

DELEGATED REPORT

Application No: P/23/0096

Site Address: 19 Pontmorlais
High Street
Merthyr Tydfil
CF47 8UB

Development: Change of use to tattoo parlour (Sui Generis)

Case Officer: Rebecca Owens

Site Visit: 20th April 2023

Application Expiry Date: 8th June 2023

Consultation reply date expired: 11th May 2023

APPLICATION SITE

The application relates to mid-terrace property within the Merthyr Tydfil Town Centre and thus is within a mixed use area where there are a number of different uses present including retail, commercial and residential. The site is located within the settlement boundary and is also within the Town Centre Conservation Area and a designated Article 4 area.

PROPOSED DEVELOPMENT

Full planning permission is sought to change the use of the entire property to a tattoo parlour which is classed as a sui generis use. No external works to the building are proposed.

The application form indicates that the property would employ 5 full time staff and would be open 9am until 3pm Monday to Friday and 10am until 4pm on Saturdays.

PLANNING HISTORY

The relevant planning history is detailed below:

- P/12/0311 New shopfront and refurbishment of elevations
Granted planning permission subject to conditions on 6 February 2013
- P/98/0227 New shop front and conversion of 1 No. existing flat into 2 No. flats.
Granted planning permission subject to conditions on 9 July 1998

CONSULTATION

The following bodies were consulted and their responses are presented below:

Head of Engineering and Highways	No objection
Planning Division's Policy Group Leader	No objection
Environmental Health Manager	No response
Natural Resources Wales	No objection

PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to the neighbouring properties and a site notice was displayed within the vicinity of the site.

No letters of objection were received following this publicity exercise.

POLICY CONTEXT

National Development Framework

Future Wales: the National Plan 2040 (February 2021) sets out a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.

National Planning Policies

Planning Policy Wales (Edition 11, February 2021) must be taken into consideration and the relevant sections are identified below:

- Paragraphs 3.3 – 3.18 refer to good design and better places.
- Section 4.3 relates to retail and commercial development and paragraph 4.3.3 highlights that planning authorities should:
 - *"promote viable urban and rural retail and commercial centres as the most sustainable locations to live, work, shop, socialise and conduct business;*
 - *sustain and enhance retail and commercial centres' vibrancy, viability and attractiveness; and*
 - *improve access to, and within, retail and commercial centres by all modes of transport, prioritising walking, cycling and public transport"*.
- An emphasis is placed on creating viable and vibrant centres with paragraph 4.3.33 explaining that *"Vibrant and viable centres are distinguished by a diversity of activity and uses which should contribute towards a centre's well-being and success, whilst also reducing the need to travel"*.
- 4.3.36 Where economic decline is impacting on a retail and commercial centre, emphasis on retaining A1 uses in premises either in primary or secondary areas,

which have been vacant for a period of time, may undermine a centre's viability and vitality. In such circumstances planning authorities should consider how non-A1 uses may play a greater role to increasing diversity and reducing vacancy levels".

- Paragraphs 6.1.14 – 6.1.17 relate to conservation areas. Paragraph 6.1.14 notes that *"There should be a general presumption in favour of the preservation or enhancement of the character or appearance of conservation areas or their settings. Positive management of conservation areas is necessary if their character or appearance are to be preserved or enhanced and their heritage value is to be fully realised"*. With paragraph 6.1.15 clarifying that *"There is a strong presumption against the granting of planning permission for developments, including advertisements, which damage the character or appearance of a conservation area or its setting to an unacceptable level"*.
- Paragraphs 6.6.22 – 6.6.29 refer to development and flood risk.

The following Technical Advice Notes are also relevant:

- TAN 4: Retail and Commercial Development
- TAN 12: Design
- TAN 15: Development and Flood Risk
- TAN 18: Transport
- TAN 24: Historic Environment

Local Planning Policies

The following policies of the Merthyr Tydfil County Borough Council Replacement Local Development Plan (LDP) 2016-2031 are relevant to the determination of this application:

- SW4: Settlement Boundaries
- SW11: Sustainable Design and Placemaking
- SW12: Improving the Transport Network
- EnW1: Nature Conservation and Ecosystem Resilience
- EnW2: Internationally and Nationally Protected Sites and Species
- EnW4: Environmental Protection
- EcW3: Retail Hierarchy – Supporting Retailing Provision
- EcW5: Town and Local Centre Development
- CW1: Historic Environment

In addition, the application will be determined having regard to the advice contained within the following Supplementary Planning Guidance (SPG) Notes:

- Note 4, Sustainable Design.
- Note 5, Nature and Development.

PLANNING CONSIDERATIONS

Principle

The application site is located within the primary growth area of the settlement boundary (Policy SW4) and as such, the principle of development is acceptable subject to compliance with other relevant policies and material planning considerations.

In this respect, it is noted that the site also lies within the town centre boundary but outside of the Primary Shopping Area. As such Policies EcW3 and EcW5 would be relevant. These policies support proposals for new development and enhanced retail, leisure and other complimentary provision in the town centre where they improve its vitality and viability. A tattoo parlour is generally deemed to be a complementary use which is similar in nature to a hairdressers and beauticians which are typical uses found within town centres and as such would be appropriate within this location. In this instance, the proposal would also bring a vacant ground floor unit back into use, which would contribute to the vitality and viability of the town centre.

Design and visual amenity

The application site is situated within the Town Centre Conservation Area and Urban Character Area (UCA) 1 (Town Centre: High Street and Pontmorlais). As such, Policy CW1 of the LDP is an important consideration. This policy states that proposals will only be permitted where they preserve or enhance the architectural quality, character or the historic or cultural importance of designated historic environment assets. The proposal does not include any external alterations to the building and as such its appearance would remain unchanged. However, it is noted that the introduction of a tattoo parlour would bring a vacant unit back into use and result in an active frontage. This would be beneficial to the character of Pontmorlais High Street. Accordingly, the proposal is found to comply with Policies SW11 and CW1 of the LDP.

Residential amenity

The application site is located within the town centre and, as such, in an area characterised by a mixture of commercial, leisure and residential uses. It is noted that in the immediate vicinity of the site there are uses which would create a degree of noise and disturbance and that some of these uses operate later into the evening and night. As such, it is not considered that approval of this use would significantly add to any noise and disturbance generated by the existing businesses in the area.

Having regard to the above and noting that no objections were received from the Environmental Health Manager or following the publicity exercise, the proposal is found to accord with Policies SW11 and EnW4 of the LDP.

Parking and highway safety

It is noted that the application site does not benefit from any off-street parking provision and as such there would be no designated parking area available for the employees and customers of the business. However, the application site is located in the town centre, which is well served by public car parks and public transport links. Given this location, it is not considered that the lack of parking would impact on highway safety. Accordingly, no objections have been received from the Head of Engineering and Highways. The proposal therefore complies with Policies SW11 and SW12 of the LDP.

Flood risk

The application site lies entirely within Zone C2 as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004) and Natural Resources Wales Flood Map for Planning (FMfP) also identifies the application site to be at risk of flooding within Flood Zone 3 – Rivers. However, the proposed use is classed as less vulnerable development. Notwithstanding this, Section 6

of TAN15 outlines four tests, which must be met in order to justify development within a Zone C. It is considered that the proposed development complies with the first three tests for the following reasons:

i. and ii. Being within the town centre, the site is necessary to assist the local authority strategy to regenerate the town centre and sustain this area.

iii. It concurs with the aims of PPW and meets the definition of previously developed land.

In terms of the final test, whilst a Flood Consequence Assessment (FCA) has been not produced, given the nature of the proposal which involves a change of use, it is not considered that it would be proportionate to ask for such information. In this respect it is also noted that Natural Resources Wales have not raised any objection to the application subject to the developer being made aware of the potential flood risk and advised to install flood proofing measures as part of the development. This can be achieved through a suitably worded informative should the application be approved.

Conclusion

The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act") has been taken into consideration when determining this application. In reaching the following recommendation, the ways of working set out at section 5 of the WBFG Act have been considered and thus the proposal is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Accordingly the following recommendation is made:

RECOMMENDATION: BE APPROVED subject to the following **CONDITIONS:**

CONDITIONS/REASONS:

1. The development shall begin not later than five years from the date of this decision.

Reason - To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following approved plans and documents:

Drawing Title: Proposed Plans, Elevations & Sections, Drawing Number: TATT00 01A, Received on 13 April 2023.

Reason -To ensure compliance with the approved plans and clearly define the scope of the permission.

INFORMATIVES

1. This planning permission does not provide consent to undertake works that require a European Protected Species (EPS) licence.

All bats and their roosts are protected under UK and European legislation. It is an offence to deliberately kill, injure, capture or disturb a bat or to recklessly damage or destroy their breeding sites or resting places.

If works are planned on a building/tree in which bats are found to be roosting, Natural Resources Wales (NRW) must be contacted. on 0300 065 3000 or at <https://naturalresources.wales/permits-and-permissions/species-licensing/apply-for-a-protected-species-licence/bat-licences/?lang=en>.

If work has already commenced and bats are found, or if any evidence that bats are using the site as a roost is found, work should cease and NRW should be contacted immediately.

Under these circumstances, an EPS licence is likely to be required to undertake the works within the law.

2. All birds, their nests and eggs are protected by law under the Wildlife and Countryside Act 1981 (as amended) while they are breeding.

If works to any trees, hedgerows and/or other nesting bird habitat (including buildings with suitable features) are to be undertaken, they will take place outside of the bird nesting season. If the works must be undertaken during the nesting season (generally from 1st March until 31st August, although birds are known to nest outside of these dates in suitable conditions), a breeding bird survey will be required and must be carried out by a suitably qualified ecologist. Any active nests identified will be protected until the young have fledged.

Where a Schedule 1 species (as defined in the Wildlife and Countryside Act - <https://www.legislation.gov.uk/ukpga/1981/69/schedule/1> is involved, compensation for impacts, e.g., loss of nesting sites, will be devised and implemented.

3. The developer is advised that the application site lies entirely within Zone C2 as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004) and Natural Resources Wales Flood Map for Planning (FMfP) also identifies the application site to be at risk of flooding within Flood Zone 3 - Rivers. The developer is therefore advised to consider the installation of flood proofing measures as part of the development.

Further advice and guidance can be found on the Natural Resources Wales website. Additional guidance including the leaflet "Prepare your Property for flooding" can be found by following the link: <https://www.gov.uk/prepare-for-a-flood>

The developer can also access advice and information on protection from flooding from the ODPM publication 'Preparing for Floods: Interim Guidance for Improving the Flood Resistance of Domestic and Small Business Properties', can be found by following the link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11485/2187_544.pdf

4. The application site is located adjacent to Nant Morlais. Due to the proximity of the site to this watercourse, any works required for the proposal must be carried out in accordance with Guidance for Pollution Prevention 5: Works and maintenance in or near water, which is available on the NetRegs website.

RECOMMENDATION ENDORSED



Director of Neighbourhood Services

P.P.

DATE: 22.05.2023

