



PLANNING APPLICATIONS COMMITTEE

Report by Executive Director of Regeneration and the Economy

Contact: Alan Shand Phone: 0141 287 8633

APPLICATION TYPE Full Planning Permission

RECOMMENDATION Grant Subject to Condition(s)

APPLICATION	18/02147/FUL	DATE VALID	17.07.2018
SITE ADDRESS	54 Bank Street Glasgow G12 8LZ		
PROPOSAL	Erection of boundary wall.		
APPLICANT	Bank Street Bar Kitchen Cafe 54 Bank Street GLASGOW G12 8LZ	AGENT	Bennett Developments And Consulting Per Don Bennett 10 Park Court GLASGOW G46 7PB
WARD NO(S)	11, Hillhead	COMMUNITY COUNCIL LISTED	02_022, Hillhead
CONSERVATION AREA	Glasgow West		
ADVERT TYPE	Affecting a Conservation Area/Listed Building	PUBLISHED	3 August 2018
CITY PLAN			

REPRESENTATIONS/ CONSULTATIONS

6 letters of objection were received in relation to this application including an objection from Councillor Wardrop.

The grounds of concern may be summarised as follows, and are addressed in the report below:

- *The construction of a permanent wall to the front of the property would be detrimental to the historic character of the conservation area as the property was originally designed as a retail unit and was entered directly from the wide pavement. In addition, the established pattern of boundary treatments on the street is railings and/or hedges and not masonry walls;*
- *The proposed awnings are contrary to SG 9 as there is no historic justification and the awning boxes would not be appropriately recessed;*
- *The Planning Statement refers to the established provision of a restaurant or bar on this site but these premises have not had external seating;*
- *The use of the outdoor seating area should be restricted to the hours between 0900 and 2100 and the area should be demarcated by removable barriers as a permanent boundary wall would exacerbate pedestrian safety issues created when delivery lorries bump up on the pavement;*
- *The proposal would result in an infringement of the public right to use the pavement;*

- *As the conditions from the previous consent for use of the footway as an outdoor seating area have not been met, and the related enforcement case (17/00226/EN) closed, the permission previously granted (17/01787/DC) should now be considered withdrawn;*
- *If the consent granted under 17/01787/DC is still extant then the conditions should be transferred to the current proposal;*
- *The current, unauthorised seating area has capacity for approximately 30 people, which is significantly greater than most bars and restaurants on Gibson Street, a less residential area;*
- *The current unauthorised seating area encourages smokers to loiter and use the area as an extension of the restaurant. It is not uncommon for 8-10 people to be in this area, up until 1:30am, with all associated erratic fluctuations in noise levels. Permanent structure and awnings would make this area feel far more of an extension to the restaurant area and mask, to the customers, that they are standing outside in a residential street. Bank St Kitchen are aware of late night noise issues caused by these customers as they have been reported directly to them by myself. Bank Street Resident and Trade Association have also discussed this with them on a number of occasions;*
- *The submitted plans show the perimeter walls directly abutting the main access route to the close door to 50 Bank Street. This could impede access and create an unattractive and out of character approach for the residents of this property;*
- *Wheelchair access to the business relies on, what appears to be, a non-compliant turning circle directly outside a residential entrance door. The door's visibility panel is too high to allow anyone coming out of this building a clear view of any wheelchair user. The access ramp is using the maximum incline allowed, in spite of there being adequate space for a shallower incline. The lower end of this ramp is very close to a solid wall, which may cause collision issues. The upper end of the ramp is directly in front of a door/window posing hazards for both the wheelchair user and customer exiting the building via this door/window. In addition to this, the entrance door hang could prevent a wheelchair user from easily accessing the building if the seating area tables are not configured sensitively. The plan does not show how this configuration would be managed;*
- *Drawing 25086/51 suggests that the frontage of the building will have 5no full height openings (not mentioned in this application). If this is part of your consideration I would like to put in a full objection to this. The current premises, when customers are not using the external area, does not create a noise issues within the street. However when the entrance door is left open this noise level increases significantly (the internal restaurant space has a high level of hard surfaces, and its client can be quite noisy). 5no new openings mean that noise would be further increased, and would especially impact the street after 22:00 as it would, in effect, open up the entire restaurant frontage up until closing at 01:00.*

No consultations were requested.

SITE AND DESCRIPTION

Ground floor restaurant/café/bar on the west side of Bank Street, close to its junction with Gibson Street. Within the Glasgow West Conservation Area and Ward 11 – Hillhead.

Having regularised the use of the area abutting the shop front, within the curtilage of the property and not encroaching on the adopted footway, as an outdoor seating area associated with the restaurant/café/bar (decision 17/01787/DC), the applicant now seeks to address ongoing non-compliance with Condition 03 of decision 17/01787/DC. This condition required that the existing poorly designed timber fence was removed and replaced with a system of removable barriers. Instead of proposing an alternative removable barrier, an alternative boundary treatment has been presented, in the form of a low sandstone wall with metal railings (750mm high).

The proposed boundary treatment would replace the existing fence to the outdoor seating area, and also the low quality rendered wall which fronts the take-away element of the business. The wall would step down the slope on Bank Street in 3 sections, allowing the height to be suitably restricted. A disabled access ramp would be formed within the outdoor seating area to provide full accessibility to the main entrance door. The ramp would be accessed through the entrance to the premises through the front elevation of the wall.

POLICIES

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that where an application is made under the Planning Acts, it shall be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The main issues to consider in the assessment of this application are:-

- (a) whether the proposal accords with the Development Plan; and
- (b) whether any other material considerations have been satisfactorily addressed.

In respect of (a), the Development Plan comprises the Glasgow and Clyde Strategic Development Plan and the City Development Plan. There are no specific policies of relevance to the application proposal in the Strategic Development Plan. The following policies in the City Development Plan are considered relevant to the assessment of the application:

CDP 1 – The Placemaking Principle
SG 1 – Placemaking
CDP 4 – Network of Centres
SG 4 – Network of Centres
CDP 9 – Historic Environment
SG 9 – Historic Environment

ASSESSMENT AND CONCLUSIONS

The principal planning issues to be addressed in this instance are considered to be whether the proposal be in accordance with the development plan and would have any detrimental impact on the amenity of neighbouring residents or the character and appearance of the surrounding Glasgow West Conservation Area.

CDP 1 and SG 1 (Part 2) – Placemaking

This guidance seeks to ensure that alterations to shops and other commercial buildings enhance the appearance of buildings and the street scene generally, and cause no dis-amenity to neighbours. When changes are made to properties within residential buildings, they can also have an adverse effect on residential amenity. As discussed in further detail in the policy assessment below, it is not considered that the proposed boundary treatments would be detrimental to residential amenity or the amenity of the surrounding street scene, subject to compliance with conditions.

CDP 4 and SG 4 - Network of Centres

These aim to strike a balance between the encouragement of uses that make the City more vibrant, and the need to preserve a reasonable level of amenity for adjoining occupiers, particularly neighbouring residents. SG 4 provides relevant guidance which deals primarily with issues of amenity arising from food, drink and entertainment development proposals.

Whilst the principle of the use of the area abutting the shop front as an outdoor seating area is established by decision 17/01787/DC, the proposal requires to be assessed against relevant criteria of SG 4 to ensure that the physical layout would not be detrimental to residential amenity. Assessment Guideline 11 requires that outdoor seating areas do not give rise to activity levels which are likely to have an unacceptable impact on residential amenity. In this respect, the amended design of the boundary wall to the seating area, which relocates the accessible entrance ramp from adjacent to the residential close door at 50 Bank Street, to the main entrance to the premises, is considered acceptable.

Whilst SG 4 states a general preference for removable furniture and boundary treatments, the erection of a permanent boundary treatment to an external seating area is considered acceptable in this instance due to the land in question being predominantly under the control of the applicant rather than publicly adopted footway. The applicant has stated that the entire development would lie within their ownership title and this is reflected in the red line site boundary. It is however, acknowledged that there remains the possibility that the development may

encroach marginally (approximately 0.5m) onto the adopted footway, as indicated by Council mapping. The planning authority is of the view that this does not alter the acceptability of the proposal in principle, as the incursion would be minor and adequate footway width would remain. This issue could be regularised by a Stopping Up Order for the area of adopted footway, or by amending the boundary of the seating area accordingly.

CDP 9 and SG 9 - Historic Environment

These aim to protect, preserve and enhance the City's historic environment and heritage assets in line with Scottish Planning Policy and Scottish Historic Environment Policy. SG 9 contains detailed guidance for alterations to properties within conservation areas.

Proposals for new development in, or affecting the setting of Conservation Areas, must: preserve and enhance the special character and appearance of the area and respect its historic context; be of a high standard of design, respecting the local architectural and historic context and use materials appropriate to the historic environment; protect significant views into, and out of, the area; retain all existing open space, whether public or private, which contributes positively to the historic character of the area; and retain trees which contribute positively to the historic character of the area.

With regard to the above, it has been established that the ground floor properties at 54 and 56 Bank Street were in all probability originally designed as retail units and were accessible directly from the street, with no garden or boundary treatment. Over time the area in front of the properties has become relatively indistinguishable from the adjacent adopted footway. Given the planning approval for the use of the area abutting the café/bar/restaurant shopfront as an external seating area, and the need to deliver a more appropriate solution to demarcating the facility, as the existing timber fence and dilapidated wall are detrimental to the character and appearance of the surrounding conservation area, it is considered that the proposed low sandstone wall and railing, as amended, are supportable.

The surrounding residential streetscape has a mix of boundary treatments: walls; railings; hedges or a combination of these. Whilst the tenement gardens at 48-50 Bank Street have only a low metal railing to the front boundary, it is not considered that there is such uniformity in the locality as to render the proposed low wall and railing incongruous. The proposed design and materials are generally acceptable in conservation areas and in this instance it is considered that the wall and railing would maintain a contrast between this commercial property and adjacent residential properties, and would preserve and enhance the character of the conservation area through suitable design and replacement of existing poor quality boundary treatments.

MATERIAL CONSIDERATIONS

In respect of b), consultation responses and letters of representation may be material considerations in the determination of the application.

Letters of Representation

6 letters of objection were received in relation to this application including an objection from Councillor Wardrop.

The grounds of concern may be summarised as follows, and are addressed in the report below:

- *The construction of a permanent wall to the front of the property would be detrimental to the historic character of the conservation area as the property was originally designed as a retail unit and was entered directly from the wide pavement. In addition, the established pattern of boundary treatments on the street is railings and/or hedges and not masonry walls;*

Comment: As discussed in further detail earlier in this report, the amended proposal, which reduces the height of the proposed wall and more appropriately 'steps' down the slope along Bank Street, is considered overall to provide a sympathetic solution to demarcating the outdoor seating area and improving the existing poor quality wall to the take away element of the business, and preserves and enhances the character of the surrounding conservation area.

- *The proposed awnings are contrary to SG 9 as there is no historic justification and the awning boxes would not be appropriately recessed;*

Comment: The awnings were removed from the proposal on the recommendation of the planning authority due to conflict with SG 9.

- *The Planning Statement refers to the established provision of a restaurant or bar on this site but these premises have not had external seating;*

Comment: An external seating area has been in use at the premises for approximately 5 years and now benefits from planning consent under decision 17/01787/DC.

- *The use of the outdoor seating area should be restricted to the hours between 0900 and 2100 and the area should be demarcated by removable barriers as a permanent boundary wall would exacerbate pedestrian safety issues created when delivery lorries bump up on the pavement;*

Comment: The use of the outdoor seating area would remain subject to the conditions of decision 17/01787/DC, which restrict the use to 0800 to 2100 daily and require furniture to be stored indoors out with these times. The proposal would retain adequate footway width at this location (2.1m) and the use of the footway inappropriately by delivery lorries is a separate matter which cannot be controlled by Planning.

- *The proposal would result in an infringement of the public right to use the pavement;*

Comment: The proposal would appear to concern land predominantly within the ownership of the applicant rather than adopted footway, although as discussed in further detail elsewhere in this report, there may be some minor encroachment. The planning authority is content that adequate footway would remain for pedestrian use.

- *As the conditions from the previous consent for use of the footway as an outdoor seating area have not been met, and the related enforcement case (17/00226/EN) closed, the permission previously granted (17/01787/DC) should now be considered withdrawn;*

Comment: 17/00226/EN related to the erection of the existing fence and was closed when an application to regularise the outdoor seating area was received (17/01787/DC). A further Enforcement case was opened (18/00390/EN) was opened due to non-compliance with the conditions of decision 17/01787/DC with respect to removal of the fence and submission of a more appropriate boundary treatment. This case was subsequently placed on hold pending the outcome of the current application. It is considered that the consent for the outdoor seating area remains extant in principle and approval of the current application would purify condition 03 of decision 17/01787/DC as its implementation would remove the existing low quality fence.

- *If the consent granted under 17/01787/DC is still extant then the conditions should be transferred to the current proposal;*

Comment: It is considered that whilst the does effectively address the non-compliance with Condition 03 of 17/01787/DC, the current application itself does not concern the principle of the use of the area as an external seating area. The assessment is concerned with the impact of the boundary treatments themselves on residential and visual amenity, and it is not considered necessary to re-attach the conditions of 17/01787/DC, as this decision remain the extant consent for the use of the area as an outdoor seating area associated with the premises at 54 Bank Street.

- *The current, unauthorised seating area has capacity for approximately 30 people, which is significantly greater than most bars and restaurants on Gibson Street, a less residential area;*

Comment: The use of this area for external seating associated with the bar/restaurant at 54 Bank Street is authorised, having been granted planning permission under decision 17/01787/DC. The current application seeks to regularise the boundary treatments and the planning authority is not obliged to revisit the principle of the use of the outdoor area.

- *The current unauthorised seating area encourages smokers to loiter and use the area as an extension of the restaurant. It is not uncommon for 8-10 people to be in this area, up until 1:30am, with all associated erratic fluctuations in noise levels. Permanent structure and awnings would make this area feel far more of an extension to the restaurant area and mask, to the customers, that they are standing outside in a residential street. Bank St Kitchen are aware of late night noise issues caused by these customers as they have been reported directly to them by myself. Bank Street Resident and Trade Association have also discussed this with them on a number of occasions;*

Comment: Regardless of the permanence of the structure, the use of the outdoor seating area is appropriately restricted by planning conditions (of 17/01787/DC) covering hours of use and removal of furniture when the outdoor area is not in use.

- *The submitted plans show the perimeter walls directly abutting the main access route to the close door to 50 Bank Street. This could impede access and create an unattractive and out of character approach for the residents of this property;*
- *Wheelchair access to the business relies on, what appears to be, a non-compliant turning circle directly outside a residential entrance door. The door's visibility panel is too high to allow anyone coming out of this building a clear view of any wheelchair user. The access ramp is using the maximum incline allowed, in spite of there being adequate space for a shallower incline. The lower end of this ramp is very close to a solid wall, which may cause collision issues. The upper end of the ramp is directly in front of a door/window posing hazards for both the wheelchair user and customer exiting the building via this door/window. In addition to this, the entrance door hang could prevent a wheelchair user from easily accessing the building if the seating area tables are not configured sensitively. The plan does not show how this configuration would be managed;*

Comment: The siting of an accessible entrance to the seating area adjacent to the residential close entrance was not considered acceptable and the proposal has been amended accordingly to utilise the main entrance. As the residential access would not be obstructed by additional movements it is considered that the principle of the outdoor seating area, as established by decision 17/01787/DC remains acceptable and would not impact on amenity with regard to the close entrance.

- *Drawing 25086/51 suggests that the frontage of the building will have 5no full height openings (not mentioned in this application). If this is part of your consideration I would like to put in a full objection to this. The current premises, when customers are not using the external area, does not create a noise issues within the street. However when the entrance door is left open this noise level increases significantly (the internal restaurant space has a high level of hard surfaces, and its client can be quite noisy). 5no new openings mean that noise would be further increased, and would especially impact the street after 22:00 as it would, in effect, open up the entire restaurant frontage up until closing at 01:00.*

Comment: The existing frontage, including 4 no. double door sets additional to the main entrance, has been in-situ for at least 10 years and is therefore considered lawful in planning terms and is not included in the assessment of this application. Related noise issues should be controlled through Environmental Health legislation.

Conclusion

On balance it is considered that the proposal is an acceptable boundary solution for an approved outdoor seating area, given the specific circumstances of ownership, and the requirement to address the existing low quality appearance of the external area. The proposal is not considered detrimental to the amenity of neighbouring residential properties and would protect and enhance the character of the Glasgow West Conservation Area.

CONDITIONS AND REASONS

01. The railings shall be constructed in cast iron and painted black, unless otherwise agreed in writing by the planning authority.

Reason: To safeguard the character of the surrounding conservation area.

02. The wall shall be formed in natural stone to match the surrounding tenements and shall not be painted without the prior written agreement of the planning authority. A sample of the proposed stone shall be submitted to the planning authority and approved in writing prior to the commencement of works on-site.

Reason: To safeguard the character of the surrounding conservation area.

03. Further details of the materials for the steps and access ramp shall be submitted to the planning authority and approved in writing prior to commencement of works on-site.

Reason: To safeguard the character of the surrounding conservation area.

REASON(S) FOR GRANTING THIS APPLICATION

01. The proposal was considered to be in accordance with the Development Plan and there were no material considerations which outweighed the proposal's accordance with the Development Plan.

ADVISORY NOTES TO APPLICANT

01. Should any part of this development involve the adopted solum of Bank Street, it cannot be carried out before it/they are stopped up under planning legislation. The applicant should, therefore, on receipt of planning permission, request the planning authority in writing to initiate any necessary procedure as the intention is to carry out the development. The applicant will then be advised of the procedure, including payment of an administration fee.
02. For the avoidance of doubt, the use of the area enclosed by the proposed wall to the north of the residential close entrance at 50 Bank Street as an outdoor seating area is not approved, and this area shall not be used as an extension to the outdoor seating area approved by decision 17/01787/DC. Planning permission would be required to use this area as an extension to the approved outdoor seating area, and due to the proximity to ground floor residential windows the planning authority would be unlikely to support such a proposal.


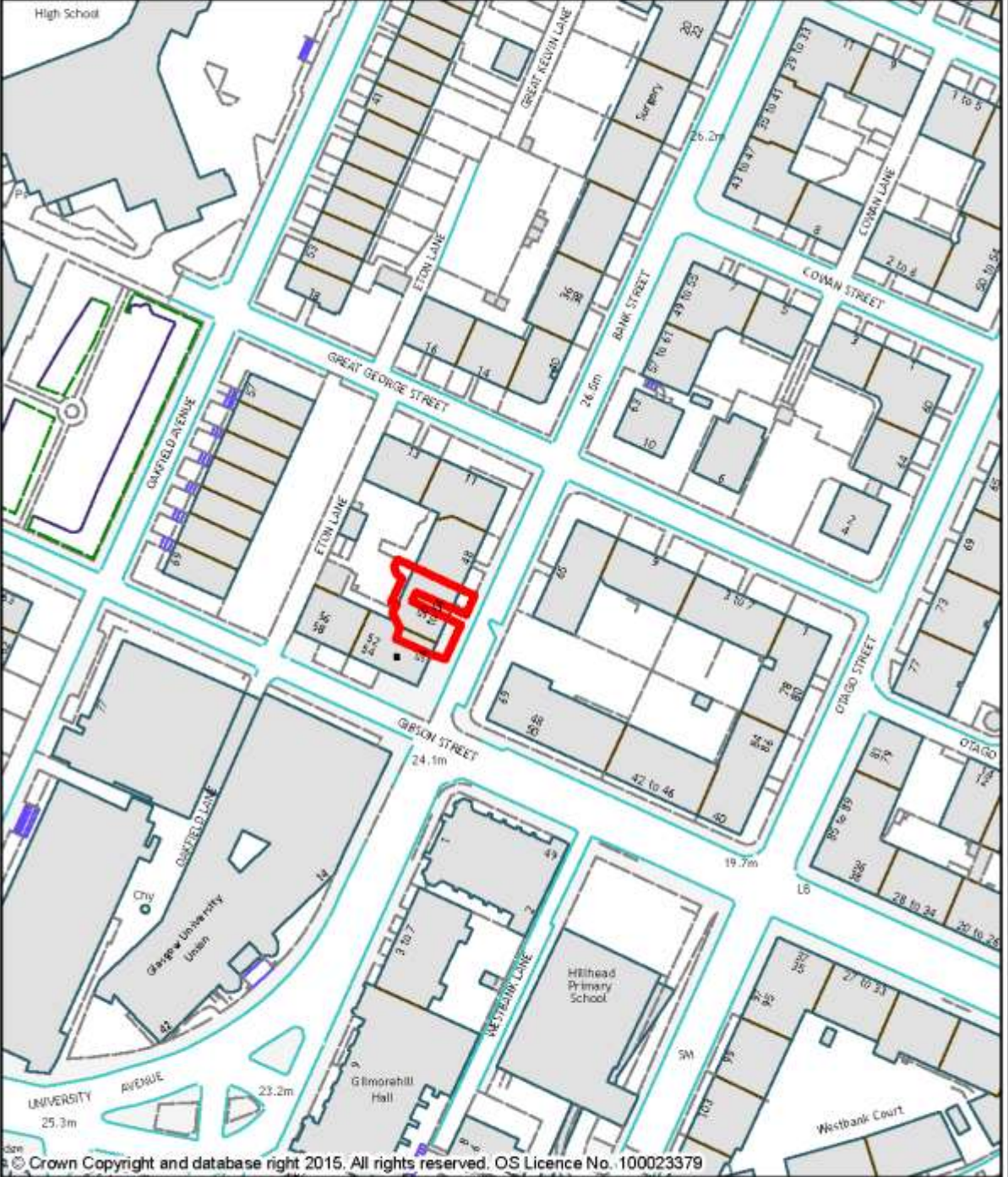

for Executive Director of Regeneration and the Economy

DC/ ALS/
19/03/2019

PLEASE NOTE THE FOLLOWING:

Any Ordnance Survey mapping included within this report is provided by Glasgow City Council under licence from the Ordnance Survey in order to fulfil its public function to make available Council-held public domain information. Persons viewing this mapping should contact Ordnance Survey Copyright for advice where they wish to license Ordnance Survey mapping/map data for their own use. The OS website can be found at www.ordnancesurvey.co.uk

If accessing this report via the Internet, please note that any mapping is for illustrative purposes only and is not true to any marked scale.

 <p>Glasgow City Council Development and Regeneration 231 George Street Glasgow G1 1RX <i>Executive Director: Richard Brown</i></p>	<p>Reference No: 18/02147/FUL</p> <p>Address: 54 Bank Street, Glasgow, G12 8LZ</p>
<p>Scale: 1:1,250</p>	<p>Indicative Site Location Ward: 11</p>
	
<p> Location of Site (for details refer to Report)</p>	

© Crown Copyright and database right 2015. All rights reserved. OS Licence No. 100023379