



## **PLANNING & DEVELOPMENT COMMITTEE**

**5 JULY 2018**

### **REPORT OF THE SERVICE DIRECTOR, PLANNING**

#### **PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 18/0482/10 (LJH)  
**APPLICANT:** Our Dream Ltd  
**DEVELOPMENT:** Proposed Change of Use from A1 shop to A3 Take Away on ground floor and retain existing flat over with new front access and proposed rear car parking  
**LOCATION:** 135 BUTE STREET, TREORCHY, CF42 6BB  
**DATE REGISTERED:** 03/05/2018  
**ELECTORAL DIVISION:** Treorchy

#### **RECOMMENDATION: GRANT SUBJECT TO CONDITIONS**

#### **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

#### **REASON APPLICATION REPORTED TO COMMITTEE**

The application is presented to Committee as five letters of objection have been received.

#### **APPLICATION DETAILS**

Full planning permission is sought for the change of use of 135 Bute Street, Treorchy from a retail store (A1) to a takeaway (A3) including providing off-street parking to the rear. A very similar application is also currently under consideration at no. 134 Bute Street (18/0475/10).

The applicant has indicated that the takeaway premise would be open to members of the public between the hours of 8am to 11pm Monday to Saturday and 10am to 11pm on Sundays and Bank Holidays.

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.

With regards to the new access to the existing flats above, there are currently two front doors to enter no. 134 which are set back slightly within the front elevation. It is proposed to bring the doors forward in-line with the shopfront and partition one off internally so that it would only provide access to the upstairs flats.

In addition, it is proposed to provide three off-street parking spaces to the rear of 134 & 135 Bute Street which would be accessed via the rear lane off Clark Street. The existing rear boundary wall would be removed to create an access and the parking spaces would be provided within the existing rear garden area.

## **SITE APPRAISAL**

The application property is a two storey commercial building located on the main high street through Treorchy town centre. It was previously occupied by a retail store but is currently vacant. The property benefits from a semi-glazed shop front at ground floor level (existing flats are 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**

The most recent planning applications that have been submitted at the site are:

08/1596	134/135 Bute Street, Treorchy	Rear first floor addition for new access.	Granted. 21/11/08
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## **PUBLICITY**

The application has been advertised by means of direct neighbour notification and site notices. Five (5) letters of objection have been received from neighbouring properties, making the following representations (summarised):

- The proposed use will attract loud customers after the pubs close and the noise of car doors slamming and music played in cars will be a nuisance.
- The rubbish and litter in Treorchy is a problem which will only get worse with more takeaways.
- Treorchy has many takeaway shops already and another one would not benefit anyone.
- The lane that runs behind the shops is already used as a thoroughfare and will be busier with the proposed parking area. It is a danger to pedestrians already as people drive too fast along there and barely stop before the pavement section.
- There is already a kebab shop at no. 136 which is open until 1am-2am.

## **CONSULTATION**

Transportation Section – no objection, subject to conditions.

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

Flood Risk management – no objection.

Western Power – no objection, subject to an advisory note.

Wales and West Utilities – no objection, however a plan has been provided indicating apparatus that lies adjacent to the site.

## **POLICY CONTEXT**

### **Rhondda Cynon Taf Local Development Plan**

The application site lies within the settlement boundary for Treorchy and is within the Treorchy 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 Treorchy.

**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 NSA19** - states that in the retail centre of Treorchy, 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 Treorchy 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 Treorchy currently has a vacancy rate of 7.37%, 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 8am – 11pm Monday to Saturday and 10am – 11pm on Sundays

and Bank Holidays, 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 another five further along Bute Street. The percentage of A3 uses within the town centre as a whole is 17.3% (21 units of 121). 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 with medium and high frequency bus services run through the area in addition to the train station being situated within 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.

### **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 although there are residential properties opposite and to the rear of the unit. It is therefore considered that any potential impact in respect of amenity would mainly occur upon business premises albeit it is acknowledged that there may be some impact to the residential properties also. However, it is not considered there would be a significant impact in this respect.

It is acknowledged that there are 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 into the evening. However, the neighbouring residential properties, mainly being 60 and 61 Bute Street are situated a small distance from the property. 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 are carried

out at the commercial properties to either side, being a takeaway kebab shop and 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 Treorchy retail centre close to public transport. Further, it is noted that there are limited day time parking bays / loading bays along Bute Street for short term parking by customers popping into the retail area Monday – Sat 8:00am-18:00pm limited to 1 hr. The parking bays can be used for overnight parking by residents after 6.00pm. Across the site frontage are double yellow lines which prevents on-street car parking at this location to maintain a visibility splay from the adjacent street Clark Street.

The proposal provides 3 new off-street car parking spaces to the rear to be shared between the two proposed takeaway units and the 3 bed flat above and taking into account the width of Bute Street at this location that provides for limited parking for 1 hour on both sides of the carriageway thereby maintaining free flow of traffic, on-balance the proposal is acceptable.

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 subject to conditions. In light of these comments, the application is considered acceptable in this respect.

### **Visual Impact**

The application site is situated on the main shopping street through Treorchy town centre. As a result of the buildings siting and limited proposed alterations to the principle elevation it is not considered that the change of use would form a visible feature in the street scene.

## **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.

## **Other Issues**

The application property is located within the C2 flood zone, however as the footprint of the building is to remain the same there was no objection from Flood Risk Management.

## **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 BELOW CONDITIONS:**

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. hdw/ph/jb.001 and hdw/ph/jb.002 and documents received by the Local Planning Authority on 02/05/2018, 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 Polices 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 Polices 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 - 08:00 hours.
  - (ii) Sunday: 23:00 hours – 10:00 hours.

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

6. The development shall not be brought into use until space has been laid out within the site for 3 vehicles to be parked in accordance with submitted plan number hdw/ph/jb.002 and approved by the Local Planning Authority. The spaces shall be retained for the parking of vehicles thereafter unless agreed in writing with the Local Planning Authority.

Reason: To ensure that vehicles are parked off the highway, in the interests of road safety in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

7. Notwithstanding the details shown on the approved plans, development shall not commence until design and details of the rear car parking tie in with the adopted lane have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to beneficial occupation.

Reason: In the interests of highway safety in accordance with Policy AW5



of the Rhondda Cynon Taf Local Development Plan.

8. Surface water run-off from the proposed development shall not discharge onto the public highway or connected to any highway drainage system unless otherwise agreed in writing by the LPA.

Reason: In the interests of highway safety and to prevent overcapacity of the existing highway drainage system and potential flooding in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.