



PLANNING & DEVELOPMENT COMMITTEE

10 JANUARY 2019

REPORT OF THE SERVICE DIRECTOR, PLANNING

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

**APPLICATION NO: 18/1109 – CHANGE OF USE FROM SHOP TO A3
TAKE AWAY AT 66 GELLIGALED ROAD, YSTRAD,
PENTRE, CF41 7RQ.**

1. PURPOSE OF THE REPORT

Members are asked to consider the determination of the above planning application.

2. RECOMMENDATION

Committee members are requested to consider the information contained in the report, in respect of the application, and determine accordingly.

3. BACKGROUND

This application was originally reported to the Planning & Development Committee on 6th December 2018 and a copy of the original report is attached as **APPENDIX A**.

At that meeting, Members resolved that they were minded to refuse the application for the reasons of concerns regarding implications for highway safety.

Therefore the matter would be deferred to the next appropriate meeting of the Planning & Development Committee for a report from the Service Director, Planning, upon the strengths and weaknesses of taking a decision contrary to recommendation, prior to determining the matter (Minute No. 157 refers).

4. UPDATED RECOMMENDATION

Whilst the view of Members is fully appreciated, it is considered that the proposed takeaway is acceptable in planning terms. The high number of objection letters is acknowledged, however it is considered that the issues of potential noise and impact on amenity that have been raised are not considered to be sufficiently harmful in this case to warrant

refusal. Furthermore, litter and anti-social behaviour can be controlled by measures outside of the planning system.

With regards to the concerns surrounding highway safety and indiscriminate parking, following consultation with the Council's Transportation Section no objection was raised on the basis that the highways immediately to the front (Gelligaled Road) and side (Cross Street) of the property are subject to parking restrictions namely double yellow lines which would prevent indiscriminate parking outside the property.

Furthermore, previous appeals in relation to changes of use to A3 where applications have been refused for reasons of highway safety concerns due to indiscriminate parking have been allowed. One recent example of which is in respect of the former - HSBC, 11 High Street, Treorchy, where a proposed change of use from bank (Class A2) to hot food takeaway (Class A3) and installation of extraction/ventilation equipment was allowed on appeal, following a refusal of permission.

In that case, the Inspector noted that the advice in 4.13 of Technical Advice Note (TAN) 18 'Transport' that permission should be refused for developments where despite controlled parking, unacceptable road safety or congestion issues would probably remain. It was confirmed however that this is aimed at new development whereas the proposal in question concerned an existing building, where any use would generate parking demand.

Given the above and in the absence of any supporting evidence to substantiate the position, there is concern that in the event of an appeal, a refusal on the basis of highway grounds, would be difficult to defend. Therefore Members are recommended to approve the application subject to the conditions listed in the attached report.

In addition, Members raised concern that the premises would be closed during the day and would therefore not contribute to the daytime economy. The policy relating to retail development within Key Settlements seeks only to permit A Class uses that add vitality and viability to the retail centre by attracting foot fall that benefits the daytime and evening economy. Daytime opening hours for A3 uses in Key Settlements encourage cafés and restaurants to complement the retail offer and centre and hot food takeaway premises that are closed during the day make a limited contribution to the vitality of retail centres.

The site does not lie within a Key Settlement, therefore the policies do not apply and the takeaway is proposed to be open between 5pm to 11pm Sunday to Tuesday and Thursday including Bank Holidays and 5pm to 12pm on Fridays and Saturdays. In order to address Member's concerns regarding the opening hours it is therefore recommended that the hours are conditioned to allow the premises to open between 9am to 11pm Sunday to Thursday and 9am to 12pm Friday and Saturday to encourage daytime opening. Therefore it is considered that the

additional A3 unit could contribute to and enhance the day and evening economy in line with the strategy and policies set out in the Local Development Plan.

If Members felt this would overcome their concerns, it is therefore recommended that condition no. 5 as imposed on the original report be amended to read:

5. The A3 Cafe unit hereby approved shall only be open to the public between the following hours:

- (i) Sunday to Thursday: 09:00 hours - 23:00 hours.
- (ii) Friday and Saturday: 09:00 hours – 24:00 hours.

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

If, however, Members are still minded to refuse the application, it is suggested that the reason below reflects the concerns raised.

1. The proposed development will generate a greater intensity of indiscriminate on-street parking therefore creating a hazard to the detriment of highway and pedestrian safety and the free flow of traffic. It would therefore be contrary to Policy AW5 of the Rhondda Cynon Taff Local Development Plan.

PLANNING & DEVELOPMENT COMMITTEE

6 DECEMBER 2018

REPORT OF THE SERVICE DIRECTOR, PLANNING

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 18/1109/10
(LJH)
APPLICANT: Mrs Dogan
DEVELOPMENT: Change of use from shop to A3 takeaway.
LOCATION: 66 GELLIGALD ROAD, YSTRAD, PENTRE, CF41
7RQ
DATE REGISTERED: 10/10/2018
ELECTORAL DIVISION: Ystrad

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.

Whilst a number of objections have been received it is not considered that the issues raised would justify refusing the application and the proposal will be beneficial in bringing a vacant unit back into use.

REASON APPLICATION REPORTED TO COMMITTEE

Three or more letters of objection have been received.

APPLICATION DETAILS

Full planning permission is sought for the change of use of 66 Gelligaled Road, Ystrad from a currently vacant A1 unit to a cafe/takeaway (A3).

The applicant has indicated that the takeaway would serve healthy meals to be consumed both on and off the premises and be open to members of the public between the hours of pm to 11pm Sunday to Tuesday and Thursday including Bank Holidays and pm to 12pm Fridays and Saturdays. The premises will be closed on Wednesdays.

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

SITE APPRAISAL

The application property is an end-terraced two storey commercial building located on the principle thoroughfare through Ystrad. It was previously occupied by a beauty salon but has been vacant for some time. The property benefits from a glazed shop front at ground floor level (a residential unit is sited at first floor level). As it is not in a town centre location there are still a variety of differing uses within the vicinity of the site, including a similar Class A3 chip shop and Chinese takeaway.

PLANNING HISTORY

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

12/0701	66 Gelligaled Road Ystrad Pentre	Change of use to hot food takeaway for consumption of hot food on and off the premises and the provision of a delivery service.	Withdrawn - Invalid Application 18/09/2012,
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PUBLICITY

The application has been advertised by means of direct neighbour notification and site notices. Sixty-seven (67) letters of objection have been received in total, 66 of which are a standard letter that has been individually signed, the 67th objection is a hand written letter. The standard letter is summarised below:

- Insufficient parking space on a dangerous busy main road.
 - a) Inconvenience to residents.
 - b) Hazard for people crossing.
- Late night noise nuisance.
- Extra litter in and around the area.
- A previous application for this type of business on the adjoining corner was strongly objected to and turned down a few years ago for similar reasons.
- There is already a takeaway in close proximity to this area therefore it is not something that is needed.

The handwritten letter is summarised below:

- I object to another takeaway in Ystrad, we have two as it is.
- Nearly all the nearby residents are elderly and we don't need car doors slamming at night and crowds of people it will bring and the rubbish they leave behind.
- I have lived here for forty years and we have had lots of trouble over the years with youths hanging around, it is quiet now so leave it.

CONSULTATION

Transportation Section – no objection is raised or conditions suggested.

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

Welsh Water – no objection.

Flood Risk Management – no objection.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

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

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.

Supplementary Planning Guidance

- Design and Placemaking;
- 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 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 from A1 to a cafe/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 area of Ystrad.

There are currently two A3 uses in the immediate vicinity (a fish & chip shop, and a Chinese takeaway). Even with the existing A3 uses present within the vicinity, 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.

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. 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. As the property is not however within the retail zone, the main considerations for this application are Policies AW5, AW6, and AW10, which are included within the assessment set out below.

Visual Impact

The application site is situated on the main thoroughfare through Ystrad. 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. The application is therefore considered to comply with Policy AW6 of the Rhondda Cynon Taf Local Development Plan.

Residential Amenity

The proposal will utilise an existing commercial unit that is located within a predominantly residential area. As such, the majority of surrounding properties are residential in nature. It is therefore considered that any potential impact in respect of amenity would mainly occur upon residential premises; however, it is not considered there would be a significant impact in this respect for the following reasons:

As is a concern of the many objectors, it is not considered the proposal to operate an A3 use in this setting will significantly alter the current level of disturbance with customer comings and goings being similar in number to that which already exists at the commercial property opposite, being an off-licence. 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 which is a further concern of the objectors. It is also considered that within areas with retail units 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 such a location. Further, it is also noted that following consultation, no adverse comments were received from the Council's 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 and compliant with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan subject to the condition detailed below.

Highway Safety

Following consultation, the Council's Transportation Section commented that the property has a number of local facilities within walking distance and bus stops within easy walking distance. Further, it is noted that there are parking restrictions along Gelligaled Road and around the junction with Cross Street which would prevent 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 to comply with the requirements of Policy AW5 of the Rhondda Cynon Taf Local Development Plan and the highways concerns raised by the objectors have been addressed.

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. It is therefore considered that the application would comply with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

Other Issues

Within the standard objection letter it states that a similar application has been previously refused at a neighbouring property. There are no records of a similar application at any of the neighbouring properties, however, an application was submitted in 2012 at the application property for a change of use to hot food takeaway which was invalid and subsequently withdrawn.

The issue of the need for the takeaway is not a material consideration that can be taken into account in this instance and each case must be dealt with on its own merits.

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. 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 plans: Location Plan, Proposed ground floor plan, and documents received by the Local Planning Authority on 01/10/2018, 10/10/2018, and 31/10/2018 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 Cafe unit hereby approved shall only be open to the public between the following hours:
 - (i) Sunday to Thursday: 17:00 hours - 23:00 hours.
 - (ii) Friday and Saturday: 17:00 hours – 24:00 hours.

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

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