

# Report

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>1 December 2020</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

Application no.	P/20/1039
Planning proposal:	Change of use of bank (class 2) to restaurant (class 3), installation of flue within internal wall exiting 700mm above existing chimney

## 1 Summary application information

Application type:	Detailed planning application
Applicant:	Mr Azizur Rahman
Location:	2 Wellgate Lanark ML11 9DT

## 2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Grant detailed planning permission (subject to conditions) based on conditions attached.

### 2.2 Other actions/notes

- (1) The Planning Committee has delegated powers to determine this application.

## 3 Other information

- ◆ Applicant's Agent: Stuart Hannah
- ◆ Council Area/Ward: 02 Clydesdale North
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan:**  
Policy 15 Natural and historic environment  
Policy 4 Development management and placemaking  
Policy 8 Strategic and town centres  
**Supplementary Guidance 9: Natural and historic environment**  
Policy NHE 1 New Lanark World Heritage Site  
**Supplementary Guidance 9: Natural and historic environment**  
Policy NHE7 Conservation areas

**Proposed SLDP2:**

Policy NHE1 New Lanark World Heritage Site

Policy NHE6 Conservation Areas

Policy 14 Natural and Historic Environment

Policy 9 Network of Centres and Retailing

Policy 5 Development Management and  
Placemaking

♦ **Representation(s):**

▶	12	Objection Letters
▶	0	Support Letters
▶	0	Comment Letters

♦ **Consultation(s):**

Environmental Services

West of Scotland Archaeology Service

Regeneration Service

Roads Development Management Team

## **Planning Application Report**

### **1 Application Site**

- 1.1 The application site relates to bank premises on the ground floor of 2 Wellgate, Lanark. The property is a C listed building and occupies a prominent corner position on the junction of the Wellgate and Castlegate facing on to Lanark High Street. On the upper floors of the premises are residential flats. The premises are adjoined by a ground floor retail unit and upper floor flat to the southeast on Wellgate. To the southwest on Castlegate, the premises adjoin an open area which provides access to an upper floor flat. There is also a memorial stone and plaque to William Wallace. A previously added flat roofed single storey extension is situated to the south of the original building. The flat roofed extension has an exit onto a rear yard area. A residential property (8a Wellgate) is situated to the north and the open courtyard dining area of the Hidden Courtyard is situated to the south.

### **2 Proposal(s)**

- 2.1 The proposal is to change the use of the former bank to a restaurant. A suite of plans have been submitted along with a supporting statement confirming refuse arrangements.
- 2.2 The submitted plans detail a restaurant space with stores, cloaks, and function room in the original part of the building. The kitchens and toilets are to be located within the previously extended part of the building to the rear. The plans show an extract system within the kitchen area, which runs into the original building and continue internally within the existing chimney on the southeast elevation. The proposed flue would exit through the existing chimney pots and terminate approximately 0.7m above.
- 2.3 The existing building has 3 entry/exit points. One from the front elevation exiting onto the Wellgate/High Street which would be used by customers. A side exit is situated next to entry point to the upper residential flats, off Castlegate. There is also an exit into a yard situated to the rear of the property. Further, there would be a rear exit off the proposed kitchen into the rear yard area, where it is proposed bins will be stored. An access door between this rear yard and the Hidden Courtyard is shown on the plans and evident on site. It is proposed the bins are stored within this rear yard and carried through the premises out of the side exit for collection on the main street.

### **3 Background**

#### **3.1 Local Plan Status**

- 3.1.1 In determining this planning application, the Council must assess the proposed development against the policies contained within both the South Lanarkshire Local Development Plan (2015) and Supplementary Guidance (SG) produced in support of the SLLDP.
- 3.1.2 In land use terms, the application site is identified within the SLLDP as being within the strategic town centre of Lanark. Policy 8 Strategic town centres is applicable and states that the Council will allow a mixture of uses compatible with town centres roles as a commercial and community focal point.
- 3.1.3 The application site is also located within the conservation area, World Heritage Buffer Zone for New Lanark and it's relates to a listed building. Policy 15 (Natural and Historic Environment) of the SLLP considers the natural and historic environment. Policy NHE1 (New Lanark World Heritage Site and Buffer Zone) and Policy NHE7 (Conservation Area) seek to ensure proposals do not adversely affect the character of the conservation area or the buffer zone. Whilst works do relate to a listed building, the impact on the listed building would be assessed through a listed building consent.

Reference shall be made to the appropriate guidance for listed buildings and this proposal within the report.

- 3.1.4 Policy 4 (Development Management and Place Making) of the SLLDP is also considered to be relevant and requires all development proposals to take account of, and be integrated with, the local context and built form.
- 3.1.5 The relevant policies in this case are those relating to development management and strategic town centres, namely: Policy 4 Development management and placemaking; and Policy 9 Strategic town centres. Policies relating to the conservation area namely: Policy 15 Natural and historic environment; Policy NHE1 New Lanark World Heritage Site and Buffer Zone and Policy NHE7 Conservation areas.
- 3.1.6 On 17 August 2020, the Directorate for Planning and Environmental Appeals issued its report of the Examination of the proposed South Lanarkshire Local Development Plan 2 (LDP2). For the purposes of determining planning applications, the Council will continue to assess proposals against the policies contained within the adopted South Lanarkshire Local Development Plan and those within the proposed South Lanarkshire Local Development Plan 2 alongside the Reporters recommendations. A separate report on the outcome of the Examination of the proposed SLLDP2 recommends that the modifications suggested by the Reporter are accepted. The relevant corresponding policies within the SLLDP2 are listed above in this report. If the relevant SLLDP2 policy differs materially from those in the SLLDP this will be discussed within the assessment section of this report.

### **3.2 Relevant Government Advice/Policy**

- 3.2.1 Scottish Planning Policy (SPP) provides guidance on town centres and historic environment. Advising that town centres importance should be recognised and a mix of development which supports the centres vibrancy, vitality and viability are encouraged. Positive change in the historic environment to ensure future uses should be enabled, informed by a clear understanding of how the importance of the heritage assets are affected.
- 3.2.2 Historic Environment Scotland provides specific guidance on amendments to listed buildings. Advising that changes should be managed to protect a building's special interest while enabling it to remain in active use. Their Managing Change Guidance note on external fixings details states that new fixings should be located on secondary elevations and should be of a non-ferrous material and an appropriate colour.
- 3.2.3 A listed building consent will be required in relation to this proposal. It is preferable for planning permission and listed building to be considered at the same time. Although a listed building consent was requested at the point of validation, the agent advised this would be pursued by a future occupier of the premises.

### **3.3 Planning Background**

- 3.3.1 The premises were formerly used as the Clydesdale Bank until August 2016 and according to planning records have not been occupied since. Two applications (P/18/0082 and P/18/1663) have been received to change the use of premises to a restaurant in 2018. Both applications were withdrawn by the applicant.

## 4 Consultation(s)

4.1 **Consult** – Environmental Services have no objections to the proposals subject to conditions relating to the ventilation system and ensuring efficiency, reducing noise and vibration and on further information being submitted concerning the details of bin storage and collection. The consultation response also details that:-

- A modern extraction system is capable of resolving issues of noise, vibration, odours and grease associated within older, poorly designed systems.
- Whilst it is preferable not to move bins through the building for collection, it is advised that if required, this is done when the premises are not open for business and not preparing food.
- It is a requirement of businesses to maintain their bins to ensure problems of pests or odours do not occur.
- Whilst there is a duty on business owners not to create a statutory nuisance, from noise or odour. The noise from customers and staff, opening and closing of doors is a normal part of life in towns and cities.

**Response:** Noted, appropriate conditions shall be imposed on any permission granted.

4.2 **Roads and Transportation Services** – The general impact of the proposal is suitable at this location and no objections raised. It is suggested to avoid congregations of patrons a positive smoking facility should be encouraged.

**Response:** Noted, the rear space associated with this proposal is not accessible to customers, therefore, a positive smoking facility is not achievable. The previous bank use had no dedicated parking, the proposal is located within the town centre with public parking available and Roads have raised no concerns in this regard.

4.3 **West of Scotland Archaeology Service**– No response received.

**Response:** Noted, there is no ground breaking works proposed.

4.4 **Regeneration**– No response received.

**Response:** Noted.

## 5 Representation(s)

5.1 Statutory neighbour notification was undertaken and the proposal was advertised in the local press as a bad neighbour development and also development affecting the conservation area. A total of 12 representations have been received. The content of which is summarised and responded to below.

a) **Error on drawing in relation to which way the door to the Hidden Courtyard opens. The door opens outwards and is required to do so as it is fire emergency door**

**Response:** The error is noted, the supporting statement details that this exit is not intended to be used for bins. It is considered there is sufficient information to consider the proposal

b) **Object to the removal of bins and waste through the Hidden Courtyard dining area**

**Response:** A supporting statement has been submitted to clarify bins will be carried through the premises and not through the Hidden Courtyard

- c) **Object to positioning of bins in close proximity to the external dining area of the Hidden Courtyard as this would cause smell and noise issues, unacceptable due to height and location next to windows of Courtyard restaurant**

**Response:** Environmental Services have been consulted on the application and raise no objections. It is possible for bins to be located in close proximity to residents and other uses, as often occurs in urban areas, without problems occurring. For example where the bins are properly maintained, securely lidded and remain pest proof and good frequency of uplift to avoid overflowing. It is considered that imposing a condition for the provision of full details of storage and collection of waste prior to the restaurant opening, can prevent these issues. A condition shall be imposed for a 1.8m high fence to screen views to and from the rear storage yard to the Hidden Courtyard.

- d) **Comment on the lack of professional or architectural information and that there is no technical, engineering or environmental assessment to make an informed judgement. Comment raised in relation to lack of drawing of the change in levels of bin storage area.**

**Response:** It is considered there is sufficient information submitted to make an assessment for the purposes of a planning application. The proposed south east elevation drawing shows a change in levels of 0.9m between the Hidden Courtyard and the rear yard. A site visit has confirmed there is a change in levels between the rear yard and the amenity area of 8 Wellgate residential property. Although the change in levels between rear yard and 8 Wellgate is not shown on plans it has been taken in to consideration in the assessment of the planning application.

- e) **Noise concerns as internal flue is on an internal party wall with 8a Wellgate**

**Response:** As detailed within Environmental Services consultation, there is the potential for vibration and noise in association with poorly designed ventilation systems. A condition shall be imposed on any permission granted to ensure the system is properly constructed to avoid vibration issues and does not give rise to significant noise issues.

- f) **Queries in relation to whether the chimneys within 8a Wellgate would be attached to the 2 Wellgate gable wall and whether there has been assessment to the fragility of the chimney passageways.**

**Response:** The proposed plans detail the ventilation to run inside an existing chimney within the former Clydesdale Bank building and the upper flats. The plans do not show the flue within the chimney for 8a Wellgate. It is for the applicant to assess whether their proposals are achievable. The proposals will be further scrutinised in further detail during the building warrant and listed building consent process.

- g) **Comment whether it can be proven works shall not cause further falling masonry, pointing or slates**

**Response:** Whilst it is appreciated that this is of concern to residents, any damage which may or may not be caused during construction is a private legal matter and not a matter which has any bearing on the planning decision process.

- h) **Object to the flue exit directly above their master bedroom window 2m away, possible fumes and grease dropping onto windows and attracting pigeons and associated mess**  
**Response:** As detailed within Environmental Services consultation with a modern well maintained system, this is not likely to occur. The submitted plans show the flue terminating 7.4m above the ridge of 8a Wellgate, the upper bedroom windows sit lower than the ridge.
- i) **Concerns in relation to smells that ourselves and neighbouring residents may be exposed to. Refer to existing air vents on roof and on ground facing 8a.**  
**Response:** The representee has provided photographs of the air vents. These air vents are situated below the floor level of the building and are designed to provide proper ventilation to the building itself. One other vent is situated on the flat roof. The extraction and flue system proposed is designed to extract cooking smells at the point of cooking, therefore, reducing smells before they would exit to these vents.
- j) **Objection to the bins being stored in the rear yard being visible from shared amenity space.**  
**Response:** Noted, a condition shall be imposed to ensure a 1.8m fence is included on the rear yard to screen views and retain privacy.
- k) **Concerns in relation to privacy compromised by kitchen staff using the rear yard area. Previously this was only used as an emergency exit. The raised nature of the rear yard would mean anyone within would be looking down into amenity space.**  
**Response:** Noted, a condition shall be imposed to ensure a 1.8m fence is included on the rear yard to screen views and retain privacy.
- l) **Note the plans are insufficient as they do not demonstrate sizes, distance of runs and design material of flue.**  
**Response:** The flue is shown on scaled plans which allow it to be measured. A condition shall be imposed on any permission granted to cover material of the flue exposed above the chimney pots.
- m) **Plans do not detail how works would be carried out without disruption to surrounding area, concerns that flue liner for an extraction system could be installed within the multiple chimneys with damaged internal chimneys. The proposed vent system should be shown start to finish.**  
**Response:** It is for the applicant to assess whether their proposals are achievable and ensure that any disruption is minimised during construction. The plans show an extract system within the kitchen area, which runs into the original building and continues internally within the existing chimney on the southeast elevation. The plans do show the vent system start to finish.
- n) **Concerns in relation to noise and smells from proposed development from both the kitchen fire door, sited 3m from 8a's upper bedroom windows, and flue when considered cumulatively in connection with Hidden Courtyard and Alan Eliot Butchers.**  
**Response:** As detailed in Environmental Services consultation response, food smells and noise are a normal part of towns and cities. The extraction system proposed, and details required by Environmental Services would seek to provide a suitable level of odour control to keep smells to an acceptable level. Businesses have a duty to avoid creating a noise or odour nuisance.

- o) **The flue projecting out from chimney pots would not be in keeping with the surrounding area.**

**Response:** The proposed internal flue is preferable to an external flue. The projection of 700mm of a flue above chimney pots is not considered to adversely affect the conservation area or have an unacceptable visual impact.

- p) **Suggestion that the bins are stored alongside the flats storage area to the front of the property, to avoid bins being carried through property.**

**Response:** The agent has detailed their intention to locate bins to the rear of the building, directly accessible from the kitchen. There is already a proliferation of residential bins stored in the close space on entry and exit of the upper residential flats visible from the main street and the conservation area. Therefore, it is considered preferable for the bins to be stored in the rear yard to avoid further clutter on the main street. With the appropriate details and mitigation, it is considered possible for bins to be located in close proximity to residents and other uses, as often occurs in urban areas, without problems occurring

5.2 These letters are available for inspection on the planning portal.

## **6 Assessment and Conclusions**

- 6.1 The applicant seeks planning permission for the change of use a bank to a restaurant, with the installation of a flue within the internal wall exiting 700mm above the existing chimney. The main planning considerations in determining the application are whether the proposal complies with the development plan and the impact upon the strategic town centre of Lanark, residential amenity and the historic character of the area.
- 6.2 Policy 8 seeks to ensure a mix of uses within the strategic town centre of Lanark. The application site was a formerly a bank which closed in 2016, the premises have remained unoccupied since. The town centre contains a mix of shops, offices, leisure, community, civic uses and residential properties. Lanark High Street is predominately retail however it contains 4 other restaurants, 2 of which also provide takeaway services. It is, therefore, considered the change to a restaurant is a suitable change of use for this location and would further add to the night time economy. It is considered that the proposal meets the terms of Policy 8 of the adopted SLLDP and the corresponding Policy 9 of the proposed SLLDP2.
- 6.3 Policy 4 seeks to ensure proposals consider the surrounding area including residents, seeking to ensure there is no significant adverse impact upon residential amenity. The premises have a number of residential properties in close proximity. Namely 3 upper floor flats and 8a Wellgate on the southeast elevation. The ventilation system proposed is located internally within existing chimneys, which would run in close proximity to these properties. Concerns have been raised in relation to smells, noise and vibration. The rear yard area is elevated above the amenity space of 8a Wellgate and the dining area of the Hidden Courtyard. Accordingly, overlooking by kitchen staff could occur. Representees have raised issues in relation to smell or pest issues in relation to bin storage.



- 6.4 Environmental Services have no objection to the proposal subject to further details being provided in relation to the ventilation system prior to the opening of the restaurant. To ensure it can reduce smells to an acceptable level and is installed appropriately to avoid vibrations. Environmental Services have also detailed that although not desirable, bins can be stored to the rear and moved through the property. Subject to the bins being properly sized, maintained and moved when the restaurant is not operating and food is not being prepared. There is already a proliferation of residential bins stored in the close space on entry and exit of the upper residential flats visible from the main street. Therefore, it is considered preferable for the bins to be stored in the rear yard which, with the appropriate details, it is considered possible for bins to be located in close proximity to residents and other uses, as often occurs in urban areas, without problems occurring. A condition shall also be imposed on any permission granted for the provision of fencing to the rear yard to prevent overlooking into 8a Wellgate's amenity area.
- 6.5 It is considered that any noise, smell, vibration and privacy issues can be mitigated against. With the use of a properly designed and maintained ventilation system, properly maintained and suitable refuse arrangements and fencing around the rear yard. It is appreciated this change of use may be disconcerting to neighbouring residents, particularly given the previous use of the premises as a bank, the rear yard as an emergency exit and the property being unoccupied for 4 years. The proposal has sought to mitigate noise, smell and disturbance as much as possible. There is, however, a certain level of activity and noise associated with the proposal which can be expected from living in the town centre. Therefore, it is considered that the proposal is in accordance with Policy 4 of the adopted SLLDP and the corresponding Policy 5 of the proposed SLLDP2.
- 6.6 Policy 15 seeks to protect the natural historic environment and the application site falls within Lanark's conservation area and New Lanark World Heritage Site Buffer Zone. The only external proposals relate to a flue terminating 0.7m above the existing chimney. The chimneys are on the south east elevation, set back from the prominent corner frontage of the premises. A suitable condition shall be imposed on any permission granted to ensure a suitable colour is chosen for the flue, and non-ferrous fixings used to prevent rust marks on the building, in line with Managing Change Guidance for external fixings for listed buildings. Therefore, the proposal will not have an unacceptable visual impact on the conservation area or Buffer zone. The proposal meets the terms of Policy 15, NHE1 and NHE7 of the adopted SLLDP and corresponding policies 14, NHE1 and NHE6 of the proposed SLLDP2.
- 6.7 The change of use to a restaurant is a suitable use for the strategic town centre. There would be no parking issues associated with the proposal and it would also bring back into use a prominent C-Listed building within the High Street vicinity. With suitable mitigation it is considered the restaurant could operate without significant adverse to neighbouring residents. It is, therefore, recommend that planning permission is granted.

## **7 Reasons for Decision**

- 7.1 The proposal is a suitable use for the strategic town centre. The proposal would also bring back into use a prominent C-Listed building within the High Street vicinity. With suitable mitigation, provided by conditions, it is considered the restaurant could operate without significant adverse impact to neighbouring residents. The proposal does not have a significant adverse on residential amenity or the character of the conservation area and New Lanark World Heritage Buffer Zone. The proposal meets the terms of Policy 4, 8, 15 of the adopted South Lanarkshire Local Development Plan 2015 and Policy NHE1 and NHE7 of the relevant associated supplementary guidance.

The proposal also meets the terms of Policy 5, 9, 14, NHE 1 and NHE6 of the proposed South Lanarkshire Local Development Plan 2. There are no other additional material considerations which would justify refusing to grant planning permission.

**Michael McGlynn**  
**Executive Director (Community and Enterprise Resources)**

20 November 2020

**Previous References**

- ◆ None

**List of background papers**

- ▶ Application form
- ▶ Application plans
- ▶ Supporting Statement
- ▶ South Lanarkshire Local Development Plan 2015 (adopted)
- ▶ Proposed South Lanarkshire Development Plan 2
- ▶ Neighbour notification letter dated 25 September 2020

►	Consultations	
	Environmental Services	02.11.2020
	West of Scotland Archaeology Service	Not received
	Regeneration Service	Not received
	Roads Development Management Team	06.10.2020
►	Representations	Dated:
	Cameron Lindsay, 8A Wellgate, Lanark, South Lanarkshire, ML11 9DT	19.10.2020
	Mr Steven Laing, Graham St, Wishaw, ML28HR	15.10.2020
	Mr Leonard Gray, 6 St Patricks Road, Lanark, ML11 9EG	02.10.2020
	Mr Walter Laing, 141 Old Manse Rd, Netherton, Wishaw, ML2 0EW	16.10.2020
	Mrs Christine Forrest, 38 Kenilworth Ave, Wishaw, ML2 7LS	16.10.2020
	Claire Blue, 8A Wellgate, Lanark, ML11 9DT	19.10.2020
	Mrs Yvonne Laing, 255 Shields Road, Motherwell, ML1 2LG	16.10.2020
	Mr Colin Laing, 255 Shields Road, Motherwell, ML1 2LG	16.10.2020
	Mr James Somerville Lindsay, 8A Wellgate, Lanark, ML11 9DT	20.10.2020
	Mr Walter Laing, Graham Street, WISHAW, ML2 8HR	12.11.2020
	James Somerville Lindsay, Via Email	09.11.2020
	Mr Steven Laing, Graham St, Wishaw, ML28HR	12.11.2020

### **Contact for further information**

If you would like to inspect the background papers or want further information, please contact:-

Fiona Bailie, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB

Phone: 01698 455271

Email: [fiona.bailie@southlanarkshire.gov.uk](mailto:fiona.bailie@southlanarkshire.gov.uk)

## **Planning Application**

**Application number:** P/20/1039

### **Conditions and reasons**

01. Before the restaurant premises is brought into use, the details of the proposed method of ventilation shall be submitted to and approved in writing by the Council as Planning Authority. The details submitted shall demonstrate how the below standards will be met:

All odours, fumes and vapours generated on the premises shall be controlled by best practicable means to prevent them causing nuisance to occupants of nearby dwellings or premises.

The ventilation system shall:

- a) Incorporate systems to reduce the emission of odours and pollutants and ] shall thereafter be maintained as necessary;
- b) Be constructed, designed, installed, operated and employ the principles of best practical means, to minimise noise and vibration transmission via plant and the building structure;
- c) Noise associated with the business shall not give rise to a noise level, assessed with the windows closed, within any dwelling or noise sensitive building, in excess of the equivalent to Noise Rating Curve 35, between 07:00 and 20:00 hours, and Noise Rating Curve 25 at all other times.

Reason: To minimise the risk of nuisance from smells, fumes, vapours and noise to nearby occupants.

02. That before the restaurant is brought into use the ventilation system approved under Condition 1 above shall be installed and operated in accordance with the approved specification and satisfaction of the Council as Planning Authority at all times.

Reason: To minimise nuisance to occupants of nearby buildings as a result of cooking smells, vapours, airborne pollutants or noise from the premises.

03. That before the development hereby approved is brought into use, details of the storage and collection of waste arising from the development shall be submitted to and approved in writing by the Council as Planning Authority. The storage and waste collection scheme shall be implemented before the development is brought into use and shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

Reason: To minimise nuisance, littering and pest problems to nearby occupants.

04. All external colours and materials shall be agreed in writing with the Council as Planning Authority prior to the commencement of works. Notwithstanding, all external fixings shall be a non-ferrous material.

Reason: To ensure the development is satisfactory in appearance and to maintain the visual quality of the area.

05. That before any of the restaurant hereby approved is brought into use, a 1.8 metre high close boarded screen fence or wall shall be erected along the boundary marked green on the approved plans. The colour and material of which shall be agreed in writing with the Council as Planning Authority prior to works commencing

Reason: To protect the privacy of the adjacent property and to prevent overlooking ensure the development is satisfactory in appearance and to maintain the visual quality of the area.

P/20/1039

2 Wellgate, Lanark



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Scale:  
1:1,200  
Date:  
08/11/2020



South Lanarkshire Council  
Community and Enterprise Resources  
Planning and Economic Development