

DELEGATED REPORT

Application No: P/20/0241

Site Address: 137 High Street
Merthyr Tydfil
CF47 8DN

Development: Change of use of A1 shop to A3 takeaway with flue

Case Officer: Caroline Pulley

Site Visit:

Application Expiry Date: 10th December 2020

Consultation reply date expired: 16th November 2020

APPLICATION SITE

The application site retails to a clothing shop situated within the primary shopping area of Merthyr Tydfil Town Centre. The shop is currently trading under the name of 'IQ Designer Concept Clothing'. It is bound by Polski Polish shop (a convenience store) to the south, the stairwell and entrance door to a physiotherapy premise to the north, beyond which is High Street Baptist Church, which is a Grade II Listed Building. Directly above the shop and at first floor level is the physiotherapy premise. To the rear of the shop is a long, flat roof extension that abuts a small service yard/parking area. Beyond this is the area of the new bus station site.

PROPOSED DEVELOPMENT

This application seeks full planning permission to change the use of the shop (use class A1) to a takeaway (use class A3). No external works or substantial alterations are proposed to the fabric of the building. However, the proposed use would involve the installation of a 1m high, 0.25m wide (max) extraction flue to the rear of the building. The flue would be installed internally within the building travelling up from the cooking and service area and exiting the building through the flat roof located to the rear of the building. Two off-street parking spaces are provided as part of the scheme. The proposed opening hours have not been specified.

PLANNING HISTORY

There is no relevant planning history which needs to be taken into consideration when determining this application.

CONSULTATION

Head of Engineering:

Raises no objection.

Planning Division's Policy Officer:

Advises that the site lies within the primary shopping area of the town centre and as such the scheme amongst other things, would need to comply with Policies EcW3 and EcW5 of the LDP.

Environmental Health Manager:

Raises no objection following revised details of an extraction system being submitted through the course of the application.

Natural Resources Wales:

Raises no objection but highlights that the site is located within flood risk Zone C2.

Welsh Water:

Raises no objection, subject to conditions.

PUBLICITY

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

One letter of objection has been received from a local business owner raising concern over the proximity of the proposed takeaway to his establishment and the effect this may have financially on his business.

Local Ward Members were advised of the objection received to this application however, no request has been submitted requiring the application to be reported to the Planning Committee. As such, the application will progress to be determined by the Chief Officer Planning and Neighbourhood Services.

POLICY CONTEXT

National Policy

The Future Wales – the National Plan 2040
Planning Policy Wales (PPW) – Edition 11, February 2021
Technical Advice Note (TAN) 4 – Retail and Commercial Development
Technical Advice Note (TAN) 12 – Design
Technical Advice Note (TAN) 15 – Development and flood risk
Technical Advice Note (TAN) 24 – The Historic Environment

Local Policy

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

Policy SW4 – Settlement boundaries

Policy SW9 – Planning Obligations
 Policy SW11 – Sustainable design and Placemaking
 Policy SW12 – Improving the Transport Network
 Policy CW1 - Historic Environment
 Policy EnW1 – Nature Conservation and Ecosystem Resilience
 Policy EnW2 – Internationally and Nationally Protected Sites and Species
 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 EcW4 – Retail Allocation
 Policy EcW5 – Town and Local Centre Development

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

PLANNING CONSIDERATIONS

Principle of the development

The application site is within settlement limits and is within the Merthyr Tydfil Town Centre boundary as set out by Policy EcW3 of the LDP. It also lies within the primary shopping area of town centre where Policy EcW5 seeks to prevent an overconcentration of non-A1 uses and the level of A1 uses falling below a certain level. The policy states:

'Within the Town Centre Primary Shopping Area (PSA) the change of use of the ground floor from A1 to another 'A class' use will be permitted where;

- *At least 75% of the commercial uses at street level within the PSA remain A1, and;*
- *There are no more than two adjoining 'non-A1' units in any row of five units, provided there are not more than three 'non-A1' units in any 5 units. that development proposals.'*

In terms of the first criteria, the Council's Policy Officer has surveyed the PSA and has confirmed that the loss of the A1 use would result in the percentage of A1 units dropping to 76.8%. Therefore, at least 75% of the commercial units in the PSA would remain A1. In relation to the second part of the policy, it is noted that the property is bound by an A1 retail store on its left hand side, beyond which is a funeral director. On the right hand side there is an entrance door to a physiotherapy premise and a chapel. Beyond these two units, there is a vacant A1 retail store. While noting that the two-adjointing units to the right hand side of the property are non-A1 uses, the entrance door and stairwell to the first floor physiotherapy premise does not form a ground floor use. Taking this into account, the change of use of the application property from a shop to a takeaway falling into use class A3 would not result in there being more than two adjoining non-A1 retail units within a row of 5 units. It would also not result in more than three non-A1 uses being located in any 5 units. For this reason, the proposed change of use would be compliant with Policy EcW5. As such, the principle of the change of use in the primary shopping centre is acceptable.

Visual and residential amenity

Being located within a town centre, it is likely that there are some residential flats above the shops within the vicinity of this site. Indeed, planning permission was recently

approved for a flat development above 43-45 High Street (located approximately 30m to the north of the site). The proposed takeaway use by virtue of its very nature could generate smells and odours that could be detrimental to the living conditions of surrounding residents. Taking this into account in combination with the fact that the site is situated in close proximity to a Grade II Listed Building, details of a suitable extraction system was requested during the application process. Initially, there was concern that the siting of the extraction flue to the rear of the building would have an adverse impact on the setting of the listed building. However, amended plans now show the flue being installed entirely within the building extracting through the roof of the ground floor rear annexe. Consequently, a large part of the flue would be hidden inside the building and the scheme would have a limited impact on the setting of the listed chapel. The Council's Environmental Health Manager has also confirmed that the proposed extraction system is acceptable. As such, if the proposed use were to operate with this arrangement, smells and odours would be adequately dispersed and the flue, would not be detrimental to residential amenity or the setting of the Grade II Listed Chapel. In terms of potential noise and disturbance, the application site is located in the middle of a town centre where a level of activity would be expected during the day and into the evening. Additionally, any noise and disturbance to neighbouring residents after 11pm can be controlled by the Licensing Section of the Council under the Licencing Act. As such, it is not considered expedient in this case to control the hours of opening associated with the proposed use.

Parking and highway safety

The site is located within the primary shopping area of the town centre whereby patrons would have access to public transport and car parking facilities. Moreover, the proposed use would be served by two-off road car parking spaces at the rear of the building which would provide suitable parking facilities for staff. Furthermore, the Council's Head of Engineering has reviewed the scheme and has not raised any highway objections. As such, the proposal would not cause any significant highway safety issues.

Flood Risk

The comments received from NRW highlight that the application site lies entirely within a C2 Flood Risk Zone and within the 1% and 0.1% annual probability fluvial outlines of the River Taff, a designated main river. However, having regard to the nature of the proposed development (and in the absence of a FCA), they consider the proposal acceptable subject to the developer being made aware of the potential flood risks associated with the site.

Other matters

The concerns raised to the application by a local business owner have been acknowledged. However, competition of uses is not a matter which can be controlled under the planning system.

Conclusion

The conversion of the property from a retail shop to a takeaway falling within use class A3 is considered to be in compliance with Policies EcW3 and EcW5 of the LDP, which seek to protect A1 uses within the town and local centres of Merthyr Tydfil. Further to this, it has been demonstrated through the course of this application that odours can be dispersed from the site adequately without causing a nuisance to those who may be living nearby or

causing harmful impact to the setting of the Grade II Listed Chapel situated to the north of the site.

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 1C of 2 received on 04.02.2021

Drawing 2C of 2 received on 04.02.2021

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

3. The takeaway use hereby permitted shall not commence until a grease trap has been fitted in accordance with details to be submitted to and approved in writing by the local planning authority. Thereafter the grease trap shall be maintained in accordance with the approved details so to prevent grease from entering the public sewerage system.

Reason - To protect the integrity of the public sewerage system and ensure the free flow of sewerage.

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.

5. Before the use hereby permitted commences, the equipment to control the emission of fumes and odour from the premises shall be installed in accordance

with approved details shown on drawing numbers 1C and 2C received on 04.02.2021. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the approved details for as long as the use continues.

Reason - To protect the amenities of the occupiers of adjoining properties in accordance with Policy EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

INFORMATIVES

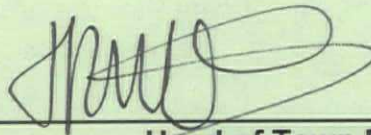
1. All bats and their roosts are protected against disturbance under UK and European legislation. If works are planned on a building/tree in which bats are found to be roosting, Natural Resources Wales (NRW) must be contacted. They must be given reasonable time to advise as to whether the works should be carried out and, if so, the method to be used.

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.

2. The developer's attention is drawn to the comments received from Natural Resources Wales with regard to the potential flood risk implications relating to the site.
3. The applicants/developers attention is drawn to the comments of the Authority's Environmental Health Section regarding the potential problems arising from the creation of noise and dust during the construction process. To avoid unexpected and unnecessary enforcement action by the Environmental Health Department, the applicants/developers are advised to contact the Environmental Health Section prior to the commencement of development to agree an appropriate method of noise and dust suppression.

The developer must ensure that all waste arising from the site is disposed of at a site licensed for its reception. Under no circumstances shall waste be burnt on site.

RECOMMENDATION ENDORSED



Head of Town Planning

DATE:

2/3/21