

DELEGATED REPORT

Application No:	P/21/0289
Site Address:	Ethan Arcade 92 - 94 High Street Merthyr Tydfil CF47 8UP
Development:	Conversion of 1st and 2nd floor to 6 No. studio flats and 6 No. holiday lets
Case Officer:	David Cross
Site Visit:	18th August 2021
Application Expiry Date:	10th March 2022
Consultation reply date expired:	15th February 2022

APPLICATION SITE

This application relates to a mid-terraced commercial property located on the high street in the northern part of the town centre. The property directly fronts on to the main highway to the east with a rear access lane to the west that links to a nearby public car park. To the north and south are adjoining commercial properties.

The building currently accommodates a bar/night club on the ground floor with offices and storage provided on the first and second floor. Although the building is located within the Town Centre Conservation Area, its front aspect has a modern brickwork appearance with a recessed arched doorway at the centre and an arrangement of timber framed sash windows on the upper levels. The majority of the adjacent properties within the street incorporate more traditional shop frontages with sash windows. The rear elevation of the building, which backs on to Castle Yard, has a rough rendered finish, which is generally in poor condition and includes a number of modern windows and a service entrance.

PROPOSED DEVELOPMENT

Full planning permission is sought for the change of use of the upper levels of the building to accommodate 6 holiday lets on the first floor and 6 flats on the second floor. The existing bar/night club on the ground floor would be retained.

Access to the flats would be via a new internal staircase from the existing entrance to the rear of the property. Each flat would be access from a central communal corridor. Three of holiday lets and three of the flats would be located on the eastern side of building and would utilise the windows on the front elevation, of which two of the windows would be replaced with four windows. The new windows would be of the same size and style as the existing windows and would be positioned to follow the same fenestration pattern.

Three of the holiday lets and three of the flats would be located on the western side of the building and would utilise the windows on the rear elevation, of which the majority would be replaced with new larger windows. Additionally, a new internal bin-store room would be created on the ground floor with new service doors provided to gain access from the highway.

PLANNING HISTORY

- P/06/0187 - Change of use of building to Public House/Bar (A3 use)
Permission GRANTED on 07.07.2006
- P/04/0331 - Change of use of ground floor use from retail to leisure use (Alternative Remedy and Relaxation Centre Spa Club).
Permission GRANTED on 31.08.2004
- P/03/0292 - Change of use from retail (A1) to licensed premises (A3).
REFUSED permission on 29.10.2003 due to noise concerns and traffic congestion concerns

CONSULTATION

- Head of Engineering - No objection
- Planning Division's Ecologist - No objection subject to a condition relating to a method statement/bat inspection.
- Environmental Health Manager - No objection subject to a condition to implement the sound insulation measures.

PUBLICITY

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

No representations were received as a result of this publicity exercise.

POLICY CONTEXT

National planning policy

The Future Wales – the National Plan 2040 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.

Planning Policy Wales (PPW), Edition 11, February 2021:

Para 3.5 – 3.15 set out the importance of high quality design to ensure inclusive design, to promote environmental sustainability and ensure high environmental quality. Regard should also be given to the special characteristics of an area, community safety and to encourage sustainable forms of transport.

Para 3.55 notes that previously developed land wherever possible should be used in preference to greenfield sites where it is suitable for development.

Para 4.1.43 – 4.1.56 set out the need to reduce the level and speed of traffic in new development, the provision of car parking and how this may be integrated into new development to minimise the reliance on cars. Transport assessments are also an important mechanism to determine anticipated impacts a development proposal may have.

Para 4.2.25 – 4.2.34 set out the need to have regard for the provision of affordable housing in communities and to ensure that they are accessible to those who cannot afford market housing, both on first occupation and for subsequent occupiers.

Para 6.1.6 sets out the Welsh Governments objectives for the historic environment to protect world heritage sites, conserve archaeological remains, safeguard historic buildings, preserve and enhance conservation areas, as well as preserve and protect historic parks and landscapes in Wales.

Para 6.4.21 – 6.4.23 note that local authorities should seek to maintain and enhance biodiversity and build resilient ecological networks to ensure that any adverse environmental effects can first be avoided, mitigated or compensated. Regard should also be given to any potential impacts on protected species which may result in disturbance or harm to the species or its habitat.

Para 6.6.22 – 6.6.29 highlights the need for planning authorities to be aware of the flooding risks and ensure developments are designed to minimise potential impacts. Developments should reduce and must not increase flood risk arising from river and/or coastal flooding on and off the development site itself.

Technical Advice Notes (TAN):

- TAN 5, Nature Conservation and Planning, September 2009
- TAN 11, Noise, October 1997
- TAN 12, Design, March 2016
- TAN 15 Development and Flood Risk, July 2004
- TAN 18, Transport, March 2007
- TAN 24, The Historic Environment, May 2017

Local planning policy

Merthyr Tydfil Replacement Local Development Plan (LDP) 2016-2031:

- SW3 - Sustainably Distributing New Homes
- SW4 - Settlement Boundaries
- SW9 - Planning Obligations
- SW11 - Sustainable Design and Placemaking

- SW12 - Improving the Transport Network
- CW1 - Historic Environment
- EnW1 - Nature Conservation and Ecosystem Resilience
- EnW4 - Environmental Protection

Supplementary Planning Guidance (SPG):

- SPG 1- Affordable Housing, March 2012
- SPG 2- Planning Obligations, March 2012
- SPG 4- Sustainable Design, July 2013
- SPG 5- Nature and Development, May 2015

PLANNING CONSIDERATIONS

Land use

The application site is located within the settlement boundary where the majority of new development is generally encouraged and supported in principle by policy SW4 of the LDP. The proposed change of use of the upper levels of the building would promote a mixed used development that supports the regeneration of the town centre. The provision of flats would reinforce the variety of uses within the town centre alongside retail, leisure and business premises. The provision of residential uses above shops can also encourage greater vibrancy to the area with people coming and going at various times of the day. This in turn can have economic benefits for existing businesses.

It is acknowledged that the holiday and residential accommodation is located above a bar/night club, which has the propensity to be a source of noise and disturbance for the future residents. Whilst such uses would not typically be compatible, it is not uncommon to see such arrangements in busy town centres, where residents cannot reasonably anticipate the same level of peace and quiet you might expect from a residential area. Furthermore, it is noted that there are already a number of residential uses above commercial properties within the town centre, which provides a highly sustainable location and is the focus for future growth and regeneration. As such, the principle of the development is deemed to be acceptable.

Design approach

The majority of the proposed development involves alterations to the internal layout of the building to provide the necessary reconfiguration to accommodate the holiday lets, flats and communal access corridor. In response to the internal changes, it is proposed that new windows would be provided on the front and rear elevations.

Two of the existing windows at the centre of the front elevation, at first and second floor levels, would be removed and replaced with a total of 4 new windows. The new windows would be of the same size and proportion as the existing windows and would be of a timber sash design to match. The remaining existing timber sash windows on the front elevation would be retained and refurbished.

Although the front of the building has a modern appearance, it nonetheless presents a prominent frontage along the main high street, which forms part of the Town Centre Conservation Area. It is considered that the alterations to the front elevation respects the fenestration pattern of the building and neighbouring properties. The new windows would

also be of an appropriate style and proportion that compliments the character and appearance of the area.

The rear elevation of the building is in a poor condition and requires some maintenance. The existing timber framed windows, with modern openings, appear to be single glazed, weathered and most likely not suitable to meet current standards for a residential use. This aspect of the building fronts on to a road that provides access to service areas and a nearby public carpark. In the immediate vicinity of this part of the building there are no features of architectural or historical merit and therefore has little contribution to main high street or the wider conservation area. As such, the proposed alterations to the fenestration (i.e. installation of larger upvc windows) and the installation of a doorway serving a storeroom would not have a harmful impact on the character or appearance of the surrounding area.

Accordingly, the proposed external alterations to the building are deemed to be acceptable and would comply with policies SW11 and CW1 of the LDP.

Highway implications

The application site would continue to be accessed and serviced from both the main high street and from the rear lane. It is noted that the main highway is restricted with one-way traffic flow.

It is proposed that the holiday lets and flats would be accessed from the existing ground floor rear entrance via a new internal staircase and communal corridor. This access is served by an existing footpath that links to the adjacent Penderyn Square to the south of the site. The development is located at the heart of the town centre, within walking distance to the new main bus station and train station, as well as a range of other local shops, services and facilities. It is acknowledged that there is no designated off-street or on-street parking available within the immediate vicinity of the site and that the car parks around the town centre are mostly regulated or would incur a charge for their use. The CSS Wales Parking Standards set out the parking requirements for residential and tourist accommodation for different zones. In this instance, given the sustainable location of the development within the town centre (Zone 1) close to public transport and other services, the parking guidelines identifies no requirement for on-site parking to be provided.

The existing access serving the proposed development is deemed to be adequate given its location within the town centre and would not present any significant highway safety concerns. In this regard, the Head of Engineering has not raised any objection to the development. Therefore the proposal complies with policy SW11 of the LDP.

Amenities

The property is located at the heart of the town centre where there is generally a high level of activity expected during the day and in the late evening. Whilst the sub-division of the building to provide a number of flats and holiday-lets would intensify the use, it would not result in an adverse impact on the level of amenity currently enjoyed by neighbouring occupiers, which may include residential properties above shops.

The location of the proposed holiday lets and flats above a bar/night club has the potential to give rise to a conflict between the late evening entertainment and the need to provide some reasonable control over the noise and disturbance that may be experienced by the

future residents. An Environmental Noise Assessment has been submitted in support of the application that considers the potential impact from existing ambient and background noise from both internal and external noises sources, including the noise transfer from the ground floor bar through the separating floors above.

As part of the assessment, noise monitoring was carried out to the front and rear of the property to capture the background noise levels. The report notes the minimum consistent daytime and night time background noise levels was 44db to the front and 49db to the rear of the building during the day and 33db to the front and 48db to the rear in the evening. The ambient noise to the front of the building was created by pub-goers / pedestrians along the High Street and to the rear the noise was created by existing plant operating in the Castle Yard vicinity. The report notes that events can occur where the noise level greatly increase to as high as 105db to the front and over 82db to the rear of the building. These events are as a result of singing and shouting from pub-goers on the High Street, most frequently between the hours of 22:00-00:00 when people are vacating the premises.

The noise assessment also considers the break-out of noise from the ground floor bar to floors directly above and to outside. Inside the bar area when music was being played, the noise levels were 86db, at 1st floor level it was 46db and at 2nd floor it was 39db. The music was noted to be clearly audible at both levels. Outside the building, the noise levels were recorded at 59db at a distance of 5m from the front façade and 54db at a distance of 5m from the rear façade.

It is recommended in the report that the music noise levels in the bar area would need to be limited to minimise excessive breakout to the flats above. Table 5.1 of the report sets out the preliminary recommended limits of 75db, which may vary slightly for the individual octave bands. It is noted that the survey results are based on a pre-covid situation and that the current noise levels under the current covid restrictions are roughly in line with the recommendations of the report. The report suggest that once the development is complete, a further outbreak test should be undertaken and the final noise limit is agreed. Appropriate fixed limiter should then be installed to ensure appropriate limits are not exceeded.

To further ensure the fabric of the building provides sufficient noise reduction, the report notes that the existing and proposed windows would require up-rating and a typical glazing system should be capable of achieving appropriate noise attenuation. On the front and rear façade it is recommended that an appropriate ventilation system is provided that does not rely on the opening of windows or trickle ventilators.

To minimise the level of noise passing through the floors, it is recommended that three layers of acoustic plasterboard on acoustic hangers be used. On the top floor, it should include a deep batten resilient floating floor. Acoustic plasterboard should also be used internally on the walls. Once the suggested mitigation measures have been put in place, the report recommends a further sound insulation test be carried out in order for the final music noise level limit to be set. Subject to the noise mitigation measures being put in place and an appropriate limit imposed on the music noise level, the residential use of the upper levels of the building would be acceptable and within reasonable limits, which can be secured by condition. In this regard, it is noted that the Environmental Health Officer has not raised any objections. Nor have there been any objections raised as a result of the publicity exercise. Therefore, the proposal complies with policies SW11 and EnW4 of the LDP.

Ecological impact

A preliminary Roost Assessment Survey was submitted in support of the planning application. The initial survey of the building indicated that there was secondary evidence that suggest the building has been used as a bat roost. Approximately 30 plus pipistrelle bat droppings were found scattered on the upper floor. There was also substantial evidence of use by pigeons in the past with masses of guano and eggshell/unincubated eggs present. The report considers it likely that bat roosts are present and are more likely to have been summer roosts. As such, a full suite of bat emergence and re-entrance surveys were subsequently undertaken. It is concluded in the Bat Emergence and Re-entrance Survey that the roost is now likely absent and that the presence of pipistrelle droppings on the floor suggest that a minor roost was once present but now appears to be historical. Notwithstanding this, the report considers the proposed flats to not pose any risk to roosting bats and is not likely to result in any interference with extraneous bat commuting or foraging. Additionally, no active bird nesting was identified during the summer of 2021. Based on these findings, the report does not highlight any particular mitigation works to be necessary. However, as a form of enhancement, it is recommended that three bat boxes be externally mounted on the west facing elevation of the building to create new niche roost habitat for crevice-dwelling bats, which would have good access to the wooded riparian corridor to the north-west of the site.

The Planning Division's Ecologist is generally satisfied with the survey work submitted but has advised that as a precautionary measure a method statement should be provided before works commence on site, which should include ecological supervision. This can be secured by condition, together with the proposed enhancements. Additionally, Natural Resources Wales (NRW) have acknowledged the findings of the survey reports and have not raised any objection to the development. Accordingly, the proposal complies with policy EnW1 of the LDP.

Flood risk

The proposed development lies within an area deemed to be at risk from flooding (C2 Flood Zone) as identified on the DAM maps produced by Natural Resources Wales. It is acknowledged that residential use is classed as '*highly vulnerable development*' and is not normally permitted within C2 Flood Zones due to the high risk of flooding. As such, a Flood Consequence Assessment (FCA) has been undertaken.

It is noted in the report that the property has a low risk of flooding from rivers and a moderate risk from groundwater flooding during a 1 in 100 year event. The access to the east of the property from the main highway is at a low risk with flood depths of up to 0.3m. The report also notes the access from the east could be constrained by a 'Danger for Most' hazard rating, although if access arrangements were changed to the western side of the property, this would be reduced to a 'Low' hazard rating, which would be acceptable. It is noted on the submitted plans that the access serving the holiday lets and flats would indeed be from the western side of the building along Castle Yard. Additionally, the report recommends that the finish floor level of the rear entrance be raised by 0.3m above existing and that flood barrier systems be installed to protect the thresholds. It is noted on the submitted plans that the rear access would be raised by 0.3m in line with the FCA advice.

Natural Resources Wales (NRW) acknowledges the development would result in a highly vulnerable development being introduced in to an area of flood risk. However, they have noted that the proposed holiday lets and flats would be elevated above the flood risk and there would be no change in the vulnerability of the ground floor use. As such, NRW have not raised any objection to the development.

The proposal has the potential to form part of the wider regeneration of the town centre, which in turn can contribute to its vitality and viability. The need to bring a vacant unit back in to beneficial use and the provision of residential units in a sustainable location close to local services and facilities would greatly benefit to the town centre. Despite the location of the development within a flooding zone, in this instance, given that the accommodation would be on the upper levels of the building, there would be a low risk to the future occupants and the development would provide economic and social benefits that outweighs the low risks of flooding identified.

Planning obligations

In accordance with Policy SW9 of the LDP where appropriate and having regard to the development's viability, on sites where 5 to 9 homes are proposed, a financial contribution may be sought towards the provision of affordable housing. The viability of the scheme has been assessed using the Three Dragons Toolkit by the Planning Division's Policy Officer on the basis of 6 one bedroom flats, the majority of which are small studio apartments. It is concluded, that no planning obligations would be sought in this instance, as this would likely render the development financially unviable. Accordingly, the development complies with policy SW9 of the LDP.

CONCLUSIONS

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.

For the above reasons, the proposed development is acceptable and complies with the relevant LDP policies. Accordingly, the following recommendation is made:

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

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 No. 9435-103 Rev P4 - Proposed Plans, received 21.02.2022

Drawing No. 9435-104 Rev P4 - Existing and Proposed Sections, received 21.02.2022

Drawing No. 9435-105 Rev P4 - Existing and Proposed Elevations, received 21.02.2022

Bat Emergence and Re-Entrance Survey, received 13.01.2022

Flood Consequence Survey, dated 03.08.2021

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

3. **Prior to the occupation of the flats hereby approved**, a noise assessment shall be submitted, as recommended in the Environment Noise Assessment (6048/ENA1_Rev1), which shall include the results of a further break-out assessment to be submitted to and approved in writing by the local planning authority. Details shall also be provided of the music noise limits and the measures that shall be put in place to ensure such limits are not exceeded. The approved measures shall be implemented prior to the occupation of the flats and shall be retained at all times thereafter.

Reason - To ensure appropriate noise insulation and mitigation measures are in place in the interest of residential amenity of the future occupants of the flats, in accordance with policies SW11 and EnW4 of the Merthyr Tydfil Replacement Local Development Plan

4. **No development shall take place** until a method statement, comprising a brief precautionary check to rule out the presence of bats or more recent droppings, has first been submitted to and approved by the local planning authority. The method statement shall be implemented fully in accordance with the approved details and under the supervision of a suitably qualified ecologist. Details of the results of the pre-commencement check shall be submitted for approval by the local planning authority **prior to commencement of works**.

Reason - To protect the natural environment in accordance with Policies EnW1 and EnW2 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

5. **Prior to the occupation of the flats hereby approved**, three bat boxes shall be installed on the western elevation of the building, as recommended in the Bat Emergence and Re-Entrance Survey and illustrated on the proposed elevations (Drawing No. 9435-105 Rev P4).

Reason - To protect the natural environment in accordance with Policies EnW1 and EnW2 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

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.

RECOMMENDATION ENDORSED



Head of Town Planning

DATE:

25/3/22