

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 5 June 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	The Colonies, 25 Wilfred Street, London, SW1E 6PR		
Proposal	Use of an area of public highway on Pine Apple Court measuring 18.5m x 5m for the placing of four picnic benches, eight tables and 24 chairs in connection with the use of The Colonies public house.		
Agent	Naomi Minto		
On behalf of	TLT LLP		
Registered Number	17/08474/TCH	Date amended/ completed	14 May 2018
Date Application Received	21 September 2017		
Historic Building Grade	Unlisted		
Conservation Area	Birdcage Walk		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

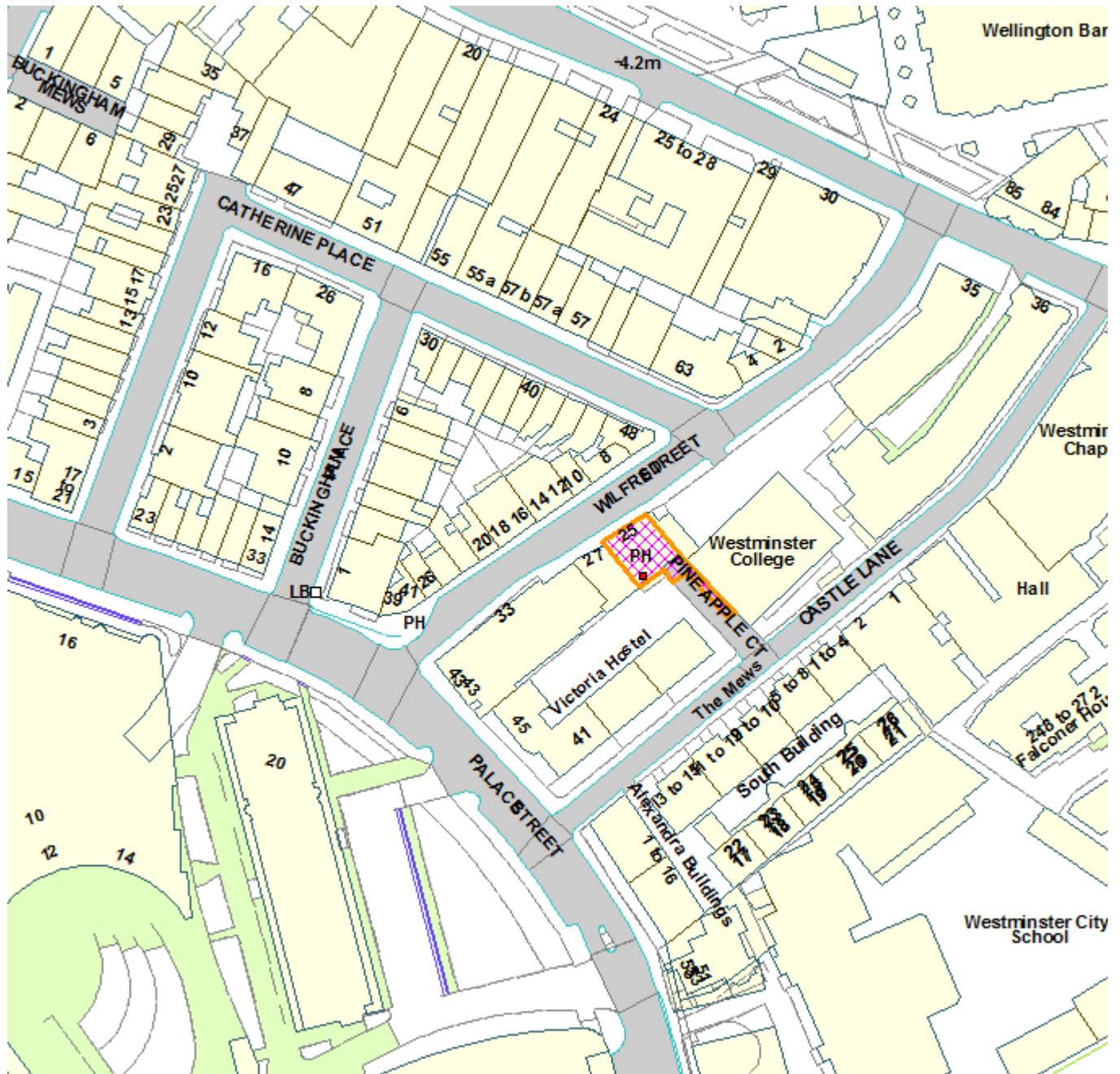
The Colonies is a public house on Wilfred Street. The rear entrance is located on Pine Apple Court, which is a cul-de-sac off Castle Lane. Planning permission is sought for the use of an area of public highway on Pine Apple Court for the placing of four benches, eight tables and 24 chairs. The site has a history of temporary planning permissions for benches, tables and chairs on Pine Apple Court dating back to 2000. Permission was most recently granted in 2016.

The key issues in this case are:

- the impact of the proposals on residential amenity; and
- the impact of the proposals on pedestrian movement and cleansing operations.

As set out in this report, the proposed development is considered to accord with the relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan (the City Plan) and is therefore acceptable in land use, design and amenity terms. As such, the application is recommended for approval subject to the conditions as set out in the draft decision letter.

3. LOCATION PLAN



4. PHOTOGRAPHS**View from Castle Lane**

5. CONSULTATIONS

WESTMINSTER SOCIETY:

Objection to additional seating on the grounds of potential noise disturbance to local residents.

HIGHWAY PLANNING MANAGER:

No objection, subject to condition to ensure permission is temporary. The proposal leaves a 2m wide pedestrian clearway in between the tables and chairs.

CLEANSING MANAGER:

The benches are left out and will obstruct street cleaning.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 8

Total No. of replies: 10

No. of objections: 10 (from 6 individuals/ interested parties)

No. in support: 0

Objections received from neighbouring residents and developers on the following grounds:

Design

- the use of Pine Apple Court for sitting out in connection with the public house harms the peaceful character of the conservation area;

Amenity

- Noise and disturbance to local residents from patrons of the public house drinking and eating outside. The increased number of tables and chairs will worsen this situation.
- Impact on residents in Wilfred Street and new residential units which have recently been built at Aviary House, and planned at 2-4 Castle Lane.
- Outside activity at the pub should be stopped after 8pm.

Other

- The furniture blocks the fire escape from Aviary House into Pine Apple Court.
- Conditions of previous permissions have been breached, and this is likely to continue to occur.
- The management of the public house, in the same manner as other public houses in the same chain, is unsuitable for this residential location.
- Items from the public house have been illegally dumped on adjacent land.
- The pub should be accountable for clearing the street of litter and loitering at closing time.
- Access over Pine Apple Court is likely to be required during construction work to bring the affordable housing scheme forward at 2-4 Castle Lane.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The Colonies is a public house on Wilfred Street. The rear entrance is located on Pine Apple Court, which is a cul-de-sac off Castle Lane. The building is unlisted and located within the Birdcage Walk Conservation Area. The site is within the Core Central Activities Zone (Core CAZ).

There are a number of residential buildings in close proximity to the application site, notably adjacent buildings 27 Wilfred Street and Aviary House, 23 Wilfred Street (the former Westminster College site) which comprises 31 residential units. The former Victoria Hostel (Alexandra Buildings, Palace Street) to the south-west is currently unoccupied, but has planning permission for alterations and extensions in connection with its use as 63 affordable housing units. A new scheme has recently been submitted for 86 affordable housing units and is pending consideration. The area more widely is characterised by a mix of commercial and residential uses.

6.2 Recent Relevant History

On 15 November 2016, and in 2015, 2014, 2013, 2011, 2010, 2009, 2008, 2007, 2006, 2005, 2004, 2003, 2002, 2001 and 2000, the City Council granted temporary planning permission for the use of two areas of the public highway in Pine Apple Court measuring 18.5m x 1.8m and 1.6m x 3m for the placing of five picnic benches, four tables and 16 chairs in connection with the Colonies Public House.

7. THE PROPOSAL

Planning permission is sought for the use of an area of public highway on Pine Apple Court measuring 18.5 metres by 5 metres for the placing of four benches, eight tables and 24 chairs in connection with the use of The Colonies public house.

The applicant has revised the layout of the tables and chairs twice during the course of the application. The application was originally for five picnic benches, four tables and 16 chairs, matching the previously approved layouts. This would have allowed approximately 46 patrons to sit outside.

The first revision would have increased the number of seats to approximately 56 and was considered unacceptable on the basis that it did not leave a 2m clearance and blocked the fire escape to Aviary House. The final revision, and the current proposal, would increase the number of seats to approximately 48. This represents an increase in two seats over the previously approved arrangements. This revision leaves the fire escape from Aviary House free from tables and chairs and also indicates an area where the benches would be stacked on the highway overnight.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The use of the highway for tables and chairs in connection with eating and drinking establishments is considered under Policy TACE 11 of the UDP and Policy S41 of the City Plan. These policies permit tables and chairs where they are safe, where a convenient pedestrian environment is maintained and where no unreasonable harm to local residential amenity occurs.

Policy TACE 11 recognises that al fresco eating and drinking is popular and can provide opportunities for visitors, residents and workers to experience and contribute to the vibrancy and character of an area. This area is mixed in terms of uses, including large office uses as well as residential buildings, and a number of public houses. The Mayor's 'culture and the night time economy' SPG states boroughs should manage, improve and retain public houses, and that individual public houses can be at the heart of a local community's social life. It can provide a local meeting place, venue for entertainment and a focus for social gatherings. Whether alone or as part of a mix, public houses are often an integral part of an area's evening and night time culture and economy.

It is also important to note that the importance of pubs is recognised in the National Planning Policy Framework (NPPF). The NPPF states that planning policies and decisions should plan positively for the provision and use of community uses including public houses. It requires Councils to guard against the loss of such valued facilities especially where this would reduce the community's ability to meet its day to day needs. The draft NPPF is explicit in stating that planning decisions should promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other.

The external seating area proposed would support the continued vitality and vibrancy of this public house and the area more widely, and is therefore considered acceptable in land use terms.

8.2 Townscape and Design

Objections have been received on the grounds that the proposal would harm the peaceful character of the conservation area.

The tables, chairs and benches are removable and of a standard design and are therefore considered acceptable in design and conservation terms.

8.3 Residential Amenity

Objections have been received from neighbouring residents and developers on Wilfred Street, Castle Lane, Palace Street and Catherine Place on the grounds that the proposal would harm residential amenity in terms of noise disturbance.

The Colonies public house is long established. Tables, chairs and benches have been approved on the public highway on Pine Apple Court since 2000 and were probably present well before. The public house and outdoor seating area have therefore been in place prior to the new residential uses immediately adjacent.

27 Wilfred Street was formerly in office use. The City Council granted permission in 2006 for use as a residential dwelling. At that time approval for tables, chairs and benches on Pine Apple Court were well established and a degree of disturbance from patrons of the pub during the evening would have been anticipated in granted planning permission for the conversion to residential use. Whilst the strength of objection from this resident is acknowledged, it is not considered that the current application would represent a significant worsening of a long established situation.

With regards to the impact on the new residential units within Aviary House, the City Council considered the relationship between The Colonies Public House and this new residential development at the time of the application. It was considered that the new residential use should not jeopardise the existing public house use, and measures were taken to ensure this. The decision notice for that development included the following informative:

“Approval for this residential use has been given on the basis of sound insulation and ventilation mitigation measures being incorporated into the development to prevent ingress of external noise. Occupiers are therefore advised, that once the premises are occupied, any request under the Licensing Act 2003, Environmental Protection Act 1990, Control of Pollution Act 1974 or planning legislation for local authority officers to make an assessment for noise nuisance arising from external sources is likely to be undertaken only if the noise and ventilation mitigation measures installed are in operation. E.g. windows kept closed.”

This development, as approved, is designed with features to ensure that noise from The Colonies does not harm the residents within it. The sound insulation measures included a 4.5m high acoustic screen along Pine Apple Court. The owner of Aviary House has recently submitted a non-material amendment application to make changes to the boundary wall reducing its height to 3m, whilst also objecting to potential noise disturbance emanating from the public house on the other side of this approved wall. This application is currently pending consideration.

The other residential occupiers who object to this application in Catherine Place are some distance from Pine Apple Court, and it is not considered that these residents would be unduly impacted by the proposals in terms of noise disturbance. A condition on the 2013 permission for the Alexandra Buildings requires these new residential units to be designed to protect residents within it from existing external noise.

It is important to note that drinkers standing on the public highway is not an activity that requires planning permission, and so could occur irrespective of whether there is external seating. It is considered that the seating has the effect of abating the potential intensity and numbers of drinkers compared to a situation where the area is for vertical drinkers only.

Subject to the continued imposition of conditions restricting the hours of use and that the benches are stacked and the tables and chairs are taken inside overnight, it is not considered that the continued operations of the external seating area with two additional seats would give rise to a discernible difference in terms of noise disturbance. A condition

is also recommended to ensure that permission continues to be temporary, and this will allow a future review in the usual way.

8.4 Transportation/Parking

Pine Apple Court is publically maintained highway. It is a cul-de-sac and the main users of the highway are the patrons of The Colonies. The side entrance the Alexandra Buildings, off Pine Apple Court, is not currently in use and the entrance to the side of Aviary House is for escape in the event of fire.

Policies TACE 11 and TRANS 3 of the UDP and S41 of the City Plan, seek to ensure improved conditions for pedestrians and make walking a safer, quicker, more direct and more attractive form of travel, which is supported by the guidance in the City Council's 'Westminster Way' document.

The Highway Planning Manager considers that tables and chairs would not harm pedestrian movement because the designated external seating area includes a 2 metre clear way through it. The application has been revised to ensure that the tables and chairs will not block the fire escape exit from Aviary House.

The owner of 2-4 Castle Lane have objected on the grounds that they would likely require access over Pine Apple Court to implement the redevelopment scheme for the Alexandra Buildings. This would be a matter for the Council's Highway Licensing Team, and permission could not be refused on this basis.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size.

8.6 Access

As stated above, access is considered acceptable.

8.7 Other UDP/Westminster Policy Considerations

Refuse /Recycling

Publically maintained highways, such as Pine Apple Court, are cleaned and maintained by the City Council.

The layout of the external seating has been revised, reducing the number of benches to four and proposes a location for the benches to be stacked overnight. It is not possible to store the benches inside the public house given their size. Items are not normally permitted to be left out on the highway overnight. However, given the nature of this cul-de-sac, and that it is mainly used for patrons of the public house, it is not considered that it would be unduly harmful in this instance. A condition is recommended to ensure that the tables and chairs are taken inside overnight, and that the benches are staked only in the area shown on the approved plan. This would prevent their use when the public

house is closed and would keep the majority of the area clear overnight for street cleaning. An informative is also recommended to remind the applicant that they will need to keep the area clean and tidy.

8.8 London Plan

This application raises no strategic issues.

8.9 National Policy/Guidance Considerations

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

8.10 Planning Obligations

Planning obligations are not relevant in the determination of this application. The development is not liable for CIL.

8.11 Environmental Impact Assessment

Not relevant to this application.

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JULIA ASGHAR BY EMAIL AT jasghar@westminster.gov.uk

Architectural ground floor plan of The Colonies at 25 Wilfred Street, Victoria. The plan shows a long, narrow building with a central corridor and multiple rooms. Key features include a 'PINE APPLE COURT SWI' area, a 'Yard', and an 'Entrance'. Dimensions are provided for various sections, such as 1435, 5625, 22965, 4955, 4375, and 3095. A scale bar indicates 0 to 5 meters. The plan is labeled 'EXISTING PLAN: 1:100 @A3'.

DRAFT DECISION LETTER

Address: The Colonies, 25 Wilfred Street, London, SW1E 6PR

Proposal: Use of an area of public highway on Pine Apple Court measuring 18.5m x 5m for the placing of four picnic benches, nine tables and 32 chairs in connection with the use of The Colonies public house.

Reference: 17/08474/TCH

Plan Nos: Site Location Plan; 5881/17/100 rev B; Supporting Statement; Table, Chair and Bench Specs.

Case Officer: Joshua Howitt

Direct Tel. No. 020 7641 2069

Recommended Condition(s) and Reason(s)

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 You must not put the benches, tables and chairs in any other positions than that shown on drawing 5881/17/100 rev B.

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 3 You can only put the benches, tables and chairs out for use on the highway between 11:00 and 23:00. Outside of these times, you must put the tables and chairs inside and you must stack the benches in the hatched area shown on drawing 5881/17/100 rev B.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

- 4 The tables and chairs must only be used by customers of The Colonies public house at 25 Wilfred Street. (C25CA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 5 This use of the highway may continue until 30 June 2019. You must then remove the benches, tables and chairs. (C25DA)

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 6 You can only put out on the highway the tables and chairs shown on drawing 5881/17/100 rev B. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

Reason:

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 of our Unitary Development Plan that we adopted in January 2007.

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have

made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 You cannot put benches, tables and chairs in the area unless you have a street trading licence.

If you want to know about the progress of your application for a licence, you can contact our Licensing Service on 020 7641 8549. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter., , Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times. (I47AB)

- 3 You must keep the benches, tables and chairs within the area shown at all times and you must keep the area clean and tidy. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.