

DELEGATED REPORT

Application No:	P/23/0159
Site Address:	40 - 42 High Street Merthyr Tydfil CF47 8DE
Development:	Change of use from shop (A1) to cafe (A3) to include extension within central courtyard and outside seating at the rear. Provision of bin store within the central courtyard to serve first floor residents.
Case Officer:	Emma Watkins
Application Expiry Date:	10th August 2023
Consultation reply date expired:	11th July 2023

APPLICATION SITE

The application site comprises two buildings located within the Town Centre Conservation Area that are orientated back-to-back with a central courtyard area. The buildings are also linked together by an enclosed walkway at first floor. The three-storey building in the western part of the site accommodates a café and a vacant shop (subject of this application) at ground floor with residential above and has a key frontage onto the main pedestrianised high street. The building has a prominent position in the street scene due to its wide frontage and height, which is notably larger than the adjoining properties and is seen as a key building that contributes to the character of the Town Centre Conservation Area.

The smaller two storey building in the eastern part of the site was previously used as part of the former Howfield Bakery, which is in the process of being converted as per a previous recent planning application (see planning history). This building is of traditional stonework construction with brickwork detailing.

There is a rear service yard and previously a garage (which has now been demolished) which can be accessed from a rear road.

PROPOSED DEVELOPMENT

The proposed development is a change of use of the ground floor from A1 retail to A3 restaurant/bar/café with a single storey extension into the courtyard and an area of outside seating. A new bin store is proposed within the central core of the building to serve residents on the upper floors of the building.

PLANNING HISTORY

Relevant to this proposal are the two following planning applications:

P/19/0244 – Proposed refurbishment to create 12 flats and 7 self-contained serviced units (holiday lets), together with new shop front, third floor rear extension and associated bike shed and bin store. Change of use of shop to café/bar/restaurant (A3 use) and provision of ground floor storage area - Approved 16 December 2020.

P/23/0094 – Installation of new shop fronts – Approved 10 May 2023.

CONSULTATION

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

Head of Engineering and Highways	No objection
Environmental Health Manager	No objection, subject to conditions no follow up response to flue details
Dwr Cymru Welsh Water	No objection subject to conditions
Natural Resources Wales	No objection subject to advice

PUBLICITY

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

No letters of objection have been received.

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 considerations. Relevant sections are identified below:

- Paragraphs 3.3 – 3.18 refer to good design and better places.
- Creating sustainable development through reducing the reliance on car journeys and maximising opportunities for peoples to make more sustainable and healthy travel choice is emphasised throughout PPW. Paragraph 3.12 highlights that *“Good design is about avoiding the creation of car-based developments. It*

contributes to minimising the need to travel and reliance on the car, whilst maximising opportunities for people to make sustainable and healthy travel choices for their daily journeys. Achieving these objectives requires the selection of sites which can be made easily accessible by sustainable modes as well as incorporating appropriate, safe and sustainable links (including active travel networks) within and between developments using legal agreements where appropriate". Paragraph 4.1.1 reiterates this noting "The planning system should enable people to access jobs and services through shorter, more efficient and sustainable journeys, by walking, cycling and public transport. By influencing the location, scale, density, mix of uses and design of new development, the planning system can improve choice in transport and secure accessibility in a way which supports sustainable development, increases physical activity, improves health and helps to tackle the causes of climate change and airborne pollution". Similarly, Paragraph 4.1.37 notes that "Planning authorities must direct development to locations most accessible by public transport. They should ensure that development sites which are well served by public transport are used for travel intensive uses, such as housing, jobs, shopping, leisure and services". In respect to car parking paragraph 4.1.50 notes "Parking provision should be informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport".

- 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".* Paragraph 4.3.34 expands on this further and 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".* The introduction of residential use into centres is specifically referred to in paragraph 4.3.37 noting that *"Within a retail and commercial centre boundary change of use to residential may also be acceptable and help contribute to the viability and vibrancy of a centre. However, night-time noise considerations may be a limiting factor in some areas and residential use is unlikely to be suitable on the ground floor within primary areas or other places of concentrated A1 uses because it may fragment the shopping frontage and impact on the vibrancy and viability of a centre".*
- 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 (November 2016).
- TAN 12: Design (March 2016).
- TAN 15: Development and Flood Risk (July 2004).
- TAN 24: Historic Environment (May 2017).

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
- 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
- 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 2, Planning Obligations.
- Note 4, Sustainable Design.

PLANNING CONSIDERATIONS

Principle

The application site is a commercial unit located within the Town Centre Conservation Area and within Merthyr Tydfil Town Centre and the Primary Shopping Area (Policies CW1 and EcW5). The site is located within the Primary Growth Area and settlement boundary, where new development can be considered acceptable in principle (Policy SW4) subject to proposals being compatible with the Plan's other policies and all other material considerations.

Whilst the principle of the development is acceptable, it is also a material consideration that an extant planning permission (P/19/0244) exists for an A3 use in the currently vacant ground floor unit, albeit for a smaller area than is proposed.

Character and visual amenity

The application site is located within the Town Centre Conservation Area, the Urban Character Area 1 (Town Centre: High Street and Pontmorlais) and the Merthyr Tydfil Landscape of Outstanding Historic Interest. As such the design and visual impact of the development is an important consideration, with Policy CW1 highlighting that proposals will only be permitted where they would preserve or enhance designated historic environment assets.

The public viewpoints of the building, fronting High Street and backing on to the rear lane, have been upgraded because of the implementation of planning application P/19/0244 (the change of use to 12 no. flats and 7 no. holiday lets, A3 at ground floor) and application P/23/0094 (new shop fronts). In this respect the development proposed in this application does not change the appearance of the building at the front or back because of the layout of the building, two buildings separated by an internal courtyard. The proposed extension to the ground floor A3 use will be within the envelope of the existing building (previously shown as a ground floor storage area) and extending into the internal courtyard so in effect contained within the buildings of the application site. The rear outside seating area will be adjacent to the rear lane and enclosed by the existing wall.

The location of the proposed extension and external alterations leave the public façade of the building to the front and back unchanged. The minor changes proposed are of a suitable design and scale. As such the proposals are considered to preserve the character and appearance of the conservation area and visual amenity of the building and area in general.

Having regard to the above considerations, the proposal would accord with Policies SW11 and CW1 of the LDP.

Residential amenity

The application site is located within the town centre an area characterised by a mixture of commercial, leisure and residential uses. It is noted that in the immediate vicinity of the site there are already uses which would create a degree of noise and disturbance and that some of these uses operate later into the evening and night.

The upper floors of this building already benefit from planning permission for residential and holiday let use, coupled with the previous permission for a change of use of the ground floor from A1 to A3. The difference in the submitted application is that a larger A3 use is proposed, because of an extension at ground floor, re-purposing of an internal storage area and use of the outside area for additional seating in association with the A3 use. On the previous application the outside area had included amenity space for the flats / holiday let use on the upper floors.

Whilst it is acknowledged that there will be a degree of disturbance from the proposed A3 use, it is not considered that it would significantly or unacceptably add to the level of noise and disturbance that already exists in the town centre. Any residents of the flats / users of the holiday lets would occupy them in full knowledge of where they are located and that there is potential for noise and disturbance from the town centre uses. Furthermore this is a relationship that has been established by the implementation of a previous permission, the majority of the extension to the A3 use is contained within the existing building envelope with a small outside seating area. Whilst a licensing application does not form

part of the planning process, it is relevant to the proposal because it introduces controls to the A3 use in terms of restrictions on opening hours which further helps to control the use and potential for disturbance.

Environmental Health has been consulted on the application and has only recommended conditions in relation to the construction works with regards working hours, management of dust and site waste.

During the consideration of the application a request was made to the agent to give an indication of the location of any required proposed external flue for the kitchen. Amended drawings were submitted to show a proposed location but no detailed information was provided. Environmental Health did not respond to requests for comments on the proposed level of detail provided. To not delay the application any further it is recommended that an appropriately worded condition is attached to ensure that such details are provided prior to the A3 use commencing. It is important for residential amenity that the flue does not cause a detrimental impact on amenity due to where and how it is attached to an outside wall and where the final extraction is located. Siting within the space between the two buildings is of course preferable to the impact on the building and the Town Centre Conservation Area.

The proposed change of use to an A3 use, along with the extension and outside seating area does not raise any significant concerns regarding amenity. In this regard and considering the lack of objections, the proposal is acceptable in terms of impact on amenity and accords with Policy SW11 of the LDP.

Parking and highway safety

The Head of Engineering and Highways has reviewed the application and acknowledges that the existing retail shop has no off-street parking provision and that there is none proposed to serve the proposed change of use to a café. Given the town centre location of the proposal with public car parks and public transport available within easy walking distance, and the presence of extensive on-street parking control on the public highway within the vicinity, the lack of off-street parking provision does not warrant a highway objection. There are no concerns with regards to access to the property. Existing access to the front and rear remain largely unchanged, but with new bin stores created to be accessed from the rear.

The proposal therefore complies with Policies SW11 and SW12 of the LDP and PPW.

Flood risk

NRW Flood Risk Map confirms the application site lies partially within Zone C2 of the Development Advice Maps (DAM) as contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The Flood Map for Planning identifies the application site to be at risk of flooding and falls into Flood Zone 2 and 3 (Rivers).

NRW was consulted on the application and stated that given the scale and nature of the proposed development, which is a change of use from less vulnerable to less vulnerable development, they consider the proposals could be acceptable, subject to the developer being made aware of the potential flood risks and advised to install flood-proofing measures as part of the development. The application has been accompanied by an FCA

(no author or date) which identifies mitigation and an escape route from the building in the event of flooding.

An informative will be added to refer the developer to the comments received from NRW.

Planning Obligations

Policy SW9 considers the requirement for planning obligations. Given the nature of the development, no planning obligations are relevant, and Community Infrastructure Levy (CIL) would not be chargeable.

Conclusion

The proposed development, for the reasons discussed above, is considered acceptable and would accord with the relevant policies of the replacement adopted LDP.

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:**

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:

- Location Plan - Drawing 933.1 (received 15.06.23)
- Proposed Ground Floor Plan - Drawing 933.3 (received 15.06.23)
- Proposed Elevations / Elevation G - Drawing 625.009D (received 15.06.23)
- Proposed Side Elevation - Drawing 933.4C (received 15.08.23)
- Proposed Front Elevation - Drawing 933.6 (received 15.08.23)
- Proposed Roof Plan - Drawing 933.8C (received 15.08.23)
- Proposed Elevations / Section C - Drawing 933.9C (received 15.08.23)
- Proposed Elevations / Section F - Drawing 933.10 (received 15.08.23)

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

3. **The approved use shall not commence until** the equipment to control the emission of fumes and odour from the premises has been fitted in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. 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 Replacement Local Development Plan.

4. **The approved use shall not commence until** an adequate grease trap has been fitted in accordance with details that have been submitted to and approved in writing by the local planning authority. Thereafter the grease trap shall be maintained so as to prevent grease entering the public sewerage system.

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

5. The cafe/bar/restaurant as shown on drawing 933.3 (received 15.06.23) hereby approved, shall only be used as a cafe/bar/restaurant and for no other purpose in Class A3 of the schedule to The Town and Country Planning (Use Classes) Order 1987 (as amended), nor in any provision equivalent to the Class in any statutory instrument revoking and re-enacting the Order.

Reason - To clearly define the scope of this permission in the interest of protecting the viability and vitality of the Town Centre and to preserve and enhance the character of the Town Centre Conservation Area, in accordance with policies EcW3 and CW1 of the Merthyr Tydfil Replacement Local Development Plan.

6. 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.

7. Demolition or construction works shall not take place outside the hours of 08:00 to 18:00 Mondays to Fridays and 09:00 to 14:00 on Saturdays and at no time on Sundays or Public Holidays.

Reason - To In the interests of local amenity and to avoid statutory nuisance.

INFORMATIVES

1. Refer to consultation response letter from DCWW dated 23.06.23 for further information regarding SUDs and water supply.
2. Refer to consultation response letter from NRW dated 22.06.23 for further information on Flood Risk and other permits/consents/licenses.

RECOMMENDATION ENDORSED

DATE: 14.09.2023


Director of Neighbourhood Services
