

## COMMITTEE REPORT

BY THE DIRECTOR OF ENVIRONMENT AND NEIGHBOURHOOD SERVICES

READING BOROUGH COUNCIL

ITEM NO. 9

PLANNING APPLICATIONS COMMITTEE: 29th June 2016

Ward: Abbey

App No.: 160476/FUL

Address: Royal Court, Kings Road, Reading

Proposal: Creation of an open canal side cafe terrace with existing brick structure used as servery.

Applicant: 2TE Island Ltd

Date received: 18th March 2016

Minor Application 8 week target decision date: extension to 6th July 2016

### RECOMMENDATION:

**GRANT Planning Permission.**

#### Conditions to include:

1. Std 3 Years
2. Temporary permission (two years). Site to be returned to former condition thereafter
3. Approved plans
4. Months of opening (1 March to 31 October)
5. Days/Hours of opening (Sundays to Wednesdays 1200-2130; Thursdays to Saturdays 1200-2300) to include clearing up/storage time
6. Tables (Max 8no.) plus storage of all tables/chairs etc. overnight
7. External lighting scheme: (details of existing 3no. wall mounted units) to be switched off within 10 minutes of closing
8. No amplified music
9. Refuse & litter collection (incl. details of existing storage in Royal Court)
10. Cooking facilities (details of existing servery structure/odour control measures)
11. No takeaways
12. Details of fence
13. CCTV details & implementation

#### Informatives:

1. Terms & conditions
2. Positive and proactive approach
3. Pre-commencement conditions and fees
4. Separate Food Licence required before commencement of use

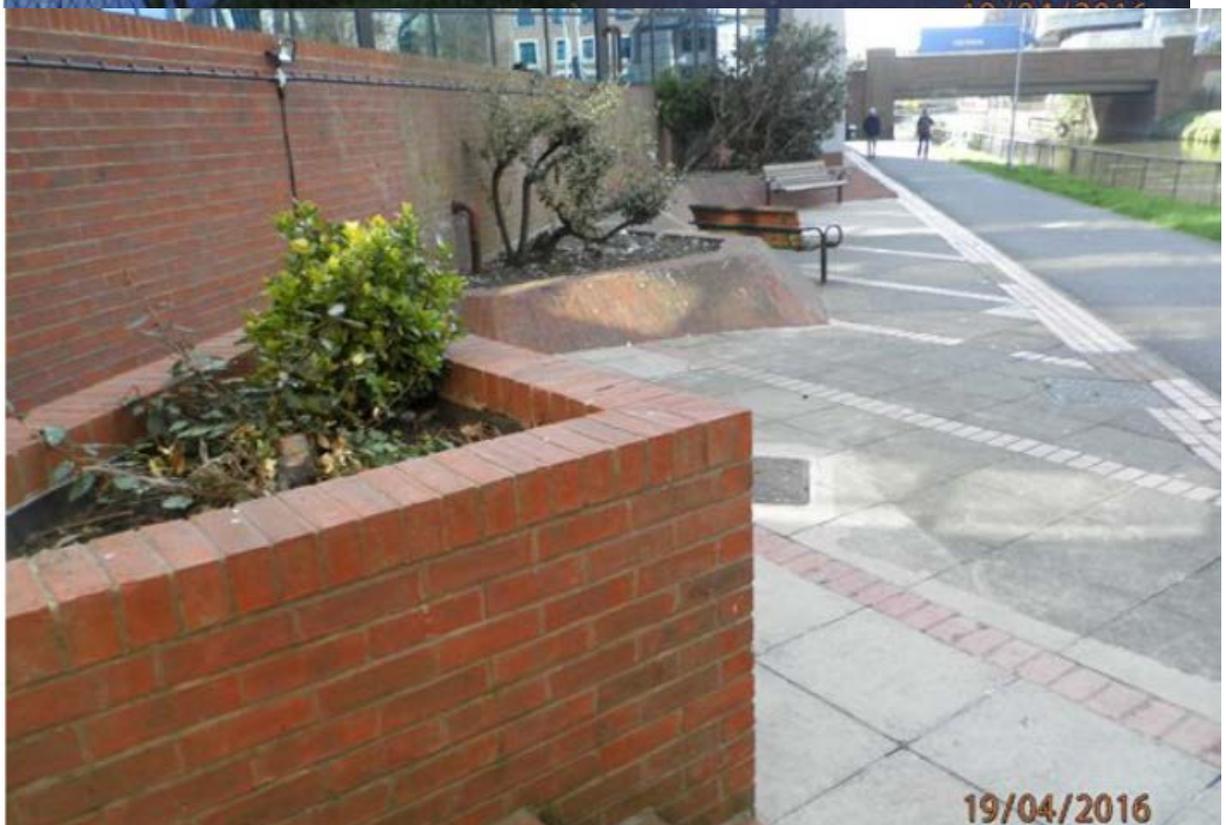
## 1. INTRODUCTION

- 1.1 The application site comprises a paved and landscaped informal seating area situated between the Royal Court flats in Kings Road and offices fronting Watlington Street. There is a brick wall separating this area from the raised car park serving the flats and offices behind but the front is open to the public footpath and cycle path which runs on the south side of the Kennet & Avon Canal. Next to a short flight of stairs

leading to a walkway alongside the flats there is a small brick building fitted with a kitchen sink, water supply and drainage, lighting and shelves which was used in association with the adjacent restaurant use in Royal Court (currently vacant).

- 1.2 The site falls outside of the RCAAP Central Core Area and the footpath is a cycle route connecting areas to the east of the town centre to The Oracle, Bridge Street and beyond. The site falls within Flood Zone 2 (a Medium Probability of flooding).





## 2. PROPOSAL

- 2.1 Planning permission is sought for what the applicant states is a reinstatement of a use similar to that previously associated with the Thai food restaurant which occupied the ground floor of the Royal Court flats from 1990 to 2005, which had 4-6 tables on the terraced area. The hours

of use operated by the restaurant at the time were between midday and 2300 hours, seven days a week.

- 2.2 The proposal is to have up to 8 tables (24 chairs) served with light hot and cold food snacks (hot food restricted to toasted sandwiches) and drinks (tea, coffee and soft drinks) on seven days a week between 1200 and 2300 hours from the outside server kiosk. The applicant would be seeking a food licence only. There would be no audible music played and the existing 3no. light fittings on the retaining wall to the car park would be used. An 860mm high picket fence with entrance gate would be installed alongside canal walk. The applicant, who has a freehold interest in Royal Court, has stated that he intends to install 24 hour CCTV cameras in the estate to include the area of the application site.
- 2.3 The Royal Court has a dedicated refuse and collection room in Kennet Road, half of which was reserved for the former restaurant use. The tables and chairs would be stored every night within the adjacent storage room accessed from the car park. A fridge could also be installed in this room should any food need to be stored overnight (though it is not intended by the applicant).
- 2.4 The applicant has confirmed that he is willing to accept that this use should be on a temporary basis, initially two years to make it a viable commercial operation. If the demand exists the applicant has stated his intention to re-open part of the former restaurant and operate all year round (for which a further application would be required). However for the terrace area now sought to be used, an 8 month restriction to coincide with the lighter/warmer months and longer daylight hours of British Summer Time (March to October) is acceptable to the applicant.
- 2.5 The application is being reported to your meeting at the request of Councillor Page who is concerned for the potential amenity impact on the occupiers of the neighbouring flats in Royal Court.

### 3. PLANNING HISTORY

- 3.1 None relevant to site. Various relating to restaurant & 35 flats in Royal Court (from 1980s onwards)

### 4. CONSULTATIONS

#### 4.1 Statutory:

Environment Agency: No comments received.

Rivers & Canals Trust: Advise that this application falls outside the notified area for its application scale, therefore there is no requirement to consult as a Statutory Consultee.

#### 4.2 Non-statutory:

RBC Environmental Protection & Nuisance: Have concerns about potential noise nuisance resulting from the addition of an outdoor terrace for the use of the café / restaurant due to the proximity to the neighbouring block of residential apartments. It is unclear from the plans how the terrace will be overlooked by the neighbouring apartments and how likely noise nuisance will be. The applicants have failed to provide information with regards likely noise nuisance or how noise will be effectively managed to reduce potential nuisance.

How many seats and tables there will be outside; what the hours of use for outside will be; whether there will be a canopy - what material and whether it is likely to reduce upward noise transmission; whether they will have any music outside and any other measures that will be employed to control noise emissions.

The majority of flats have balconies which would act as a barrier to protect residents from noise. The windows without balconies appear to be for non-noise sensitive rooms.

The area is alleged to attract anti-social behaviour and the associated noise, so the proposals may not worsen noise in the area.

Recommends that the proposals/details provided by the applicant and officers (esp. in terms of hours and capacity) are conditioned. The end time should include clearing up time as clearing tables would generate noise which should not run on beyond 11pm due to potential noise nuisance.

The servery appears to be quite basic - need clarification of the types of food proposed to be served. If hot food is to be served, a kitchen extraction may be required to control heat and odours which could be of concern in terms of impact on the residents of Royal Court. If applicant can confirm that the food to be prepared will not necessitate extraction I would have no objections.

Businesses serving food will need to apply to register their food business with Environmental Health. If alcohol is to be served a premises licence will need to be applied for.

ADDITIONAL INFORMATION from applicant (Received 31 May 2016) in respect of food and drink, servery facilities, storage, refuse and licensing:

No objection with some concern about noise generated from moving items into the store but any problems that arise can be dealt with through nuisance powers.

RBC Transport Strategy: No objections with the following comments:

The main concern would be potential conflict between café users and pedestrians/ cyclists. This is a particular problem if tables and chairs overspill onto the pedestrian/cycle path. However, the area is not public highway and a 860mm high picket fence is proposed to enclose the seating area.

RBC Natural Environment Officer (Trees & Landscape): Has suggested some soft landscaping (planters) given setting next to the canal and opposite a public open space.

Crime Prevention Design Advisor (Thames Valley Police): Objection with the following comments:

- consider some aspects the proposed cafe seating to be problematic in crime prevention design terms and therefore development does not meet the requirements of the NPPF 2012 (Part 7, Sect 58 'Requiring good Design' and Part 8, Sect 69; Promoting Healthy Communities') where it is stated that development should create *'Safe and accessible environments where crime and disorder, and the fear of crime do not undermine quality of life or community cohesion'; or Reading Central Areas Action Plan 2026 section 5.27 " It (the development) should provide continuity and enclosure with a high degree of active frontages..... It should consider safety, security and crime prevention, which could include Secured By Design principles*
- applicant refers to existing anti-social behaviour. During recent site visit observed quantities of empty bottles/cans of alcohol, litter including what appeared to be syringe rappers, and either animal or human excrement. I therefore support the applicant comments that ASB and vagrancy issues are a concern in this area.
- current layout lacks active surveillance from any surrounding developments and includes secluded recesses areas within which activities can go unobserved. In addition the location is permeable with pedestrian steps providing access/egress onto public footpaths; there is also an established pedestrian route (insecure) linking Royal Court flats and Canal walk which crosses the proposed seating area of the cafe. In summary, the current design provides opportunity for individuals to gather unobserved, and provides multiple escape routes if disturbed. Crime and ASB are likely to occur where a place or spaces are not overlooked, where they can move and operate undetected.
- concerns that the proposed development will continue to lack any natural surveillance over the proposed cafe and external seating area which by the nature of the business will attract individuals to this already problematic and secluded area. Lack of surveillance, increases the risk of crime and anti-social behaviour.

- note that there is existing pedestrian access between Royal Court flats parking and Canal walk which passes through the proposed seating areas. In addition to my concerns relating to excessive permeability (providing legitimate escape routes), it is also unclear how this space (seating area) will function given that members of the public can legitimately walk through the semi-private seating areas. If the identified footpath is too narrow then it is likely to create conflict between pedestrians, walking in opposite directions, and between pedestrians and customers using the seating areas. Detailed plans identifying a 3m pedestrian walkway and indicating the extent of A3 seating must be submitted prior any planning approval.
- how will the seating furniture will be managed? If the tables and chairs are left out overnight (when the cafe is closed), this will further create opportunity for unauthorised individuals to congregate/gather below the residential apartment. Alternatively if the furniture is removed and stored overnight, consideration should be given to the noise this may cause late at night, creating conflict between resident and cafe management. Detailed plans as to how this space will be managed must be submitted and approved prior to any planning approval
- care should be taken to ensure that mixed use and activity (late night cafe vs residential apartments) does not facilitate neighbourhood conflicts or ASB. **At night and when the cafe is closed is unlikely that the proposed development will prevent or deter the current issues of ASB, vagrancy issues within this area.**

#### 4.3 Neighbour Notification:

Properties at Nos. 1-36 Royal Court (evens/odds) and No. 1 Watlington Street were consulted (on 8.4.2016).

There has been one response received with the following issues/concerns raised:

- lack of details regarding scale of the business activities, operational time scale, potential impact on existing facilities (i.e. whether the Royal Court building facilities - lifts, car park, common parts of the building, rubbish room will be used by the business and their employees)
- a number of residents in the building have small children, potentially noise level could be a concern and any business activities in evening and night could impact the residents' normal life
- a number of flats have balconies facing the proposed area and potentially the residents' privacy could be affected by the open terrace business activities
- smoke could be another potential issue

- having a catering business immediately below could disqualify our property for our current mortgage arrangement with our mortgage lender *Officer comment: financial impacts on property are not a material planning consideration*

## 5. RELEVANT POLICY AND GUIDANCE

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations include relevant policies in the National Planning Policy framework (NPPF) - among them the 'presumption in favour of sustainable development'. However the NPPF does not change the statutory status of the development plan as the starting point for decision making (NPPF paragraph 12).
- 5.2 In this regard, the NPPF states that due weight should be given to the adopted policies of the Local Development Framework (LDF) (Core Strategy and Sites and Detailed Policies Document) according to their degree of consistency with the NPPF. The closer the policies in the plan are to the policies in the NPPF, the greater the weight that may be given.
- 5.3 Accordingly, the National Planning Policy Framework and the following development plan policies and supplementary planning guidance are relevant:

### **Reading Borough LDF Core Strategy 2008 (Altered 2015)**

CS1 Sustainable Construction and Design  
CS4 Accessibility and the intensity of development  
CS7 Design and the Public Realm  
CS8 Waterspaces  
CS20 Implementation of the Reading Transport Strategy  
CS24 Car/Cycle Parking  
CS35 Flooding

### **Reading Central Area Action Plan 2009**

RC5 Design in the Centre  
RC10 Active Frontages  
RC14 Public Realm

### **Sites and Detailed Policies Document 2012 (Altered 2015)**

SD1 Presumption In Favour Of Sustainable Development  
DM4 Safeguarding Amenity  
DM12 Access, Traffic and Highway-Related Matters  
DM17 Green Network  
SA14 Cycle Routes

### **Supplementary Planning Guidance**

Revised Parking Standards and Design SPD 2011

## 6. APPRAISAL

6.1 The main issue to be considered are:

- a) Policy and principle
- b) Impacts on amenities of neighbouring occupiers
- c) Implications for pedestrians/cyclists
- d) Effect on waterside character/public realm
- e) Controls on proposed use

### Policy and principle

6.2 Policy RC10 of the Reading Central Area Action Plan sets out the type of uses at ground floor level that are considered acceptable to create active frontages in Reading town centre. Policy CS7 of the Core Strategy encourages developments which provide natural surveillance and this is a comparatively secluded section of the canalside. On such routes, activity can promote interest, security and sense of place including restaurants and drinking establishments with outdoor areas. The River Kennet within the Oracle Centre is the nearest comparable example to the proposal which is situated just beyond the identified Central Core of the town centre.

6.3 This objective should be balanced against that of Policy DM4 which seeks to safeguard residential amenities and living environments. Whilst many residents may choose to live in the centre and therefore accept a vibrant locality to live in, others may find this intrusive. The proposed use is situated adjacent to a regularly used footpath and cycle route near to the King's Road bridge and thus against existing background noise it would not be likely to give rise to a level of disturbance to the flats in Royal Court that would be unacceptable.

6.4 The former restaurant use has in all certainty been abandoned as a planning use but if sought to be re-opened (either by means of a planning permission or lawful use certificate) with an outdoor seating area this would be acceptable as a managed space. The applicant has confirmed that this area was previously used for additional seating on occasions. In effect there is little difference to the proposed activity which could have similar restrictions and limits imposed.

### Impacts on Neighbour Amenities

6.5 Policy DM4 of the Sites and Detailed Policies Document considers whether developments will cause a significant detrimental impact to the living environment of existing or residential properties in terms of privacy, noise and disturbance, lighting, fumes, smell or crime and safety etc.

6.6 It is noted that of the three flats situated on the first floor directly above

the former restaurant (which faced towards the canal), none have balconies. The nearest balconies are on the 2nd Floor of Royal Court which comprises a mix of one and two bedroom flats. However, there is sufficient proximity to the application site for residents to be aware of the customers even if they are not likely to be disturbed by the café terrace use and this would be particularly so on the lighter/warmer evenings when they could have open windows.

- 6.7 Nonetheless, it is considered that the position of the terrace adjacent to a public footpath which is in constant use and its separation from the façade of the Royal Court flats (which overlook a shared car park) plus being partly obscured by the wall would not give rise to any significant additional disturbance. This is subject to imposing controls on the opening hours, number of tables, no playing of music and satisfactory details of the lighting, storage and servery kitchen facilities being received prior to the commencement of the temporary use - any renewal of which would depend on the management of the site in the first two years. Hence, in this instance, officers consider it appropriate for a temporary permission until June 2018 to be recommended to you.

#### Implications for Pedestrians/Cyclists

- 6.8 Policy DM12 of the Sites and Detailed Policies Document permits development where the proposals would not be detrimental to the safety of users of the transport network including pedestrians and cyclists. Policy SA14 seeks to ensure that the cycle routes identified in the Council's Cycling Strategy will be maintained and enhanced.
- 6.9 The proximity of the proposed terrace seating area to the public cycle route and canal side footpath which is in separate ownership (but is not part of the public highway) and marked by the change in the hard surfacing raises this issue. However, the proposal is to enclose the terrace on the open side with a low fence to separate it from the canal walk. The remaining consideration therefore would be how the use might be managed at the busiest times in the unlikely event of queuing or overspill.
- 6.10 The Transport Strategy officer's comments in this respect are noted. However, there is sufficient width of footpath in this vicinity to be satisfied that there would be no overriding concerns in this regard even at the busiest times of use on this section of the canal.

#### Effect on Character of Area/Public Realm

- 6.11 Policy CS7 of the Core Strategy seeks to ensure that development is of a high design quality that maintains and enhances the character and appearance of the area in which it is located. Among the urban design objectives of the policy are that this should make a positive contribution to the character, continuity and quality of the public realm and provide ease of movement and legibility.

- 6.12 The proposed terrace would utilise an existing open seating space adjacent to the public footpath which is used by residents and the public alike. The only physical alteration to the land would be the footings for a fence, details of which would be required by condition on any permission granted. This would have to be removed at the end of the temporary period. As such whilst the café terrace would be clearly legible in front of the wall there would be minimal change in the appearance of the surroundings which are dominated by the higher level car park in the foreground and the height of the residential block and offices buildings behind. The Natural Environment team has suggested the inclusion of a landscaping scheme but the existing raised planters would be retained and therefore officers consider that this is not appropriate to a temporary permission.

#### Controls on Proposed Use

- 6.13 The temporary use proposed as agreed by the applicant allows the use to be controlled and any potential impacts on the residential amenities of the nearby flats in Royal Court to be assessed. Policy DM4 of the Sites and Detailed Policies Document seeks to ensure that there would be no significant detrimental impact to the living environment of existing residential properties. These can include privacy, noise and disturbance, lighting, smell, crime or safety and so on.
- 6.14 If minded to grant permission, these impacts can for the most part be identified prior to the use commencing with the exception of anti-social behaviour issues which are not considered to be planning matters. A number of suitable conditions are therefore recommended that are intended to anticipate and prevent any significant nuisance from arising or going uncontrolled.
- 6.15 The use would for two years initially, for eight months of the year and with restricted opening hours. A maximum number of tables would be set, together with the requirement that these are removed overnight. In addition, further details would be required of the lighting, refuse & litter collection and cooking facilities. A restriction on any food and drink sales for consumption elsewhere is also necessary as this could encourage gatherings and lead to unwanted litter disposal. The details of the proposed fence are also to be agreed.
- 6.16 With a series of such controls and conditions which are agreeable to the applicant and are be enforceable by the Council, it is considered that the amenity of residents and other nearby occupiers would be adequately safeguarded.
- 6.17 The applicant would also need to apply through the Council's Consumer Protection team prior to opening for a Food Registration Licence to serve food and hot/cold soft drinks. These licences are issued subject to various criteria and the premises are then inspected for electricity, a wash basin and sink drainage, a preparation area, space for fridge(s) and

freezer(s), a water supply, ventilation and storage. There are separate application processes for seeking licenses to serve alcohol or to open late (after 2300 hours) though not intended here.

#### Other Issues

- 6.17 Policy CS35 of the Core Strategy states that planning permission will not be permitted in an area identified as being at high risk of flooding where development would reduce the capacity of the flood plain to store floodwater, impede the flow of floodwater or in any way increase the risks to life and property arising from flooding.
- 6.18 The application site lies within an area liable to flood. Flood Zone 2 is classified as medium probability and the proposed café type use as less vulnerable on the Environment Agency's Classification. As such, development is considered appropriate and the Environment Agency do not need to comment provided that the Local Planning Authority are satisfied that the proposals meet their Standing Advice.
- 6.19 In this instance, it has not been considered necessary for the applicant to submit a full Flood Risk Assessment as there are no buildings or floor levels involved whilst an evacuation procedure for the use would take the form of a simple warning to any customers present or closure of the site if before midday opening time. In these circumstances there should be no risk to property or persons. The existing raised planters and wall would also ensure that there is no loss of floodplain storage if the site were inundated and the fence (details of which to be agreed) should also be designed to avoid diverting the flow of any floodwater.

#### Matters Raised in Representation

- 6.20 These have mostly been addressed elsewhere in the report. The comments raised by Thames Valley Police refer in some part to the original design of the Royal Court estate. The seating plans submitted indicate that the existing route for residents of Royal Court via a short flight of stairs to canal walk would be retained. The location of the storage area in Royal Court has been provided by the applicant and his intention to install CCTV cameras around the buildings and car park, a condition for details of location and implementation of which would be added, should further deter the anti-social behaviour already noted in this area.

#### Equalities Act

- 6.22 In determining this application the Council is required to have regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation. There is no indication or evidence (including from consultation on the application) that the protected groups have or will have different needs, experiences, issues and priorities in relation to this particular

planning application.

## 7. CONCLUSION

- 7.1 The proposed use has been considered in terms of the potential impact on the amenities of neighbouring occupiers. This current use being sought is not wholly comparable to when this area was being used for ancillary purposes in connection with the adjacent restaurant which ceased more than 10 years ago but could be re-opened in the future. Nonetheless, it is considered low key and can be controlled to prevent nuisance and disturbance.
- 7.2 The potential inconvenience to pedestrians including those accessing the flats and people walking alongside the canal and cyclists using the town centre route has been considered. There are no significant concerns in this regard as the footprint of the use would remain entirely separate from users of the canal side path.
- 7.3 The effect on the character of the immediate area and in particular the public realm during the early evenings in this location adjacent to the town centre would be acceptable within limits. The introduction of this activity may also have the benefit of removing an unwanted local problem with unsociable behaviour for part of the year. The comments of Thames Valley Police in this regard have been taken into account but officers consider that there is insufficient justification or planning reason to withhold an initial temporary period of use.
- 7.4 There are a number of enforceable planning controls available with the intention of preventing nuisance complaints from arising during an initial temporary period of use. Similar to those that would typically be required for a full restaurant use these will allow the impacts to be effectively monitored without being so onerous to the operator as to prevent implementation of the permission.
- 7.5 The planning application is accordingly recommended for approval subject to these controls.

Case Officer: Daniel Murkin

Plans:

Location Plan

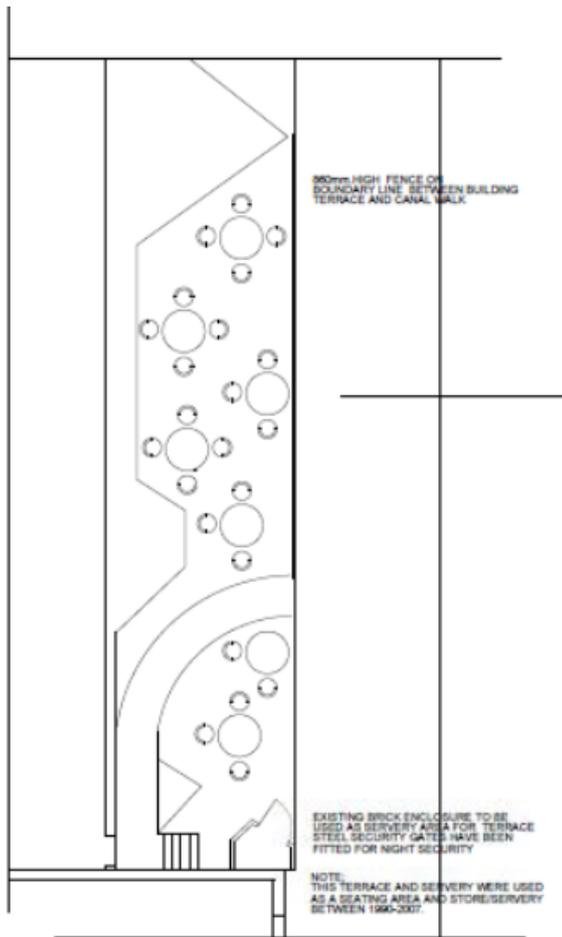
Received by the local planning authority on 18th March 2016

FR.16.100 Block Plan/Terrace Plan (Amended)

Received by the local planning authority on 6th June 2016

Refuse Collection and Storage Room Location

Received by the local planning authority on 31st May 2016



TERRACE PLAN