

## WINDSOR DEVELOPMENT CONTROL PANEL

18 March 2009

Item: 3

<b>Application No.:</b>	09/00067/VAR
<b>Location:</b>	Bar Yello Arch 11 Goswell Hill Windsor SL4 1RH
<b>Proposal:</b>	Continued use of the premises as bar and restaurant in accordance with Planning Permission 472467 with opening hours extended beyond condition 2 to extend opening by 15 mins to midnight on Sunday to Thursday and by 1 hours 15 mins on Friday and Saturday to 1.00 a.m. the following morning.
<b>Applicant:</b>	Bar Yello
<b>Agent:</b>	JWPC Limited
<b>Parish/Ward:</b>	Castle Without Ward

**If you have a question about this report, please contact:** on 01628 796323 or at [brian.benzie@rbwm.gov.uk](mailto:brian.benzie@rbwm.gov.uk)

### 1. SUMMARY

- 1.1 Permission was sought for the extension of opening hours until midnight on Sundays - Thursdays and 1:00 am on Fridays and Saturdays under a previous application ref. 07/03094 and was granted for a trial run period of twelve months to enable the impact of the extended opening hours on the amenities of the nearby residents and the surrounding area to be monitored. This 12 month period expired on the 17<sup>th</sup> January 2009 and the current application seeks to continue these extended hours on a permanent basis.
- 1.2 Following the 12 month trial period both Thames Valley Police and the Council's Environmental Protection Officer have been consulted and neither have raised an objection to the extended hours of opening.
- 1.3 In considering whether the extended hours would preserve or enhance the character of the Conservation Area, in recent appeal decisions at nearby Mantra and The Scotch Bar the Inspectors concluded that extensions to their opening hours would not detract from the special qualities of the Conservation Area as a whole, the character of which would be preserved.

**It is recommended the Panel grants planning permission with the condition listed in Section 10 of this report.**

### 2. REASON FOR PANEL DETERMINATION

- The application has been called in to Panel at the request of Councillor Catherine Bursnall who considers that the weekend extension is acceptable but not the Sunday - Thursday opening times. Councillor Bursnall considers that the Sunday - Thursday opening hours should fall in line with the recent Scotch Bar application, closing at 11pm, to ensure that there is more consistency on Goswell Hill.

### 3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The site is in the Windsor Town Centre Conservation Area in one of the arches underneath Windsor and Eton Central railway station, now largely redeveloped to include a shopping centre with bars, restaurants and tourist attractions. The railway arches extend between Goswell Hill on the south and the service road known as Bridgewater Way on the north side. Both are narrow, single track roads and both slope down from the east to the west. Both are cul-de-sacs for vehicles, although Goswell Hill has footpath connections at its upper end to Peascod Street and to the Windsor Royal Station shopping centre. At its lower end Goswell Hill descends into and

connects with the service area beneath the King Edward Court shopping centre, which spans Goswell Hill at this point. Beyond the service area Goswell Hill continues in the open, pedestrianised, until it reaches Goswell Road. Most of the railway arches in Goswell Hill on either side of the service yard are now used for bars and restaurants, although there are some other businesses as well. From the service undercroft of King Edward Court, about two-thirds of the way along Goswell Hill, one railway arch, itself also known as Bridgewater Way, connects Goswell Hill to Bridgewater Way. At its western end Bridgewater Way opens up into a yard, used for parking, with access onto Bridgewater Terrace and to Goswell Road. The residential properties that closest to the arches are in Bridgewater Terrace which runs parallel to the railway viaduct.

- 3.2** Goswell Hill contains a number of other establishments with bars in addition to Bar Yello. Havanna has a condition restricting its opening hours until 01.00am from Sunday to Thursdays and 02.00am on Fridays and Saturdays; Charleys Horse has a condition restricting opening hours until 01.00am from Monday to Saturdays and until 11.00pm on Sundays; Bar Indigo has a condition restricting opening hours until 00.00 Monday to Thursday and 01.00am on Friday and Saturday and Mantra (a market arcade and café/bar) has a planning permission recently allowed at appeal (ref.'s 06/01990 and 06/02753) on the 16<sup>th</sup> June 2008 to open for the serving of customers up to 11.00pm on Sundays - Thursdays, and to 01.00am on the mornings following Fridays and Saturdays; and The Scotch Bar has recently been given permission for a temporary trial run for a change of use to a night club opening until 11:00pm Sunday to Thursday and 02:00am Fridays and Saturdays. In a number of these cases customers are permitted to remain on the premises for up to 30 minutes after these times ('drinking up' time).
- 3.3** Bar Yellow operates as a cocktail bar with a capacity of 225 and has its bar area on the ground floor consisting of a large sitting area to the front and with the bar towards the centre of the unit, and toilets, stores and cellarage areas to the rear. There is also a mezzanine area with more seating and two pool tables. To the rear of the mezzanine is a kitchen and a managers office. There is a podium for a resident DJ at ground floor level who provides background music throughout the week. There is no specific dance floor area and no charge is made for entry to Bar Yello. The bar provides seating for in the region of 115 persons relative to its 225 capacity. Private parties are catered for on the mezzanine floor where buffet food is made available.

#### **4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY**

472467	Change of use of ground and first floor to bar and restaurant.	Approved on the 1 <sup>st</sup> June 1994 with a condition, (Condition 2) restricting the opening hours to 11:45pm.
07/03094	Variation of Condition 2 (opening hours) of planning permission 472467 to allow opening for the serving of customers until midnight from Sunday to Thursday and until 01.00 am on Friday and Saturday	Temporary permission granted on the 18 <sup>th</sup> January 2008 for a twelve month trial period to enable the impact of the extended opening hours on the amenities of the nearby residents and the surrounding area to be monitored.

- 4.1** The current application is for the continued use of the premises as bar and restaurant in accordance with planning permission 472467 with opening hours extended beyond Condition 2 to extend opening by 15 minutes to midnight on Sunday – Thursday and by 1 hour 15 minutes on Friday and Saturday, to 1:00am the following morning.

#### **5 MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION**

## Local Area Agreement

- 5.1 The recommendation would contribute to the achievement of these selected priorities of the Council and its partners:

Maintaining a vibrant economy	✓
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More information on these priorities can be found at:

[http://www.rbwm.gov.uk/web/partnerships\\_laa.htm](http://www.rbwm.gov.uk/web/partnerships_laa.htm)

## Berkshire Structure Plan and Royal Borough Local Plan

- 5.2 The main strategic planning considerations applying to the site and the associated policies are:

	Within settlement area	Conservation Area	Noise Pollution
	✓	✓	✓
Structure Plan	DP5	-	-
Local Plan	DG1	CA2	NAP3

## 6. EXPLANATION OF RECOMMENDATION

- 6.1 The key issues for consideration are:

- i whether the proposal would preserve or enhance the character and appearance of the Windsor Town Centre Conservation Area; and
- ii the impact on the living conditions of the occupiers of nearby residential properties.

### Impact on the Windsor Town Centre Conservation Area

- 6.2 In recent appeal decisions relating to the variation of opening hours at Mantra and The Scotch Bar, both Inspectors concluded that the presence of people in high spirits in this area of the Conservation Area would not make it a less attractive place to be given its nature as a constricted alleyway. The Inspector in the Mantra appeal concluded that while there would be more people at a later hour to the north of the railway, within a residential and commercial part of the Conservation Area, it would not detract from the special qualities of the area as a whole, the character of which would be preserved.
- 6.3 As the application relates to a similar variation of hours at a commercial unit in close proximity to these two appeal sites your Officers also consider that the character of the Conservation Area would be preserved.

### The impact on the living conditions of the occupiers of nearby residential properties.

- 6.4 The proposed hours from Sunday to Thursday would result in the premises being open for an additional 15 minutes over the existing hours allowed for in planning permission ref. 472467, and an additional 1 hour and 15 minutes for Friday and Saturday nights, although the proposal would also include the additional 30 minutes for the premises to be vacated.
- 6.5 Havana and Bar Indigo, which are both similar types of establishments close by to Bar Yello, have similar opening hours to those sought by Bar Yello. Havana has permitted closing times of 1:00am on Sundays - Thursdays and 2:00am on Fridays and Saturdays whilst Bar Indigo has permitted closing hours of midnight on Sundays to Thursdays and 1:00am on Fridays and Saturdays. The hours sought by Bar Yello falls between these two similar nearby establishments.
- 6.6 The hours sought by Bar Yello have been in operation for a trial run period of twelve months and at the end of this period neither Thames Valley Police nor the Council's Environmental Protection Officer, who have been monitoring the impact of the additional hours, have raised an objection to the extended hours. The Council's Licensing Officer advises that the hours would be well within the hours set by the license (to midnight Sunday – Thursday and 2.00am Friday and Saturday).
- 6.7 There does appear to be some level of consistency in the time that the bars in the arches are required to close at weekends. This generally being 1.00am with 30 minutes 'drinking up' time at weekends (although The Scotch Bar, which is a nightclub rather than a bar, does have a temporary permission on a trial run basis to close at 2.00am on weekends with 30 minutes 'drinking up' time). During the weekdays there is less consistency.

### Other Material Considerations

- 6.8 Councillor Bursnall suggests that, although having no reservations with regard to the extension of hours on a Friday and Saturday to 1:00am, that the closing hours on Sunday – Thursday should fall in line with The Scotch Bar (being required to close at 11pm with 30 minutes 'drinking up' time). Given that Bar Yello has an extant permission that allows it to open until 11:45pm on Sunday - Thursday, it is not considered that a reduction in these previously permitted times could be justified.

## 7. CONSULTATIONS CARRIED OUT

### Comments from interested parties

47 occupiers were notified directly of the application, including all of the occupiers in Bridgewater Terrace and the occupiers of Castleview House (closest residential properties).

The application was advertised in the Windsor, Slough and Eton Express as affecting the character and appearance of a Conservation Area on the 29 January 2009.

The statutory site notice was displayed on the 22<sup>nd</sup> January 2009.

1 letter was received objecting to the application, summarised as:

Comment		Where in the report this is considered
1.	Any extra hours that these premises are open only encourage more drunkenness and anti-social behaviour.	Para. 6.6
2.	The Council and Police are not prepared to allocate the required resources to keep the problem fully under control.	Para. 6.6

### Other consultees and organisations

Consultee	Comment	Where in the
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		report this is considered
Conservation Officer.	The Conservation Officer advises that the application has been subject to a desk-based assessment from which it was concluded that no major issues arise in terms of the impact on the Conservation Area.	Para. 6.3
Environmental Protection Officer.	No objection to permission being granted.	Para. 6.6
Thames Valley Police.	No police objections to this application.	Para. 6.6
Licensing Officer	Advises that the hours would be well within the hours set by the licence (to midnight Sunday – Thursday and 2.00am Friday and Saturday).	Para. 6.6

## 8. APPENDICES TO THIS REPORT

- Appendix A - Site location plan

## 9. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED

- 1 The premises shall not be open for the serving of customers outside of the following hours:-08:30 - midnight Sunday - Thursday;08:30 Friday to 01.00 on the following Saturday morning;08:30 Saturday to 01.00 the following Sunday morning; In each case customers shall be permitted to remain on the premises for up to 30 minutes after these times.  
Reason: In order to protect the amenities of the nearby residents and the surrounding area. Relevant Policies - Local Plan DG1and NAP3; Structure Plan DP5.