

# Public Document Pack

## **LICENSING SUB COMMITTEE**

**MONDAY 9 JULY 2012**

AGENDA ITEM 9 – MISS BROWNS COFFEE HOUSE

SUPPLEMENTARY DOCUMENTS SUPPLIED BY THE APPLICANT PRIOR TO THE HEARING

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# Parties Notice of Intention

## Licensing Act 2003

**Application No: PREM/02948/004**

Name of Applicant/premises: Miss Amanda Brown / Miss Browns Coffee House

Date of Hearing:

I am:

The applicant/licence holder

A responsible authority

An interested party

MRTPI

Name: AMANDA BROWN BSC HONS DIP TP DIP PD

Address: 6A ST MARYS ROAD, CHAPECTOWN  
LEEDS LS7 3JX

I will be attending the hearing

I will not be attending the hearing

I will be represented at the hearing by:

MYSELF -

TOWN PLANNING CONSULTANT + OWNER OF 152

CHAPECTOWN RD.

NB if you complete this section all further correspondence will be sent to your representative

### Note to interested parties

If you say that you will not be attending the hearing the committee will make it's decision based upon your written representation.

If you wish to withdraw your representation please tick here

or

If you consider that a hearing can be dispensed with please tick here

Please give details as to why you think a hearing can be dispensed with.  
(e.g. because you have reached agreement with the other party on conditions)

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## WITNESSES

Please set out below the name of any person you wish to appear at the Hearing (other than your representative) and give brief details of what you want the witness to tell the Committee. You will only be allowed to call the witness if the Committee gives permission.

Name	Evidence to be given
PADDY MAGUIRE	VERBAL - LICENSING CONSULTANT
PHILIP MARTIN	OF ADJACENT NIGHT CLUB AS
	REQUIRED

## DOCUMENTS

Please list below and attach any documents (other than your application or written objections) that you wish the Committee to consider and indicate whether copies have already been sent to the other parties.

Document	Copy sent
LETTER STATEMENT AMANDA BROWN NRTRE	
NOISE SURVEYS x2	
PLANNING PERMISSION RESTAURANT	
OFFICER PLANNING REPORT	
ENV HEALTH OFFICER CONSULTATION	

Please return this form to:

**Entertainment Licensing Section**  
**Leeds City Council**  
**Civic Hall**  
**Leeds**  
**LS1 1UR**

Fax: 0113 224 3885

Email: [entertainment.licensing@leeds.gov.uk](mailto:entertainment.licensing@leeds.gov.uk)

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Licensing and Registration  
Civic Hall  
Leeds LS1 1UR



Miss Browns Coffee House  
152 Chapeltown Road  
Leeds LS7 4EE

m 0781 5084 332  
e [planning@pds.uk.com](mailto:planning@pds.uk.com)

**license app**

5 July 2012

Dear Janice,

**Re: Miss Browns Coffee House - 152 Chapeltown Road, Leeds LS7 4EE**

I am Amanda Brown owner of 152 Chapeltown Road, and DPS for the licensed premises. I live locally on St Marys Road and in addition to this building have invested in 5 other properties in the area.

I have since 1990 been a chartered town planner. I have worked for several councils, surveying practices and planning consultancies in London and Leeds and have run Planning and Development Solutions since 2004.

Since purchasing 152 in January 2010, I have invested a very significant amount of money in renovating the property and creating first the coffee shop and then extending that to provide a kitchen to support a restaurant. The upper flat has been converted to provide accommodation for 5 young professionals. In 2011 the rear renovation was the subject of a Heritage Lottery Fund grant of £54,000. All internal work was my personal investment in the property and the area.

I am actively supported by the local police and Matt Davison who runs this area. There are no objections to this application from them or indeed the police licensing department with whom I had a meeting prior to submission.

Prior to the submission of the planning application to change the use to restaurant and extend the hours I met with environmental health and agreed the subsequent license application would relate solely to the sale of alcohol – which it does as agreed.

Planning permission was previously granted for opening until 10.30pm Monday to Sunday and 11.30pm on all bank holidays.

Planning permission for the restaurant is now granted until 11pm Sunday to Monday and 11.30pm on Saturday. Currently these are the opening hours of the premises and the sale of alcohol and other licensable activities are restricted to 10pm.

This license application seeks consent to extend the licensed hours to match those granted in the planning permission and also in line with all other licensed premises in the area to allow opening on New Years Eve until opening the next day. A further request is made for an extra

hour on days around Christmas, Easter, Carnival, May Bank Holidays so that should we wish we can stay open an extra hour until midnight and half past midnight.

I have read the statements from env health and planning and make the following comments:

### **Env Protection Team statement**

This is factually incorrect for the following reasons:

#### Premises

The block within which 152 is part comprises 5 buildings – amazingly the report fails to mention the afterhours night club next door! I am not sure how many of the officers have been to Chapelton at 3am to witness what actually happens in the area. It is not clear in their reports that they have.

#### **No 146** – derelict

#### **No 148** – Nite Trax night club at ground and bar and club at first floor.

I understand this has a license until 4am on Friday and Saturday and until 2am on other days including Sunday.

This club often stays open until 6am well beyond the license.

This club stays open all night on new years eve and does not require a temp event notice.

Regularly on bank holidays the club stays open past 2am on Sunday and Bank Holiday Mondays.

This is an afterhour's club – it is quiet until 2 / 2.30am when many taxis arrive bringing people from Leeds and Bradford etc. it does not really get busy until 3 / 4 am.

It is this business that the councilors and residents seek to control and which attracts people late in to Chapelton.

The club DOES NOT have planning permission for the extended opening hours that were granted to the license in 2010 by the licensing committee. That committee agreed to extend the hours next to a residential property without planning permission being in place. This demonstrates – which is legally correct that licensing and planning legislation operates separately and licenses can and are given to properties which do not benefit from planning permission for those extensions and intensification of use.

The music from the club can be heard throughout No.152 and it disturbs the 5 young professional residential tenants at flat B, 152.

**No 150** – this is not storage – this is the Leeds United Domino Club that opens on an evening and afternoon and evening on a weekend. The slamming of dominoes can be heard in the shop especially if there is a competition. this attracts people coming and going however this closes before midnight usually.

**No. 152** is a restaurant at ground floor with planning permission to open until 11pm Sunday – Friday and 11.30pm Saturday. The ground floor also has permission as a coffee shop to open until 11.30pm on bank holidays.

These hours were agreed following a meeting with environmental health on the understanding that as and when a license application was submitted that ONLY the sale of



alcohol was extended beyond 10pm and that use of outside seating remained at 9pm. Our license application is in line with that agreement.

The planning application was supported by a second noise survey. The noise surveys submitted to the council confirm that the insulation required by building control between the restaurant and the flat is to standard and acceptable.

At first and second floor is a flat let to 5 young professional's incl 2 teachers, 1 employment consultant, 1 PR / Marketing, 1 in computers. All are between 25 – 35 years and all are working. 1 tenant already moved out because of the noise from the club and the children next door and another tenant is now moving. They complain to me as landlord on a regular basis about the noise from the club especially on a Sunday when they need to up early to go to work.

I have no complaints about the shop from the tenants as this has noise insulation. If a temporary event notice is submitted it is agreed with the tenants first and they are given plenty of notice and often attend. There has been 3 TENS so far this year for new years eve and until 2am on 2 other occasions.

2 Grange View – this is not 6 flats or accommodation for old people as the owner insisted at the last hearing. This is a managed house providing accommodation for young people of 16 – 18 years old. They also cause a lot of noise late on a night, playing music loudly and running up and down stairs and keep my tenants awake into the early hours.

Complaints have been made both to the planning department and environmental health department about the noise from both sides and about the lack of planning permission for the hours that the club currently opens to and are on the license.

The environmental health department does not appear to explain how the serving of alcohol for an extra hour should it choose on a bank holiday weekend will harm residential amenity and whose amenity they are protecting. At Midnight and half past midnight when the restaurant would close on occasion the club has not even got going! The majority of the club customers does not turn up till 3am and stay till 6am. If there is any understanding at all about the west Indian community in Chapeltown is that many do not go out UNTIL midnight when Miss Browns is closing!

For avoidance of doubt – contrary to the Env Health Statement – the request is for opening hours of the restaurant is until 11pm Sunday to Friday and 11.30pm Saturday with the option to open an hour later at bank holiday weekends.

ALL other licensed premises and clubs in Chapeltown benefit from a clause in their license that allows them to stay open throughout the night on new years eve without needing to apply for a TENS. Simply on the basis of fairness and to be equitable to all licensed businesses, the same is requested for this restaurant.

The normal operating of Miss Browns is a quiet establishment serving an older crowd of 40s 50s 60s+ age range. The establishment is supported by the local police and Matt Davison who heads up the local team.

I have responded to every request made by the council regarding this property and keep going through the huge expense of getting the relevant permissions. Yet my business

neighbours do not appear to have to do this – Nite Trax opens until 6am without planning permission or a license, Taste opposite the shop has permission for a bakery with ancillary retail – yet trades as a hot food takeaway and café with seating outside on the pavement without planning permission since March 2011. When asked I am told that the planning team is too busy to deal with this and it is not a priority.

#### PLANNING LAW

It is interesting that the officer from the environmental department is advising on planning law. I have been a chartered town planner since 1990 and have practiced throughout the country. Planning permission is not required for occasional use or occasional opening beyond the times conditioned in a planning permission. No planning inspector in the country would support an enforcement notice issued because a restaurant opened 1 hour beyond its normal hours occasionally. However it is against the law to serve alcohol beyond the licensed times and that is the purpose of this application to ensure that should we wish to stay open a little later during festive times – we can do so.

The environmental health officer does not appear to understand the terms of the TENs – in order to open between 11pm and Midnight 1 of the 12 days allowed for each premises must be used up. Should the proprietor wish to open until 2am – 2 days are used up.

It would appear that the only reason the environmental department gives for objecting is based on the planning law which is outside their knowledge and remit.

The environmental health department appears to be asking the licensing department to reduce the hours of opening for which planning permission has been granted. There is no basis for requesting that and as planning permission has been granted the property can remain open until 11pm and 11.30pm on a Saturday lawfully and indeed as a coffee shop until 11.30pm on a bank holiday.

#### Planning Department

The planning department appear to suggest that a small restaurant that opens on occasion for an extra hour during Easter, Christmas, Carnival weekends as and when required until midnight and half past midnight will cause a nuisance within the context of a nightclub next door that does not open until 2am, does not get going till 3am, and closes around 6am. In addition, is next to a residential home for 16-18 year olds who are up half the night playing loud music and causing noise. Opposite is a property occupied by dance students who are quiet.

It is the night club that attracts taxis and people congregating on the street all night. The hours proposed for bank holidays would result in the restaurant being closed a couple of hours before the club opens and people start arriving for that.

In chapel allerton there area several bars and restaurants with flats above which open until 1am.

The music played in the shop cannot be heard upstairs in the flat due to the noise insulation and cannot be heard beyond the entrance hall. It is not audible outside at all.

Permission is requested for an extra hour should we wish to use it around festive times in the year. At these times – Easter, Carnival, May Day, Christmas there are many other

Licensing

4 July 2012

licensed and unlicensed premises in the area that open a long way past midnight – Nite Trax, The African Club, West Indian Centre, The Lodge, Nassau Place Club, The Cricket Club. This list does not include the handful of illegal unlicensed premises in the area.

It would seem that the council have the power through the planning act to curtail the use that cause a problem to some residents in the area should they wish to. Instead they are concerned about Miss Browns opening for an extra hour on occasion at times of the year when there are a lot of people about and within the context that EVERY weekend the premises next door does not open till 2 hours AFTER the flexibility requested.

I reiterate – this is a restaurant – an extension is required in order to sell alcoholic drinks in line with the times already agreed with planning and env health and the police and an extra hour on occasion. The customers are quiet and a mature crowd.

Kind Regards

Yours sincerely,

**Amanda Brown BSc(Hons) Dip TP Dip PD MRTPI**

Town Planning Consultant

MD Miss Browns Coffee House Ltd

Owner of 152 Chapeltown Road

Business Partner of Utilitrack (commercial energy brokers)

Leeds CC Accredited HMO Landlord in Chapel Allerton and Chapeltown

6A St Marys Road, Chapeltown LS7 3JX

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Town and Country Planning Act 1990

## Grant of Full Planning Permission

Applicant:	Amanda Brown	Application Number:	12/00239/FU
Address	Miss Browns Coffee House 152 Chapeltown Road Leeds LS7 4EE	Date Accepted:	5 March 2012
		Date of Decision:	30 April 2012

**Proposed Development At:** 152 Chapeltown Road Chapeltown Leeds LS7 4EE

**Proposal:** Change of use from sandwich shop (A1) to restaurant (A3) and retrospective installation of flue to rear

**Full planning permission granted in accordance with the approved plans and specifications and subject to the condition(s) set out below:-**

- 1) The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.

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

- 2) The opening hours of the premises shall be restricted to 07.30 hours to 23.00 hours Monday to Friday, Sunday and bank holidays and to 07.30 hours to 23.30 hours on Saturdays.

In the interests of the amenity of nearby residents.

- 3) The hours of delivery, including the collection of refuse, to and from the premises shall be restricted to 07.30 hours to 18.00 hours Monday to Friday and to 08.00 hours to 13.00 hours on Saturdays with no deliveries on Sundays and Bank Holidays.

In the interests of amenity.

- 4) Outdoor dining to the front and rear of the premises shall cease at 9pm every day.

In the interests of the amenity of residential occupiers of the upper floor duplex flat and surrounding residential properties.

Town and Country Planning Act 1990

## Grant of Full Planning Permission

**Plans Schedule** - as referred to in Condition No. 1 above:-

<b>Plan Type</b>	<b>Plan Reference</b>	<b>Received</b>
Site Location Plan/Red Line/OS Plan		05.03.2012
Proposed plan showing all information	1646-20	05.03.2012

**Reason(s) for granting consent:-**

- 1) In granting permission for this development the City Council has taken into account all material planning considerations including those arising from the comments of any statutory and other consultees, public representations about the application and Government Guidance and Policy as detailed in the National Planning Policy Framework and (as specified below) the content and policies within Supplementary Planning Guidance (SPG) and The Development Plan consisting of The Yorkshire and Humber Plan - Regional Spatial Strategy 2008 (RSS) and the Leeds Unitary Development Plan Review 2006 (UDPR).

GP5, N19, T2, and BD6.

On balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

**For information:-**

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to the Coal Authority. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of the Coal Authority. Property specific summary information on coal mining can be obtained from the Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com);

Town and Country Planning Act 1990

## Grant of Full Planning Permission

Applicants are requested to remove any site notices related to this application from outside the property to which the application relates.

### Important Information about Your Planning Permission

#### **Town and Country Planning (Development Management Procedure) (England) Order 2010**

This decision notice only relates to the grant of planning permission. It does not give any approval or consent which may be needed under any legislation, enactment, bye-laws, order or regulation other than the Town and Country Planning Act 1990 as amended. You may need other approvals, consents or licenses for the development eg building regulations approval.

This permission is granted in strict accordance with the approved plans. It should be noted however that:

- (a) A variation from the approved plans following commencement of the development is likely to constitute unauthorised development and may be liable to enforcement action.
- (b) Variation to the approved plans will require the submission of a new planning application.

This planning permission is granted subject to conditions. Please read the conditions carefully and make sure that you understand what is required to comply with them. It is the responsibility of the owner(s) and the person(s) implementing the development to ensure that the approved plans and these conditions are complied with throughout the development and beyond. Failure to comply with any of the conditions may result in enforcement action.

Conditions which require work to be carried out or details to be approved prior to commencement are very important and are called '**conditions precedent**'.

This means:

- (a) If a condition precedent is not complied with, the whole of the development might be unauthorised and you may be liable to enforcement action.
- (b) Where a condition precedent is breached and the development is unauthorised, the only way to rectify this is by the submission of a new application to obtain a fresh planning permission.

Town and Country Planning Act 1990

## Grant of Full Planning Permission

A fee of £85 per request or £25 if the request relates to a householder application is payable to discharge condition(s). The request needs to identify the planning application number and the condition(s) concerned; a form is available from our website [www.leeds.gov.uk/planningforms](http://www.leeds.gov.uk/planningforms) titled Approval of Details application form.

### Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority to grant permission for the proposed development subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990 as amended.

If you want to appeal, you must do so within **six months** of the date of this notice, using a form which you can obtain from <http://www.planningportal.gov.uk/planning/appeals> or by email from [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk) or by phoning 0117 372 6372.

The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to do so unless there are special circumstances which excuse the delay in giving notice of appeal.

You must send one copy of the completed form to [planning.appeals@leeds.gov.uk](mailto:planning.appeals@leeds.gov.uk) or Appeals Administration, Planning Services, Leeds City Council, The Leonardo Building, 2 Rossington Street, Leeds, LS2 8HD as well as to the Planning Inspectorate at the address on the form.



# Internal Memo



To: Marianne Banksy  
Planning services  
Leonardo Building  
2 Rossington Street  
Leeds LS2 8HD

From: Environmental protection team  
Leeds City Council  
Knowsthorpe Gate  
Cross Green  
Leeds LS9 0NP

From: Mr Simon Clothier  
Tel: 0113 395 1283  
Email: simon.clothier@leeds.gov.uk

Your Ref:  
Our Ref: 12/08265/PLAPPL  
Date: 4 April 2012

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**Subject: Planning Application Number: P/12/00239/FU/NE  
Site at: Miss Browns Coffee House, 152 Chapeltown Road,  
Chapeltown, Leeds, LS7 4EE  
For: Change of use from sandwich shop (A1) to restaurant  
(A3)**

1. The application is a change of use from cafe to restaurant. From discussions with the applicant, the reasoning behind this application is to be able to serve more hot food as part of the business. Currently the premises is set out as a cafe serving alcohol and hosting weekly open-mic/ music events albeit on a small scale owing to the size of the premises. There are 5 apartments sharing kitchen facilities above the premises in question and these are owned and managed by the applicant.

The applicant has submitted an acoustic report that demonstrated that noise from a newly installed kitchen extraction unit running up through the apartments above would not cause significant harm to amenity of the occupants and also to surrounding residences.

This department has received complaints of noise from music and people outside in December 2011 and recently in March 2012. These complaints however have not been substantiated but were brought to the attention of the applicant at the time.

The main concern is whether the hour time extension to opening would cause problems to nearby residences, particularly the apartments above the premises. In discussions with the applicant, it felt that the premises will be sufficiently managed and a condition limiting live music to that current was accepted by the applicant. On this basis, this department would recommend approval with the following conditions attached;

The performance of live music shall only be permitted between the hours of 0700 - 2200.

Reason: RA

The outside area at the front of the premises shall closed to customers, with the exception of

use as a smoking area after 2100 on any night.

Reason: RA

Mr Simon Clothier  
Senior scientific officer

**City Development Department  
Transport Development Services**

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**PROPOSAL:** Change of use from sandwich shop (A1) to restaurant (A3) and retrospective installation of flue to rear

**LOCATION:** 152 Chapeltown Road Chapeltown

**APPLICANT:** Amanda Brown

**PLANNING OFFICER:** MARIANNE BANKSY

**PLANNING REF:** 12/00239/FU/NE

**HDC REF:** 3035/NE/23

**DATE:** 29/03/12

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**COMMENTS:**

**REFERENCE TO PLANS:** 20

<p><b>RECOMMENDATION: NO OBJECTIONS:</b> It is my understanding that the shop has been operating as a café and as such no issues with parking have arisen. Therefore in view of this it is considered that a highway objection would be difficult to justify. The site is located adjacent to the Local Centre of Chapeltown and parking is not permitted within the bus lane outside the property during the morning traffic peak.</p>
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**POLICY:** GP5; T2

**RED LINE BOUNDARY / HIGHWAY BOUNDARY / RETAINING WALLS / ADOPTION ISSUES:** N/A

**ACCESSIBILITY – WALKING, CYCLING, PT:** The site is accessible by alternative modes of travel.

**VEHICULAR ACCESS:** N/A

**INTERNAL LAYOUT / SERVICING / BINS:** As existing.

**PARKING:** A single off-street space is provided.

**TRAVEL PLAN:** N/A

**OFF SITE HIGHWAY WORKS:** N/A

**ROAD SAFETY:** The scheme raises no specific road safety concerns

**WARD MEMBER CONSULTATION RESPONSES:**

**PLANNING CONDITIONS / S106:** None received at the time of these comments

**CONCLUSION:** The proposal is acceptable in highway terms

NICK GARDINER

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**CHECKED BY:** N Huntley

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## DELEGATION REPORT

### REPORT OF THE CHIEF PLANNING OFFICER

**WARD:** Chapel Allerton

**Application:** 12/00239/FU

**Address:** 152 Chapeltown Road  
Chapeltown  
Leeds  
LS7 4EE

**Applicant:** Amanda Brown

**Proposal:** Change of use from sandwich shop (A1) to restaurant (A3) and retrospective installation of flue to rear

### RECOMMENDATION:

Approve subject to the following condition(s):-

- 1) The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.

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

- 2) The opening hours of the premises shall be restricted to 07.30 hours to 23.00 hours Monday to Friday, Sunday and bank holidays and to 07.30 hours to 23.30 hours on Saturdays.

In the interests of the amenity of nearby residents.

- 3) The hours of delivery, including the collection of refuse, to and from the premises shall be restricted to 07.30 hours to 18.00 hours Monday to Friday and to 08.00 hours to 13.00 hours on Saturdays with no deliveries on Sundays and Bank Holidays.

In the interests of amenity.

- 4) Outdoor dining to the front and rear of the premises shall cease at 9pm every day.

In the interests of the amenity of residential occupiers of the upper floor duplex flat and surrounding residential properties.

- 5) In granting permission for this development the City Council has taken into account all material planning considerations including those arising from the comments of any statutory and other consultees, public representations about the application and Government Guidance and Policy as detailed in the National Planning Policy Framework and (as specified below) the content and policies within Supplementary Planning Guidance (SPG) and The Development Plan consisting of The Yorkshire and Humber Plan - Regional Spatial Strategy 2008 (RSS) and the Leeds Unitary Development Plan Review 2006 (UDPR).

GP5, N19, T2, and BD6.

On balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

**For information:-**

**This recommendation relates to the following Approved Plans**

Plan Type	Plan Reference	Version	Received
Site Location Plan/Red Line/OS Plan			05.03.2012
Proposed plan showing all information	1646-20		05.03.2012

**Introduction:**

Permission is sought for the change of use of a sandwich shop to restaurant ( A3) on Chapeltown Road. Highways have no objections and also Environmental Health have no objections subject to various conditions to protect residential amenity. Approval is recommended since the opening hours requested are also only marginally different to those agreed for the coffee shop. The applicant is also agreeable to conditions restricting the hours of use for outdoor dining to the front garden area and the hours for performance of live music within the premises. Delivery and refuse collection hours controls will remain the same. The flue has already been installed to the rear and is mostly internal. It is painted grey to match the adjacent dormer extension and is considered visually acceptable within the conservation area. Approval is therefore recommended.

**Proposal:**

Permission is sought for the change of use of a sandwich shop to restaurant (A3) on Chapeltown Road. The application is retrospective as an alcohol and performance licence has been obtained for the premises and implemented. Various events have already taken place at the coffee shop and complaints made to planning enforcement and environmental health colleagues concerning this unauthorized change of use. The external flue outlet to the rear has already been constructed and it is painted grey to match the adjacent recently approved dormer window to the upper duplex apartment. The remainder of the flue is routed internally through the building. No further external/ internal works are proposed, in any case the premises appears to be fit for purpose due to various works being previously undertaken for the implementation of the approved coffee shop. In addition, the site has benefitted from recent Heritage Lottery Funding and has ornamental traditional style railings erected to the front garden outdoor dining and smoking area. The applicant requires overall a slight increase in opening hours ie 7.30 am to 11pm Monday to Friday , Sunday and bank holidays and 7.30 to 11.30pm on Saturdays. Deliveries and refuse collection to be from 7.30am to 6pm Monday to Friday and 8am to 1pm on Saturday as existing.

**Site and Surroundings:**

The application relates to the ground floor converted shop unit of a mid-terraced stone property on Chapeltown Road. The building is one of five properties in the terrace, which are similar in their designs, with bay windows at ground floor level and gables features in the roof, providing accommodation over three storeys. Of the other units in the terrace, the building immediately adjoining to the north (2 Grange View) has been recently renovated and converted to flats- this is an end unit .Two of the units to the south (numbers 146 and 150- ie an end unit) are currently vacant. Number 148 has a nightclub on the ground floor with a function room and bar above.

The site has a narrow service road to the rear, leading from Grange View to the north which is a residential street with no through access onto Chapeltown Road. A bus lane runs along Chapeltown Road to the front of the site, which is operational from 7.30am to 9.30am Monday to Friday.

The application site is just outside Chapeltown Road district centre, but is adjacent to the boundary, which runs to the west and north of the terrace in which the site is located, and includes properties on the opposite sides of Chapeltown Road and Grange View. In addition to these nearby commercial uses, the property is also surrounded by residential areas to the east. The site is within Chapeltown conservation area, and is surrounded by a variety of building designs and materials, including other stone properties on the eastern side of Chapeltown Road and brick built commercial properties to the west, and residential properties in the terraced streets to the east.

### **Relevant Planning History:**

An application to change the building from a terraced house into offices was refused in October 1980 on the grounds that the use of the building for offices in an area allocated for residential development was not acceptable, and on highway safety grounds, as there was insufficient parking provided (application H30/657/80). A subsequent appeal against this refusal was dismissed.

Permission was granted in April 1982 for the change of use of the building from a terraced house into a 1-bedroom flat and a 2-bedroom maisonette/duplex (application H30/70/82/).

An application for a staircase to the rear of the maisonette/duplex was approved in June 1983 (application H34/64/83/).

10/03065/FU Approval of change of use of ground floor flat to sandwich shop

10/04996/FU Approval of variation of condition 6 of approval 10/03065/FU re longer opening hours ie 7am to 10.30pm Monday to Sunday and 7am to 11.30pm on all bank holidays.

10/04998/FU Approval of rear dormer ,rooflight to the front of upper duplex flat and ornamental metal railings to the front..

11/04039/Cond Approval of discharge of all conditions (ie which can be discharged).

The nightclub to the south ie number 148 appears to have been in existence for some time. Various applications for extensions and alterations to the building have been approved, mainly in the mid 1990s.

Permission was granted in May 1995 for the change of use of the adjacent property to the north of the site, 2 Grange View, into 5 flats (application 34/42/95/FU). This neighbouring building appears to have been vacant for some time, although some works to the building have recently taken place, including the addition of a dormer window to the rear which was carried out without planning permission. An enforcement notice has now been served in



relation to the unauthorised dormer. The owner has stated in his letter of representation summarized below that the site is tenanted.

### **Statutory Consultations:**

None.

### **Non Statutory Consultations:**

#### Highways:

Have no objections as it appears that the shop has been running as a small café for some time and no parking problems have arisen as a consequence. In addition, the site is located adjacent to the district centre of Chapelton and parking is not permitted within the bus lane outside the property during the morning traffic peak.

#### Environmental Health:

Have no objections subject to conditions restricting the hours of use of the front outside dining area up to 9pm any night ( apart from customer smoking at any time during the agreed opening hours for the premises ) and restricting the performance of live music within the premises to between 7.30 am and 10pm every day. The submitted acoustic report demonstrates that noise from the newly installed kitchen extraction unit which runs internally through the upstairs duplex apartment and terminates with an external flue outlet just above the rear dormer window would not cause significant harm to the residential amenity of the occupants above the restaurant and also to surrounding residences. The slightly adjusted hours of opening are acceptable also.

### **Public/Local Response:**

A site notice was posted on 16/3/2012.

I letter of objection from the owner of the neighbouring property le 2 Grange view on the following grounds:

- Hot food takeaway is not acceptable in residential area
- Rat infestations
- Objected to alcohol and live/loud music licence
- Antisocial behaviour ie noise , disturbance, litter including broken glass, threatening behaviour and drug use
- There has been a lot of public and private investment in the area
- Detrimental to the conservation area
- Parking problems
- Tenants have not renewed their tenancies

### **Planning Policies:**

## **National**

### National Planning Policy Framework

The National Planning Policy Framework (NPPF) was published on 27<sup>th</sup> March 2012 and replaces previous Planning Policy Guidance/Statements in setting out the Government's planning policies for England and how these are expected to be applied. One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.

## **Local**

### Development Plan

The development plan for Leeds is the Unitary Development Plan Review 2006 (UDP). The site is within Chapeltown conservation area, and adjacent to the boundary with Chapeltown Road local centre. The following UDP policies are relevant to the consideration of the application:

- GP5 – General planning considerations
- N19 – Development in conservation areas
- BD6 – Extensions and alterations to existing buildings
- T2 – Highway safety

Chapeltown Conservation Area Appraisal

## **MAIN ISSUES**

1. Principle of development
2. Visual amenity and impact on conservation area
3. Residential amenity
4. Highway safety
5. Other matters

## **APPRAISAL**

### 1. Principle of development

The loss of a retail unit and replacement with a restaurant is not considered to be a problem as the site does not lie within the designated district centre. The principle of the change of use is therefore acceptable as the location is sustainable because it is closely related to the district centre ( just opposite to the west of Chapeltown Road) and is located on a main road which is a frequent and reliable public transport route.

### 2. Impact on the character and appearance of the conservation area

The change of use will not be detrimental to the conservation area as most of the external alterations have already taken place under a previous approval. The flue outlet to the rear which is already installed and just above the new dormer window is painted grey to match the approved extension and is not too large or otherwise obtrusive. The proposal is acceptable in the conservation area.

### 3. Residential amenity

There are residential properties nearby to the east of the site, above the restaurant itself and adjacent to the north at Number 2 Grange View . In view of the restaurant use proposed to be retained , it is considered that conditions should be attached in relation to the control of opening hours, delivery hours, hours of outdoor dining and hours of live music/ performances in order to protect the amenities of residents in adjoining and surrounding residential premises. On this basis, it is not considered that the proposed development would detract from the amenities of nearby residents. In addition the flue will not cause unacceptable noise for the occupants of the upper duplex or surrounding residents. The proposal is acceptable in residential amenity terms.

### 4. Highway safety

No problems of highway safety and efficiency have arisen as a result of this retrospective change of use. In addition, there is an established bus lane to the front preventing on street parking to the front of the premises at peak times. The proposal is therefore acceptable in highway terms.

### 5. Other matters

Other matters raised by the representee which are not discussed in the above points are not considered to be material to the consideration of the planning application.

### Conclusion

It is considered that the retrospective change of use to restaurant and the flue outlet are acceptable within the conservation area and in terms of impact on the residential amenity of neighbouring properties subject to the various conditions restricting opening hours, outdoor dining and live performances. In addition, there is no detrimental impact on highway safety and efficiency. On balance therefore, it is recommended that the application be approved.

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Our ref: NIA/3912/12/3463 Rev A

22 February 2012

Ms Amanda Brown  
6 St Mary's Road  
Chapelton  
Leeds  
LS7 3JX



Sent by email only: amanda.brown@pds.uk.com

Dear Ms Brown

**NOISE IMPACT ASSESSMENT FOR KITCHEN EXTRACTION FLUE  
152 CHAPELTOWN ROAD, LEEDS, LS7 4EE**

**1.00 INTRODUCTION**

- 1.01 Environmental Noise Solutions Limited (ENS) has been commissioned to assess the potential impact of noise associated with the operation of a restaurant kitchen extraction flue at 152 Chapelton Road, Leeds. The assessment has been undertaken to accompany an application for a change of use from a sandwich bar to a restaurant at the ground floor of the property. An annotated site location plan is contained in Appendix 1.
- 1.02 The property consists of commercial use at ground floor level, overlain by two floors of residential accommodation. The kitchen flue runs internally to the property, with the ductwork lagged and boxed out through Bedroom 3 at 1<sup>st</sup> floor and Bedroom 5 at 2<sup>nd</sup> floor. The efflux point is above roof level, towards the rear of the property. The property is bound by Chapelton Road to the west, Back Grange View to the east, and attached properties to the north and south (the property immediately to the south is understood to be vacant, whilst the next two properties to the south are understood to have been converted into a night club).
- 1.03 A part of previous works at the site, ENS undertook a sound insulation test of the separating floor between ground floor and 1<sup>st</sup> floor, which showed the sound insulation performance to be appropriate for ground floor small scale commercial kitchen activity. As such, the focus of this report is the kitchen extraction flue.
- 1.04 Typically, in the UK, noise from mechanical ventilation systems is assessed using noise rating (NR) curves. NR is a graphical method for assigning a single number rating to a noise spectrum.
- 1.05 The methodology employed to assess the potential noise impact of the extraction flue was as follows:
- In order to assess the potential noise impact of breakout noise from the ductwork on the internal amenity of a habitable room through which the ductwork passes, the noise level in Bedroom 3 (1<sup>st</sup> floor) with the extraction system operating was assessed against the ambient noise climate in Bedroom 1 (no ductwork).
  - In order to assess the potential noise impact of the extraction system efflux point (atmospheric termination) on the amenity of local receptors, the external noise level with the extraction system operational was assessed against the external noise level in the absence of extraction system noise emissions.
- 1.06 It is understood that the extraction system may operate up to 23:00 hours, which is classed as daytime operation in relation to noise (daytime period 07:00 to 23:00 hours). Representative noise monitoring was, therefore, undertaken during the late evening period.

## 2.00 NOISE SURVEY RESULTS

- 2.01 In order to assess the potential noise impact of the extraction system, noise measurements were taken on the evening of Monday 13 February 2012.
- 2.02 For the purpose of the assessment, three monitoring positions (MP1, MP2 and MP3) were adopted. MP1 was located in Bedroom 3 on the 1<sup>st</sup> floor, MP2 was located in Bedroom 1 on the 1<sup>st</sup> floor and MP3 was located externally to Bedroom 5 on the 2<sup>nd</sup> floor by extending a boom through a dormer window.
- 2.03 Measurements at MP1 and MP2 were taken in a reverberant sound field at approximately 1.2 metres above floor level in the centre of the room. MP3 was taken in a free field environment.
- 2.04 Noise measurements were undertaken using a Bruel & Kjaer 2260 sound level meter and consisted of logged measurements (with logging intervals of 1 minute), with A-weighted broadband parameters and linear one-third octave band  $L_{eq}$  levels recorded. The measurement system calibration was verified immediately before the commencement of the measurement sessions and again at the end, with no drift in calibration level noted. A 90 mm windshield was fitted for all measurements. Weather conditions throughout the external measurement session were considered suitable for surveying, with an average wind speed of less than 5 metres per second.
- 2.05 For reference, the ambient noise climate in the vicinity of the site was characterized by local and distant road traffic noise.
- 2.06 A summary of the noise measurement data (rounded to the nearest decibel) is contained in the following table, with a glossary of acoustic terms contained in Appendix 2 for reference. Unrepresentative data was excluded using Bruel & Kjaer Evaluator software.

**Table 2.1 – Summary of noise measurement data**

Date	MP	Time	$L_{Aeq}$ (dB)	$L_{A90}$ (dB)	NR curve (dB)	Comment
13/2/12	1	20:50-20:56	34	32	NR 26	Bedroom 3. Internal noise measurement, with extraction system on and operating at normal duty level. Noise climate subjectively broadband in nature.
13/2/12	2	21:22-21:32	36	30	NR32	Bedroom 1. Internal noise measurement, no ductwork in this room. Window closed and wall trickle vent open.
13/2/12	3	21:49-21:59	54	43	NR 52	External to Bedroom 5 on boom adjacent to efflux point. Extraction system not operating. Distant and local traffic main noise sources.
13/2/12	3	22:01-22:06	53	45	NR 50	External to Bedroom 5 on boom adjacent to efflux point. Extraction system operating at normal duty level. Distant and local traffic main noise sources.

### 3.00 ASSESSMENT OF RESULTS

3.01 With reference to the noise monitoring results, in relation to internal noise amenity with respect to ductwork noise breakout:

- The measured ambient noise levels in Bedroom 3 with the extraction system operational, of 34 dB  $L_{Aeq,T}$  and NR 26, are conducive with good resting conditions during the daytime (BS 8233:1999 design range is 30 to 40 dB  $L_{Aeq,T}$ , and NR 30 is typically applied to daytime internal noise levels).
- It is apparent that the internal noise level in Bedroom 3 with the extraction system operational is comparable to that in Bedroom 1 (where there is no extraction system, but which is subject to road traffic noise).

3.02 On the basis of the above, the extraction system is not considered to be detrimental to the amenity of the residential accommodation with respect to noise.

3.03 With reference to the noise monitoring results, in relation to noise amenity with respect to noise emissions from the extraction system efflux point:

- The ambient noise climate is dominated by distant and local traffic noise both with and without the extraction system operational. As can be seen from the monitoring results, both the broadband  $L_{Aeq,T}$  and NR values are consistent with and without the extraction system operational.
- In close proximity to the efflux point, the operation of the extraction system raises the background noise level ( $L_{A90,T}$ ) by of the order of 2 dB. This level of increase is not considered significant and should also be considered in the context that the impact will decrease relative to the prevailing background noise level with increasing distance from source (distance attenuation of a point source is 6 dB per doubling of distance).

3.04 On the basis of the above, the extraction system is not considered to be detrimental to the amenity of the local area with respect to noise.

### 4.00 CONCLUSIONS

4.01 Based on the noise measurements and assessment undertaken, noise emissions associated with the operation of the kitchen extraction flue are not considered to be detrimental to either the internal amenity of the overlying residential accommodation, or, the amenity of the local area.

If you have any queries concerning the above please do not hesitate to contact me.

Yours sincerely



Richard Pennell  
For Environmental Noise Solutions Limited

cc File

APPENDIX 1 – DRAWINGS





## APPENDIX 2 – GLOSSARY OF ACOUSTIC TERMS

### Sound Pressure Level ( $L_p$ )

The basic unit of sound measurement is the sound pressure level. As the pressures to which the human ear responds can range from 20  $\mu$ Pa to 200 Pa, a linear measurement of sound levels would involve many orders of magnitude. Consequently, the pressures are converted to a logarithmic scale and expressed in decibels (dB) as follows:

$$L_p = 20 \log_{10}(p/p_0)$$

Where  $L_p$  = sound pressure level in dB;  $p$  = rms sound pressure in Pa; and  $p_0$  = reference sound pressure (20  $\mu$ Pa).

### A-weighting Network

A frequency filtering system in a sound level meter, which approximates under defined conditions the frequency response of the human ear. The A-weighted sound pressure level, expressed in dB(A), has been shown to correlate well with subjective response to noise.

### Equivalent continuous A-weighted sound pressure level, $L_{Aeq, T}$

The value of the A-weighted sound pressure level in decibels of continuous steady sound that within a specified time interval, T, has the same mean-square sound pressure as a sound that varies with time.  $L_{Aeq, 16h}$  (07:00 to 23:00 hours) and  $L_{Aeq, 8h}$  (23:00 to 07:00 hours) are used to qualify daytime and night time noise levels.

### $L_{A10, T}$

The A-weighted sound pressure level in decibels exceeded for 10% of the measurement period, T.  $L_{A10, 18h}$  is the arithmetic mean of the 18 hourly values from 06:00 to 24:00 hours.

### $L_{A90, T}$

The A-weighted sound pressure level of the residual noise in decibels exceeded 90% of a given time interval, T.  $L_{A90}$  is typically taken as representative of background noise.

### $L_{AF \max}$

The maximum A-weighted noise level recorded during the measurement period. The subscript 'F' denotes fast time weighting, slow time weighting 'S' is also used.

### Sound Exposure Level (SEL or $L_{AE}$ )

The energy produced by a discrete noise event averaged over one second, no matter how long the event actually took. This allows for comparison between different noise events which occur over different lengths of time.

### Weighted Sound Reduction Index ( $R_w$ )

Single number quantity which characterises the airborne sound insulation properties of a material or building element over a defined range of frequencies ( $R_w$  is used to characterise the insulation of a material or product that has been measured in a laboratory).

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