

DELEGATED REPORT

Application No:	P/24/0205
Site Address:	111 High Street Merthyr Tydfil CF47 8AP
Development:	Change of use of ground floor from shop (A1 use class) to restaurant (A3 use class) to include the installation of a flue
Case Officer:	Marlene Ferreira
Site Visit:	5th September 2024
Application Expiry Date:	17th October 2024
Consultation reply date expired:	19th September 2024

APPLICATION SITE

The application site relates to the ground floor of a two storey terraced premises at 111 High Street, sited within the Merthyr Tydfil town centre. The premises is finished with rendered elevations, UPVc windows and slate roof tiles, with a (shopfront) roller shutter, to its primary facade. To the rear, the premises is finished with brickwork elevations and UPVc windows. The building, formerly used as a shop (A1 use class), has been vacant since before 2018. It appears to have been extended to the rear over time and includes a small courtyard located centrally between the front part of the building, adjacent to High Street and the rear part of the building, adjacent to Post Office Lane.

PROPOSED DEVELOPMENT

This application seeks planning permission to change the use of the ground floor of the premises from a shop (A1 use class) to a restaurant (A3 use class). The restaurant is proposed to operate with 3 employees (2 full time and 1 part time).

Externally, the alterations in association with the use of the premises as a restaurant would include the installation of a flue, measuring approximately 0.2 metres in width, to the rear elevation, adjacent to the courtyard. This would project approximately 0.5 metres above the two-storey flat roof at the rear of the premises.

PLANNING HISTORY

The following planning history is relevant to this application site:

- P/19/0034 – Installation of 3 gas meters to the rear of the premises – Approved: 14th March 2019

- P/18/0169 - Change of use at ground floor from retail (A1) to restaurant (A3), change of use at first floor from offices (A2) to four, 1 bedroom flats (C3) – Approved: 8th August 2018

CONSULTATION

Head of Engineering and Highways	No objection
Policy Officer	No objection.
Ecologist	No objection.
Environmental Health Manager	No objection.
Natural Resources Wales (NRW)	No objection.
Welsh Water	No objection.

PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012, nearby properties were consulted and a site notice was displayed in the immediate vicinity. No letters of representation were received following the publicity exercise.

POLICY CONTEXT

National Development Framework

- Future Wales: the National Plan 2040 (February 2021)

Policy 1 – Where Wales Will Grow

Policy 2 – Shaping Urban Growth and Regeneration – Strategic Placemaking

Policy 9 – Resilient Ecological Networks and Green Infrastructure

Policy 33 – National Growth Area – Cardiff, Newport and the Valleys

National Planning Policy

- Planning Policy Wales (edition 12, February 2024)

Paragraph 3.3 refers to good design and states that *‘...design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and between people and places. To achieve sustainable development, design must go beyond aesthetics and include the social, economic, environmental, cultural aspects of the development, including how space is used, how buildings and the public realm support this use, as well as its construction, operation, management, and its relationship with the surroundings area...’*

Paragraph 3.9 refers to character and states that *‘...the special characteristics of an area should be central to the design of a development. The layout, form, scale and visual*

appearance of a proposed development and its relationship to its surroundings are important planning considerations. A clear rationale behind the design decisions made, based on site and context analysis, a strong vision, performance requirements and design principles, should be sought throughout the development process and expressed, when appropriate, in a design and access statement...

Paragraph 3.14 refers to context appraisal and states that these *'...should be used to determine the appropriateness of a development proposal in responding to its surroundings. This process will ensure that a development is well integrated into the fabric of the existing built environment...'*

Paragraph 6.16, 6.17 and 6.19 discusses the Welsh Government's objectives for the historic environment and states that these seek to *'...protect the Outstanding Universal Value of the World Heritage Sites; conserve archaeological remains, both for their own sake and for their role in education, leisure and the economy; safeguard the character of historic buildings and manage change so that their special architectural and historic interest is preserved; preserve or enhance the character or appearance of conservation areas, whilst the same time helping them remain vibrant and prosperous... It is important that the planning system looks to protect, conserve and enhance the significance of historic assets. This will include consideration of the setting of an historic asset which might extend beyond its curtilage. Any change that impacts on an historic asset or its setting should be managed in a sensitive and sustainable way... Any decisions made through the planning system must fully consider the impact on the historic environment and on the significance and heritage values of individual historic assets and their contribution to the character of place...'*

Paragraph 4.3.30 – 4.3.34 discusses commercial development and states that *'...Although retailing (A1) uses should underpin retail and commercial centres, it is only one of the factors which contribute towards their vibrancy. Primary areas are typically characterised by a high proportion of A1 retail uses, and their designation requires an understanding of the existing distribution of uses in a centre together with careful consideration of a centre's role and how it relates to the retail strategy for the area. Secondary areas typically contain mixed uses, for example shops, cafes and restaurants, financial establishments and other services and community facilities. Policies should encourage a diversity of uses in centres. Planning authorities should identify which retail and commercial centres in their development plans have primary and secondary shopping areas, and show these on the proposals map. 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. Development plans should include policies describing the types of use that are likely to be acceptable in primary and secondary areas. Leisure and entertainment, and food and drink uses can benefit retail and commercial centres, and with adequate attention to safeguarding amenities can contribute to a successful evening economy. In addition to general diversity of uses, mixed use developments, which combine retailing with entertainment, restaurants and, where appropriate, residential in a comprehensive and planned way should also be encouraged where appropriate to promote lively centres during both the day and the evening...'*

Paragraph 4.3.36 refers to vacant premises and explains that *'...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 4.3.43 – 4.3.44 discusses night-time and evening economies and describes that *'...retail and commercial centres often include activities which contribute to a vibrant and viable evening and night-time economy. Such uses may include, for example, bars, restaurants, pubs, theatres, music, arts and other entertainment venues which provide for social and cultural experience and spaces in which creativity can be fostered. Such activities are likely to be characterised by increased levels of noise, large gatherings of people, later operating hours and greater movements in traffic. Where new uses incorporating evening and night time activities are established in retail and commercial centres, and are located near to existing residential accommodation, planning applicants should include appropriate mitigation measures to counter potential impacts to amenity...'*

- Technical Advice Notes (TANs)

Technical Advice Note 4: Retail and Commercial Development (2016)

Section 2.3 of TAN 4 refers to the variety of uses in the centre and states that *'...a wide range of uses are located in retail and commercial centres including retail, office, residential, leisure, tourism and community functions. These centres are traditionally characterised by having higher densities which increases scope for different uses, including residential, to be accommodated above retail and commercial floorspace. Encouraging people to live and work in existing centres reinforces local demand and provides additional vibrancy during the day and in the evening. This diversity of uses, whilst benefiting the wider economy, will need to be carefully planned and managed to ensure that no conflicts arise, particularly with regards to amenity...'*

TAN 5 – Nature and Conservation Planning (2009)

This TAN provides advice on development affecting designated sites and habitats, in addition to protected or priority habitats and species. Section 6.2.2 states that *'...It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. It is considered best practice that such a survey is carried out before planning application is submitted. Planning permission should not be granted subject to a condition that protected species surveys are carried out and, in the event that protected species are found to be present, mitigation measures are submitted for approval. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of them being present...'*

Technical Advice Note 15: Development and Flood Risk (2004)

Section 5 of TAN 15 considers the vulnerability of different land uses to flooding and identifies three separate development categories, emergency services, highly vulnerable development and less vulnerable development. Sections 6 and 7 of TAN 15 relates to the justification of development types within flood zones and whether a flood consequent assessment is required.

Technical Advice Note 24: The Historic Environment (2017)

Section 1.14 of TAN 24 refers to conservation principles and '*... recognises that the whole of the historic environment is a finite and shared resource. Every place has its own history, which has shaped its character and leaves tangible traces in its present form and fabric. This historic character makes each place unique and gives it a distinctive identity. Historic character should be taken into account in the management of change in order to sustain local distinctiveness and a sense of place. The use of an objective, structured approach to identify the elements of historic character and creating an evidence base is vital...*'

Local Planning Policies

The Merthyr Tydfil Replacement Local Development Plan 2016-2031

Policy SW4 – Settlement Boundaries

Policy SW11 – Sustainable Design and Placemaking

Policy CW1 – Historic Environment

Policy EnW1 – Nature Conservation and Ecosystem Resilience

Policy EnW4 – Environmental Protection

Policy EcW3 – Retail Hierarchy – Supporting Retailing Provision

Policy EcW5 – Town and Local Centre Development

- Supplementary Planning Guidance (SPG):

SPG4 – Sustainable Design, July 2013

SPG5 – Nature and Conservation, May 2015

PLANNING CONSIDERATIONS

The issues to consider under the assessment of this application relate to whether the proposed change of use, from an A1 use class to A3 use class at ground floor, would be acceptable in principle in this town centre location and whether it would be acceptable with regards to its impact upon the character and appearance of the premises and conservation area. The impact upon residential amenity, ecology and highway safety are also important considerations.

Principle of Development

The premises lies in the settlement boundary – Primary Growth Area. Development in this location is supported by LDP Policy SW4 provided it complies with all relevant LDP policies and other material considerations.

The premises also lies within the town centre boundary, but is located outside the primary shopping area where A1 uses are protected. LDP Policies EcW3 and EcW5 are therefore relevant considerations. LDP Policy EcW3 advises that '*Merthyr Tydfil Town Centre is the favoured location for retail, leisure, and other complementary development, being situated at the head of a retail hierarchy....Proposals for new and enhanced retail, leisure and other complementary provision in this location will be permitted where they improve the vitality and viability of the centre...*' LDP Policy EcW5 advises that '*Development enhancing the vitality and viability of the town and local centres will be supported...*'

In this instance, the loss of the retail use (which has been vacant for a significant period of time) and its replacement with an A3 use would add to the vibrancy and viability of the

town centre. Indeed, the occupation of the premises with a restaurant as opposed to it being left vacant and underused would evidently be more beneficial to the town centre and add to its vibrancy. The occupation of this premises would provide an active frontage and prevent the building from falling into disrepair in the long-term, should it continue to remain vacant, which would subsequently have an adverse impact on the character and appearance of the conservation area. As such, the proposed change of use from a retail use (A1 use class) to a restaurant use (A3 use class) would therefore be considered acceptable in this location. Furthermore, an A3 use class can revert to an A1 use class without planning permission, and the building could be occupied at any time by a retail business without the need for a further planning application. The proposed development would therefore accord with LDP Policies EcW3 and EcW5.

The application site also lies within Zone C2 of the Development Advice Map contained in TAN 15 and within Flood Zone 2- Rivers within the Flood Map for Planning. The proposal however relates to an existing building in the town centre which is proposed to be used as a restaurant. This proposal therefore relates to a commercial use, which is classified as less vulnerable development. As such, NRW have not objected to the proposed development which would comply with LDP Policy EnW4.

Character and Appearance

The proposed development mainly relates to internal alterations, other than the addition of a flue to the rear of the premises.

The proposed flue is a slim-line addition required in association with the operation of the proposed restaurant. This would be sited to the rear of the property, opposite the small central courtyard between the front and rear parts of the premises. As such, given its discrete location, it would not be visible within the front or rear street scenes.

It is therefore considered that the external alterations proposed in association with the proposed restaurant, would not detract from the character or appearance of the premises or the Town Centre Conservation Area and would therefore comply with LDP Policies SW11 and CW1.

Residential Amenity

Given the nature of the proposed use, its hours of operation, and its siting nearby residential properties/flats, the proposed use has the potential to create some noise and disturbance to nearby occupiers. However, it should be noted that the premises lies on a busy street within the town centre and is located in close proximity to other commercial businesses (e.g. Y Dic Penderyn Public House and Casa Bianca), which undoubtedly produce noise and disturbance during late evening/night. Thus, the operation of a restaurant use within this context would not be deemed significantly more harmful to surrounding residential occupiers when compared to the current activities that already take place within close proximity of the application site and also operate during late evening/night hours.

With regards to the proposed extraction flue, it should be noted that the apparatus would emit odours over 1 metre above the closest window of the first floor uses (previously granted planning permission, under application P/18/0169, for residential use). As such, the operation of a flue extraction system in association with the A3 use would not be deemed to significantly impact upon the residential amenities of nearby occupiers. Indeed,

no objections have been raised from the Environmental Health Manager in this respect. The proposal would therefore comply with LDP Policies SW11 and EnW4.

Ecology

Given the nature of the proposed works, the Council's Ecologist has not requested any survey work. However, in line with the Environment (Wales) Act 2016 and Welsh Government Circular 'Securing Biodiversity Enhancements', enhancement works would be required. An amended plan was submitted to show the inclusion of enhancement works in the form of bat boxes, sited at least 3.5m above ground level, to the rear elevation of the premises and this would be conditioned as part of any planning permission granted.

It is noted that chapter 6 of Planning Policy Wales (edition 12) requests that applications be supported by Green Infrastructure Statements (GIS). In this instance, due to the nature of the development, which largely relates to internal alterations only, the submission of a GIS is deemed to be disproportionate and unreasonable. Notwithstanding this, ecological enhancements, in the form of a bat boxes, would be provided, as noted above, and would be secured by condition. This proposed enhancement would contribute to the wider green infrastructure objectives and would therefore accord with LDP Policy EnW1.

Parking and Highway Safety

The proposed development would not be served with on-site parking, however, there is some on-street parking available along Pontmorlais High Street. Furthermore, the site lies in a sustainable town centre location, near a variety of facilities and in close proximity to bus stops and a train station. In addition, a public car park lies within 50 metres of the application site. Therefore, the Engineering and Highways Manager has not raised an objection to this proposal. The development would therefore comply with LDP Policy SW11.

CONCLUSION

The proposed development, for the reasons discussed above, is therefore considered acceptable and would accord with the relevant policies.

Finally, I have considered 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"). In reaching this decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision 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**:

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:

- Proposed Plans and Elevations HS-02 Rev B, received: 26th September 2024

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

3. The A3 use hereby permitted shall be restricted to restaurant use only and for no other purpose within Use Class A3 of the schedule of the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification).

Reason - To restrict the development and prevent an adverse impact on the character and appearance of the conservation area and the vitality and viability of the town centre in accordance with Policies SW11, CW1, EcW3 and EcW5 of the Merthyr Tydfil Replacement Local Development Plan.

INFORMATIVES

1. The applicant is advised that Welsh Water have requested that an adequate grease trap be fitted and maintained, to prevent grease from entering the public sewerage system.
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.

RECOMMENDATION ENDORSED



Director of Neighbourhood Services

DATE: 01.10.2024