

# DELEGATED REPORT

|                                         |                                                                                             |
|-----------------------------------------|---------------------------------------------------------------------------------------------|
| <b>Application No:</b>                  | <b>P/24/0223</b>                                                                            |
| <b>Site Address:</b>                    | <b>96 High Street<br/>Merthyr Tydfil<br/>CF47 8UD</b>                                       |
| <b>Development:</b>                     | <b>Change of use from Retail Shop (A1) to<br/>Restaurant (A3 use class) on ground floor</b> |
| <b>Case Officer:</b>                    | <b>Kate Glover</b>                                                                          |
| <b>Site Visit:</b>                      | <b>17th October 2024</b>                                                                    |
| <b>Application Expiry Date:</b>         | <b>20th November 2024</b>                                                                   |
| <b>Consultation reply date expired:</b> | <b>7th November 2024</b>                                                                    |

## APPLICATION SITE

The application site relates to the ground floor of a two storey terraced premises at 96 High Street, which is sited within the Merthyr Tydfil town centre. The premises has recently been refurbished and is finished with rendered elevations and dark grey/black window and door frames. The roof of the premises is flat. The primary facade comprises large areas of glazed windows and the entrance door fronts on to the High Street.

At ground floor level is a shop (A1 use class) and following the grant of planning permission reference P/22/0111 (listed below), the first floor appears to have been converted to 4 residential flats.

The rear of the building faces Castle Yard and it is from this Lane that access is provided to the first floor residential flats.

## 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 10 employees (8 full time and 2 part time).

The plans indicated that the proposal would not require any alterations to the exterior of the building to accommodate the use of the premises as a restaurant. It is noted that a small rear yard is not included within the red line of development and the submitted plans label an area within the yard as a residential bin store. Access to the residential bin store is from rear boundary on Castle Yard and the proposal does not include any changes to this access point.

## PLANNING HISTORY

The following planning history is relevant to this application site:

P/22/0111 Conversion of ground floor from 1 retail unit to 2 A1 units and first floor to 4 flats. Proposal to include various external refurbishment works to building, including new shop fronts, new windows and the rebuilding of a rear extension  
GRANTED 29 Jun 2022

Other relevant planning history relevant to this planning application:

P/24/0205 Change of use of ground floor from shop (A1 use class) to restaurant (A3 use class) to include the installation of a flue at 111 High Street  
GRANTED 01 Oct 2024

## CONSULTATION

|                                    |              |
|------------------------------------|--------------|
| Policy Officer                     | No objection |
| Environmental Health Manager       | No objection |
| Natural Resources Wales (NRW)      | No objection |
| South Wales Fire & Rescue Services | No objection |
| South Wales Police                 | No objection |

## PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012, nearby properties were consulted and site notices 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) (Future Wales) 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

Future Wales the National Plan 2040

Planning Policy Wales (Edition 12, February 2024) (PPW12).

## Local Planning Policies

The Merthyr Tydfil County Borough Council Replacement Local Development Plan (LDP) 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

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, July 2013

Note 5 – Nature and Conservation, May 2015

## PLANNING CONSIDERATIONS

The main 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. The potential 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 and Character and Appearance

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 is located within the town centre boundary but is located outside the primary shopping area where A1 uses are protected. The premises is also located within the Town Centre Conservation Area (Conservation Area).

In this instance, the loss of the retail use and its replacement with an A3 use would not have a significant impact on the vibrancy and viability of the town centre and Conservation Area. The occupation of this premises by a restaurant would provide an active frontage and prevent the building from falling into disrepair in the long-term and otherwise result in 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 Planning Policy Officer has noted that there are a number of takeaway outlets operating close to the location of the proposal and has recommended that a condition is imposed on any planning permission granted, to ensure that premises operates as a restaurant rather than a takeaway outlet. It is noted that planning application P/24/0205,

which is listed above, was granted consent with the imposition of the suggested condition. It is reasonable to impose such a condition to ensure that the proposal contributes to a vibrant and active frontage in the town centre and Conservation Area thereby avoiding an incremental spread of takeaway outlets which typically close during the day.

The proposed development would therefore accord with Policies EcW3 and EcW5.

The application site also lies within Zone C2 of the Development Advice Map contained in TAN 15 and within Flood Zones 2 and 3 - 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 and NRW have not objected to the proposed development.

The proposed development would therefore accord with Policy EcW4.

The proposed development relates only to internal alterations and no external works are proposed to the building. It is therefore considered that the proposed restaurant would not detract from the character or appearance of the premises or the Conservation Area.

The proposed development would therefore accord with Policies SW11 and CW1.

### Residential Amenity

Given the nature of the proposed use, its hours of operation, and its siting below and 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. Barcode, The Vulcan and a number of takeaways). These businesses 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.

Due to its scale and nature, the proposal would not represent development that would be noisy, odorous or dusty. The Environmental Health Manager has not raised any objections to the proposal and recommends that conditions controlling the times during which construction works can take place when converting the retail outlet to a restaurant.

A note can be included on any planning permission to remind the applicant of their duties in respect of the future residential occupants and potential public nuisance caused by ventilation system(s) (odour and noise).

The proposed development would therefore accord with Policy SW11.

### 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 should be sought.

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 for internal alterations to facilitate the change of use of the ground floor of a town centre building, the submission of a GIS is deemed to be disproportionate and unreasonable. Further to this the provision of biodiversity enhancement would be impractical.

The proposed development does not impact on any biodiversity and accords with Policy EnW1.

#### Parking and Highway Safety

The proposed development would not be served with on-site parking. However, 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 100 metres of the application site.

The proposed development would therefore accord with Policy SW11.

#### CONCLUSION

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.

Having regard to the policy context above, the proposal is considered to be acceptable and 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 plan:

Drawing Title: Proposed Ground Floor Plan, Drawing Number 5326 -112, Revision CP, Received on 26 September 2024.

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

3. 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 ensure that the noise emitted/activities are not a source of nuisance to occupants of nearby properties in accordance with Policies SW11 and EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

## INFORMATIVES

1. The developer/applicant should note that this application does not give permission of the erection of any external flue. If any external flue is required in association with the proposed restaurant use, a separate application for planning permission will need to be submitted to the local planning authority.
2. The applicant's attention is drawn to the comments received to this application from Natural Resources Wales.
3. 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.

4. 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: 18.11.2024**

