

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 5 April 2016	<b>Classification</b> For General Release	
<b>Addendum Report of</b> Director of Planning		<b>Ward(s) involved</b> Harrow Road	
<b>Subject of Report</b>	207 Shirland Road, London, W9 2EX,		
<b>Proposal</b>	Use of the ground and basement floors as a retail unit Class (A1).		
<b>Agent</b>	KR Planning		
<b>On behalf of</b>	IRC		
<b>Registered Number</b>	15/10588/CLEUD	<b>Date amended/ completed</b>	29 November 2015
<b>Date Application Received</b>	13 November 2015		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>			

## 1. RECOMMENDATION

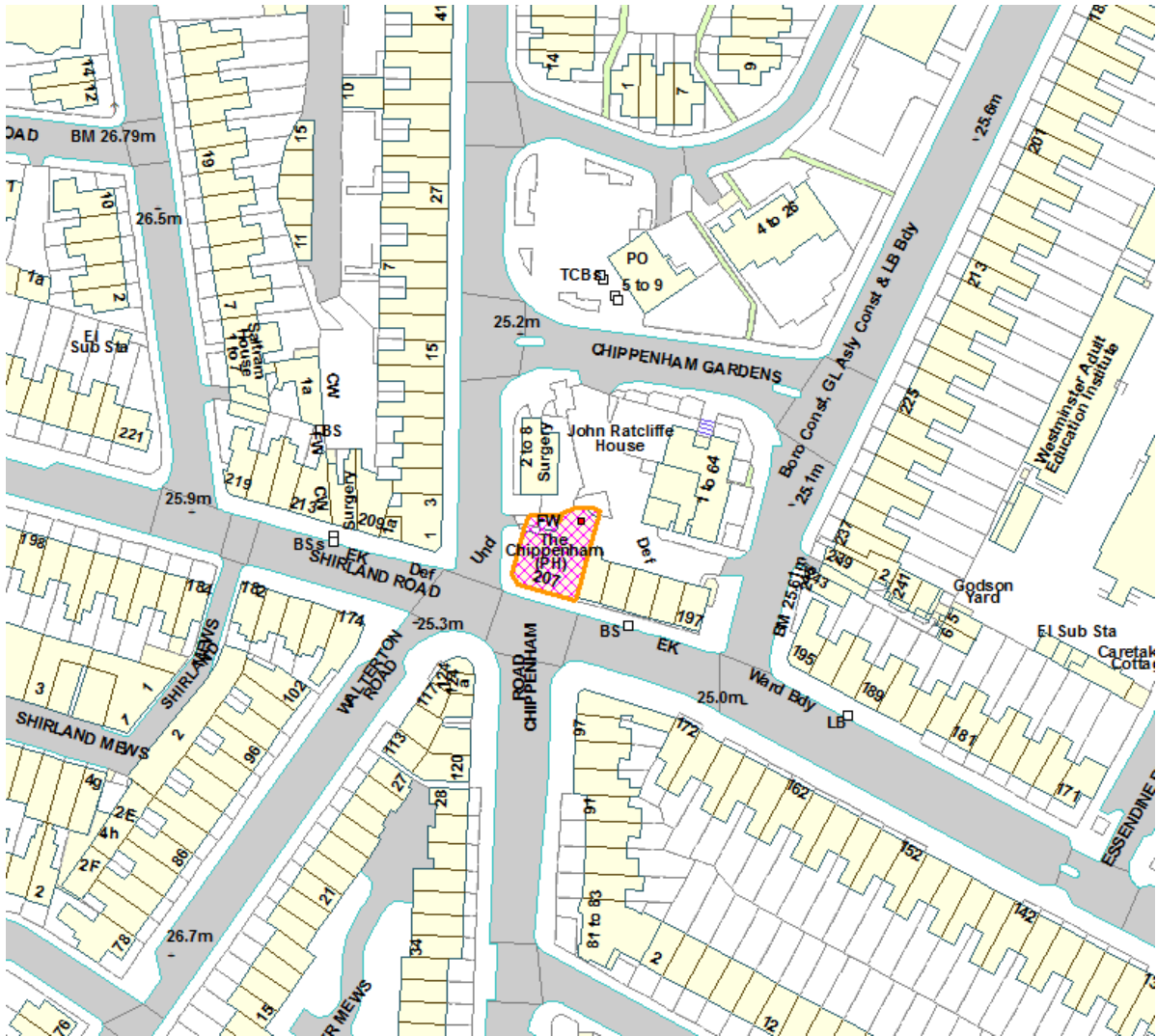
Issue Certificate.

## 2. SUMMARY

This application was presented to the Planning Applications Committee on 15 March 2016 (a copy of the committee report and representations are appended to this report) where it was resolved to defer the application in order for members of the committee to review the application supporting documents. Members have been provided copies of all the application documents.. The application documents include the evidence that the applicant has put forward to demonstrate that the ground and basement floors of The Chippenham Public House were in use as a retail shop prior to 6 April 2015, when a legislative change was introduced. Where previously a change of use from a public house to a retail use was considered to be permitted development, since 6 April 2015, this now requires prior approval.

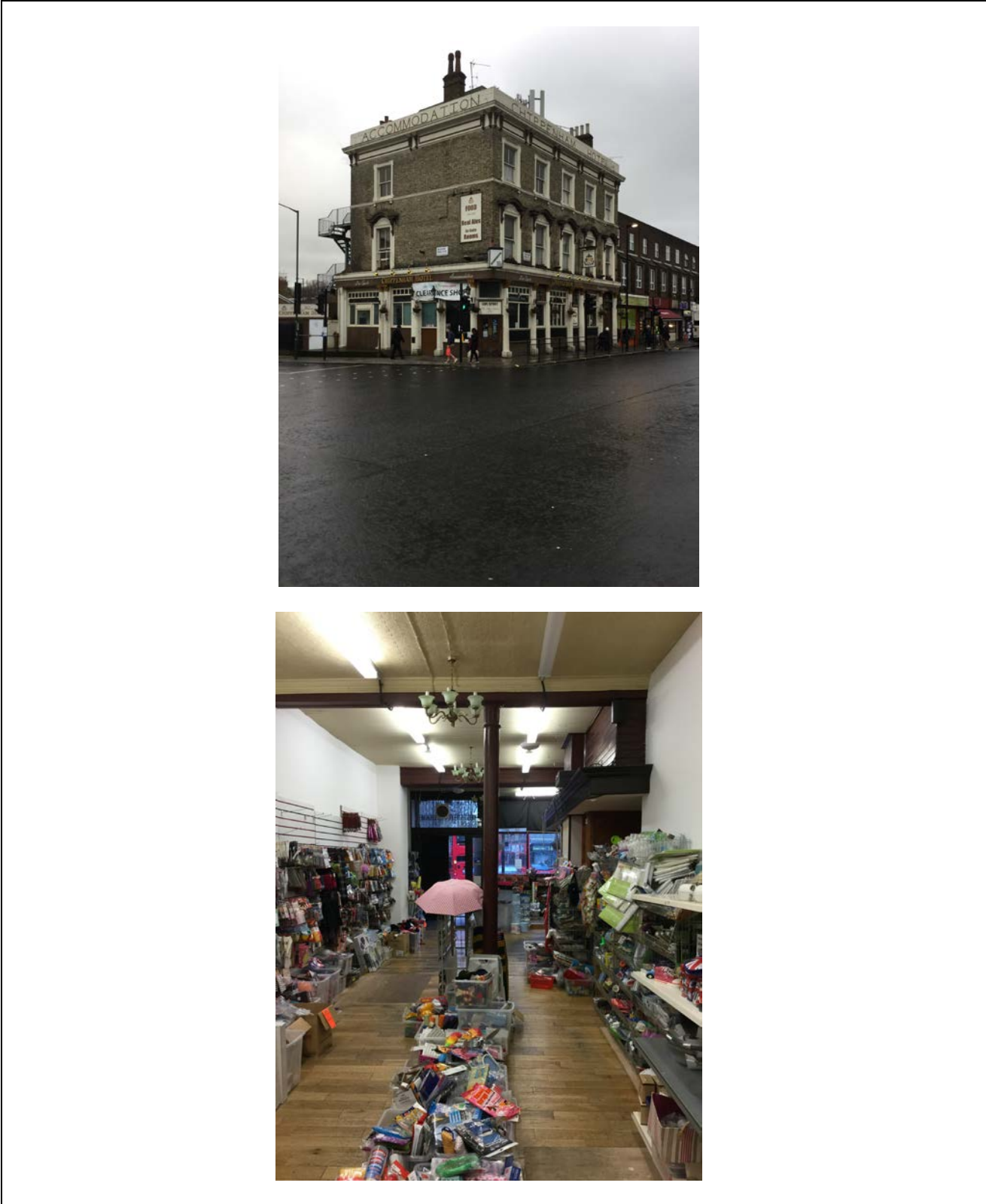
It is considered that the evidence put forward as part of the application, demonstrates that on the balance of probability, the use of the ground and basement floors is as a retail shop falling within Class A1 and that this use commenced in January 2015.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### COUNCILLOR ROCA

Objection on the grounds that (i) the property is not in use as a retail unit, and the operations taking place from the property could not be considered a retail unit; (ii) the property does not have a 'retail name'; (iii) little signs of any customers; queries regarding the land use of the hotel on the upper floor above; (iv) and that the loss of the public house would be harmful to the local community.

### COUNCILLOR CROCKETT

Objection on the loss of the pub.

### COUNCILLOR MCKIE

The Chippenham Pub has been a significant part of the cultural activity of the area for over 100 years. The recent activity by the new owners has caused concern to many residents. The closure of the pub area and the claim by the owner that this is now a shop is totally misleading. The shop has erratic opening hours, is often not open, and goods are stored in a manner that looks temporary. We believe that the application is a ruse to establish another trading activity there. The vigilance of the local community ensured that the Prince of Wales pub did not become a betting shop. Sadly the eyesore that was Costcutters has been replaced by another grocer's shop of which there are plenty in that area. Under the core planning regulations The Chippenham is part of the North Westminster Economic Development area. We need to ensure that these regulations have a positive impact on the community.

### COUNCILLOR BUSH

Requests that the application is heard at Committee.

### PADDINGTON WATERWAYS AND MAIDA VALE SOCIETY

Any response to be reported verbally.

### LONDON BOROUGH OF BRENT

No objection.

### ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 61.

Total No. of replies: 10.

No. of objections: 10.

No. in support: 0.

Ten letters of objection, on behalf of nine properties have been received on the grounds that the loss of the public house will be harmful to the local community.

### ADVERTISEMENT/ SITE NOTICE

Yes.

## 6. BACKGROUND PAPERS

1. Application form.
2. Original committee report from 15 March 2016.
3. Email from Councillor Bush dated 21 January 2016.
4. Email from Councillor McKie dated 21 January 2016 and 2 February 2016.
5. Letters (x2) from Councillor Roca dated 7 January 2016 and 19 January 2016.
6. Letter from Councillor Crockett dated 1 February 2016.
7. Letter from London Borough of Brent dated 24 December 2016.
8. Letter from occupier of 168, Shirland Road, dated 4 January 2016.
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17. Email from 'Optimise' dated 3 February 2016.
18. Email from Central Manager Parks dated 3 February 2016.
19. Email from WCD Road Management dated 3 February 2016.

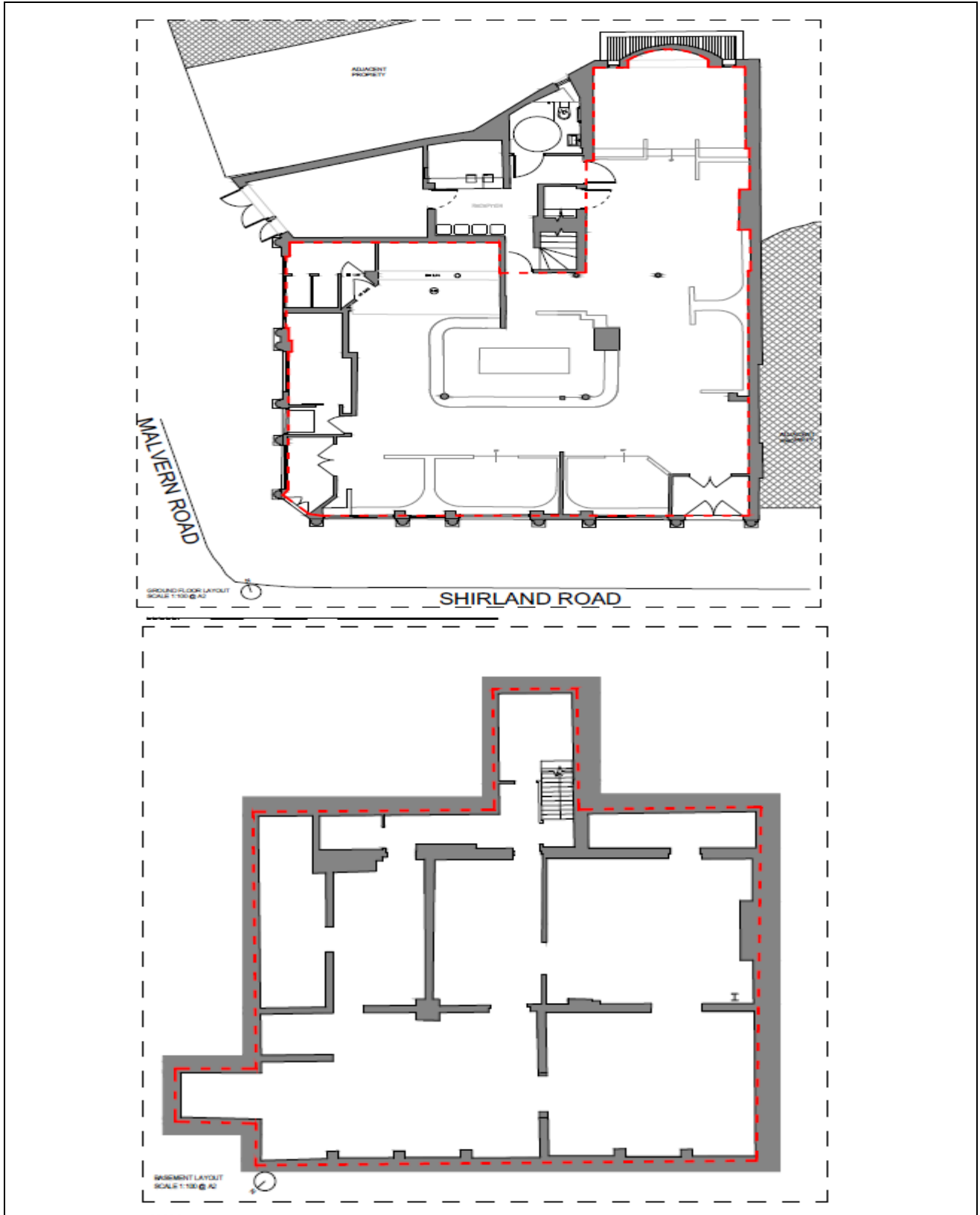
### **Selected relevant drawings**

Existing ground and basement floorplans.

(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 KIMBERLEY DAVIES ON 020 7641 5939 OR BY EMAIL AT [northplanningteam@westminster.gov.uk](mailto:northplanningteam@westminster.gov.uk)

7. KEY DRAWINGS



**DRAFT DECISION LETTER**

**Address:** 207 Shirland Road, London, W9 2EX,

**Proposal:** Use of the ground and basement floors as a retail unit Class (A1).

**Reference:** 15/10588/CLEUD

**Plan Nos:** Covering Letter dated 13 November 2015; OS plan; Lease plans of the ground and basement floor; Workers details and payslips from 5 February 2015; Correspondence from the Valuation Office Agency Formal Notice of Rates dated 15 July 2015; 3 x Photographs; Till receipts from 1 February 2015 through to 31 July 2015; Stock transfer documents from 29 January 2015 through to 6 July 2015; Statutory Declaration dated 10 June 2015 from S Pines of S&S Quality Building Contractors; Statutory Declaration dated 7 July 2015 from Chaim Shine of Good for All.

**Case Officer:** Kimberley Davies

**Direct Tel. No.** 020 7641 5939

**Recommended Condition(s) and Reason(s):**

**Reason:**

On the balance of probability, the ground and basement floors were in use as a Class A1 retail shop prior to the 6 April 2015 and the use of these parts of the building as a Class A1 retail shop is therefore lawful.

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.

# APPENDIX

Item No.
<u>1</u>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 15 March 2016 <u>9 February 2016</u>	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Harrow Road	
<b>Subject of Report</b>	207 Shirland Road, London, W9 2EX		
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<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>			

## 1. RECOMMENDATION

Issue Certificate.
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## 2. SUMMARY

The application seeks a Certificate of Lawful Existing Use or Development for the use of the ground and basement floors of The Chippenham Public House as a Class A1 retail shop ('Good For All'). The application has been submitted following planning enforcement investigation. The site is located on the eastern side of Shirland Road within the Shirland Road/ Chippenham Road Local Centre. The building is not listed and does not lie within a conservation area.

The upper floors of the building are in use as a hotel. At the time of the application site visit in January 2016 part of the ground floor was in use as a retail trading area, with the former bar area in use as the till point. Some of the public house fixtures and fittings were still in place and lightweight stud partition walls and display units and shelves had been installed. An earlier visit made by the Planning Enforcement Officer identified that the basement contain 'stock' in boxes, but also still contained chairs, pint glasses and redundant barrels related to the use of the premises as a public house.

To demonstrate that the ground and basement floors are lawfully in use as a Class A1 retail shop, the applicant is seeking to evidence that the change of use from a public house (Class A4) to a retail shop (Class A1) took place in January 2015. At that time, changes of use from Class A4 to Class A1 were 'permitted development' under Schedule 2, Part 3, Class A of the Town and Country Planning (General



Permitted Development) Order 1995 (as amended) ('the 1995 GPDO'). The Government significantly amended permitted development rights and on 6 April 2015, the 1995 GPDO was replaced by the Town and Country Planning (General Permitted Development (England) Order 2015 ('the 2015 GPDO'). The 2015 GPDO introduced a 'prior approval procedure', which requires applicants to apply to the Council for the prior approval of any change of use of a public house, or its demolition, to ascertain whether the premises has been nominated as an asset of community value.

In dealing with this certificate of lawfulness application, the City Council can only take into account whether on the balance of probabilities the retail shop use is lawful or not. There is no wider consideration as to whether the change of use complies with the City Council's adopted planning policies, nor can weight be attached to the eleven objections received to the loss of this community facility and service, unless the objectors are able to provide evidence which contradicts the applicant's case.

It should here be noted that an application seeking the designation of The Chippenham Public House as Asset of Community Value was made; however this application was subsequently withdrawn.

The evidence that the applicant has provided consists of:

- a) A site location plan;
- b) Lease plans of the ground and basement floor;
- c) Workers details and payslips, demonstrating that they have worked in the retail shop since 5 February 2015;
- d) Correspondence from the Valuation Office Agency regarding proposed new business rates for the retail shop;
- e) Formal Notice of Rates dated 15 July 2015 which refers to the hotel above being classed as separate property to the retail unit;
- f) Photographs;
- g) Till receipts from 1 February 2015 through to 31 July 2015;
- h) Stock transfer documents from 29 January 2015 through to 6 July 2015;
- i) Statutory Declaration dated 10 June 2015 from S Pines of S&S Quality Building Contractors confirming that the building works to convert the ground floor took place between 27 December 2014 and 5 January 2015;
- j) Statutory Declaration dated 7 July 2015 from Chaim Shine of Good for All stating that they took the lease of the ground and basement floor on the 5 January 2015.

Whilst it is acknowledged that the basement floor is not being used for retail sales, it does appear that it is being used to store retail stock in connection with the retail trading area that has been formed at ground floor level. The ground and basement floors are linked by stairs and it is not considered that the basement could operate as a separate independent planning unit, given that the retail shop is occupying this area and utilises the 'linking staircase'.

In terms of the commencement of the use, the applicant has provided a range of evidence demonstrating that the retail shop commenced trading in advance of 6 April 2015.

The City Council does not have any evidence to contradict the evidence submitted by the applicant in this respect and no contrary evidence has been provided by objectors or other third parties; indeed one of the responses received confirms that the public house use ceased in 'late 2014'.

Councillor McKie has forwarded officers minutes of a meeting held in May 2015 on behalf of Thames Water regarding works in the surrounding area and queried whether the meeting was held on the

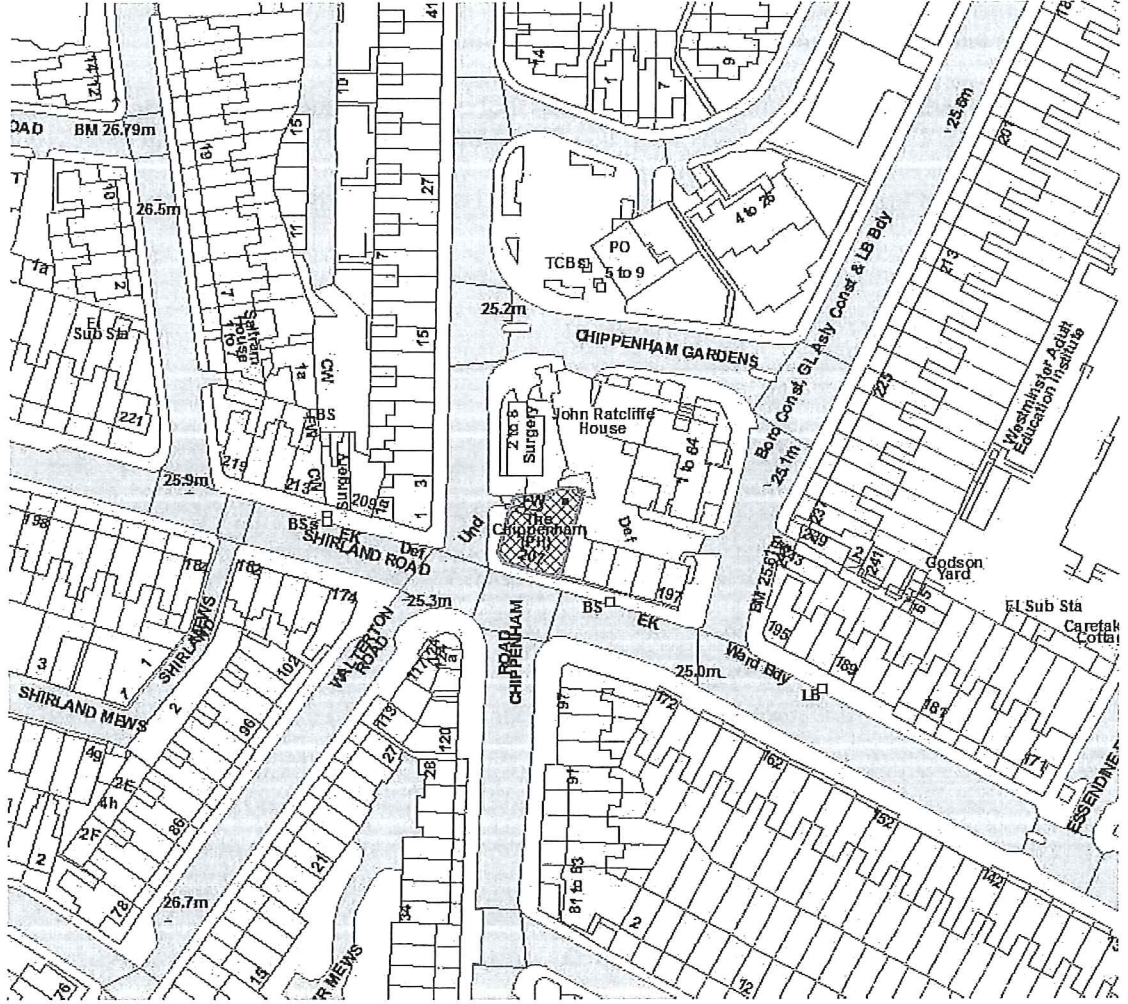
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ground floor of the public house, when the applicant is stating that the retail unit was in operation. The case officer appealed to attendees of this meeting and whilst two responses came back stating that they were unsure where the meeting was held, the organiser of the meeting has confirmed that the meeting was held on the first floor of the public house.

As such, the evidence submitted demonstrates that on the balance of probability, the use of the ground and basement floors is as a retail shop use falling within Class A1 and that this use commenced in January 2015 and has remained in operation since that date. On this basis, it is therefore recommended that a Certificate of Existing Lawful Use or Development is issued.

### 3. LOCATION PLAN



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