

PLANNING & DEVELOPMENT COMMITTEE

5 APRIL 2018

REPORT OF THE SERVICE DIRECTOR, PLANNING

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 18/0035/10 (LJH)
APPLICANT: Mr Thomas
DEVELOPMENT: Proposed Change of Use from A1 Shop to A3
Takeaway.
LOCATION: SHOP 2 CURVES, VICTORIA BUILDINGS, BERW
ROAD, TONYPANDY, CF40 2HD
DATE REGISTERED: 16/01/2018
ELECTORAL DIVISION: Llwynypia

RECOMMENDATION: GRANT

REASONS:

The principle of the change of use is acceptable and it is not considered that the proposed use would have a significant impact upon the amenity of the neighbouring properties or highway safety in the vicinity of the site.

APPLICATION DETAILS

Full planning permission is sought for the change of use of Shop 2 Curves, Victoria Buildings, Berw Road, Tonypany from a retail store (A1) to a takeaway (A3).

The applicant has indicated that the premise would be open to members of the public between the hours of 11am to 11pm Monday to Saturday and 12pm to 7pm on Sundays.

No details of any proposed extraction equipment have been submitted with the application however, this could be required through a planning condition attached to any permission granted.

SITE APPRAISAL

The application property is a two storey commercial building located just off the main high street through Tonypany town centre. It was previously occupied by a retail store but has been vacant since 2017. The property benefits from a semi-glazed shop front at ground floor level (the 'Christmas Shop' is sited at first floor level). Being in a town centre location there are a variety of differing uses within the vicinity of the site, including a number of similar Class A3 takeaway uses to that proposed.

PLANNING HISTORY

No previous planning applications have been submitted at the site within the last 10 years.

PUBLICITY

The application has been advertised by means of direct neighbour notification and site notices. Thirteen (13) letters of objection have been received from neighbouring properties, making the following representations (summarised):

- The proposed development will not afford adequate privacy for us in our home, particularly with regard to our right to the quiet enjoyment of garden amenities.
- The proposed development will have a dominating impact on us and our right to the quiet enjoyment of our property.
- The proposed development does not provide adequate sufficient parking space to meet the requirements of the proposed change of use. There are no parking spaces attached to the property and there are double yellow lines outside the property. There is already intense on-street parking pressure and illegal parking, the proposed change of use will create an additional burden on the area.
- It is unrealistic to propose that the business could use the public car park opposite as an individual visiting the business would not park and walk. No person would wait 20 to 30 minutes for a parking space to become available as the car park is always full and is for the benefit of all not for the benefit of one business.
- There is no area for deliveries which would need to accommodate large lorries and there is no safe area for turning.
- The proposed change of use would have a severe and detrimental impact on highway safety; the property is on a main bus route with buses turning out of the bus station near a busy junction. Additional traffic in this area would cause a hazard to the free flow of traffic and additional parking in the area would cause a pedestrian safety and traffic hazard.
- There will be increased levels of noise nuisance and anti-social behaviour; people use Ayton Terrace as a walk through from Pandy Square.
- There would be smells and air pollution generated from the business from storage of food waste and disposal of waste and refuse.
- There is already an oversubscription of A3 business within Tonypandy town centre and to promote effective regeneration of our town we need diversity of business, more to attract people to the town not more of the same.
- An A3 development in this location would not support the needs of the local community; we have no needs for further A3 developments. It could also have a detrimental effect on existing businesses and cause more closure of shops.
- A takeaway in close proximity would make it a lot more difficult to sell our properties.

CONSULTATION

Transportation Section – no objection is raised or conditions suggested.

Public Health and Protection – no objection, subject to conditions.

Welsh Water – no objection, subject to conditions and advisory notes.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The application site lies within the settlement boundary for Tonypandy and is within the Tonypandy Retail Centre.

Policy CS1 – sets out the criteria for development in the Northern Strategy Area.

Policy AW2 – states that development on non-allocated sites will only be supported in sustainable locations.

Policy AW5 – sets out criteria for new development in relation to amenity and accessibility.

Policy AW6 – requires development to involve a high quality design and to make a positive contribution to place making, including landscaping.

Policy AW10 – does not permit proposals where they would cause or result in a risk of unacceptable harm to health and/or local amenity.

Policy AW11 - requires at least 12 months marketing of a retail unit in a retail centre where it is proposed to no longer be used for retail purposes.

Policy NSA2 - gives criteria for commercial development in the key settlement of Tonypandy.

Policy NSA18 - states that proposals for Class A uses in the retail centres will be permitted if they maintain or enhance the centre's position in the defined hierarchy of retail centres. **Policy NSA 19** - states that in the retail centre of Tonypandy, class A3 uses will be permitted.

Supplementary Planning Guidance

- Design and Placemaking;
- Design in Town Centres;
- Access, Circulation and Parking Requirements.

National Guidance

In the determination of planning applications regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan, particularly where National Planning Policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales Chapter 2 (Development Plans), Chapter 3 (Making and Enforcing Planning Decisions), Chapter 4 (Planning for Sustainability), Chapter 7 (Economic Development), Chapter 8 (Transport) and Chapter 10 (Planning for Retail and Town Centres) set out the Welsh Government's policy on planning issues relevant to the determination of the application.

Other relevant policy guidance consulted:

PPW Technical Advice Note 4: Retailing and Town Centres;
PPW Technical Advice Note 12: Design;
PPW Technical Advice Note 18: Transport;
PPW Technical Advice Note 23: Economic Development.

REASONS FOR REACHING THE RECOMMENDATION

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

Principle of the Proposed Development

This application seeks the change of use of an existing commercial premise within the retail centre of Tonypany from a retail store (A1) to a takeaway (A3). The applicant is seeking a change of use as the unit is presently vacant and thus presents an opportunity to bring a unit back into effective use and attract further custom to this end of the town centre.

Policy NSA18 permits proposals for retail uses (Class A) inside the defined boundaries of retail centres providing the use maintains or enhances the centre's position in the retail hierarchy. As Tonypany currently has a vacancy rate of 16.4%, it is considered that the change from A1 to A3 would not have a detrimental impact upon the retail offer or the centre itself and indeed has the potential to attract footfall to this part of the town. Therefore it is not considered that the proposal would affect the centre's position in the retail hierarchy and would bring a vacant unit back into beneficial use.

Policy NSA18 recognises that A2 and A3 uses add to the vitality of a town centre by attracting customers and increasing footfall. It does however aim to avoid an over-concentration of such uses as they inevitably detract from the established retail character of the area. The policy seeks to create a sufficient day and evening economy but states that A3 uses, such as hot food takeaways (which are generally closed during the day), make a rather limited contribution to the town and create areas of day-time inactivity in the retail frontage. In this instance the applicant seeks opening hours of 11am – 11pm Monday to Saturday and 12pm – 7pm on Sundays, therefore it is considered that this proposal complies with the requirements of Policy NSA18 in adding to a vibrant day and evening economy and is consequently acceptable in principle.

In terms of proliferation, there does not appear to be an issue in this part of the town centre. There are currently three A3 uses in the immediate vicinity, with a further five along De Winton Street. The percentage of A3 uses within the town centre as a

whole is 12.5% (19 units of 152). The policy makes a case for allowing A class use applications that add vibrancy and viability to the town centre. As such, even with the number of A3 uses present along the frontages mentioned, it is considered that it would be more appropriate to encourage this type of use than to have an additional vacant unit and thus potential decline.

Therefore, whilst the comments raised by the objectors are noted, it is not considered the proposed change of use would lead to an overconcentration of A3 uses in the town, and it would in fact make a valuable contribution to the local area, complying with the objectives of Policy CS1 which seeks to promote sustainable growth within the Northern Strategy Area, particularly by reusing vacant and under used buildings.

It is also noted that the property is located within a sustainable location being well served by public transport. Medium and high frequency bus services run through the area in addition to the bus station being situated within easy walking distance of the property in the heart of the town centre. As such it is considered that the proposal is also compliant with the requirements of Policy AW2.

It is therefore considered that the change of use would be compliant with the relevant policies set out in both the Rhondda Cynon Taf Local Development Plan and Planning Policy Wales and the development is acceptable, in principle, subject to an assessment of the criteria set out below.

Visual Impact

The application site is situated just off the main shopping street through Tonypany town centre. As a result of the buildings siting and the lack of proposed alterations it is not considered that the change of use would form a visible feature in the street scene.

Residential Amenity

The proposal will utilise an existing commercial unit that is located within a cluster of commercial properties in the retail centre of the town. As such, the majority of surrounding properties are commercial in nature. It is therefore considered that any potential impact in respect of amenity would mainly occur upon business premises. Consequently it is not considered there would be a significant impact in this respect.

It is however acknowledged that there are also residential properties in close proximity and there will inevitably be a degree of impact upon the amenity of the occupiers of these properties given the fact that the premise will be open late in to the evening. However, the neighbouring residential properties, mainly being 30, 31 and 31a Berw Road and nos. 1-7 Ayton terrace are situated a small distance from the property with the exception of 31 and 31a Berw Road. Therefore, it is not considered the proposal to operate an A3 use in the block of existing commercial units will significantly alter the current level of disturbance with customer comings and goings being similar in number to that which would have previously existed and exist at the commercial property next door, being a hair salon. As such, it is not considered that the proposed change of use would have any further impact upon the

amenity of the surrounding properties or would encourage any further anti-social behaviour in the area in comparison to that which already occurs. It is also considered that within retail areas there is a general level of activity that is greater than that in solely residential areas and residents residing in such areas accept that this is a consequence of living in a town centre. Further, it is also noted that following consultation, no adverse comments were received from the Councils Public Health and Protection Division in this respect.

Consequently, whilst it is acknowledged that there will inevitably be a degree of impact from the additional A3 use, on balance, it is not considered that the proposed operation of the unit under Class A3 would result in the amenity of the occupiers of the surrounding properties being materially affected to a degree that would warrant refusal of the application. It is however considered a condition should be added to any consent to restrict the opening hours to that suggested by the applicant to ensure this is the case. The application is therefore considered acceptable in this regard, subject to the condition detailed below.

Highway Safety

Following consultation, the Council's Transportation Section commented that the property is located in a sustainable location within the Tonypany retail centre, close to various public transport hubs and local amenities as well as a public car park and Tonypany Bus Station. Further, it is noted that there are parking restrictions along Berw Road which would prevent any indiscriminate parking outside the site. Therefore, whilst no off-street parking is proposed, the scheme is acceptable in this respect.

It is therefore considered that the development would not have any undue impact upon pedestrian or highway safety in the vicinity of the site and no highway objections have been raised or conditions suggested. In light of these comments, the application is considered acceptable in this respect.

Public Health

Given the proposed use, the Councils Public Health and Protection Division have noted that there is a potential for issues to arise in respect of noise, smell and waste disturbances however, no details have been submitted with the application in this respect. It is advised however that these issues can be overcome through the installation of specialist extraction equipment and therefore no objections have been raised subject to conditions to be added to any consent to control odour and food waste.

Community Infrastructure Levy (CIL) Liability

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is not CIL liable under the CIL Regulations 2010 (as amended).

Conclusion

The application represents an appropriate change of use of an existing commercial premise within a town centre location. It is not considered the proposed use would have such an impact upon the amenity of the surrounding properties or upon highway safety in the vicinity of the property that would warrant refusal of the application. As such, the application is considered to comply with the relevant policies of the Local Development Plan.

RECOMMENDATION: GRANT SUBJECT TO THE CONDITIONS BELOW:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the approved plan nos. Location Plan, hdw/ph/ht.001 and hdw/ph/ht.002 and documents received by the Local Planning Authority on 12/01/2018, 20/02/2018, and 26/02/2018, unless otherwise to be approved and superseded by details required by any other condition attached to this consent.

Reason: To ensure compliance with the approved plans and documents and to clearly define the scope of the permission.

3. Prior to commencement of any development on site, a scheme of odour/effluvia/fume control shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the beneficial operation of the business and shall remain in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of the occupiers of surrounding properties in accordance with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

4. Prior to commencement of any development on site, details of a system to prevent waste cooking oil, fats and grease and solid waste from entering the foul drainage system shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the beneficial operation of the business and shall remain in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the integrity of the foul drainage system in accordance with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

5. The A3 Takeaway unit hereby approved shall not be open to the public between the following hours:
- (i) Monday to Saturday: 23:00 hours - 11:00 hours.
 - (ii) Sunday: 19:00 hours – 12:00 hours.

Reason: To protect the amenities of occupiers of surrounding properties in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.