

# DELEGATED REPORT

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| <b>Application No:</b>                  | <b>P/21/0413</b>                                                                                                                  |
| <b>Site Address:</b>                    | <b>Red Spice<br/>1 Bethesda Street<br/>Merthyr Tydfil<br/>CF47 8LL</b>                                                            |
| <b>Development:</b>                     | <b>Erection of rear extension, covered seating area, new rear wall, railings and gate and installation of 5 no. fixed benches</b> |
| <b>Case Officer:</b>                    | <b>Rebecca Owens</b>                                                                                                              |
| <b>Application Expiry Date:</b>         | <b>8th February 2022</b>                                                                                                          |
| <b>Consultation reply date expired:</b> | <b>10th January 2022</b>                                                                                                          |

## APPLICATION SITE

The application relates to a locally listed detached restaurant which is located within a mainly residential area in the settlement boundary and adjacent to the Afon Taff Site of Important for Nature Conservation (SINC). The site is bound by the River Taff to the western side, vegetated land to the rear and highways to the front and eastern side. It is also located adjacent to the Grade II listed Jackson Bridge.

## PROPOSED DEVELOPMENT

Full planning permission is sought for the erection of a rear extension, covered seating area, new rear wall, railings and gate and the installation of five fixed benches.

The proposed extension would be erected off the rear elevation of the building to create a serving area. It would be 2.1m in width by 2.25m in depth and would have a mono-pitched roof with a maximum height of 3.4m. The extension would feature an opening/hatch in the north west facing elevation and a door in the south western elevation. Its roof would be covered with slates to match the existing roofs and its external elevations would be finished with render to match the building.

The existing rear boundary would be replaced with a new block wall 3m in height. This would return along the north western corner and run along part of the south western boundary, sloping down in height to 2.4m.

A new canopy is proposed adjacent to the rear boundary wall to create a covered seating area. This would comprise of a timber frame with a flat rubber roof. The canopy would be 7.65m in width by 3.75m in depth and 2.5m in height.

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New 1.1m high railings are proposed on top of an existing dwarf wall which separates the garden from the lower level of the building. The railings would therefore have an overall height of 1.9m. In addition, a new gate is proposed on top of the steps leading down from the garden to the lower level. This would be 1.95m in height.

Finally, the five benches, comprising of a circular table with seating around it, would be sited within the rear garden area on the existing patio.

## PLANNING HISTORY

The recent planning history is summarised below:

|           |                                                                                                                                                                                                                                                                                        |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| P/21/0215 | Erection of canopy to form covered seating area, installation of 5 No. fixed benches, erection of new single storey w.c. Extension of external serving area and new flat roof over, creation of new porch, new ramp and stepped access and new boundary walls<br>Application withdrawn |
| P/14/0278 | Retention of 1 internally illuminated sign and 2 externally illuminated signs<br>Granted advertisement consent subject to conditions on 10 December 2014                                                                                                                               |
| P/10/0108 | Erection of single storey side extension<br>Granted planning permission subject to conditions on 21 June 2010                                                                                                                                                                          |
| P/10/0021 | Retention / completion of unauthorised single storey extension<br>Refused planning permission on 31 March 2010                                                                                                                                                                         |
| P/09/0143 | Conversion of first floor restaurant area to self contained flat, erection of first floor rear extension and associated external alterations<br>Application withdrawn                                                                                                                  |
| P/01/0303 | Retention of rear extension (Resubmission) and construction of fascia/flower box across front elevation with associated pilasters.<br>Granted planning permission subject to conditions on 4 September 2001                                                                            |
| P/00/0258 | Two storey extension on side elevation and three storey rear extension<br>Granted planning permission subject to conditions on 13 September 2000                                                                                                                                       |
| P/99/0203 | Two storey side extension and new pitched roof over rear annexe (amended proposal)<br>Granted planning permission subject to conditions on 30 July 1999                                                                                                                                |
| P/98/0522 | Extensions to provide toilets, bar areas and beer kellar<br>Application withdrawn                                                                                                                                                                                                      |

## CONSULTATION

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

|                                         |                                      |
|-----------------------------------------|--------------------------------------|
| Planning Division's Policy Group Leader | No objection                         |
| Planning Division's Ecologist           | No objection subject to enhancements |

Environmental Health Manager                      No response

Natural Resources Wales                      No objection

## **PUBLICITY**

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012, three site notices were 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).

This is supplemented by guidance contained in the following Technical Advice Notes:

- TAN 15: Development and Flood Risk
- TAN 18: Transport
- TAN 12: Design
- TAN 23: Economic Development
- TAN 4: Retail and Commercial Development
- TAN 24: Historic Environment

### **Local Planning Policies**

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

- SW4: Settlement Boundaries.
- SW9: Planning Obligations.
- SW11: Sustainable Design and Placemaking.
- SW12: Improving the Transport Network
- SW13: Protecting and Improving Local Community Facilities
- CW1: Historic Environment.
- EcW3: Retail Hierarchy.
- EnW4: Environmental Protection.

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 lies within the primary growth area of the settlement boundary. As such the proposed development would be deemed acceptable in principle subject to compliance with other relevant policies and material planning considerations.

In this respect it is noted that the site is located just outside of the Town Centre and as such regard should be had to Policy EcW3 which identifies a sequential approach for locating retail and other complementary commercial development. However, given that the use is already in existence and is an edge-of-centre development the proposal is not considered contrary to this Policy. Furthermore, Policy SW13 seeks to protect and support the enhancement of the County Borough's existing community facilities, which includes public houses and other facilities serving the public. Given that the proposal will enhance an existing community facility, it is considered to be in accordance with this Policy.

### Design and visual amenity

The proposal is for a modest extension and other relatively small scale developments to the rear of the property which would not be obviously visible from the surrounding public areas. Moreover, they are generally found to be acceptable in terms of design and visual amenity. The proposed rear extension is of a modest scale and its design would complement the existing building. It would also be finished to match the existing property and thus would represent a sympathetic addition, which would not appear incongruous. The introduction of seating and a canopy are considered to be acceptable given that they are features which are often found within the external areas of properties of this type of use and would therefore not appear discordant. Similarly, no concerns are raised in respect to the railings and gate. Whilst the boundary wall to the rear would be of a substantial height at 3m, it would largely be screened by existing vegetation and would be viewed against the existing side boundary wall which is much higher. As such this is also deemed to be acceptable. However, details of its external finish have not been provided and thus will be secured via a condition to ensure that the wall is visually acceptable.

### Historic environment

It is noted that the application site is located within Urban Character Area 1 (Town Centre: High Street and Pontmorlais), relates to a locally listed building (The Wellington Inn) and is adjacent to the Grade II listed Jackson Bridge. As such the impact of the proposal on the character and setting of each of these is an important consideration as is Policy CW1 of the LDP. This states that development proposals will only be permitted where it can be demonstrated that they would preserve or enhance the architectural quality, character or the historic importance of the designated historic environment and development affecting undesignated historic assets such as locally listed structures should have regard to their special character and archaeological importance. The design of the developments and their impact on the visual amenity of the building and the wider area has been considered above. The proposal relates to relatively small scale developments which are deemed to be visually acceptable and which would not significantly impact on the building itself with the only alterations to the actual structure being the addition of a small scale rear extension which would only have a minimal impact on its overall appearance. Similarly, it is noted that the developments are sited within the rear garden area and thus are not readily visible from public vantage points with the new boundary wall being the only

addition, which is likely to be seen from outside of the site. As such, it is not considered that they would harm the character or setting of the Grade II Listed bridge or the wider UCA. Accordingly, the proposals would not contravene Policy CW1.

### Residential amenity

Regard has also been had to the impact of the proposal on neighbouring occupants. In this respect, whilst the site is not directly adjoined by any residential properties, there are a number of dwellings located around the site in relatively close proximity. However, given the distance of the proposed works from any of these neighbouring properties, they would not have any significant physical impact. However, it is recognised that the proposals would provide facilities within the rear garden area which would allow for its use in conjunction with the restaurant and that the use of this external area may generate noise and disturbance to local residents. However, this area can already be utilised by the restaurant without the benefit of planning permission and as such, it is not considered justified to refuse the application on such grounds. It is also noted that no representations were received from The Environmental Health Manager or neighbouring residents.

### Ecology

The ecologist has not raised any objection to the proposal subject to enhancements in the form of a bat box and a bird box. These can be secured via a condition on any planning permission. In addition, he has advised that the developer is made aware of legislation in relation to bat and nesting birds which can be done via suitably worded informative notes.

### Flooding

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). 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 three tests for the following reasons:

i. and ii. Being on the perimeter of the Town Centre and relating to an existing restaurant, 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 not been produced, given the nature of the proposal, it is not considered that it would be proportionate to ask for such information. Notwithstanding the above, it is recommended that the developer is made aware of the flood risk and advised to consider incorporating flood resistance/resilience measures into the refurbishment works and make provisions for flood warning and emergency access/egress. This can be done through a suitably worded informative.

### Conclusion

The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 5 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 and having regard to the above considerations, 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 Plan, Drawing Number: RS-04 Rev. C, Amended Plan Received on 2 February 2022

Drawing Title: Proposed Elevations, Drawing Number: RS-05 Rev. C, Amended Plan Received on 2 February 2022

Drawing Title: Existing and Proposed Side 2 Elevation, Drawing Number: RS-06 Rev. D, Amended Plan Received on 2 February 2022

Drawing Title: Proposed Site, Drawing Number: RS-07 Rev. C, Amended Plan Received on 2 February 2022

Drawing Title: Enclosed Seating Area Front Elevation, Drawing Number: RS-08 Rev. B, Amended Plan Received on 2 February 2022

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

3. Before the canopy, hereby approved, is constructed the boundary wall shall finished in render to match the external elevations of the existing building.

**Reason** - To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity and to accord with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

4. **Prior to works commencing on site** details of a single bird box (suitable for a dipper and wagtail) and a single bat box (three crevice) including the specification and exact siting, shall be submitted to an approved in writing by the Local Planning Authority. The bat and bird boxes shall be erected before the development, hereby approved, is completed and shall be retained in perpetuity thereafter.

**Reason** - In the interest of bio diversity in accordance with Policies New and New of the Earth Try County Borough Council Replacement Local Development Plan.

## **INFORMATIVES**

1. 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). In areas at risk of flooding, Natural Resources Wales recommend that consideration be given to the incorporation of flood resistance/resilience measures into the design and construction of the development. These could include flood barriers on ground floor doors, windows and access points, implementation of suitable flood-proofing measures to the internal fabric of the ground floor and locating electrical sockets/components at a higher level above possible flood levels.

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

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', using the following link  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/11485/2187544.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/11485/2187544.pdf)

2. The developer is advised that the Environmental Permitting Regulations (2016) require them to obtain a bespoke Flood Risk Activity Permit for any works or structures located in, under, over or within 8 metres of the bank top of the River Taff, a designated "main river". Further advice and guidance is available on the Natural Resources Wales website at: <http://www.naturalresources.wlaes/permits-and-permissions/flood-risk-activities/flood-riskactivity-permits-information/?lang=en>.
3. The developer is advised that due to the proximity of the site to the River Taff, all works at the site must be carried out in accordance with GPP5 and PPG6: 'Works and maintenance in or near water' and 'Working at construction and demolition sites' which are available on the following website:  
<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-andreplacement-series/guidance-for-pollution-prevention-gpps-full-list/>.
4. 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.

5. 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.

**RECOMMENDATION ENDORSED**



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**Head of Town Planning**

**DATE:**

7/2/22