due to poor enforcement there are often vehicles parked on the road, particularly in the evening. Use of The Strand by vehicles (except buses, taxis and permit holders) is prohibited during the day between 10am and 4pm, and at night between 10pm and 3am.

The Highway Authority have set out that *“pedestrians crossing between the proposed beer garden and pub would have adequate visibility of approaching vehicles, and would only need to look in one direction. Cyclists could clearly be seen in either direction. Passing vehicles would have adequate visibility of pedestrians wishing to cross the road, and due to the shared nature of the street will be travelling slowly and carefully.”*

*The use of the pub's smartphone app reduces the number of customers needing to cross the road, as food and drinks can be delivered to people in the beer garden by staff rather than customers needing to go to the bar to order.”*

The Highway Authority have gone on to conclude that *“with reasonable use of the road by drivers, acting lawful, and taking the shared nature of the street into account, I have no evidence to show nor reason to think that they proposal would be unsafe and therefore have no objection to the proposal.”*

The Police have considered the proposal and advised that the establishment of a remote beer garden raises the potential for conflict between patrons and road users. They again note that in practice there is sporadic enforcement of the traffic and parking regulations with many motorists now using the route as a ‘cut through’ and evening (1700 hrs onwards) parking is prevalent.

An important consideration is safety of patron and staff delivering food and drink to waiting patrons. The Police have summarised this; *“patrons, some distracted and likely under the influence of alcohol, exiting the Watergate to walk across the road to the beer garden will have the perception that this is a ‘pedestrian zone’ closed to traffic, which in turn is likely to lead to an increase in confrontation and conflict with motorists and cyclists.”*

Furthermore the Police have suggested that *“given the close proximity to a ‘live’ road way and ongoing issues with parking, consideration should be given to the installation of bollards or planters at an appropriate and approved spacing along the length of the footpath from Bridge Chambers to the furthest end of the proposed beer garden.”* This would erode the shared nature of the road and increase clutter impacting of the setting of the heritage assets..

### **Amenity/Anti Social Behaviour**

There are a number of commercial uses adjacent to the site including a bereavement counselling services, but in the main there are eating establishments and public houses, some of which have flats above.

Concern about impact on the operation of the counselling service have been raised by representation, along with potential anti social behaviour issues.

The Environmental Health Officer suggests that an objection to the proposals on noise / amenity grounds given the context of the area and the existing presence of outside customer spaces, public areas etc. in this locality cannot be sustained.

The Environmental Health Officer goes on to state that if permission is granted planning conditions should be imposed to control hours of operation (8am to 11pm daily) and to confirm that no amplified sound will be used at the beer garden area

Of course, if planning permission is secured for the proposed use a Premises License will also be required and revisions to the Public Spaces Protection Order which covers the area may be required; this currently requires that if a constable reasonably believes that a person is consuming alcohol in a designated place, he may require that person not to consume any alcohol and to surrender anything in his possession which the constable believes is alcohol.

As the Police remind us, quite simply, we cannot decide this application purely on what the street aesthetics will be. Crime, anti-social behaviour and the fear of, must feature heavily with all deliberations. To allow the creation of a 'beer garden' on The Strand has potential to exacerbate problems when considering the night time economy and the challenges that brings to safety and security of persons and property.

The proposed railings are unlikely to prevent entry being gained into the beer garden and the constant provision of furniture along with cover in the form of the proposed bandstand and shade sails is likely to attract unwanted attention after hours from patrons of the Watergate, other near-by establishments or groups/individuals looking for a convenient place to gather.

The police have welcomed the intention to cover the proposed site with the extension of the current CCTV system. However, have gone on to recommended that the removal of furniture and the extension of the CCTV system be considered as a planning condition if planning permission is granted. Furthermore the close proximity of the estuary wall will raise the risk of individuals, some intoxicated, exiting the beer garden to sit on the wall and drink. Consideration should therefore be given to the inclusion of suitably approved water safety equipment being installed and available to use.

Policy DM01 of the Local Plan advises that Development must have regard to the importance of protecting residential and other amenities. People are entitled to enjoy their own homes or public places without undue disturbance or intrusion from neighbouring uses. Good neighbourliness and fairness are some of the yardsticks against which proposals can be measured. Policy DM04 concludes that public and private spaces should be well designed, safe, attractive and complement the built form, designed to minimise anti-social and criminal behaviour.

The NPPF sets out under Promoting healthy and safe communities that planning policies and decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. This has to be balanced against the need to plan positively for the provision and use of shared spaces, community facilities meeting places, including public houses to enhance the sustainability of communities and residential environments.

## **Flood Risk**

The proposal is for the extension of an existing public house, classed as a more vulnerable usage. The beer garden is unlikely to be in use during heavy rainfall, when surface water flooding becomes an issue. The proposed beer garden does not encroach on to our access routes or main corridor for the river flood defences. The proposed fencing and seating could be taken down if the Environment Agency require additional work space to upgrade the current river defences.

A Flood Warning Evacuation Plan will need to be 'provided/extended' to cover the proposed beer garden. This will mitigate against the flood risks and ensure safety. As such no objection is raised with regard to flooding.

## **Other Matters**

Some of the plans show that new lighting will be provided, but this is not consistent across the submission pack. Such lighting could impact on wildlife in the area, but insufficient information has been provided to demonstrate that this will not be the case and that the proposal will result in a net biodiversity gain. The plans show grass being retained in parts but this is likely to be eroded by intensive use.

The application form and supporting documentation are not consistent and not necessarily answered correctly. However, when the application is read as a whole the proposal can be understood.

In terms of the determination process of the application it being presented to the Planning Committee is correct.

## **CONCLUSION**

The proposal will help the town centre to support its vitality, viability and economic prosperity, including a vibrant and diverse evening economy. The proposal would provide a benefit to the local economy in terms of the creation of jobs. These matters are given positive weight.

The proposal will result in the loss of public open space and green infrastructure. Albeit a commuted open space contribution to enhance the existing seating and amenity offer throughout The Strand and improve the public realm through investment in the appearance of the railings could be secured. However this would be a one off payment not providing for the physical loss of open space in perpetuity or equivalent physical area, particularly in close proximity.

Views to and from the grade I listed Long Bridge will be harmed, interrupted with the pub garden paraphernalia. Views of listed buildings, such as Bridge Chambers, will also be reduced in quality. These views form a part of the greater setting of the heritage assets. The setting of listed buildings contribute their significance and are an important contributory factor in their special interest. The proposal to create a large enclosed private beer garden for the use of patrons of one public house offers limited public benefit.

Notwithstanding the Highway Authority not sustaining an objection to the proposal, the concerns the police raise are noted. Particularly given the scale of the proposal, in that patrons, some distracted and likely under the influence of alcohol, exiting the Watergate to

walk across the road to the beer garden will have the perception that this is a 'pedestrian zone' closed to traffic. This in turn is likely to lead to an increase in confrontation and conflict with motorists and cyclists does impact on the acceptability of the proposal in highway safety terms.

As the removal of the furniture is unlikely be secured, given the scale of the proposal, anti social behaviour and crime is likely, even given management controls. Furthermore, given the close proximity of the estuary wall which will raise the risk of individuals, some intoxicated, exiting the beer garden to sit on the wall and drink, further public safety concerns are identified.

It is recognised that there is other legislation available to the Council and the police to control anti-social behaviour and crime, such as that governing the granting of alcohol licenses. The applicants suggestion that the site would be monitored by CCTV and have security staff nearby on the door is noted. Whilst this would have an effect, it is unlikely that this would adequately discourage anti-social incidents, particularly given the distance from door staff and the size of the site.

The proposal will result in an increase in the number of people visiting The Strand. This would potentially increase the likelihood of incidences of anti-social behaviour, disorder and crime occurring. This would be disturbing for those residents living near the site and those passing the site and undermine their quality of life. Consequently the proposal would conflict with the advice in paragraph 91 of the National Planning Policy Framework and adopted North Devon and Torridge Local Plan policies in this regard.

Insufficient information has been provided to demonstrate that any lighting will not impact on protected species nor demonstrate a net biodiversity gain as required by policy.

### **Planning Balance**

The proposal would involve the use of an area that is open space albeit it would increase the commercial activity in the area and would create jobs. However, it would negatively impact on the conservation area and setting of heritage assets due to the scale and design of the proposal. It would also result in a concentration of non-retail uses which would be likely to result in an increase in people in the immediate area which would potentially lead to more frequent incidents of anti-social, disorderly or criminal behaviour during open and closed periods. Furthermore, patrons and staff crossing the road is likely to lead to an increase in confrontation and conflict with motorists and cyclists and as such the proposal is not designed to provide a safe place and minimise anti-social behaviour.

On balance, it is consider that the harmful effects of the proposal would outweigh the benefits. Therefore, for the reasons given above, and taking account of all other considerations refusal of the application is recommended. A much reduced scheme could address the concerns.

### **HUMAN RIGHTS ACT 1998**

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

Article 8 – Right to Respect for Private and Family Life

## THE FIRST PROTOCOL – Article 1: Protection of Property

### **DETAILS OF RECOMMENDATION**

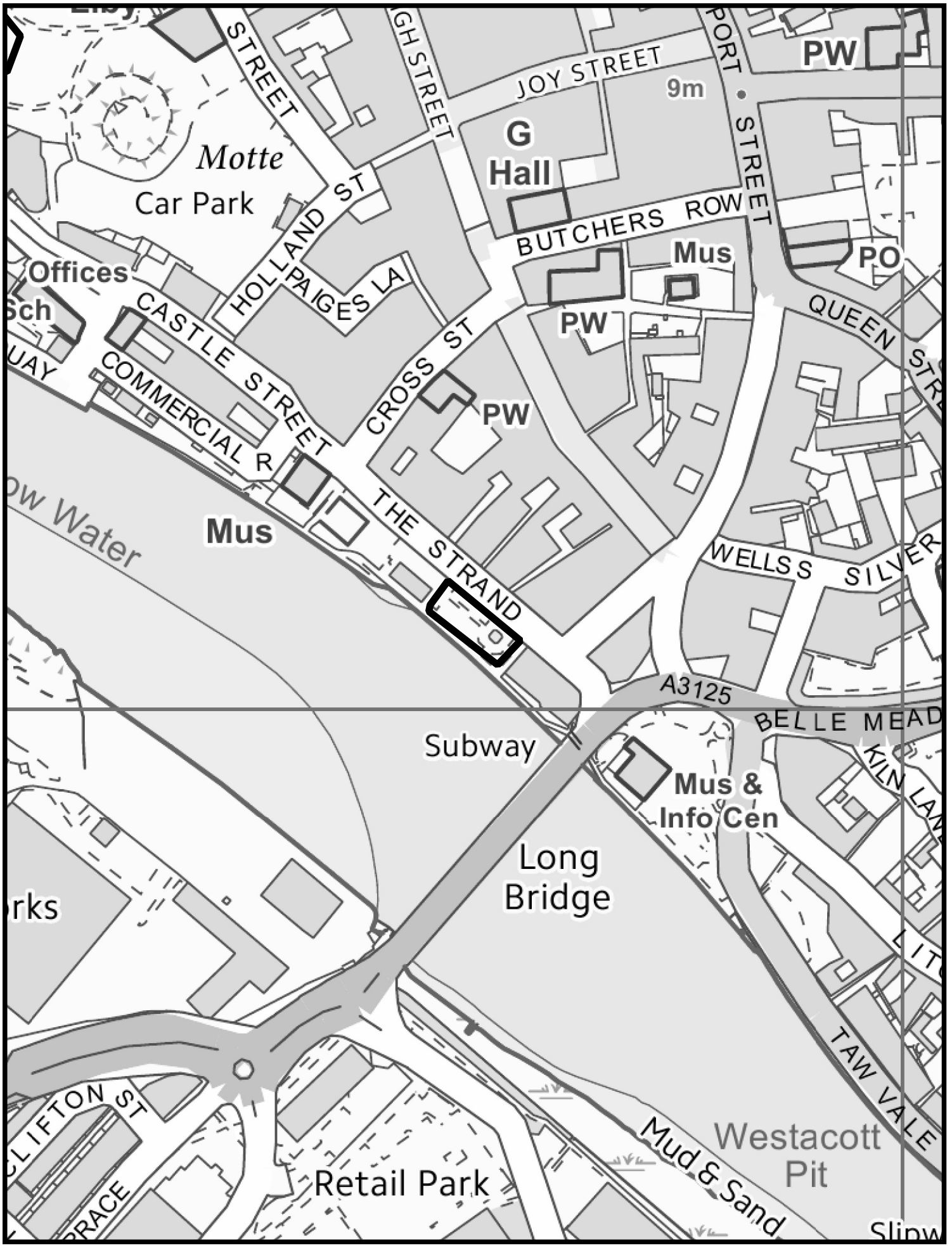
REFUSE for the following reason:-

- (1) The proposal would result in a loss of public open space, negatively impact on the conservation area and setting of heritage assets due to the scale and design of the proposal. It would also result in a concentration of public house, night clubs, takeaways and restaurant uses and a detailed design which would be likely to result in an increase in people in the immediate area which would potentially lead to more frequent incidents of anti-social, disorderly or criminal behaviour during the open and closed periods of the use. Furthermore, patrons and staff crossing the road is likely to lead to an increase in confrontation and conflict with motorists and cyclists and as such the proposal is not designed to provide a safe place and minimise anti-social and criminal behaviour. The proposal is therefore considered to be contrary to policies ST12, ST04, ST15, BAR, DM01, DM04, DM05, DM07, DM08, DM09 and DM10 of the adopted North Devon and Torridge Local Plan and Paragraphs 196 and 91 of the National Planning Policy Framework 2019.
  
- (2) Insufficient information has been provided to demonstrate that any lighting will not impact on protected species nor demonstrate net gains in biodiversity features and enhancements and opportunities for geological conservation as required by policies DM08 and DM04 of the adopted North Devon and Torridge Local Plan and paragraph 170 of the National Planning Policy Framework 2019.

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has looked for solutions to enable the grant of planning permission. This has included consideration of design, heritage assets, amenity, highway and vitality and viability. However the proposal remains contrary to the planning policies set out in the reasons for refusal and was not therefore considered to be sustainable development

#### **INSERT(S) TO FOLLOW OVERLEAF**

1. OS Location Plan
2. List of representations names and addresses
3. Historic England
4. Conservation Officer
5. Police Architectural Liaison Officer



# 64769 - The Strand, Barnstaple

# Neighbour Representations List for Application No 64769

## 24 LETTER(S) OF OBJECTION

GRAHAM TOWNSEND	OBO THE BRIDGE TRUST 7 BRIDGE CHAMBERS	<i>Date Received:</i> 11-Dec-18
KAREN RICHARDSON	SOL - SERVICES FOR OPEN LEARNING	<i>Date Received:</i> 13-Nov-18
KIRSTY BOWIE	SHARING ONE LANGUAGE 2 BRIDGE CHAMBERS	<i>Date Received:</i> 16-Nov-18
MR J WHITE	14 RIVERSIDE COURT CASTLE STREET	<i>Date Received:</i> 28-Nov-18
BEATA RACZKIEWICZ-PIADLOWSK	BY EMAIL	<i>Date Received:</i> 26-Nov-18
MARK HUMFREY	MORADA ST JOHNS LANE	<i>Date Received:</i> 26-Nov-18
BRIDGET BYTHEWAY	25 SUNSET HEIGHTS BARNSTAPLE	<i>Date Received:</i> 27-Nov-18
MANDY MARKS	PITT HOUSE EAST BUCKLAND	<i>Date Received:</i> 27-Nov-18
BARNSTAPLE CARNIVAL COMMITT	C/O JOHN WHITE SIGNS SUITE 106	<i>Date Received:</i> 27-Nov-18
MRS M E THOMAS	2 FORT HILL DRIVE GOODLEIGH ROAD	<i>Date Received:</i> 30-Nov-18
IRENE HOCKIN	CLANTON ROUNDSWELL	<i>Date Received:</i> 30-Nov-18
GEOFF DWYER	RECEIVED BY EMAIL	<i>Date Received:</i> 29-Nov-18
DARRYN MARRS	RECEIVED BY EMAIL	<i>Date Received:</i> 29-Nov-18
MARIAN STREATHER	RECEIVED BY EMAIL	<i>Date Received:</i> 30-Nov-18
GRENVILLE YEO	SOL - SHARING ONE LANGUAGE 2 BRIDGE CHAMBERS	<i>Date Received:</i> 30-Nov-18
SANJA CONJAGIC	CARA DUSANA 40 SABAC	<i>Date Received:</i> 30-Nov-18
IRENA HOLIK	C/O SOL 2 BRIDGE CHAMBERS	<i>Date Received:</i> 30-Nov-18
FESTA SHABANI	C/O SHARING ONE LANGUAGE 2 BRIDGE CHAMBERS	<i>Date Received:</i> 30-Nov-18
ANNA HAVEROVA	SOL COORIDNATOR SLOVAKIA SNP 3265/7	<i>Date Received:</i> 30-Nov-18
CHRISTOPHER PUNT	38 CHADDIFORD LANE BARNSTAPLE	<i>Date Received:</i> 14-Dec-18 <i>Date Received:</i> 03-Dec-18







Historic England

SOUTH WEST OFFICE

Mr M Brown  
North Devon Council  
Lynton House  
Commercial Road  
Barnstaple  
EX31 1DG

Direct Dial: 0117 975 0732

Our ref: P01019070

23 January 2019

Dear Mr Brown

**T&CP (Development Management Procedure) (England) Order 2015  
& Planning (Listed Buildings & Conservation Areas) Regulations 1990**

**THE WATERGATE, 7 THE STRAND, BARNSTAPLE, DEVON, EX31 1EU  
Application No. 64769**

Thank you for your letter of 10 January 2019 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

**Summary**

Historic England have strong concerns about this proposal. We consider that the application proposal would not preserve or enhance Barnstaple conservation area. The development would also erode the quality of the public realm and views along the Strand, would cause harm to the significance of the historic quayside and its relationship to the river Taw, and to views to and from the Long Bridge, a grade I listed structure. Historic England believe that a much reduced scheme may be acceptable in heritage terms, but that the current scheme causes unjustified levels of harm to the historic environment.

**Historic England Advice**

*The significance of the heritage assets*

This site is located along the Strand, an historic quayside part of Barnstaple and one which is located near the core of the early town. The site is within Barnstaple conservation area. This part of Barnstaple was previously a working quayside. Prior to the linear river wall being introduced which enabled larger ships to be moored alongside the quay, boats were brought into one of several smaller quays that are still reflected in the shape and location of the publicly accessible open spaces along this part of the Strand. The openness of these areas, and their direct visual relationship to the river is critical to an understanding of the importance of the quays, the river and the transportation of goods to the success of Barnstaple as a town. At present the site appears to be used as public open space, with seating and grass available for leisure and perhaps occasional events. Members of the public can walk across the site from



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the Strand to the river walk.

Nearby, there are several listed buildings and many undesignated historic buildings of quality. The most significant of the listed buildings are the 13th century grade I listed Long Bridge across the Taw which has direct sight lines to and from this proposal site, and the grade II\* Queen Anne's Walk located a short distance away along the Strand. The bridge and Queen Anne's Walk also reinforce the historic relationship between the town and the river.

*The impact of the proposals on the heritage assets*

The proposal is the change of use of the land to create a beer garden, to serve the public house located opposite. The submission identifies that a set of railings will be erected to surround the current space, with gates accessing the area from the Strand. Fixed furniture in the form of seating and tables will be erected as well as fixed raised planting beds. In addition, a raised plinth with a bandstand style feature with seating beneath will be added, with smaller sail type canopies covering other areas of seating. Hard landscaping and some tree planting also appears to be incorporated into the proposal. One illustration shows additional railings around the bandstand feature and mid level lighting. New high level lighting is also included across the site.

Historic England have strong concerns about this proposal and how it will impact on the character and appearance of Barnstaple conservation area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that local authorities should give special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. In our opinion, this proposal does not comply with the Act and in fact causes high levels of harm. The harm is caused by the introduction of railings, the band stand features, the sail canopies and some of the additional lighting. These features create clutter in what is a characteristically open area, and further, interrupt sight lines between the Strand and other heritage assets such as the Oliver Buildings and more significantly, the grade I listed Long Bridge. The proposal does not respect the character and quality of the Strand and represents a retrograde step in the recent efforts to enhance this part of Barnstaple.

Views to and from the Long Bridge will be harmed, interrupted with the pub garden paraphernalia. Views of other listed buildings, such as Bridge Chambers, will also be reduced in quality. These views form a part of the greater setting of the heritage assets. The setting of listed buildings contribute their significance and are an important contributory factor in their special interest.

The National Planning Policy Framework (NPPF) in paragraph 189 states that local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance. Unfortunately, the application submitted does not contain an appropriately





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robust or detailed heritage impact assessment with which to consider the impact of the development. It is therefore not possible for your authority to take this information into account when considering the application, as required by NPPF para 190.

Notwithstanding this lack of detail, we have made our comments based on other heritage resources and the information supplied within the application.

The NPPF at para 193 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm requires clear and convincing justification (NPPF 194) and, where harm is proposed, this should be weighed against any public benefits (NPPF 196). It is for your authority to decide if the harm caused to the significance of the conservation area and to the listed buildings including the grade I listed Long Bridge (where part of that significance stems from its setting), is justified by the proposal to create an enclosed private beer garden for the use of patrons of one public house.

In our opinion, some change of use may be acceptable in this location with due consideration for the character and setting of the heritage assets and important views, but the current scheme would need to be radically pared back to avoid unjustifiable harm.

### **Recommendation**

Historic England has concerns regarding the application on heritage grounds. These concerns are outlined in detail above. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 189, 190, 193, 194 and 196 of the NPPF.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Yours sincerely



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**Catherine Marlow**

Inspector of Historic Buildings and Areas

E-mail: [Catherine.Marlow@HistoricEngland.org.uk](mailto:Catherine.Marlow@HistoricEngland.org.uk)

cc: Collette Hall, North Devon District Council



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## Liam Drew

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**From:** Collette Hall  
**Sent:** 28 November 2018 16:47  
**To:** Planning  
**Cc:** Matthew Brown  
**Subject:** 64796 The Watergate, 7 The Strand, Barnstaple

This application proposes the creation of an enclosed beer garden on land opposite 7 The Strand, Barnstaple. The site is very sensitive in heritage terms. It is within the Barnstaple Town Centre Conservation Area, and has the grade II listed Bridge Chambers directly to the south-east, the grade II listed Bus Station Officer (now Tea on the Taw) and the grade II K6 telephone boxes to the north-west, together with grade II listed lamp-posts to the north-east. The site also incorporates a sundial which is of historic importance. The proposal will have an effect on all of the settings of these heritage assets; this has not been acknowledged in the Heritage Statement which is inadequate.

The area was comprehensively landscaped relatively recently, when the Strand was pedestrianised, and the implemented scheme sought to tie together the whole area, from the front of Queen Anne's Walk to the front of Bridge Chambers. The paving, seating, grassed areas, tree planting and other street furniture were designed to offer a flexible, open environment which could be used for a variety of purposes, from informal leisure and relaxation, to staging installations for key public events – i.e. the fair, Christmas lights and most recently, the finishing stage of the Tour of Britain race.

There are elements of this scheme which have not worked particularly well. The fish fountain, for example, was vulnerable to abuse, and has since been filled in and used as a flower bed. I do feel that there is scope to change certain elements of this area, such as the fish fountain, and do not consider that the replacement of the fountain with a steel bandstand as proposed will harm the setting of the heritage assets.

I do, however, have concerns about the other aspects of the scheme, which basically comprise the enclosure of a significant amount of public space with a metal fence and gates, the provision of 6 sail kite shading umbrellas, 4 seating banquettes and, judging from the plans, 84 tables with associated chairs. This is a considerable quantity of additional fittings, and will alter the character of this part of the Strand in a very noticeable way. Given that the character is currently very open and public, the addition of this quantity of furniture is likely to give rise to a sense of visual and physical clutter. The proposed fence will also reduce the amount of public space available for various activities, which again will alter the settings of the listed buildings, all of which have a public, as opposed to private, function. The choice of furniture and fittings does not relate well to other areas of the Strand, and will not generate a sense of coherence in this part of the townscape.

As it stands, I consider that this proposal will not preserve or enhance the character or appearance of the Conservation Area, nor will it preserve the settings of the various listed buildings. The proposal will result in a degree of harm to the various heritage assets therefore under the terms of paragraph 196 of the NPPF, the public benefits of the proposal will need to be weighed in the balance when the decision is made.

Collette Hall | Conservation Officer | Strategic Development & Planning | Place Services  
North Devon Council | Barnstaple  
Tel: 01271 388 352 (for typetalk precede with 18001)  
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## Liam Drew

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**From:** NAPIER Rick 57339 <Rick.NAPIER@devonandcornwall.pnn.police.uk>  
**Sent:** 28 November 2018 10:16  
**To:** Planning  
**Subject:** RE: PD/64796 - Consultation

Re: Change of use of land to create a beer garden at the Watergate 7 the Strand Barnstaple – 27<sup>th</sup> November 2018

Thank you for this application.

Police have no objections in principle to this proposal. However, based on the available plans and documentation, there are a number of issues and serious concerns from a designing out crime, community conflict, public and staff safety and anti-social behaviour perspective which need to be considered and resolved. With this in mind I have sought the opinion of police colleagues from the Neighbourhood Policing Team and the Road Casualty Reduction Officer in the preparation of this response.

If we were to look in a logical manner at the current and proposed business and retail uses on The Strand and the adjoining Maiden Street and their target customer base, we have an area of the town centre predominately in place to serve the food and beverage industry evening and night time economy.

The main causes of crime and disorder in licensed premises arise from inadequate security provisions, poor design and layout, the type of event being promoted, overcrowding and customers being drunk or under the influence of drugs.

This can result in theft, conflict, violence and anti-social behaviour. It is therefore recommended that applicants and licensees take a proactive approach to preventing and managing crime and disorder from their premises.

Good management and best practice along with adequate physical controls can make an important difference to the level of alcohol related crime at premises; such measures should be reflected in the operating schedule. For new premises or the refurbishment of existing premises, preventative measures should be factored in during the design stage. Consideration should be given to the design and layout of the premises to minimise the potential for crime and disorder. Licence holders should have clear documented policies and procedures in place which identify all crime and disorder risks associated with their premises and the measures implemented to prevent, manage and respond to those risks.

Quite simply, we cannot decide this application purely on what the street aesthetics will be. Crime, anti-social behaviour and the fear of, must feature heavily with all deliberations. To allow the creation of a 'beer garden' on The strand has potential to exacerbate problems when considering the night time economy and the challenges that brings to safety and security of persons and property.

### **Site specific comments**

The establishment of a remote beer garden raises the potential for conflict between patrons and road users. In theory, The Strand is a no parking at any time area and has through traffic limitations (signs displayed) only allowing for buses, taxis and permit holders between 1000 and 1600 and again between 2200 and 0300. At all other times it is currently an open one way road, flowing from the bridge/Square junction in the direction of the junction with

Cross St. In practice there is sporadic enforcement of the traffic or parking regulations with many motorists now using the route as a 'cut through' and evening (1700 hrs onwards) parking prevalent.

Are further traffic restrictions or physical barriers being considered to make it more apparent to drivers that this is indeed a shared zone with pedestrians? Patrons, some distracted and likely under the influence of alcohol, exiting the Watergate to walk across the road to the beer garden will have the perception that this is a 'pedestrian zone' closed to traffic, which in turn is likely to lead to an increase in confrontation and conflict with motorists and cyclists. Given the close proximity to a 'live' road way and ongoing issues with parking, consideration should be given to the installation of bollards or planters at an appropriate and approved spacing along the length of the footpath from Bridge Chambers to the furthest end of the proposed beer garden. This will separate the pedestrian areas and beer garden from the active roadway whilst also assisting in preventing inconsiderate parking and restricting/reducing the effectiveness of those with more sinister intentions.

I note from the current Pavement Café Management Plan, that furniture will be removed and stacked away within the main building after permitted hours. Does this apply to the beer garden? The proposed railings are unlikely to prevent entry being gained into the beer garden and the constant provision of furniture along with cover in the form of the proposed bandstand and shade sails is likely to attract unwanted attention after hours from patrons of the Watergate, other near-by establishments or groups/individuals looking for a convenient place to gather.

I note and welcome the intention to cover the proposed site with the extension of the current CCTV system. Any extension of the system must be compatible with both existing street and any proposed lighting schemes.

I would ask that the removal of furniture and the extension of the CCTV system be considered as a condition of any planning approval.

The close proximity of the estuary wall will raise the risk of individuals, some intoxicated, exiting the beer garden to sit on the wall and drink. Consideration should therefore be given to the inclusion of suitably approved water safety equipment being installed and available to use.

It should be noted that details of any specific license operating conditions and requirements are a matter for discussion between the applicant and the Police and Local Authority Licensing Officers.

Please do not hesitate to contact me if any clarification is sought or I can assist further.

Kind regards

Rick Napier  
Designing Out Crime Officer  
North Devon, Mid Devon & Torridge  
Devon and Cornwall & Dorset Police  
01271 311336  
(Internal 300336)

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**From:** Planning [mailto:planning@northdevon.gov.uk]

**Sent:** 08 November 2018 10:20

**To:** 'matthew.collins@devon.gov.uk' <matthew.collins@devon.gov.uk>; NAPIER Rick 57339 <Rick.NAPIER@devonandcornwall.pnn.police.uk>; Peter Sygrove <Peter.Sygrove@northdevon.gov.uk>; Collette Hall <Collette.Hall@northdevon.gov.uk>; 'hannah@barnstaple.co.uk' <hannah@barnstaple.co.uk>

**Subject:** PD/64796 - Consultation