

DELEGATED REPORT

Application No:	P/22/0271
Site Address:	57 Pontmorlais High Street Merthyr Tydfil CF47 8UN
Development:	Change of use of ground floor A1 Hairdressers to A3 Takeaway
Case Officer:	Rebecca Owens
Site Visit:	17th October 2022
Application Expiry Date:	2nd December 2022
Consultation reply date expired:	7th November 2022

APPLICATION SITE

The application relates to a mid-terrace property located in the Town Centre Conservation Area. It also lies within a designated Article 4 area and within the Townscape Heritage Initiative (THI) boundary. The immediate vicinity is characterised by a mixture of commercial and retail uses and the site is bound by hot food takeaways on both sides and highways to the front and rear.

PROPOSED DEVELOPMENT

Full planning permission is sought to change the use of the ground floor of the building from a hairdressers, which falls within the A1 Use Class, to a takeaway which is an A3 Use Class. The application form indicates that this would be open between the hours of 9am and midnight Mondays to Fridays, between 9am and 1am on Saturdays and between 10am and midnight on Sundays and Bank Holidays. It also states that the use would employ five full time workers

PLANNING HISTORY

The relevant planning history is detailed below:

P/16/0222 Change of use of ground floor from hairdressers (A1 use class) to a takeaway (A3 use class) and installation of external flue to building
Refused planning permission on 9 September 2016 for the following reason:

"The proposal, by virtue of the loss of a retail unit and subsequent introduction of an additional takeaway facility to the area, would not preserve or enhance the character or appearance of the Town Centre Conservation

Area. As such, the proposal fails to comply with Policy BW6 of the Merthyr Tydfil Local Development Plan".

A subsequent appeal was also dismissed on 3 January 2017 (Appeal Ref: PP/U6925/A/16/3162524). In this the inspector made the following comments:

"The appeal property has a modern roller shutter shop front which was drawn down on the day of my site visit. Whilst the roller shutter is enclosed either side by decorative pilasters, nonetheless the current shop front does not make a particularly positive contribution to the appearance of the CA, but it forms part of the retail character which is important".

"In my opinion the essential character of this part of the CA, notwithstanding that a number of properties are vacant, is the diversity of visual activity at ground floor level associated with a High Street of small scale mainly retail uses of varying architecture. I note from the Council planning report that the Conservation Area Management Plan states that threats to heritage value include a concentration of takeaway food outlets along High Street Pontmorlais, with such uses contributing little to daytime activity, and accentuating the poor mix of uses in the commercial area".

"During the majority of the daytime the proposed use would result in an inactive frontage to the premises which would erode the vitality of, and detract from, the retail character of the CA, which already has a noticeable number of A3 uses, and where such uses have been identified as being a threat to the heritage value of the CA. When the proposed development is therefore considered in terms of the relatively high concentration of A3 uses within that part of the High Street, it adds to the cumulative negative impact of such uses on the retail character of the CA".

P/98/0128 Provision of flats at first and second floor, new shop front and retaining wall
Granted planning permission subject to conditions on 29 May 1998

CONSULTATION

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

Planning Division's Policy Group Leader	Objects to the application as it fails to preserve or enhance the character or appearance of the conservation area and would be detrimental to the vitality and viability of the Town Centre
Planning Division's Ecologist	No objection subject to enhancements
Head of Engineering & Highways	No objection
Environmental Health Manager	No objection subject to conditions
Natural Resources Wales	No objection

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 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) must be taken into consideration. Relevant sections are identified below:

- Paragraphs 3.3 – 3.18 refer to good design and better places.
- Section 4.3 relates to retail and commercial development and paragraph 4.3.3 highlights that planning authorities should:
 - *"promote viable urban and rural retail and commercial centres as the most sustainable locations to live, work, shop, socialise and conduct business;*
 - *sustain and enhance retail and commercial centres' vibrancy, viability and attractiveness; and*
 - *improve access to, and within, retail and commercial centres by all modes of transport, prioritising walking, cycling and public transport"*.
- An emphasis is placed on creating viable and vibrant centres with paragraph 4.3.33 explaining that *"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"*. Specific reference to food and drink uses is made in paragraph 4.3.34 which states, *"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"*. It also notes that *"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"*.
- 4.3.36 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 6.1.14 – 6.1.17 relate to conservation areas. Paragraph 6.1.14 notes that *“There should be a general presumption in favour of the preservation or enhancement of the character or appearance of conservation areas or their settings. Positive management of conservation areas is necessary if their character or appearance are to be preserved or enhanced and their heritage value is to be fully realised”*. With paragraph 6.1.15 clarifying that *“There is a strong presumption against the granting of planning permission for developments, including advertisements, which damage the character or appearance of a conservation area or its setting to an unacceptable level”*.
- Paragraphs 6.6.22 – 6.6.29 refer to development and flood risk.

The following Technical Advice Notes are also relevant:

- TAN 4: Retail and Commercial Development
- TAN 12: Design
- TAN 15: Development and Flood Risk
- TAN 18: Transport
- 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
- SW11: Sustainable design and Placemaking
- SW12: Improving the Transport Network
- CW1: Historic Environment
- EnW1: Nature Conservation and Ecosystem Resilience
- EnW2: Internationally and Nationally Protected Sites and Species
- EnW4: Environmental Protection
- EcW3: Retail Hierarchy – Supporting Retailing Provision
- EcW5: Town and Local Centre Development

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.

Regard should also be given to:

- The Merthyr Tydfil Town Centre Conservation Area – Character Appraisal (June 2009) further states that preservation of the Conservation Area is a priority and identifies Listed Buildings, locally listed buildings and buildings that are considered to add positively to the character and appearance of the Conservation Area.
- The Merthyr Tydfil Town Centre Conservation Area - Character Appraisal states (page 50):

"Although once just as vibrant as the High Street area to the south, this is now a quieter area during the day time, with specialist shops. At night it becomes more vibrant with the opening of numerous hot food takeaways".

In addition, under the sub-heading 'Negative features and issues' (page 51) it notes:

"This area lacks the economic vitality of the High Street area to the south and, as a result, a number of small businesses are under considerable pressure".

Other Relevant Considerations

The Planning (Listed Buildings and Conservation Areas) Act (1990)

Paragraph 72 – (1) *"In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area"*

Welsh Office Circular 61/96: Planning the Historic Environment: Listed Buildings and Conservation Areas

Part 2 Paragraph 19 – *"Whilst listing procedures are focused on the protection of individual buildings, conservation area designation provides the basis for policies designed to preserve or enhance all the aspects of character or appearance that define an area's special interest"*.

Paragraph 30 – *"Many conservation areas include the commercial centres of towns and villages and generally there will need to be an emphasis on controlled and positive management of change, to allow the area to remain alive and prosperous"*.

PLANNING CONSIDERATIONS

The application site is located within the settlement limits and is within the town centre area where a mixture of commercial, retail and residential uses are present. It is also situated within the Town Centre Conservation Area and Urban Character Area (UCA) 1 (Town Centre: High Street and Pontmorlais). As such, Policy CW1 of the LDP is an important consideration. This policy states that proposals will only be permitted where they preserve or enhance the architectural quality, character or the historic or cultural importance of designated historic environment assets.

It is acknowledged that there are no external alterations proposed to the property. The agent has indicated that the takeaway would be used by King Kebab located next to the application site in 56 High Street and that the existing cooking facilities within the neighbouring property would be used, although the two buildings would remain separate. It is acknowledged that a flue could be required in the future should the property be taken over by another business/A3 use but this would require planning permission and its acceptability would then be considered. Nevertheless whilst it is acknowledged that a flue is often an unattractive addition to a property, it is recognised that there are a number of flues in the rear street scene (including a large flue on the property to the north and one serving the property to the south) and as such it may be possible to provide a flue which would not appear out of place or adversely impact on the character or appearance of the

rear streetscene, which has already been degraded by such additions and which would not harm the character of the conservation area and UCA 1.

The front of the property adjoins the main commercial high street of Pontmorlais and in the appeal decision referred to above, the inspector noted that the *“essential character of this part of the CA, notwithstanding that a number of properties are vacant, is the diversity of visual activity at ground floor level associated with a High Street of small scale mainly retail uses.* However, the High Street in Pontmorlais is proliferated with hot food takeaways which are eroding the retail character of the area and the mixture of uses that it provides. Indeed, the application site is flanked on both sides by other A3 takeaway uses (a kebab shop to the north and a Chinese takeaway to the south). The increasing number of A3 takeaways in a relatively small area is slowly eroding the historic character of this part of the town centre and thus this proposal would neither preserve nor enhance the conservation area.

Furthermore, it is noted that takeaways uses generally close during the day time and open late in the afternoon until the early hours of the morning. Whilst it is recognised that the application forms states that the proposed use would operate between the hours of 9am and 1am. This cannot not controlled and thus the possibility must be considered that it could (like other similar uses) close during the day and only operate in the evenings. As a result of their use a number of units within the immediate vicinity are closed during normal (day time) trading hours and secured with roller shutters. Accordingly, they do not present any active frontage and provide no positive contribution to the vitality or attractiveness of the street during the majority of the day. Approval of this application would result in an existing retail unit being replaced by a further hot food takeaway which could remain closed during the day and if so would in all likelihood have the existing roller shutter closed, obscuring the shopfront to pedestrians. The increasing number of takeaway uses in a relatively small area is again impacting on the historic character of the area with the concern being that it is gradually changing the character of the conservation area from a retail area with a daytime economy to an area which is only 'open' in the late evening/night (i.e. a night time economy).

The premises also lies within the town centre boundary (but outside the primary shopping area). LDP Policy EcW3 relates to retail hierarchy and states that Merthyr Tydfil Town Centre is the favoured location for retail and other complementary uses where they improve the vitality and viability of the town centre while Policy EcW5 supports development that enhances the vitality and viability of the Town Centre. Whilst an A3 use is generally deemed to be a complementary use, in this instance, the continued unrestricted approval of A3 uses would have a detrimental impact on the viability, vitality, attractiveness and visual amenities of the area.

As outlined above the area currently contains a number of similar A3 takeaways which remain closed during the day and open in the evening. Many of these units have roller shutter doors which are then closed to secure the property during normal trading hours (i.e. 9.00am to 5.00pm). As a result, they present inactive frontages to the main commercial high street of Pontmorlais. This has an adverse impact on the appearance and visual amenities of the area and also its daytime vibrancy and vitality. All these factors are essential elements that make up the overall character and appearance of the conservation area. It is important to consider the cumulative effect of another takeaway uses on the long term sustainability of the area and the existing businesses. The conversion of the retail unit into a takeaway, which could be closed and inactive during the daytime, further limits the variety of services and goods that the area has to offer. Without

a mixture of uses and an attractive engaging environment, daytime visitors are less likely to be drawn to the area, reducing passing trade and footfall to other existing businesses and further adding to the decline in its vibrancy. For the area to remain sustainable it is essential that it offers a balance between takeaways and other uses to ensure people continue to have a reason to visit this part of the town centre during the day as well as the evening/night. As such, an area without a diversity of uses and which is dominated by inactive closed units will slowly become an unattractive daytime destination which would seriously erode its character and appearance. Whilst it is recognised that the property is currently vacant, and as such is closed with no active frontage, no evidence has been submitted to indicate that an A1 use is no longer viable and as such it is not considered that this outweighs the loss of an A1 unit and the approval of an additional takeaway.

When taking the above into account and considering the cumulative impact of another takeaway in the area, the proposal is deemed to be unacceptable. It would not preserve or enhance the character or appearance of the conservation area and thus would be contrary to LDP Policy CW1. In addition, The Planning (Listed Buildings and Conservation Areas) Act (1990) and Welsh Office Circular 61/96: Planning the Historic Environment: Listed Buildings and Conservation Areas which notability states:

"Many conservation areas include the commercial centres of towns and villages and generally there will need to be an emphasis on controlled and positive management of change, to allow the area to remain alive and prosperous" (para. 30).

In addition, it would further erode the diversity of uses in the area and harm the viability and vitality of the centre which would conflict with Policies EcW3 and EcW5 of the LDP.

It is noted that many of the properties in this area have business uses at ground floor level with residential uses above. Regard has also been had for the impact of the proposed change of use on the residential amenities of the surrounding occupants. In this respect it is noted that there are already a number of similar uses in the area which operate at similar times to those proposed in this application. It is not considered that approval of this use would significantly add to any existing noise and disturbance generated by the existing businesses in the area. A degree of late night activity is also to be expected when living within town centre areas.

It is recognised that this type of use can also generate odours and cooking smells which can be detrimental to the living conditions of surrounding residents. This can often be alleviated via a suitably designed extraction system. However, as indicated above, it is not the intention to cook food at this premises and as such a flue is not required. Should, this situation change, and cooking is undertaken at the property resulting in an odour nuisance this would be a matter for the Environmental Health Division. Furthermore, it is noted that planning permission would need to be sought for a flue and its acceptability would then be assessed in consultation with the Environmental Health Division.

The application site has off street parking for two vehicles and is located within walking distance of a pay and display car park (the entrance of which is just 13m to the north). In addition, there is on street parking along the highway to the front although there are time restrictions in place. Being a takeaway business, by its nature customers generally visit for a short period of time and thus there is not the requirement for any significant designated car parking. It is considered that the car park and on street parking provision is sufficient to meet the needs of this use without impinging on highway safety. In this

respect it is noted that the Head of Engineering Highways has not raised any concerns regarding highway safety, parking or delivery vehicles.

The application site lies partially within Zone C2 as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN 15) (July 2004). Natural Resources Wales' Flood Map for Planning (FMfP) identifies the application to be at risk of flooding and is within Flood Zone 2 and 3 (Rivers). However, given the nature of the proposal which relates to less vulnerable development NRW do not object to the application subject to the developer being made aware of the potential flood risks and advised to install flood-proofing measures as part of the development. This can be done via a suitably worded informative should the planning application be approved.

In conclusion, the introduction of an additional takeaway in the proposed location would result in significant harm being caused to the viability and vitality of the town centre and the character and appearance of the Town Centre Conservation Area. Therefore, the following recommendation is made.

RECOMMENDATION: BE REFUSED

REASONS:

1. The proposal, by virtue of the loss of a retail unit and subsequent introduction of an additional takeaway facility to the area, would not preserve or enhance the character or appearance of the Town Centre Conservation Area. As such, the proposal fails to comply with Policy CW1 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.
2. The proposal, by virtue of the loss of a retail unit and subsequent introduction of an additional takeaway facility to the area, would result in further erosion of the diversity of uses in this area which would be detrimental to the vitality and viability of the Town Centre. As such, the proposal fails to comply with Policies EcW3 and EcW5 Merthyr Tydfil County Borough Council Replacement Local Development Plan.

RECOMMENDATION ENDORSED



Director of Neighbourhood Services

DATE:

24/1/2022