

REFERENCE: P/21/56/FUL

APPLICANT: Braseria El Prado

LOCATION: Braseria El Prado High Street Laleston CF32 0LD

PROPOSAL: Construction of side addition and elevation alterations to serve existing restaurant; reconfiguration of car parking to create additional spaces and dedicated refuse store

RECEIVED: 21 January 2021

SITE INSPECTED: 16 April 2021, 13 May 2021 & 16 June 2021.

DESCRIPTION OF PROPOSED DEVELOPMENT

Full planning permission is sought for the construction of a side addition, elevation alterations, the reconfiguration of the existing car parking facility and the creation of a dedicated refuse store at the 'El Prado' Restaurant, High Street, Laleston.

Following the submission of amended plans and a level of negotiation with the applicant, the original proposal for the provision of 28 external seating spaces to the front west elevation of the existing building has been completely removed from the scheme.

At the time of the site inspections, works had begun on the side addition with the elevation alterations, reconfiguration of the car park and the new refuse store works being fully completed at the site.



Figure 1 – Layout of the site

The new side addition has a steel frame construction and would have predominantly glazed elevations with a roof covering comprising a ventilated louvre system which can be opened and closed. It is detailed that the new addition would accommodate 12 covers/seating spaces. It measures 5.5m in width (maximum) with a maximum length of 7.5m and a height of 2.75m from ground level. The addition covers a floor area of approximately 34 square metres.

Changes to the fenestration of the building comprise the insertion of a set of bi-folding/retractable doors within the west facing elevation of the building facing the car park associated with the property. A dedicated refuse store has also been introduced towards

the western boundary of the site that is largely enclosed by timber boundary fencing. Changes to the layout and configuration of the car parking area has resulted in 30 dedicated off-street spaces being created at the site including an electric vehicle charging point (24 spaces previously being available at the site).

Information submitted in support of the application highlights the proposed seating area within the side addition would only be used up to 9:30pm – 10:00pm each evening.

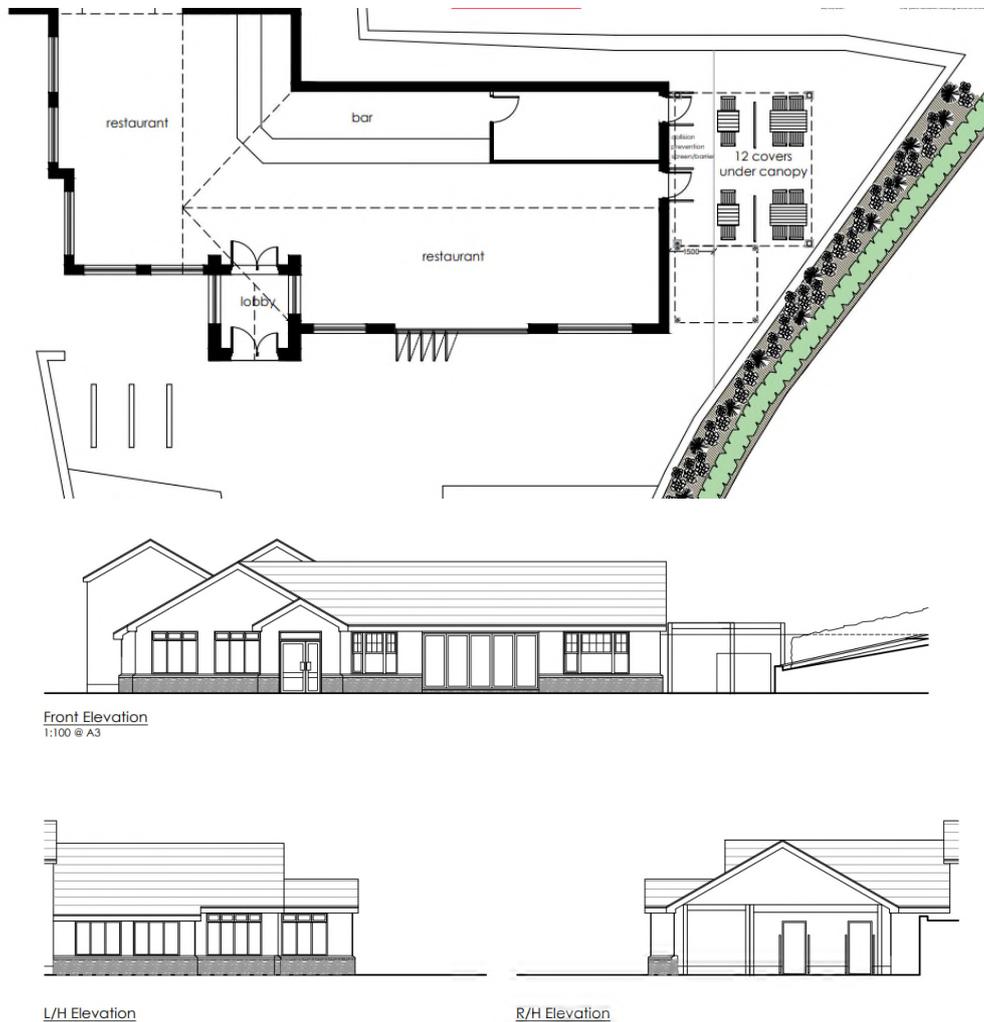


Figure 2 – Proposed layout and elevation details

SITE DESCRIPTION

The application site comprises the El Prado restaurant which is situated within the built up area of Laleston. The relatively flat site is positioned to the south of the main road that runs through the village. The site is largely surrounded by residential properties although the Mackworth Arms Public House immediately adjoins the east of the site. Immediately to the south of the site in a slightly elevated position are the rear gardens of residential properties within Ty Ddyn Gwaun. Boundary fencing screens the development site from the rear of properties within Ty Ddyn Gwaun.

Opposite the public highway to the north of the site are further residential properties (High Street). To the west of the main building is the car parking area associated with the premises, which is largely defined by a low stone boundary wall. A narrow row of trees/shrub planting forms part of the southern boundary of the site (in-between the site and the residential properties) with some of the trees to the south west of the site being protected under a Tree Preservation Order. The application building is situated within the

Laleston Conservation Area although the boundary of the Conservation Area dissects the car parking area.



Figure 3 – Photographs of the application site

RELEVANT HISTORY

Application Reference	Description	Decision	Date
T/14/20/TPO	Crown reduction and crown thinning to 6 Beech Trees	Granted	13/06/2014
T/18/46/TPO	(3 Ty Ddyn Gwaun) - Fell 1 x Sycamore, fell 2 x Beech trees, reduce the canopies of remaining trees by 25% and remove any dead wood and cross rubbing growth	Granted	04/12/2018
P/18/853/FUL	New vehicular access to El Prado car park	Granted	09/01/2019
T/19/42/TPO	Fell a 3 stemmed ash tree due to safety concerns and undertake an 8m crown reduction to a beech tree	Granted	11/09/2019

CONSULTATION RESPONSES

Laleston Community Council	No comments received on the Planning application.
Transportation Officer (Highways)	No objection to the revised Planning application with conditions recommended.
Building Conservation and Design Officer	Advise that no principle concerns were raised against the proposal when a grant application was being considered prior to the submission of the Planning application.
Shared Regulatory Services Public Protection: Noise	No objection to the revised Planning application with conditions recommended.

REPRESENTATIONS RECEIVED

The application has been advertised on site. Neighbours were notified of the receipt of the application. The period allowed for response to consultations/publicity (third consultation exercise) expired on 07 June 2021.

Cllr Pam Davies – Objects to the scheme highlighting the application has the potential to cause highway safety concerns with regards to the overspill of traffic into the narrow side streets of Laleston and noise and disruption issues for residents. It is also stated the Councillor is against this Planning application as the owner is not adhering to times of working on the site, is not adhering to the social distancing or wearing of PPE. It is understood the applicant has also requested a further extension of licensing hours into AM by 30 mins - 0030 which does not lend itself to the Village of Laleston.

The owner/occupier of 1 Ty Ddyn Gwaun supports the proposal.

The owners/occupiers of 3, 7, 9 & 11 High Street, The Annexe at 1 High Street, 2,3,4,5,6 & 8 Ty Ddyn Gwaun objected to the original Planning application submission.

Following the submission of amended plans that reduced the number of external seating areas proposed at the site, the owners/occupiers of 3,7,11 High Street, the Annexe at 1 High Street and 4 Ty Ddyn Gwaun, Laleston specifically provided comments/objections on that revised scheme.

The final set of amended plans that are now under consideration (whereby the external seating area has been completely removed from the scheme) has been the subject of objections from the owners/occupiers of 4 Ty Ddyn Gwaun and 3,7 & 11 High Street. The comments received to the revised Planning application under consideration are summarised as follows:

Impact on Residential Amenity

Direct negative impact from noise and lighting from people eating and drinking outside to neighbouring properties particularly during the evening.

Five-panelled bi-fold doors have been inserted in the building which will allow customer noise and music to emanate from inside and cause further noise nuisance if open.

Noise nuisance from users of the facility leaving the premises late in the evening.

Residents on High Street live directly opposite the front entrance to El Prado and even with the owner's attempt at a screen consisting of six potted shrubs, privacy is invaded particularly when people congregate at the entrance.

The latest plans do not include provision for the outside eating/drinking area. This aggravates the car parking issue and will affect the issue of noise not only from the outside customers but it will necessitate the opening of the bi-folding doors throughout the period this area is in use to allow access for staff to serve meals and to clear tables. Thus the noise for inside the building will be audible.

Could air conditioning be installed to avoid the need to open the new bi-folding doors/windows during warm weather.

Highway Safety & Parking

Traffic congestion and clear parking issues at the site.

The new plans do not resolve the issue of inadequate car parking which will result in

significant on-street parking. In the past during busy periods High Street was often inundated with street parking although the number of covers is now being significantly increased.

The car park shows spaces for 30 but they have used the wrong measurements which do not conform to the Council's adopted parking standard SPG17, so the true number of spaces is only 26. This is before any staff park there which happens daily. If they are stopped from using the car park, they will have to park on-street.

Clear car parking deficiency based on current Bridgend Council guidelines which is causing on-road car parking which will be made worse by the proposal.

Dining area capacity is being increased by the conversion of the upstairs store room to a function room along with the proposed Pergola. Licensing has granted alcohol to be purchased without requirement to purchase food. This gives flexibility for operational changes which will increase parking demands.

The applicant has been granted a click and collect type service for alcohol sales. This by nature will put take-away scenario conditions with on-road parking.

No commercial delivery space is shown. The previous owners had all deliveries in the early hours of the morning. The current arrangement is that dry goods are stacked at the corner of the south and west elevation or taken in through the fire door on the north elevation using highway parking. Refrigerated goods are delivered at all times of the day and sometimes have to use highway parking for delivery or cause highway parking by blocking access to the car park.

By taking out the seating area of the car park which was for 18 people and adding in 12 people in the upstairs function room the net reduction for parking is 6. On a typical day there are at least 6 car parking spaces used by staff.

El Prado has never provided enough off-street parking for busy periods. The situation is already far worse than under the former owners with the congestion going on for longer periods.

The licence now allows drinkers of alcohol and other beverages to be served throughout the day without having meals. There is an off-sales collection service throughout the day plus a new function room. It all adds to the number of customers, noise and nuisance of traffic coming and going.

In their original application the new owners sought to exploit the Welsh Government's Active Travel Policy by implying people would access the site by walking, cycling and public transport. Their backing for the policy seems to have waned somewhat as they appear to be now trying to get more car parking spaces. In fact, since El Prado began to emerge out of lockdown, we have not seen a single customer on a bicycle.

The wish to help the hospitality industry is understood but it is felt the huge expansion in customers that this development will bring (and has already brought) is completely inappropriate for a village the size of Laleston. None of the bar/restaurants in the village could survive on walk-in customers alone, so the car, taxi and minibus are king. Unless the traffic is properly regulated the village will eventually grind to a halt.

Visual Impact

The development has already had a massive impact on the Conservation Area. The new owners destroyed a line of mature trees behind El Prado which were undoubtedly the finest natural asset in the Conservation Area and provided visual amenity and a habitat for migrating birds.

Retrospective Nature of the scheme

The side conservatory has already been erected at the site.

All the works except the outdoor seating area have already been done regardless.

COMMENTS ON REPRESENTATIONS RECEIVED

Factors to be taken into account in making Planning decisions must be Planning matters, that is they must be relevant to the proposed development and the use of land in the public interest. The matters raised in the objections received are addressed below:

Impact on Levels of Residential Amenity and Highway safety:

The impact of the Planning application proposal on both the levels of residential amenity and highway safety are fully considered in the Appraisal Section of this report. When taking a balanced and sympathetic approach particularly in regard to the difficulties experienced by the hospitality industry throughout the Corona Virus Pandemic, the significantly revised proposal to extend and alter the premises in the manner proposed does not raise such harmful material Planning matters to warrant the refusal of the Planning application and can on balance be supported.

Visual Impact:

Matters raised in relation to the level of tree loss and landscaping changes at the site are fully acknowledged although not considered material to the consideration of this application with historic tree applications previously being submitted in and around the application site.

It is also acknowledged that the application site (building) falls largely within the Laleston Conservation Area and whilst careful regard to the visual impact of the scheme must be given, in this instance it is considered the physical works being proposed and undertaken do not harmfully impact the visual amenities of the area to such an adverse degree that would warrant the refusal of the scheme in this respect. This matter is further discussed in the Appraisal Section of the report.

Retrospective Nature of the scheme:

The Planning system allows the submission of retrospective Planning applications and all Planning applications must be determined on their own individual Planning merits.

It is further appreciated to some degree that the reason the applicant has undertaken the works is due to the current pandemic and a level of sympathy with their situation is acknowledged as it has been a very difficult time for the hospitality sector. Regard has also been given to the recent changes to the new temporary permitted development rights introduced to support the economic recovery and businesses affected by the pandemic - The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (Wales) Order 2021 ("the Amendment Order"). This revised legislation would permit a level/form of temporary external seating for a 56 day period at the site (applicable from 30 April to 03 January 2022).

RELEVANT POLICIES

Local Policies

The Development Plan for the area comprises of the Bridgend Local Development Plan 2006 -2021 which was formally adopted by the Council in September 2013 and within

which the following Policies are of relevance:

- Policy SP1 – Regeneration Led Development
- Policy SP2 – Design and Sustainable Place Making
- Policy SP5 – Conservation of the Built and Historic Environment
- Policy PLA1 – Settlement Hierarchy and Urban Management
- Policy PLA11 – Parking Standards
- Policy ENV6 – Nature Conservation
- Policy ENV7 – Natural Resource Protection and Public Health
- Policy ENV8 – Heritage Assets and Regeneration

Supplementary Planning Guidance

- SPG02: Householder Development
- SPG17: Parking Standards
- SPG19: Biodiversity and Development: A Green Infrastructure Approach

National Planning Policy

In the determination of a Planning application regard should also be given to the local requirements of National Planning Policy which are not duplicated in the Local Development Plan.

National planning guidance in the form of Future Wales – the National Plan 2040 (February 2021) and Planning Policy Wales (Edition 11, February 2021) (PPW) are of relevance to the determination of this application.

Paragraph 1.30 of PPW confirms that... *Development management is the positive and proactive approach to shaping, considering, determining and delivering development proposals through the process of deciding planning applications.*

All development decisions...should seek to contribute towards the making of sustainable places and improved well-being. (Paragraph 2.2 of PPW refers)

The Planning system should create sustainable places which are attractive, sociable, accessible, active, secure, welcoming, healthy and friendly. Development proposals should create the conditions to bring people together, making them want to live, work and play in areas with a sense of place and well-being, creating prosperity for all. (Paragraph 2.3 of PPW refers)

Placemaking in development decisions happens at all levels and involves considerations at a global scale, including climate change, down to the very local level, such as considering the amenity impact on neighbouring properties and people. (Paragraph 2.7 of PPW refers)

PPW states at paragraphs 2.22 and 2.23 that the Planning system should *ensure that a post-Covid world has people's well-being at its heart and that Planners play a pivotal role...in shaping our society for the future, prioritising placemaking, decarbonisation and well-being. As society emerges from the pandemic the needs of communities must be recognised and the Planning system has a role to play in ensuring development is appropriately located to provide both physical and mental health benefits, improve well-being and help to reduce inequality.*

Technical Advice Notes:

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 5 – Nature Conservation and Planning (2009)

- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 - Design (2016)
- Technical Advice Note 23 – Economic Development (2014)
- Technical Advice Note 24 – The Historic Environment (2017)

WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015

The Well-being of Future Generations Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without comprising the ability of future generations to meet their own needs (Section 5).

The well-being goals identified in the act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of the proposed development.

THE SOCIO ECONOMIC DUTY

The Socio Economic Duty (under Part 1, Section 1 of the Equality Act 2010) which came in to force on 31 March 2021, has the overall aim of delivering better outcomes for those who experience socio-economic disadvantage and whilst this is not a strategic decision, the duty has been considered in the assessment of this application.

APPRAISAL

This application is referred to the Development Control Committee to consider the objections raised by the residents of nearby properties and the Ward Member for Bryntirion, Laleston and Merthyr Mawr.

The application seeks consent for a number of alterations at the El Prado restaurant which primarily involves the provision of a covered glazed structure to the side of the building. As part of the scheme fenestration changes have been undertaken to the west elevation of the main building and a bin storage area/fenced area created within the grounds of the site. A reconfiguration of the car parking layout at the site has also been undertaken.

Key considerations in the determination of the application are the principle of the works, the impact on visual amenities, the impact on residential amenities and highway safety.

Principle of the Development

The application site is situated within the village of Laleston within a predominantly residential locality although there are a number of commercial properties situated on the main road through the village including the application premises and the neighbouring Mackworth Arms Public House. The application site is situated within the settlement boundary although it is not allocated for any particular purpose including employment or commercial use as defined by the Bridgend Local Development Plan 2013 (BLDP). It is noted that part of the site including the main building is situated within Laleston Conservation Area. Given the siting of the application site within a built up area, the modifications to the existing well established building in the manner proposed raises no

'in-principle' concerns.

Visual Impact

Policy SP2 of the Local Development Plan (2013) states "all development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment". "Design should be of the highest quality possible, and should be appropriate in scale, size and prominence".

The location of the application site in the main within Laleston Conservation Area is acknowledged although the proposal as a whole raises no serious adverse concerns in respect of the impact of the visual amenities enjoyed within the locality. The works undertaken and proposed are considered relatively modest alterations from a visual perspective that have limited impact on the overall appearance and general massing of the existing host building. The permanent glass addition/pergola structure has been erected in a relatively screened/isolated position to the least visible rear/side elevation of the building and the structure is not so significant to form a visually obtrusive addition to the host building. The existing main building and boundary treatments at the site largely screen this new addition from wider public viewing points. Changes to the facade of the building facing the car park where a set of bi-folding doors have replaced two window openings is also considered a relatively minor and sympathetic alteration that has not significantly altered the form and overall appearance of the host building in visual terms. The re-surfacing of the historic car park and the erected bin store also have no detrimental impact on the character or appearance of the surrounding locality.

Given the siting of the building within a Conservation Area the application has been assessed against Policy SP5 of the Bridgend Local Development Plan (LDP) (2006-2021) which requires development to conserve, preserve or enhance the built and historic environment of the County Borough and its setting. In particular, development proposals will only be permitted where it can be demonstrated that they will not have a significant adverse impact on the identified heritage assets such as inter alia Conservation Areas and their settings. The policy is supplemented by Policy ENV8 of the LDP which states that development which respects and utilise the heritage assets and which preserve, conserve and enhance the local distinctness of the County Borough will be permitted. Development which would materially harm heritage assets and features will not be permitted.

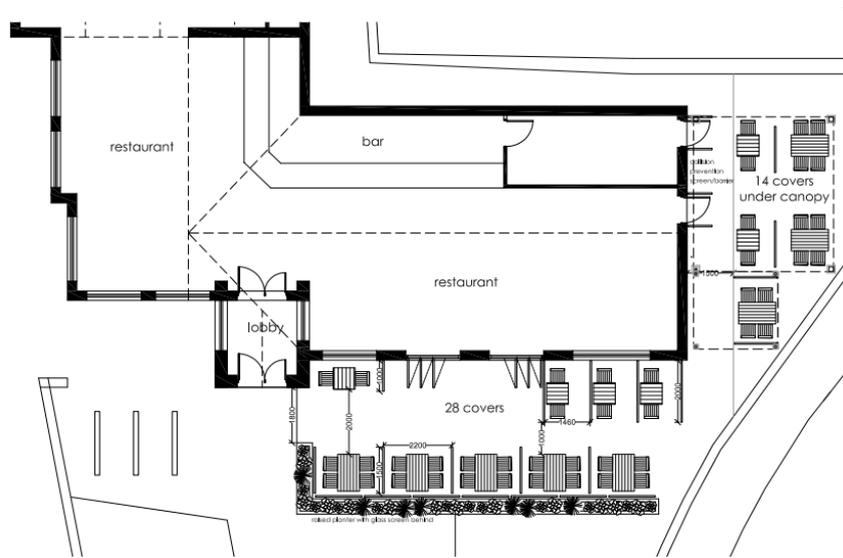
The Council's Conservation and Design Officer highlights that when they originally commented/considered the proposal, no serious concerns with the scheme in principle were raised. The scheme of the nature and scale detailed is therefore likely to have a neutral impact on the setting of the surrounding Conservation Area.

In view of the above, it is concluded that the changes proposed/undertaken are relatively modest in nature from a visual perspective and have no negative impact on the application building or its wider setting. Accordingly it is considered that the proposals have had regard to national and local Planning policies that seek to ensure that buildings within a Conservation Area are not damaged or adversely affected by development and the scheme is in accordance with Policies SP2, SP5 and ENV8 of the Bridgend Local Development Plan (2006-2021).

Impact on neighbouring occupiers

Particular regard in this instance must be given to the impact of such a proposal on the viability and amenity of neighbouring uses and their associated occupiers as advised by Policy SP2 and Policy ENV7 of the BLDP (with due regard to the comments and concerns of a number of local residents as earlier highlighted).

In terms of the compatibility of the proposal with neighbouring uses and the subsequent impact on adjoining residential units in particular, the application originally raised concerns in this regard. A permanent external seating area (for 28 then 18 covers/seating places) was originally proposed that given its proximity within sight and sound of a number of neighbouring residential properties, would have likely caused a level of nuisance to neighbouring occupiers.



**Figure 4 – Originally proposed external seating area
(now removed from the scheme)**

Following site meetings and a level of negotiation and compromise with the applicant, the originally proposed external seating area for 28 covers/spaces has now been removed from the scheme and importantly, the revised application now proposes a much more enclosed addition to the side of the existing building only rather than any permanent outdoor seating facilities. The number of covers/seating spaces within the side addition has also been reduced from 14 to 12.

The proximity of properties along Ty Ddyn Gwaun is particularly noted although a high boundary fence and level of planting offers a screen between these neighbouring properties and the new addition with the neighbouring properties also being sited in an elevated position (at a higher ground level) than the application site. The largely enclosed addition would also provide a level of acoustic protection in comparison to a completely open area.

The applicant has also highlighted that the new addition would not be used no later than 9.30pm - 10.00pm by customers and it is therefore considered reasonable to impose a condition which limits the hours of operation of the new side addition to no later than 9:30pm to fully safeguard the amenities of the nearest neighbouring properties.

It is also noted that the side addition has replaced the historic siting of the bin storage and external recycling/waste products has now been re-sited towards the western end of the site within an enclosed fenced compound, further away from residential properties along Ty Ddyn Gwaun and arguably representing a betterment in general amenity terms.

The new side addition is also screened by the existing main building and is significantly offset from properties along High Street, to the north of the site, such as to raise no amenity issues in respect of levels of amenity enjoyed by occupiers of these residential properties which are also set back from the highway that runs to the front of the application site.

The new bi-folding doors to the west elevation of the building facing the car park area which have replaced windows and a more solid wall elevation, are also considered acceptable from a general residential amenity perspective and do not raise such adverse amenity concerns to warrant the refusal of the scheme in this respect. Ultimately should the use of the new doors create a statutory noise nuisance this would be a matter for Public Protection with the Council's Public Protection Officer (Shared Regulatory Services) raising no objections against the revised Planning application.

The Public Protection Officer welcomes the revisions undertaken to the scheme which has reduced the total number of proposed covers from 42 to 12 and ensured the new seating spaces would now be located within a glass pergola style structure with openable louvre roof to the side elevation of the existing building. The agent states that the structure when glazed has acoustic properties (of a higher level than typical domestic double glazing) that will prevent any noise escaping however, the pergola would still be open at the front and has a louvre roof which is openable. Therefore, during warm weather it is likely to be left open for ventilation purposes particularly as glazed areas can get very warm.

This could result in problems of noise as there is a residential premises immediately adjacent to the site with raised voices when customers are socialising and eating and drinking in this area potentially being an issue for the adjacent property. The applicant has however offered to install an acoustic barrier along the boundary of the adjacent premises to reduce the noise arising from the pergola, in addition to uprated glazing being installed to the elevations of the pergola which are to be enclosed. Whilst this would reduce the noise at ground floor level, it would not reduce it at first floor level as the barrier would be ineffective at that height. The applicant has also however, agreed to shut the pergola area by 9.30pm which can be controlled by way of a Planning condition. Consequently no objection is raised by Public Protection on the proviso conditions are attached to any approved consent to ensure:

- the pergola area remains closed between 21.30 -10.00 Monday- Saturday and 21.30 - 12.00 (midday) Sundays (10:00 and 12:00 (midday) are the opening hours of the premises respectively);
- an acoustic barrier is provided along the top of the embankment alongside the existing fence between El Prado and the property at 3 Ty Ddyn Gwaun;
- the pergola area is enclosed with appropriate glazing on at least its rear and side elevations closest to the residential property with a glazing rating value of at least Rw of 40dB.

When further noting the historic and established use of the main restaurant building which residents would now be accustomed to, taking a balanced approach and noting the level of negotiation undertaken with the applicant which has completely removed the permanent provision of a substantial outdoor seating area at the site plus the need for Local Authorities to support the economic recovery following the Corona Virus Pandemic, the scheme on balance and subject to conditions does not raise such harmful residential amenity concerns to warrant the refusal of the Planning application in respect of its impact on existing levels of residential amenity enjoyed by properties that surround the application site.

Highway Safety

The impact of the scheme on highway safety is a key material Planning consideration in the determination of this application. The Council's Transportation Officer has carefully considered the Planning application and has raised no objection against the revised scheme.

The applicant has reduced the number of additional covers from 42 to 12 whilst removing the permanent seating area to the front of the restaurant and therefore, the increase in floor area as part of the latest proposal has reduced significantly. In assessing the off-street parking requirement, it is noted that the quantum of parking spaces will/has increased by 6 from 24 spaces to 30 spaces. This is considered acceptable and meets the requirements as detailed in the Council's adopted parking standards (SPG17) for an increase in floor area of the size detailed.

The original observations raised by the Highway Authority noted that on the submitted plans the proposed parking spaces measured 2.4m wide and should measure 2.6m wide to meet the parking standards however, whilst the plans show a small discrepancy on individual spaces, the Highway Officer has visited the site and when physically measured, the spaces ranged from 2.4m wide to 2.6m wide. In addition, the car park was full and therefore the smaller spaces did not seem to deter the use of them.

The concerns of the local residents have been taken into consideration with regards to parking and especially the vehicles which are parking on-street when the car park is full. The Highway Authority's Traffic Management Section does receive a significant number of complaints regarding on-street parking in this area of Laleston and whilst these complaints are not solely attributed to this site, the Highway Officer has carefully monitored the situation undertaking a site visit out of hours in the evening. The visit confirmed that on-street parking is taking place outside of the peak network hours in the evening when the impact is minimal. In addition, the site is located some 20m from a mini roundabout and therefore vehicles should be slowing for the roundabout junction and travelling at slow speeds past the site. As a result, it is considered that the revised proposal with the smaller addition and the increase in car parking spaces at the site is unlikely to generate additional parking in an on-street position.

The Council's parking standards also require this type of development to provide commercial delivery space within the site which has not been provided. Again, during another site visit undertaken by the Highways Officer at 10am it was noted that the delivery vehicle was in the car park making deliveries which did not impact the highway and is considered acceptable. Therefore, rather than requesting a dedicated delivery parking space at the site, it is considered a condition requesting a delivery management plan would remove any concerns with deliveries taking place from the highway or during busy times at the restaurant.

To improve the sustainability credentials of the site the applicant has provided an electric charging space and cycle parking spaces however, to meet the requirements of the current Active Travel Act legislation and Wellbeing of Future Generations Act, a travel plan for staff and customers will also be required which will incentivise walking and cycling to the site and reduce the pressures on the local highway network. A condition is therefore recommended in this respect should Planning permission be granted for the development.

Subject to the imposition of the recommended Planning conditions, the proposed development is therefore considered to be acceptable from a highway safety perspective.

Other Matters

A proposal of the nature and scale proposed raises no serious land drainage concerns.

Section 40 of the Natural Environment and Rural Communities Act 2006 states that 'every public authority must, in exercising its function, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. This 'duty to conserve biodiversity' has been replaced by a 'biodiversity and resilience of

ecosystems duty' under Section 6 of the Environment (Wales) Act 2016 which came into force on 21 March, 2016.

Section 6 (1) states that "a public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions." Section 6(2) goes on to state that 'In complying with subsection (1), a public authority must take account of the resilience of ecosystems, in particular (a) diversity between and within ecosystems; (b) the connections between and within ecosystems; (c) the scale of ecosystems; (d) the condition of ecosystems (including their structure and functioning); and, (e) the adaptability of ecosystems.'

Regulation 9 of the Conservation of Habitats & Species Regulations 2010 requires Local Planning Authorities to take account of the presence of European Protected Species at development sites. If they are present and affected by the development proposals, the Local Planning Authority must establish whether "the three tests" have been met, prior to determining the application. The three tests that must be satisfied are:

1. That the development is "in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment".
2. That there is "no satisfactory alternative"
3. That the derogation is "not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range"

Given the nature and scale of the application and characteristics of the application site and its surroundings, it is considered that overall there will be no significant adverse residual impacts on biodiversity. Overall, the proposal is considered to comply with the requirements of the Habitats Regulations 1994 (as amended), Section 6 of the Environment (Wales) Act 2016, guidance contained within TAN 5: Nature Conservation and Planning (2009) and relevant LDP policies.

CONCLUSION

A balanced and careful assessment of the proposal has been undertaken in this instance and particular regard has been given to the circumstances of the applicant's business with the backdrop of the Corona Virus Pandemic and recent Welsh Government Guidance that advises Authorities to support economic recovery and aid businesses in the easing of Covid-19 restrictions.

The application has been subject to a significant level of negotiation that has resulted in the removal of the permanent outside seating area at the site and the revised scheme, despite the public objections received, is unlikely to have such a serious impact on visual and residential amenities, highway safety or any other material Planning matter to warrant the refusal of the Planning application.

Therefore, having regard to the above, the scheme, on balance, is considered to comply with Council Policy and Guidelines and is recommended for approval subject to conditions.

RECOMMENDATION

(R02) That permission be GRANTED subject to the following conditions:-

1. The development shall be carried out in accordance with the following approved amended plans received 20 May 2021:

Proposed Plan Dwg. No. AL (00)05 Rev. D
Proposed Elevations Dwg. No. AL (00)06 Rev. D
Proposed Site Plan Dwg.No. AL (90)02 Rev. D

Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

2. Within 1 month from the date of consent a scheme for the provision of an acoustic barrier to be provided along the top of the embankment alongside the existing fence between El Prado and the property at 3 Ty Ddyn Gwaun shall be submitted in writing for the agreement of the Local Planning Authority. The scheme shall be continuous in length along the rear of 3 Ty Ddyn Gwaun with no gaps between the fencing panels or the ground and shall have a minimum mass of 10kg/m². The approved acoustic barrier shall be implemented within 3 months from the date of consent and the barrier shall be retained for as long as the side pergola continues to operate at the site.

Reason: In the interests of protecting neighbouring residential amenity.

3. Notwithstanding the requirements of condition 1, within 3 months of the date of consent the pergola addition shall be enclosed with glazing on at least the rear elevation and side elevation closest to the residential property. The glazing shall have a rating value of at least Rw of 40dB. The glazing shall be retained for as long as the pergola area remains in use.

Reason: In the interests of protecting neighbouring residential amenity.

4. The side pergola addition hereby permitted shall remain closed to customers/patrons between:

21:30 and 10:00 Monday - Saturday
21:30 and 12:00 (midday) Sundays

Reason: In the interests of protecting neighbouring residential amenity.

5. Within 1 month from the date of consent a Traffic & Delivery Plan shall be submitted in writing for the agreement of the Local Planning Authority. All servicing and delivery vehicles movements to the restaurant shall be made in accordance with the approved Traffic & Delivery Plan thereafter.

Reason: In the interests of highway safety.

6. Within 1 month from the date of consent a Travel Plan shall be submitted in writing for the agreement of the Local Planning Authority. The approved Travel Plan shall be implemented within 3 months from the date of consent. Such a plan shall contain targets, measures and initiatives relating to the encouragement and promotion of the use of sustainable transport for staff and customers to the site.

Reason: In the interests of promoting sustainable modes of transport to and from the site.

Janine Nightingale
CORPORATE DIRECTOR COMMUNITIES

Background Papers
None