

# DELEGATED REPORT

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|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Application No:</b>                  | <b>P/22/0138</b>                                                                                                                                                                                                |
| <b>Site Address:</b>                    | <b>39 &amp; 42 - 43 Pontmorlais<br/>High Street<br/>Merthyr Tydfil<br/>CF47 8UN</b>                                                                                                                             |
| <b>Development:</b>                     | <b>Change of use of first and second floors of 42-43 Pontmorlais and part of the second floor of 39 Pontmorlais to create a flat with associated external alterations including the insertion of rooflights</b> |
| <b>Case Officer:</b>                    | <b>Caroline Pulley</b>                                                                                                                                                                                          |
| <b>Site Visit:</b>                      | <b>7<sup>th</sup> June 2022</b>                                                                                                                                                                                 |
| <b>Application Expiry Date:</b>         | <b>25th November 2022</b>                                                                                                                                                                                       |
| <b>Consultation reply date expired:</b> | <b>29th June 2022</b>                                                                                                                                                                                           |

## APPLICATION SITE

The application site relates to a two-storey end of terrace property situated within the Pontmorlais area of Merthyr Tydfil Town Centre. The property is bound by High Street to the front and the Nant Morlais watercourse to the rear. On its northeastern side, it is adjoined by an Osteopath and to the south, its side elevation fronts onto a small triangular paved area which appears to be used for parking. Beyond this area is a neighbouring building occupied by multi agency centre called Teulu Mac and the side elevation of a watchmaker.

## PROPOSED DEVELOPMENT

This application seeks full planning permission to carry out external alterations and change the use of the first and second floors and 42-43 Pontmorlais and part of the second floor of 39 Pontmorlais to a four-bedroom flat. The flat would be laid out to provide a lounge, kitchen, bathroom and a bedroom on the first floor. A further three bedrooms and a bathroom would be provided in the roof space (second floor) of the two properties.

Externally, the following alterations are proposed:

- Remove a first-floor window in the rear elevation and insert a new first floor rear window in a different location.
- Remove a window from the south facing side elevation of a single storey rear extension.

- Install a 1.1m high balustrade to a rear set of steps (leading from the rear extension).
- Insert two rooflights in the rear east facing roof plane of number 39 and replace one rooflight in the rear east facing roof plane of number 42-43 High Street.
- Insert two rooflights in the front west facing roof plane of number 42-43 High Street

## PLANNING HISTORY

The recent planning history relating to the property is as follows:

P/04/0632 - Improvement to front and side elevations, fit new doors and windows, roller shutter doors and disabled access ramp  
Approved – 01.02.2005

## CONSULTATION

|                                     |               |
|-------------------------------------|---------------|
| Head of Engineering and Highways    | No objection. |
| Planning Division's Policy Officer: | No objection. |
| Environmental Health Officer:       | No objection. |
| Natural Resources Wales (NRW):      | No objection. |
| Welsh Water:                        | No objection. |
| Ecologist:                          | No objection. |

## PUBLICITY

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

No letters of objection were received following this publicity exercise.

## POLICY CONTEXT

### National 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) sets out the land use policies of the Welsh Government. The most relevant sections are:

Sections 3.3 – 3.16 sets out the principles of good design in new development proposals, which should take into account its relationship to its surrounding context.

The policies in PPW are supported by Technical Advice Notes (TANs). The most relevant TAN to this application is as follows:-

TAN 12 - Design advises that the Assembly Government is strongly committed to achieving the delivery of good design in the built and natural environment, which is fit for purpose and delivers environmental sustainability, economic development, and social inclusion at every scale throughout Wales.

Technical Advice Note (TAN) 15 – Development and Flood Risk classes residential development as highly vulnerable development.

Technical Advice Note (TAN) 24 – The Historic Environment

Para. 1.8 states that ‘Changes in the historic environment are inevitable. This can be the result of decay caused by natural processes, damage caused by wear and tear of use, and the need to respond to social, cultural, economic and technological changes’.

Para. 6.2 states that ‘Conservation area designations provides the basis for policies designed to preserve or enhance all the aspects of character or appearance that define an area’s special interest: this might include the pattern of development and the organisation of space and routes as well as the style and type of the building, and the use of materials and detail’.

### Local Policy

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

Policy SW1 – Provision of New Homes

Policy SW4 – Settlement boundaries

Policy SW9 – Planning Obligations

Policy SW11 – Sustainable design and Placemaking

Policy CW1 - Historic Environment

Policy EnW1 – Nature Conservation and Ecosystem Resilience

Policy EnW3 – Regionally Important Geological Sites, Sites of Importance for Nature Conservation, Local Nature Reserves and Priority Habitats and Species

Policy EnW4 – Environmental Protection

Policy EcW3 – Retail Hierarchy – Supporting Retailing Provision

Policy EcW5 – Town and Local Centre Development

Supplementary Planning Guidance (SPG) Note No. 4 – Sustainable Design

Supplementary Planning Guidance (SPG) Note No. 5 – Nature and Development

### PLANNING CONSIDERATIONS

The proposal seeks full planning permission to convert the upper floors of number 42-43 and part of the upper floor of number 39 High Street to residential with some minor alterations to the rear fenestration, the provision of rear balustrade and the insertion of front and rear rooflights. The main considerations in the determination of this application are the principle of the proposal and whether the change of use is consistent with the key requirements of planning policy. Other important considerations are the impact of the scheme on the Merthyr Tydfil Town Centre Conservation Area, the potential impacts on

highway safety, and the impact on the amenity of adjacent land users and other established uses in the area. The acceptability of residential development within a C2 flood risk zone is also a consideration. These matters are considered in detail below.

### Principle of the change of use

The application site lies within the settlement limits and within the town centre of Merthyr Tydfil. The proposal seeks, through the refurbishment of the first and second floor, to bring a building back into full beneficial use by providing a self-contained flat. Such a proposal would serve to add vitality to the town centre by increasing the diversity of activity on the street. This is in line with the objectives of Policy EcW3 which seeks to ensure that proposals improve the vitality and viability of the local and town centres. It is also noted that provision of a single flat above a shop falling within use class A1 is permitted development. As such, the conversion of the upper floor of 42-43 to a flat does not require planning permission.

Notwithstanding the above, it is acknowledged that the application site lies within a C2 Flood Zone and highly vulnerable development is proposed on the first and second floor of the two buildings. Therefore, due consideration needs to be given as to whether the proposed development is justified in a C2 flood zone, with particular reference to TAN 15 and Policy EnW4 of the LDP. In this respect, it is noted that the application proposes the retention of the existing ground floor commercial unit and the conversion of the upper floors to residential to form a single flat. As highlighted above, the provision of a flat above a shop does not require planning permission. Nonetheless, it should be noted that Natural Resources Wales (NRW) have not objected to the application. Their response highlights that the development would result in highly vulnerable development being introduced into an area of flood risk. However, they note that the development would be elevated above the flood risk and there is no change in the vulnerability of use at ground floor. Taking this into account, they consider the proposal acceptable.

Therefore, it is considered that in principle, the development is acceptable, subject to an assessment of the following criteria;

- The impact of the proposed development upon the character and appearance of the conservation area.
- The impact of the development on the residential amenities of neighbouring properties.
- The impact of the proposal on highway safety.

### Impact on character and appearance of the conservation area.

Visually, the proposal would result in limited changes to the external appearance of the building. The greatest changes would arise from the installation of roof lights to the front and rear roof plane of the two buildings and the siting of a guardrail to the access steps at the rear of number 42-43. Other changes include the blocking up of two windows and the siting of a new door and window, all to the less prominent rear elevation whereby there is an existing uPVC opening and a roller shutter door. Overall, subject to a condition requiring details of the proposed rooflights and the windows and door prior to their installation, the scheme is considered to have a limited visual impact on the building and the proposal would not adversely impact on the character and appearance of the conservation area.

### Impact on the amenity of adjacent land users and other established uses in the area (including residential amenity).

As set out above, the property is located within the Pontmorlais area of the town centre whereby a level of activity is expected during the day and the evening. Whilst it is acknowledged that the change of use of the upper floors to a flat may result in a small intensification of the building, given that the property is located within an area that has a varied character, the change of use of the first and second floors to residential would be unduly harmful in this context. Moreover, the windows serving the flat would not cause any additional overlooking impact over and above what is experienced from the existing bedroom windows. Furthermore, it is acknowledged that no objections have been received from local residents following the publicity exercise. Accordingly, the proposal complies with policy SW11 of the LDP.

### Highway safety

In terms of highway safety, the Council's Head of Engineering and Highways has not raised any objection to the proposal noting that the property is located within a sustainable location, in close proximity to public car parks and the central bus and railway station. It is also noted that there are traffic regulation orders in place within this part of the town centre, which would prevent indiscriminate on-street parking in these locations. As such, the proposal to change the use of the building to a mixed retail/business/residential use does not raise any adverse highway safety issues.

### Ecology

The application is supported by a bat survey. This has been assessed by the Council's Ecologist who raises no objection to the scheme subject to all ecological measures and recommendations being carried out in accordance with the report and the submitted drawings. These measures include the siting of a bird box and bat box to the side elevation and rear elevation of number 42-43 High Street.

### Conclusion

Having taken account of all the issues outlined above, the application proposal is considered acceptable in terms of its impact upon the character and appearance of the conservation area, compatibility with existing uses and its potential impact upon highway safety.

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:

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 number - PM-04 Rev E Proposed Elevations received on 06.10.2022

Drawing number - PM-03 Rev D Proposed Plans received on 20.07.2022

Drawing number - PM-05 Rev C Site Plans received on 20.07.2022

Bat Survey Issue 1, Version A September 2022 received on 30.09.2022

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

3. Before works commence details/samples of the following shall be submitted and approved in writing by the Local Planning Authority and all works undertaken shall be completed in accordance with such approved details/samples.

(I) Details of proposed rear balustrade (including colour)

(II) Details (including colour) of the proposed windows and door

(III) Rooflights including a section to show projection above plane of roof.

**Reason** - To protect the character of the conservation area in accordance with Policies CW1 and SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

4. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

**Reason** - To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

## INFORMATIVES

1. The Developer is advised to check and confirm the positions of all boundaries **BEFORE** construction works commence.

Any discrepancies or problems of interpretation of boundary lines shall be resolved amongst all interested parties **BEFORE** works commence.

Failure to comply with this information could lead to civil action being brought against the developer by aggrieved parties.

2. 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.

3. 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.

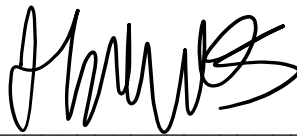
4. The developer should be aware that the application site falls within an area which is at risk from flooding. It is therefore recommended that the developer/applicant reviews the advice received from Natural Resources Wales (NRW) during the course of this application.
5. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e., a drain which extends beyond the connecting property boundary) or via a new sewer (i.e., serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

The planning permission hereby granted does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary permissions required by the Water industries Act 1991. Any

alterations to existing premises resulting in the creation of additional premises or merging of existing premises must also be constructed so that each is separately connected to the Company's water main and can be separately metered. Please contact Dwr Cymru Welsh Water connections team on 0800 917 2652 for further information on water and sewerage connections.

The applicant is also advised that some public sewers and lateral drains may not be recorded on Dwr Cymru Welsh Water's maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

**RECOMMENDATION ENDORSED**



**Director of Neighbourhood Services**

**DATE:**

10/10/22