

Report

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

Application no.	P/20/0966
Planning proposal:	Formation of beer garden at rear of premises.

1 Summary application information

Application type: Detailed planning application

Applicant: Mrs Sarah Lamanuzzi
Location: Machan Vaults
8 Muir Street
Larkhall
ML9 2BG

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: Ronald Gellan
- ◆ Council Area/Ward: 20 Larkhall
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan (adopted 2015)**
Policy 4 - Development Management and Placemaking
Policy 6 - General Urban Area/Settlements

**Proposed South Lanarkshire Development Plan
2 (2018)**

Policy 3 - General Urban Areas
Policy 5 - Development Management and
Placemaking

◆ **Representation(s):**

▶	7	Objection Letters
▶	0	Support Letters
▶	0	Comment Letters

◆ **Consultation(s):**

Roads Development Management Team

Environmental Services

Licensing (SLC)

Planning Application Report

1 Application Site

- 1.1 The application relates to the 'Machan Vaults', 8 Muir Street, Larkhall. It is a long established public house, located on the edge of an urban area in close proximity to Larkhall Town Centre.
- 1.2 The application site, which is relatively flat, fronts onto Muir Street and there are residential flats located on the opposite side of the road. The southern side of the site is bounded by Machan Avenue, beyond which is a church. The site is bounded to the north by residential properties and to the rear by a lane (which provides access to the flats above the public house which the applicant also owns) beyond which is the detached residential dwellinghouse at 1a Machan Avenue.
- 1.3 Muir Street is a busy road and the application site is in relatively close proximity to the crossroads where Union Street meets Church Street, the main roads running through Larkhall town centre. The public house has an existing smoking shelter and customers can currently go outside to smoke.

2 Proposal(s)

- 2.1 The applicant seeks planning consent for the formation of a beer garden at the rear of the premises.
- 2.2 The proposed beer garden would extend to approximately 30 square metres and would be accessed from the rear of the public house. It would be enclosed on 3 sides by a 2 metre high acoustic timber fence. In addition, the garden ground which would be retained, would be enclosed by a separate 2 metre high timber fence. A third fence approximately 0.9 metre would be located at the edge of the plot adjacent to Machan Avenue. The proposed acoustic fence that would bound the rear of the proposed beer garden would be located approximately 6 metres from the curtilage of the plot at 1a Machan Avenue. The proposed plan indicates that the beer garden would have 8 tables accommodating approximately 16 people.
- 2.3 Additional supplementary information concerning noise has been lodged by the agent. This information has been submitted in order to support the proposals which are ultimately to create an outdoor area which can be used in a socially distanced manner. The proposed opening hours would be 11am-9pm. There is no provision for overhead protection from the elements and it is not intended to use it as an outdoor event area or to play music. The installation of 2 metre high acoustic fencing will help in the reduction of noise transfer. The existing smoking area is monitored by CCTV and it would also be used to monitor the proposed beer garden.
- 2.4 It should be noted that during the application process, amended drawings were submitted which sought to ensure that the position/height of the proposed fencing adjacent to Machan Avenue had no adverse impact on visibility. The position of the proposed beer garden was also moved further away from the rear boundary. These minor changes did not require re-notification of neighbouring properties.

3 Background

3.1 Relevant Government Advice/Policy

- 3.1.1 Scottish Planning Policy (2014) (SPP) highlights that the presumption in favour of development does not change the statutory status of the development plan as the starting point for decision-making. Proposals that accord with up-to-date plans should be considered acceptable in principle.

3.2 Development Plan

- 3.2.1 In determining this planning application, the Council must assess the proposed development against the applicable policies contained within both the South Lanarkshire Local Development Plan (2015) and associated Supplementary Guidance (SG) produced in support of the SLLDP.
- 3.2.2 The South Lanarkshire Local Development Plan (SLLDP) identifies the site, in land use terms, as being within a general residential area (Policy 6 - General Urban Area /Settlements being applicable).
- 3.2.3 Policy 4 (Development Management and Place Making) of the SLLDP is also relevant and requires all development to take account of, and be integrated with, the local context and built form.
- 3.2.4 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.
- 3.2.5 An assessment of the proposal against these specific policies is contained in Section 6 of this report.

3.3 Planning History

- 3.3.1 Retrospective planning consent (HM/07/0454) was granted in 2007 for a smoking shelter.

4 Consultation(s)

- 4.1 **Roads and Transportation Services (Hamilton Area)** – No objection commenting that the amended drawings address any issues relating to visibility from proposed fencing.

Response: Noted.

- 4.2 **Environmental Services** – No objection subject to the imposition of planning conditions to ensure that the hours of use are restricted to no later than 9pm, to control noise levels, to ensure that the proposed fence is an acoustic fence and that the consent is for a temporary period of 3 years.

Response: The imposition of planning conditions will address this should consent be issued. Indeed, the applicant's agent has been advised of this.

4.3 **Licensing** – No response.

Response: Noted.

5 **Representation(s)**

5.1 Statutory neighbour notification procedures were undertaken in respect of the proposal. The application was also advertised in the Hamilton Advertiser due to the nature of the development and non-notification of neighbours. Seven letters of objection were received.

5.2.1 The grounds of objection can be summarised as follows:-

(a) Increased noise and disturbance which will be exacerbated by the fact that the site is surrounded by residential buildings, with family living areas and children's bedrooms in close proximity to the proposed beer garden. Proposals to restrict numbers using the outside area and operating hours are not practical. The proposed beer garden will be incompatible with the surroundings in land use terms due to the likely impact and loss of amenity on adjacent residential properties.

Response: The Machan Vaults public house is a well known and long established business fronting onto a busy road which, in general terms, is surrounded by residential properties. Consequently whilst being lawful licensed premises, it can be viewed as a non conforming land use. Accordingly, it must be acknowledged that there is potential for residential amenity to be occasionally impacted by noise and disturbance. The level of residential amenity associated with the area surrounding the public house must take account of the existence of the public house and cannot be to the same degree, level or extent as that associated with a house in a residential estate divorced from non-residential uses. Indeed, many of the objections received acknowledge this in that they refer to existing instances of noise and disturbance associated with the public house. The proposed beer garden will be open and exposed to the weather. It is, therefore, likely that its use will be weather dependent.

As previously detailed, Environmental Services have raised no objection subject to the imposition of planning conditions so that it will not be used after 21-00 hrs, to control noise levels, ensure an acoustic fence is used and that the consent is for a temporary period of 3 years.

(b) Loss of privacy to neighbouring properties due to overlooking. The 2 metre fence will not suffice.

Response: Given the physical characteristics of the site, the location of the proposed beer garden and residential dwellings, along with the presence of proposed fencing which would provide an element of screening, it is considered that any potential for overlooking/loss of privacy would not be unacceptable.

(c) Parking - There does not appear to be any parking provision made for the additional scope of business in the planning application. The existing parking provision for the pub is limited and the surrounding streets are controlled by double yellow lines.

Response: The beer garden will primarily provide an additional 'facility' at the premises and it is debatable whether or not the beer garden itself will result in additional traffic generation.

As detailed previously Roads and Transportation Services have no objection to the proposal.

(d) Concern about odours and potential passive smoking to diners.

Response: Environmental Services have offered no objection to the proposal.

(e) Size and density is overwhelming to the space and location.

Response: The proposed plan indicates that the beer garden would be approximately 30 square metres in size and would have 8 tables accommodating approximately 16 people. It is considered that the site is of a sufficient size to accommodate the proposed table and seating arrangement.

(f) Road Safety - There is now potential for patrons walking onto the road at the Machan Avenue exit where this was not a risk before. There is nothing in the planning application to prevent this, especially with the narrow pavement being a particular concern in this street.

Response: As detailed previously, Roads and Transportation Services have no objection to the proposal.

(g) There are pubs in South Lanarkshire with beer gardens. We know the Licensing Board prefer beer gardens to be some distance from the nearest house. We are not aware of a beer garden situated as close to a house as this one would be. We contend that it is far too close.

Response: Every planning application must be assessed on its own merits. The licensing process is separate to the planning process and whether or not the Licensing Board issues a license is their prerogative. In this instance, subject to suitable fencing, no amplified music and appropriate operating hours, the location of the proposed beer garden is acceptable and it would not have an unacceptable impact on the amenity of the surrounding area. In addition, it is proposed that any consent granted be restricted to a 3 year temporary period in order that the suitability of the use can be reassessed in the future.

(h) Concerns about Safety and wellbeing following previous burglaries, as well as criminal damage to property, including windows being egged and broken, and cars being smashed which were are potentially related to the complaints we made about the public house.

Response: This is a police issue and does not constitute a material planning consideration in the assessment of this planning application.

(i) The plans show the extremely close proximity of the neighbouring property at 1a Machan Avenue and the side entrance to the property. Concerns about the throughway and potential for footfall to be frequently passing by my garden fence, at all hours of the day and night causing further noise, disturbance and general anxiety.

Response: The proposals would not see any alterations to the access arrangements for the premises. Access and parking for Machan Vaults would continue to be taken from Muir Street to the front of the premises whilst access to the flats above would continue to be taken via a private drive to the rear of the garden area. Any noise issues should be reported to Environmental Services.

(j) Loss of value to neighbouring properties.

Response: This does not constitute a material planning consideration in the assessment of this planning application.

5.2.2 All letters of representation are available for inspection on the Planning Portal.

6 Assessment and Conclusions

- 6.1 The applicant seeks planning consent for the formation of a beer garden at the rear of public house premises at Machan Vaults, 8 Muir Street, Larkhall.
- 6.2 The relevant policies of the adopted Local Development Plan and Supplementary Guidance are Policy 4 – Development Management and Place Making General Urban Areas/Settlements and Policy 6 – General urban area/settlements.
- 6.3 In terms of Local Development Plan policy, the application site is located within a designated urban area. The site, however, relates to an established public house which will already create a degree of noise and disturbance in the context of the surrounding area. It is anticipated that there would be a degree of noise and disturbance associated with the use of any outdoor seating area and it is the extent of any additional noise or disturbance which must be considered. Any additional noise or disturbance should not have a detrimental impact on the amenity of the surrounding area. Accordingly, it is considered that in order for the beer garden to be acceptable, the impact of the proposal on the existing level of residential amenity should be marginal. Subject to the use of appropriate conditions regarding acoustic fencing, operating hours and the length of any planning permission granted, it is considered that the use of the beer garden can be controlled to prevent any unacceptable impact on the amenity of the surrounding area. On this basis, the proposed development raises no significant issues from a land use context in terms of Policy 6 of the South Lanarkshire Local Development Plan.
- 6.4 In relation to Policy 4 of the Local Development Plan and the associated Development Management, Place Making and Design Supplementary Guidance, it is considered that given the physical containment of the proposed beer garden and the associated fencing detailed in paragraph 2.2, the proposal is acceptable at this particular location. Environmental Services have raised no objections subject to the imposition of standard planning conditions relating to noise, hours of operation and that permission is only approved for a temporary 3 year period. Within residential areas a mutual degree of overlooking is commonplace and any increase in loss of privacy or amenity associated with the proposal is unlikely to be to a degree or extent that would be unacceptable. On balance, it is considered that the introduction of the proposed beer garden is acceptable since it is unlikely to impact significantly on the established level of amenity presently enjoyed by neighbouring properties.

- 6.5 The beer garden will primarily provide an additional 'facility' at the premises and it is unlikely that the beer garden itself will result in additional traffic generation or parking requirements. As detailed previously Roads and Transportation Services have no objection to the proposal and do not require any additional parking to be provided.
- 6.6 As set out in section 3.2.4 above, for the purposes of determining planning applications, the proposed South Lanarkshire Local Development Plan 2 is now a material consideration. The proposal has been assessed, as set out above, and it is considered that the proposal generally accords with Policies 3 and 5 in the proposed plan.
- 6.7 As detailed previously, none of the consultees have raised any objection to the proposal subject to the imposition of planning conditions.
- 6.8 Overall, it is considered that subject to the imposition of suitable conditions, including restricting any permission for a temporary period, the proposal is acceptable and it is recommended that planning permission be granted subject to conditions.

7 Reasons for Decision

- 7.1 It is considered that the proposal generally complies with Policies 4 and 6 of the South Lanarkshire Local Development Plan (adopted June 2015) and the associated Supplementary Guidance and Policies 3 and 5 of the proposed Local Development Plan 2. There are no additional material considerations which would justify refusing planning permission.

Michael McGlynn
Executive Director (Community and Enterprise Resources)

20 November 2020

Previous References

- ◆ HM/07/0454

List of Background Papers

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2015 (adopted)
- ▶ Proposed South Lanarkshire Development Plan 2
- ▶ Neighbour notification letter dated 30 July 2020
- ▶ Press advert dated 6 August 2020

► Consultations

Roads Development Management Team	18.08.2020
Environmental Services	14.10.2020
Roads Development Management Team	10.09.2020

► Representations Dated:

Alistair Neill, 3 Machan Avenue, Larkhall, South Lanarkshire, ML9 2HE	25.08.2020
Mr James Lockhart, 2 Margarets Place, Larkhall, ML9 2HQ	11.08.2020
Mr John Fenwick, 14 Muir Street, Larkhall, ML9 2BG	15.08.2020
Leonards Solicitors, 133 Cadzow Street, Hamilton, ML3 6JG	19.08.2020
Mr William Greenan, No Address Provided	18.08.2020
Mrs J Brownlie, Margarets Place, Larkhall	18.08.2020
Mrs Donna Ralston, Machanhill House, 2 Machanhill, Larkhall, ML9 2HG	18.08.2020

Contact for further information

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

Murray Reid, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB
Phone: 01698 453625
Email: murray.reid@southlanarkshire.gov.uk

Conditions and reasons

- 1 That the proposed hours of use of the beer garden shall be restricted to no later than 9pm.

Reason: In the interests of amenity and to minimise noise disturbance and retain effective planning control.

- 2 That the noise emissions from the premises where entertainment takes place on a regular basis, music and associated sources shall not be audible inside (or outside where there is deemed to be an external amenity space) at any noise sensitive property at any time.

The following shall be used as an objective guide for the aforementioned requirement:

1. The LA10 entertainment noise shall not exceed the representative background noise levels LA90 (without entertainment noise) in any 1/3 octave band between 40Hz and 160Hz
2. The LAeq,15min of the entertainment noise shall not exceed the representative background noise LA90,15min (without entertainment noise). The above applies both externally and internally at noise sensitive properties.

Reason: In the interests of amenity and to minimize noise disturbance and retain effective planning control.

- 3 For the avoidance of doubt and as agreed by the applicant, details of a 2 metre acoustic fence to both sides and the rear of the proposed beer garden shall be submitted for the written approval of the Council as Planning Authority prior to any works commencing on site. The approved acoustic fence shall be installed prior to the development being brought into use and retained thereafter to the satisfaction of the Council as Planning Authority.

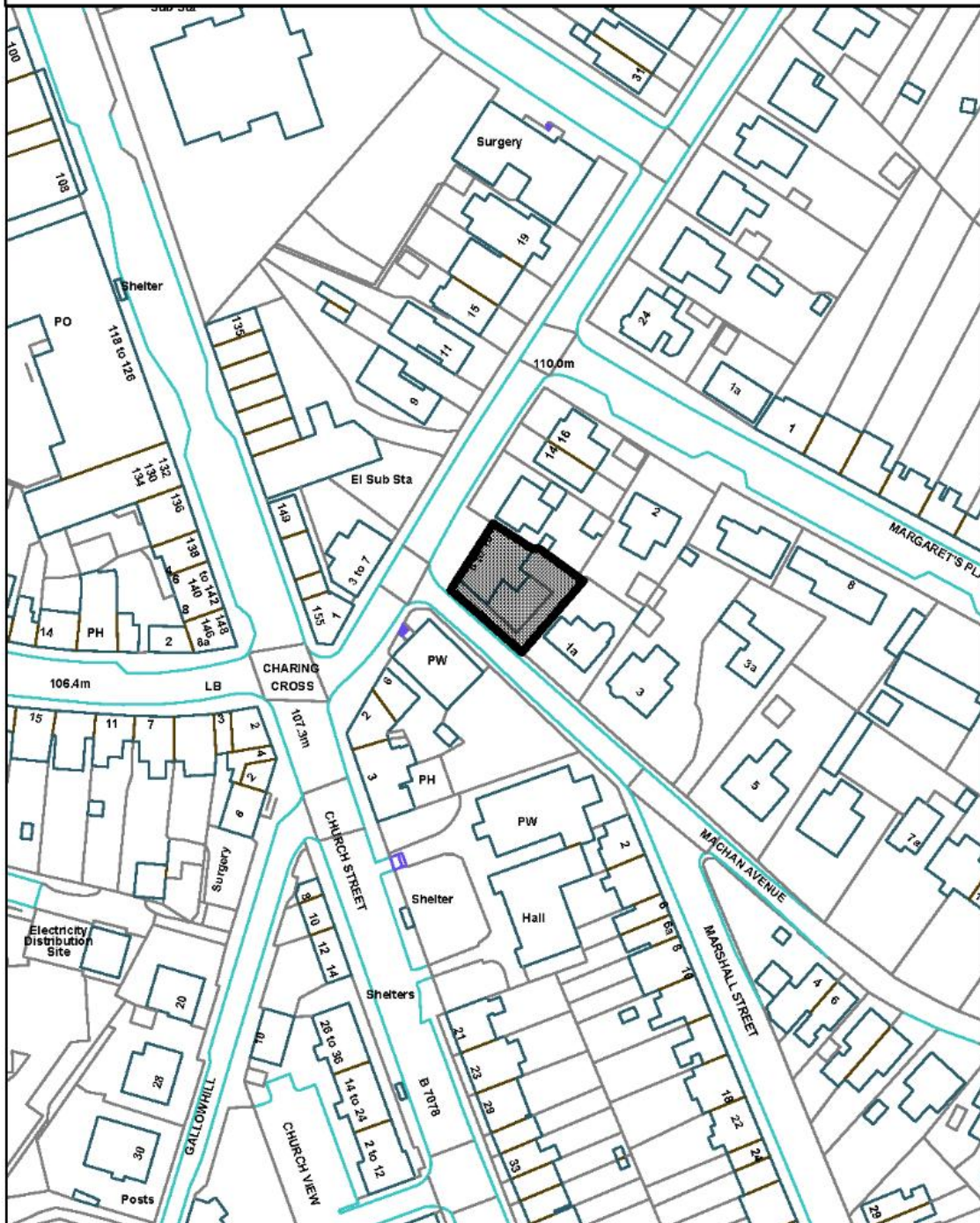
Reason: In the interests of amenity and to minimize noise disturbance and retain effective planning control.

- 4 That the permission hereby granted is for a temporary period only and shall expire on 1 December 2023.

Reason: To define the consent and ensure that should any issues arise that they can be controlled or prevented from occurring on a permanent basis.

P/20/0966

Machan Vaults, 8 Muir Street, Larkhall



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1:1,250
Date:
06/11/2020



South Lanarkshire Council
Community and Enterprise Resources
Planning and Economic Development