

DELEGATED REPORT

Application No:	P/24/0150
Site Address:	104 Bar 104 High Street Merthyr Tydfil CF47 8AP
Development:	Change of use of first, second and third floor bar/restaurant to four new flats with access from street level
Case Officer:	Kate Glover
Site Visit:	5th July 2024
Application Expiry Date:	20th August 2024
Consultation reply date expired:	26th July 2024

APPLICATION SITE

The application relates to a premises which comprises four storeys and a basement. The premises is located within a terrace of properties on the High Street and within Merthyr Tydfil Town Centre.

The premises has an attractive façade which includes detailed carved stone decoration and an ornate pediment. Above ground floor level the façade windows include attractive stone transoms and mullions. These windows have been blocked up from the outside and with what appear to be painted wooden panels.

The character and appearance of the rear elevation is functional and comprises of flat roofs and fenestration of various sizes.

The premises looks over the High Street and at the rear is rear access road and a large pavement.

Opposite the premises on the High Street side is the Statue & Plinth to Henry Seymour Berry and Carnegie Library and to the south east is the St David's Church. All these buildings are Grade II Listed Buildings. To the north east of the premises is the Former County Court and Town Hall, and these buildings are Grade II and Grade II* Listed Buildings respectively.

The premises is within the core of the town centre and the area is characterised by a mixture of uses including retail, commercial and residential.

The application site lies within the settlement boundary – Primary Growth Area, Town Centre boundary and within the Town Centre Conservation Area. It also within a C2 Flood Zone.

PROPOSED DEVELOPMENT

Full planning permission is sought to change the use of the first, second and third floors of the premises from a pub/restaurant (A3 Use Class) to four flats (C3 Use Class). Access to the flats will be provided at the rear of the premises. The proposal also includes a ground floor level bin store for the flat's occupants.

Internally, the ground floor of the building would continue to be used as a pub/restaurant. The basement would remain untouched by the proposal.

The first floor of the premises would be converted to two, one bedroom flats, with one flat located at the front of the premises and the other at the rear. Two, two bedroomed maisonettes are also proposed. One maisonette would be created by converting areas of the first and second floors. Another maisonette would be created by converting part of the second floor and all the third floor.

Part of the first floor of the premises will provide a storage area for all occupants and an internal open courtyard will be created. The applicant has confirmed that internal open courtyard would not be accessible to the public or occupants of the proposal.

The applicant has confirmed that no works to the roof or roofspace are required as part of the proposal.

Windows to serve the two first floor flats would look into the internal courtyard. One window would serve the kitchen/dining room of one flat, and the other window would serve the kitchen/living room of the other flat. The windows are slightly off-set from each other and the distance between these windows would be approximately 4.6m.

Externally there would be several alterations to facilitate the conversion. The blocked windows in the façade will be reinstated/reopened. At the rear of the premises the existing windows/openings will be altered and three new windows would be provided at first and second floor level. There are currently French doors at third floor level, and these will be altered to provide windows rather than doors.

Access to the flats would be at the rear of the property.

PLANNING HISTORY

The relevant planning history is summarised below:

P/02/0294 - Change of use of property to A3 fast-food outlet, new shopfront and alterations to rear entrance
GRANTED 04 Oct 2002

P/06/0055 - Variation of condition 2 of consent ref: P/02/0294 - to allow opening hours as follows:- Mon-Tues-Thurs 12.00 p.m. - 1.00 a.m., Wed-Fri-Sat 12.00 p.m. - 3.00 a.m., Sun 12.00 p.m. - 2.00 a.m.
GRANTED 21 Mar 2006

P/01/0041 - Bar and Restaurant (above Chicken Land and Sony Mobile Group) including new entrance and staircase.
GRANTED 01 Aug 2001

P/03/0399 - Amendment to planning consent Ref: P/01/0041 for creation of additional balcony/dining areas to rear and provision of additional office storage space (internal) Retrospective Application.
GRANTED 29 Oct 2003

CONSULTATION

Head of Engineering and Highways	– No objection
Planning Policy Officer	– No objection
Environmental Health Manager	– No objection
Natural Resources Wales	– No objection

PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to adjoining properties and two site notice was displayed at the front and rear of the site.

No letters of objection 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 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.

In addition, the following Technical Advice Notes are relevant:

- TAN 15: Development and Flood Risk
- TAN 18: Transport
- TAN 12: Design
- TAN 24: The 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:

- SW1: Provision of New Homes
- SW2: Affordable Housing
- SW3: Sustainably Distributing New Homes
- 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 1, Affordable Housing.
- Note 2, Planning Obligations.
- Note 4, Sustainable Design.
- Note 5, Nature and Development.

PLANNING CONSIDERATIONS

The issues to consider under the assessment of this application are the principle of development, impact on the character and appearance of the premises and wider area, residential amenity, ecology, parking provision and highway safety, flood risk and planning obligations.

Principle of Development

The premises lies within the settlement boundary - Primary Growth Area. LDP Policy SW4 states that new development in this location is considered acceptable in principle, provided it is compatible with other relevant LDP Policies and material planning considerations. The premises is also within the town centre boundary. The premises lies outside the primary shopping area where a change of use from A1 uses to other uses is generally resisted unless they can meet the criteria set out under LDP Policy EcW5.

This proposal seeks to change an A3 Use Class to a C3 Use Class and LDP Policies EcW3 and EcW5 are therefore relevant. 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. LDP Policy EcW5 supports development that enhances the vitality and viability of the Town Centre.

It is noted that the proposal affects only the upper floors of the premises and the existing A3 use will be retained at ground and basement level. As such the proposal is appropriately located within a sustainable location and would not be detrimental to the vitality, attractiveness and viability of the Town Centre.

It is considered that the proposal meets with the requirements of LDP Policies SW4, EcW3 and EcW5.

Character and Appearance

The proposed change of use would result in external alterations to the principal façade and rear elevation of the premises.

Officers note the attractive character of the premises, the transom and mullion windows, its location in the Conservation Area and close proximity to a number of Listed Buildings. It is considered that the opening of the façade windows would be beneficial to the property and its contribution to the wider Conservation Area.

It is noted that the application is not supported with any details on the works to reinstate/reopen the façade windows. It is considered reasonable to ensure the proposed works and any replacement windows are controlled to ensure the transoms and mullions are protected during the works and the design and materials for any replacement window frame is appropriate.

Turning to the fenestration of the rear elevation, the proposed alterations to the existing openings and insertion of additional windows would not detrimentally affect the character and appearance of the premises.

In summary, it is considered that the proposed development would not cause an adverse impact upon the appearance of the premises, the character of the street scene or the Town Centre Conservation Area.

It is considered that the proposal meets with the requirements of LDP Policies SW11 and CW1.

Residential Amenity

The premises adjoins two other premises, the property to the north currently operates as a public house and the property to the south operates as a takeaway at ground floor level.

Whilst the surrounding uses, due to their associated noise and disturbance, could potentially impact upon the amenities of the future occupiers of the proposed flats, it should be noted that there are other nearby residential first floor flats surrounded by a number of commercial uses. Officers consider that a variety of such uses, including residential development, is characterful of town centre locations. As such, the proposed change of use to provide flats in this location, would not be considered to adversely impact upon the privacy or amenities of nearby residential or commercial occupiers, nor would the

surrounding commercial uses be deemed significantly harmful to the future occupiers of these flats.

In terms of the proposed alterations to the premises, the use of the proposed internal courtyard would need to be controlled as any persons using this area would be in close proximity of the windows that serve living areas associated with the two first floor flats. Consideration has been given to the potential for overlooking between flats caused by the close relationship of the windows that would overlook the open space. It is considered that both these matters can be addressed by suitably worded conditions.

It is considered that due to its scale and nature, the proposal would not represent development that would be noisy, odorous or dusty. The Environmental Health Manager (EHM) has advised a note is 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).

It is considered that the proposal meets with the requirements of LDP Policies SW11 and EnW4.

Ecology

The Planning Ecologist has suggested that a Preliminary Bat Roost Assessment (PRA) should be undertaken. It is noted that no works to the roof are proposed, and the third floor flat will not require additional work to the spaces directly under the roofs. It is considered in this instance, given the nature of the proposed works a PRA would not be proportionate or necessary. Instead, it is considered that a suitably worded informative should be attached to any consent informing the applicants of their responsibility when undertaking works in relation to European Protected Species.

As noted in Chapter 6 of Planning Policy Wales (edition 12), applications should be supported by Green Infrastructure Statements (GIS). Likewise, given the nature of development, this would not be deemed a reasonable requirement in this instance. Notwithstanding this, ecological enhancements would be requested and controlled by condition, which would provide additional habitats in the local area, and therefore contribute to the wider green infrastructure objectives.

The Local Planning Authority has a duty to take action towards securing the maintenance and enhancement of ecology and to provide a net benefit in relation to biodiversity, as no enhancement has been proposed it is considered necessary to attach a condition that a suitable enhancement will be submitted to the LPA for approval prior to the commencement of development.

It is considered that the proposal meets with the requirements of LDP Policy EnW1.

Parking and Highway Safety

The proposed development would not be served with on-site parking provision. The Engineering and Highways Manager has not raised an objection to this proposal and requests that the proposal incorporates a cycle stand for two spaces is provided within the site.

It is noted that the application property occupies a prominent position within a sustainable town centre location, near a variety of facilities and in close proximity to bus stops and a train station.

Officers also note the constrained nature of the site and there would not be sufficient space to site a cycle stand. It is considered that a cycle stand would not be necessary in this instance given the close proximity to facilities and public transport provision.

It is considered that the proposal meets with the requirements of LDP Policy SW11.

Flood Risk

The site is located within a C2 Flood Zone as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) and the Flood Map for Planning identifies the application site to be at risk of flooding and falling within Flood Zone 2 Rivers.

TAN15 states that highly vulnerable development should not be considered or permitted in C2 flood zones. Natural Resources Wales (NRW) advise that the proposed residential accommodation (highly vulnerable development) would be elevated above the flood risk and there is no change in the vulnerability at ground floor level. NRW have therefore not objected to this application subject to the developer being made aware of the potential flood risks. This can be done through a suitably worded informative.

In addition, the proposal would help to improve the vitality and viability of the town centre by bringing the first floor and second floors of the building into full beneficial use. The proposal is therefore found to be acceptable in this respect.

Planning Obligations

LDP Policy SW9 considers the requirement for planning obligations and affordable housing respectively. Given that the proposal is for four flats, on-site affordable housing provision, open space, or any other financial contribution towards affordable housing would not be required.

Conclusion

It is considered that the proposed development is acceptable in this location and would not adversely impact upon the character or appearance of the conservation area, residential amenity, ecology, or highway safety. The proposal would therefore comply with the relevant LDP policies.

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 plans:

Drawing Title: Proposed Site Plan, Drawing Number: 1007.10 Rev. A, Received on 26 June 2024

Drawing Title: Proposed Ground and First Floor, Drawing Number: 1007.05 Rev. B, Received on 26 June 2024

Drawing Title: Proposed Second and Third Floor, Drawing Number: 1007.06 Rev. B, Received on 26 June 2024

Drawing Title: Proposed Section A-A, Drawing Number: 1007.07 Rev. B, Received on 26 June 2024

Drawing Title: Proposed Section B-B and C-C, Drawing Number: 1007.09 Rev. B, Received on 26 June 2024

Drawing Title: Proposed Elevations, Drawing Number: 1007.08 Rev. B, Received on 26 June 2024

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

3. **BEFORE WORKS COMMENCE ON SITE** full details of top hung casement windows to be provided in proposed internal courtyard shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the design and opening function of the window frames. The details of the window's glazing shall be to opaque Level 5. The development shall be carried out in accordance with the approved details and maintained as such for the lifetime of the development.

Reason - To ensure that a level of privacy commensurate with the residential use of the development is achieved in accordance with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

4. **BEFORE WORKS COMMENCE ON SITE** a method statement for the opening up of the windows in the principal elevation (facing the High Street) shall be submitted to and approved by in writing by the local planning authority. The method statement shall set out the method to remove the window coverings, works to restore the windows to working order, details of the design and materials for any replacement window/window frame and measures to be taken to secure and protect the stone

mullion and transoms from accidental loss or damage. The works shall thereafter be carried out in accordance with the approved method statement.

Reason - To ensure the development retains the architectural details and maintains its contribution to the Merthyr Town Conservation Area in accordance with Policies SW11 and CW1 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

5. **BEFORE WORKS COMMENCE ON SITE** a scheme for biodiversity enhancement, including a timescale for implementation, shall be submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained in perpetuity thereafter.

Reason - Future Wales and Planning Policy Wales (Edition 12, February 2024) requires all development to maintain and enhance biodiversity and to accord with Policy EnW1 of the Merthyr Tydfil Replacement Local Development Plan.

6. At no time shall the internal courtyard shown on approved plan 'Proposed Site Plan, Drawing Number: 1007.10 Rev. A', Received on 26 June 2024, shall be used as a space ancillary to the residential use of the property or for the enjoyment of any other person(s). Access to the internal courtyard shall be only for reasons of maintenance.

Reason - To ensure that a level of privacy commensurate with the residential use of the development is achieved in accordance with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

INFORMATIVES

1. 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.

2. 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.

3. The application site is located within a defined flood risk area. The developer/applicant is advised to review the comments/advice received from Natural Resources Wales (NRW) during the application process.
4. It is noted that the ground floor and below will continue to be used as a bar and restaurant. The applicant shall ensure that any extraction/ventilation system does not cause a public nuisance.

RECOMMENDATION ENDORSED

p.p.



Director of Neighbourhood Services

DATE: 13th August 2024