

PETITION

COMMITTEE DATE: 18/05/2016

APPLICATION No. **16/00678/MJR** APPLICATION DATE: 29/03/2016

ED: **PLASNEWYDD**

APP: TYPE: Variation of conditions

APPLICANT: Pontcanna Pub Company (Trading) Ltd
LOCATION: 55 WELLFIELD ROAD, ROATH, CARDIFF, CF24 3PA
PROPOSAL: VARIATION OF CONDITIONS 2 AND 4 OF 14/01953/DCI TO EXTEND THE TIMES SO THAT NO MEMBER OF THE PUBLIC SHALL BE ADMITTED TO OR ALLOWED TO REMAIN IN THE REAR OUTDOOR SEATING AREA BETWEEN THE HOURS OF 21:00 AND 09:30 ON ANY DAY AND THAT THE FRONT BALCONY AREA CAN BE USED AS A SEATING AREA BETWEEN THE HOURS OF 09:30 AND 21:30

RECOMMENDATION 1 : That planning permission be **GRANTED** for use of the premises in accordance with planning permission no. 14/01953/DCI, without compliance with the previously imposed conditions 2 & 4, but subject to the following replacement and additional conditions:

1. C01 Statutory Time Limit
2. The development shall be carried out in accordance with the approved drawings numbered DAP110; DAP300B & DAP302B.
Reason: To ensure satisfactory completion of the development and for the avoidance of doubt in line with the aims of Planning Policy Wales to promote an efficient planning system.
3. Members of the public shall only be admitted to or allowed to remain on the premises between the hours of 08:30 and 23:00 Sundays to Thursdays inclusive and 08:30 and 23:30 on Fridays and Saturdays.
Reason: To ensure that the amenities of occupiers of adjoining and nearby properties are protected.
4. Members of the public shall only be permitted to use the outdoor seating area to the rear of the premises between the hours of 09:30 and 21:00 on any day and the outdoor seating area to the front of the premises between the hours of 09:30 and 21:30 on any day.
Reason: To ensure that the amenities of occupiers of adjoining and nearby properties are protected.
5. There shall be no arrival, departure, loading or unloading of vehicles between the hours of 20:00 & 08:00.

Reason: To ensure that the amenities of occupiers of adjoining and nearby properties are protected.

6. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order with or without modification) no sale of hot food for consumption off the premises shall take place from the premises.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

7. The sound insulation works to the first floor party walls with nos. 53 and 57 approved on 14/10/15 (application 15/01910/MJR) shall be retained.

Reason: To ensure that the amenities of occupiers of adjoining properties are protected.

8. The kitchen extraction equipment details approved on 14/10/15 (application 15/01910/MJR) shall be retained at all times that hot food is cooked on the premises.

Reason: To ensure that the amenities of adjoining and nearby occupiers are not prejudiced.

9. The rating level of the noise emitted from fixed plant and equipment on the site shall not exceed the existing background noise level at any time by more than 5dB(A) at any residential property when measured and corrected in accordance with BS4142: 1997.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

10. Prior to amplified music being played in any first floor room it shall be insulated for sound in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority.

Reason: To ensure that the amenities of occupiers of adjoining properties are protected.

11. No amplified music shall be played within the external seating areas during the period of extended opening hours hereby permitted.

Reason: To ensure that the amenities of occupiers of adjoining and nearby properties are protected.

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 The application seeks planning permission to vary conditions 2 & 4 of planning permission 14/01953/C to allow the rear and front outdoor seating areas of a class A3 wine bar & bistro premises to be used by members of the public from 09:30 until 21:00 and 09:30 until 21:30 respectively. Conditions 2 & 4 were imposed as follows:

2. *The consent relates to the application as amended by the revised plans numbered DAP110A; DAP300B; DAP302B, attached to and forming part of this planning application.*

Reason: The plans amend and form part of the application.

4. *No member of the public shall be admitted to or allowed to remain in the outdoor seating area to the rear of the premises between the hours of 20:00 and 10:00hrs on any day.*

Reason: To ensure that the amenities of occupiers of adjoining and nearby properties are protected.

- 1.2 It is proposed to use the existing external seating area at the rear between the hours of 09:30 and 21:00 and the first floor balcony area at the front as an external seating area between the hours of 09:30 and 21:30. A first floor window has been altered to a door to provide access to the external area at the front. The application originally proposed use of the rear external area until 21:30, however the applicant has agreed to revise this time to 21:00.

2. **DESCRIPTION OF SITE**

- 2.1 The premises occupy a two storey terraced building within a terrace of thirty one buildings along the north west side of Wellfield Road, adjoined by a shop at no. 53 and a restaurant at no. 57. It is located within the Albany Road/Wellfield Road district centre and part of the rear external area is located within the Roath Park Conservation Area. The site is adjoined by the highway of Bangor Street at the rear of the site, there are residential dwellings on the opposite side of Bangor Street.

3. **SITE HISTORY**

- 3.1 14/01953/DCI – planning permission granted and implemented for change of use of 55 Wellfield Road from use class A1 (shops) to use class A3 (food and drink) to allow the unit to be used as a wine bar & bistro. the proposal also includes external alterations including the installation of a new shopfront, a side extension (14.6 sqm), the demolition of a rear lean to and the creation of a balcony seating area to the front elevation and an outdoor seating area to the rear. The rear yard will be reconfigured to allow the erection of a refuse store.
- 3.2 15/02898/MNR – planning permission granted and currently being implemented for two storey and single storey rear extensions to no. 57 Wellfield Road existing and use of front flat roof area as seating with external alterations.

4. **POLICY FRAMEWORK**

- 4.1 The site lies within the Albany Road/Wellfield Road District Centre as defined by the Cardiff Local Development Plan (2006-2026).

4.2 **Relevant National Planning Guidance:**

Planning Policy Wales (Edition 8, 2016)
Planning Policy Wales TAN 12: Design

4.3 **Relevant Cardiff Local Development Plan (2006-2026) policies:**

Policy KP5 (Good Quality and Sustainable Design)
Policy EN13 (Air, Noise, Light Pollution and Land Contamination)
Policy R4 (District Centres)
Policy R8 (Food and Drink Uses)

4.5 Relevant Supplementary Planning Guidance:

The SPGs were approved as supplementary guidance to the City of Cardiff Local Plan (1996). Although the City of Cardiff Local Plan (1996) has recently been superseded by the Cardiff Local Development Plan (2016), the advice contained within the SPGs is pertinent to the assessment of the proposal and remains consistent with the aims of both LDP Policies and guidance in Planning Policy Wales and are afforded significant weight.

Restaurants, Takeaways and other Food & Drink Uses (1996)

5. **INTERNAL CONSULTEE RESPONSES**

- 5.1 Pollution Control – request conditions to restrict use of the rear external area to the hours to 09:30 – 21:00 and use of the first floor front external seating area to 09:30 – 21:30, and to restrict amplified music from being played within the external areas.

6. **EXTERNAL CONSULTEE RESPONSES**

- 6.1 None.

7. **REPRESENTATIONS**

- 7.1 The application was publicised by letter, site and press notice. A petition of objection has been received opposing any increase to the permitted times of use of the outdoor seating area, signed by 59 residents with addresses in Cardiff, 55 of which are within the vicinity who could reasonably be affected by the matter.

- 7.2 Objections have been received from the following addresses:

- nos. 32, 34, 69, 71, 73, 75 & 77, Bangor St.

Full details are viewable online, their comments are summarised as follows:

- a) Increased noise disturbance to residents of Bangor Street, where bedroom windows are as close as 10m from the outdoor seating area and a residential garden is within 13m.*
- b) The noise from the outdoor seating area is already intolerable and raucous, particularly in the summer, and will be twice as bad when the garden at Porro (no. 57 Wellfield Road) opens soon;*
- c) A noise abatement order has previously been served on the premise in 2015 with regard to a kitchen fan;*

- d) *Overlooking of bedroom windows in Bangor Street;*
- e) *If the extended hours are approved it would set a precedent for the rear garden of premises at no. 57 Wellfield Road to be used the same times;*
- f) *Delivery and rubbish collection vehicles often cause noise and traffic disturbance to Bangor Street.*

7.3 Comments of support have been received from the following addresses:

- no. 79 Bangor Street
- no. 4 Ninian Road

Full details are viewable online, their comments are summarised as follows:

- a) *No objection to the balcony fronting Wellfield Road opening until late but the terrace to the rear should be restricted to 9pm which would have no adverse effect;*
- b) *We are probably closer to the garden than most, we have never suffered from noise and never lose sleep. The high class provision of the Cameo is fine for the area and community, it is well run and well organised. Opening from 9:30am to 9:30pm seems entirely reasonable.*

7.4 Cllr Daniel De'Ath objects to the application, as follows:

- *Residents of Bangor Street, to the located to the rear of the Cameo, already report being disturbed by noise and activities taking place in the beer garden and extending the hours of its use will clearly only escalate this problem. It's particularly concerning that residents living nearby with young children report hearing bad language coming from the area as things stand along with concerns around second hand smoke. Bangor Street is a quiet residential area where a number of residence are already inconvenienced by noise and related issues from licenced premises on Wellfield Road and I would ask the Planning Committee not to further add to these disruptions by granting this extension.*

7.5 Cllr Sue Lent objects to the application, as follows:

- *I attended the Licensing Committee last year and the hours of access were discussed at length. The representative of the club Mr Davies promised to be respectful to residents in the vicinity and was happy to agree to only having garden access between 10am and 8pm. It is very disappointing that he has gone back on his word. It is particularly concerning because the residents are suffering very badly as things stand and any increase in hours will only add to this, The Cameo Club garden adjoins Bangor St and there is considerable noise whenever people are sitting in the garden which is a large area. So I would like to object on the grounds of nuisance to residents, mainly noise, but also smoke drifting over into adjoining properties. Some residents have mentioned people swearing in the garden which has been overheard by their children. They also describe it as being like living next to neighbours who have a party every night. Although only a few houses are directly affected by this particular noise it is significant that residents*

throughout the street are reporting concerns about noise from deliveries which are made from Bangor St. many residents have reported that their cars have been damaged by the heavy lorries which come along the street frequently. I have asked Highways to look at this as I am concerned that they are contravening the weight restrictions for this street. Often these lorries cannot get around the bend in the road and this causes considerable difficulty for residents who often have to move their cars. On occasions lorries have reversed up this one way street. There are many children in the street and residents have expressed concerns for their safety and also feel the street is much busier since the Cameo Club opened.

8. **ANALYSIS**

8.1 Residential Amenity Considerations

Policy R4 of the Local Development Plan supports food and drink uses within designated district centres and Paragraph 3.1 of the 'Restaurants, Takeaways and other Food and Drink Uses' supplementary planning guidance (June 2006) states that food and drink uses are unlikely to be acceptable within or adjacent to residential areas, if they would cause nuisance and loss of amenity to residents, or result in the loss of residential property. Paragraph 4.12 of the 'Restaurants, Takeaways and other Food and Drink Uses' supplementary planning guidance (2006) states that in district centres, opening hours will usually be restricted to 11.30pm.

8.2 It is noted that the rear external seating area is sited approximately 18m from the front windows of nos. 71, 73 & 75 Bangor Street taking into account that the rear 4m of the external area is in separate use as a bin storage enclosure, it is also sited 11m from the rear garden of no. 32 Bangor Street. However, regard is also had to the fact Bangor Street adjoins the designated Albany Road/Wellfield Road commercial district centre. Having regard to the above it is not considered that use of the rear external seating area between the hours of 09:30 and 21:00 would have any unreasonable amenity impact, a condition is included to ensure no amplified music is played within the external areas during the period of extended opening hours applied for.

8.3 It is not considered that use of the first floor front roof as an external seating area would result in any unreasonable loss of amenity to existing first floor flats within Wellfield Road as the site is located within a designated commercial district centre where residents in such a mixed use area would not expect the same standards of amenity as those living in a wholly residential area. The first floor front area of the adjoining class A3 premises at no. 57 benefits from permission (15/02898/MNR) for use as an external seating area and some of the first floor flat roofs to the front of premises on Wellfield Road are used as external terraces for commercial premises and upper level flats.

8.4 The Council's Pollution Control division has no objection to the proposal. Replacement condition 2 will ensure the permission includes the first floor external seating area and replacement condition 4 will ensure the external areas are used within the times submitted, all other conditions of the original

permission 14/01953/DCI would remain applicable. Additional condition 11 would restrict amplified music from being played within the external seating areas as requested by Pollution Control.

8.5 Design Considerations

It is not considered that the alteration of the first floor front window to a door has any adverse impact upon the character of the street scene of Wellfield Road. There are other examples of first floor windows facing Wellfield Road being altered to doors to provide access to the flat roofs at the front.

8.6 Representations

The petition of objection and representations received from neighbouring residents and Cllrs Daniel De'Ath & Sue Lent are noted. Specific issues are addressed as follows:

- a) Noise impact of rear outdoor seating area: It is not considered that the proposed hours of use of the external seating would have any unreasonable amenity impact as detailed within the above analysis. Replacement condition 4 would ensure the rear area is only used by members of the public between the hours of 09:30 and 21:00.
- b) Overlooking of windows from outdoor seating area: The use of the external area has already been established by permission 14/01953/DCI.
- c) Noise & Traffic Impact of Delivery & Rubbish Collection vehicles: Not specific to this proposal, condition 5 of permission 14/01953/DCI remains applicable preventing the arrival, departure, loading or unloading of vehicles between the hours of 20:00 and 08:00.
- d) Future Precedent for no. 57 Wellfield Road: A separate application would be required to vary condition 3 of planning permission 15/02898/MNR to extend the opening hours of the external rear seating area of no. 57. No application has been submitted to date. Each application is considered on its own merits.

The representations in support are noted.

8.7 Conclusion

It is concluded that the application is acceptable in accordance with the planning policies listed, and is recommended that planning permission be granted, subject to conditions.



A Plan amended 06.08.14



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45 Station Road
Cardiff
CF14 5UT

029 2022 5666
07703 294284

55 Wellfield Rd

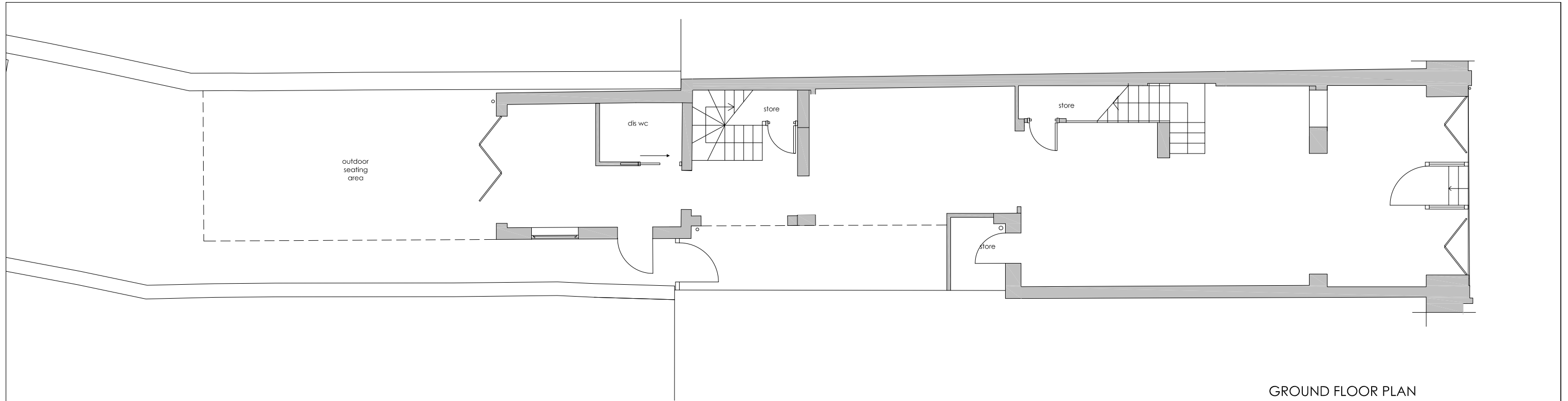
Cardiff

Huw Davies

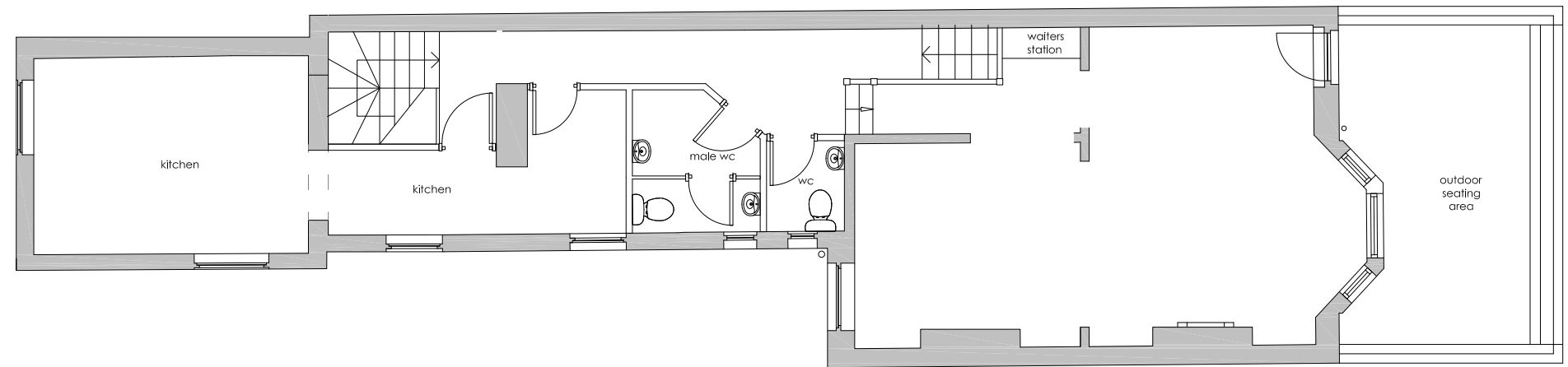
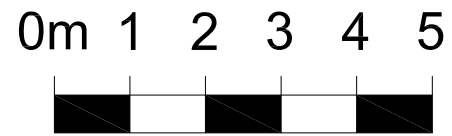
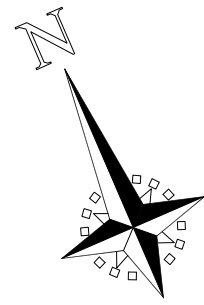
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Site Location Plan

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scale	date	drawn by	checked by
1:1250 @ A4	18/07/13	FC	



GROUND FLOOR PLAN



FIRST FLOOR PLAN

OscarClarke
Design

fran@oscarclarke.com

45 Station Road
Cardiff
CF14 5UT

029 2022 5666
07703 294284

55 Wellfield Rd

Cardiff

Huw Davies

title

Proposed Plans
Ground and First Floor

job no.

031

drg no.

D AP 110

rev

scale
1:100 @ A3

date
18/07/13

drawn by
FC

checked by






POLITE NOTICE
NO PARKING 24 HOUR
ACCESS REQUIRED

IGE



Escentual Central Pharmacy Cardiff



Richard James Clothing



Stewart Greenberg Opticians



Cameo



55 Wellfield Rd

Italus



Kidney Research UK



Barclays



Bangor St

Bangor St

Wellfield Rd

Pen-Y-Lan Rd

Wellfield Rd