



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

PLANNING & DEVELOPMENT COMMITTEE

27TH JUNE 2019

SITE MEETING

**APPLICATION NO. 18/1124 - EXTRACTION FLUE (RETROSPECTIVE)
(SPECIFICATIONS RECEIVED 20/02/19) BURGER EXPRESS, 46 CEMETERY
ROAD, TRECYNON, ABERDARE, CF44 8HL**

**REPORT OF THE SERVICE DIRECTOR, DEMOCRATIC SERVICES &
COMMUNICATION**

Author: Hannah Williams, Council Business Unit.

1. PURPOSE OF THE REPORT

- 1.1 To consider the outcome of the site inspection in respect of the above-mentioned proposal and to determine the application, as outlined in the report of the Director, Prosperity & Development, attached at Appendix 1.

2. RECOMMENDATION

It is recommended that Members:

- 2.1 Approve the application in accordance with the recommendation of the Director, Prosperity & Development.

3. BACKGROUND

- 3.1 In accordance with Minute No 266 (Planning and Development Committee – 9th May 2019) a site inspection was undertaken on Monday 3rd June 2019 to consider the existing building in its context and to determine whether it is necessary for demolition.
- 3.2 The meeting was attended by the Planning and Development Committee Members County Borough Councillors S. Rees, G. Caple, G. Hughes and P. Jarman.

- 3.3 Local Member, County Borough Councillor G. Jones was also present at the meeting.
- 3.4 Apologies for absence were received from Committee Members - County Borough Councillors S. Powell, D. Grehan, J. Williams, R. Yeo, S. Morgans, W. Owen and J. Bonetto.
- 3.5 Members met at the detached single storey building located adjacent to and on the southern side of Cemetery Road, close to the junction with Cwmdare Road.
- 3.6 In accordance with the Council's Code of Conduct, the following Declarations of Interest were made:
- County Borough Councillor S. Rees declared the following personal and prejudicial interest: "I am Local Member and have had previous involvement with the application. The Site Visit is for Members' information only and no decision will be made today but I will not Chair or partake in the discussions."
 - County Borough Councillor G. Jones declared the following personal interest "I am Local Member and know the residents involved. I was invited to the meeting as Local Member, and I am not a Member of the Planning & Development Committee."
- 3.7 The Planning Officer in attendance informed members that planning permission is sought for the retention and completion of an extraction flue at Burger Express. Members sought clarification in respect of the existing flue and learned that the proposal would modify the existing flue, which had been constructed without planning permission. The officer went onto explain that if approved, the flue would measure a maximum height of 1 metre above the ridge of the roof, would consist of a straight flue with a flue hood above and that there were no buildings within 15 metres of the vent
- 3.8 Members questioned the potential impact of the proposed flue on the character and appearance of the area, which was a key issue raised by the objectors. The Planning officer explained that due to the lack of amenity space to the rear and side elevations of the building, it would be impossible to relocate the flue to a more discrete area. In addition, it was considered that the proposed modifications to the flue would be more acceptable than those currently in place and as a result, would not be a dominant addition to the building.
- 3.9 The Senior Environmental Health Officer advised that from a Public Health and Protection perspective, the application was considered acceptable. It was explained that Condition 3 of the original Committee report had been included to ensure that all equipment installed as part of the scheme

would thereafter be operated and maintained in accordance with the approved details for as long as the use continues. Furthermore, although not anticipated, the officer advised that if residents were to raise future complaints regarding the odour or noise of the flue, they would be investigated through means of statutory powers.

- 3.10 Members acknowledged the objectors' concerns regarding highway safety and parking, but noted that the application before them was for the works to the flue only. When questioned about the building's previous usage, the officer stated that the purpose of the building was for A3 use, which covers takeaways. It was explained that a previous application for a certificate of lawfulness for A3 use at the site was granted, during the determination of the certificate there was no obligation to consult with the highways department as there was sufficient information held for the past decade for the use to be considered lawful.
- 3.11 The Chair thanked the officers for the report and closed the meeting.



PLANNING & DEVELOPMENT COMMITTEE

9 MAY 2019

REPORT OF THE SERVICE DIRECTOR, PLANNING

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 18/1124/10
(JE)
APPLICANT: Mrs Karen Endicott
DEVELOPMENT: Extraction Flue (Retrospective) (Specifications received 20/02/19)
LOCATION: BURGER EXPRESS, 46 CEMETERY ROAD, TRECYNON, ABERDARE, CF44 8HL
DATE REGISTERED: 22/11/2018
ELECTORAL DIVISION: Aberdare West/Llwydcoed

RECOMMENDATION: GRANT SUBJECT TO THE BELOW CONDITIONS:

REASONS:

The principle of development is considered acceptable. Furthermore application is considered to comply with the relevant policies of the Local Development Plan in respect of its visual impact and the impact it has upon the amenity of the neighbouring residential properties.

REASON APPLICATION REPORTED TO COMMITTEE

- A request has been received from Councillor Sharon Rees for the matter to come to Committee for determination, in order that Members can consider the impact upon the amenity of neighbouring properties.

APPLICATION DETAILS

Full planning permission is sought for the retention and completion of an extraction flue at Burger Express, 46 Cemetery Road, Trecynon, Aberdare. The proposal would see the existing flue which has been constructed without planning permission modified.

The proposed flue would measure a maximum height of 1 metre above the ridge of the roof and would consist of a straight flue with flue hood above. The proposed flue would be constructed out of stainless steel however would be finished in black.

Also included with details of the flue are specifications for the following:

- Carbon Filter
- Panel Filter
- MJB Fan
- Grease Trap

SITE APPRAISAL

The application property is a detached single storey building located adjacent to and on the southern side of Cemetery Road (B4275), close to the junction with Cwmdare Road. The site is bounded by the amenity space of 45 Cemetery Road on its front and side elevations. At the time of the Officer's site visit a wall had been partially constructed surrounding the unit on these elevations. The property is currently occupied and benefits from an existing flue which has been constructed without planning permission.

The property displays 'Burger Express' signage above the door and hatch, as part of the pull down shutter structure.

Of an irregular footprint, the building has been roughly constructed from a combination of grey face brick and blockwork, with a roof of corrugated metal, and benefits from a pedestrian door and serving hatch.

Most of the other properties surrounding the site are of a residential nature with the closest dwelling separated by 27 metres to the south.

PLANNING HISTORY

The most recent planning applications on record associated with the site are:

17/1370	46 Cemetery Road, Trecynon, Aberdare	Certificate of lawfulness is required to continue its use for the sale of both hot and cold food.	Granted 09/02/18
---------	--------------------------------------	---	------------------

PUBLICITY

The application has been advertised by direct notification to neighbouring properties as well as notices displayed at the site.

2 letters of objection have been received from the occupiers of neighbouring properties, the points raised have been summarised below:

- Design of flue
- Does not meet required standards
- Discharge from flue
- Litter and parking issues created by the unit
- Impact upon property value
- Use of the unit

CONSULTATION

Public Health & Protection - no objection.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The application site lies within the settlement boundary for Aberdare and isn't allocated for a specific purpose.

Policy CS1 – sets out the strategy for the Northern Strategy Area

Policy AW2 – supports development 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 were they could cause or result in a risk of unacceptable harm to health and/or safety.

Supplementary Planning Guidance

- Design and Placemaking

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.

The Welsh Government published Planning Policy Wales 10 on 5th December 2018, and the document aims to incorporate the objectives of the Well-being of Future generations Act into Town & Country Planning.

It is considered that this proposal meets the seven wellbeing of future generations goals inasmuch as they relate to the proposed development and that the site has been brought forward in a manner consistent with the five ways of working.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking as set down in Chapter 2 People and Places: Achieving Well-being Through Placemaking, of PPW10 and is also consistent with the following inasmuch as they relate to the development

Chapter 3 (good design and better places, promoting healthier places, sustainable management of natural resources)

Chapter 4 (moving within and between places, transport, living in a place, housing)

Chapter 6 (green infrastructure, landscape, biodiversity and ecological network, water and flood risk, air quality and soundscape, lighting)

Other policy guidance considered:

PPW Technical Advice Note 12 - Design

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.

Main Issues:

Principle of the proposed development

The application relates to retention and completion of an extraction flue at an existing and lawful A3 unit at 46 Cemetery Road, Trecynon, Aberdare. The extraction flue is required to facilitate the use of the property and allow safe operation. The principle of development is therefore considered acceptable subject to the below considerations.

Impact on the character and appearance of the area

The objections received raise concerns regarding the impact of the flue upon the character and appearance of the area. Given the nature of the unit and its location close to the highway, any development at the site would form a visible addition to the street scene.

Whilst the existing flue arrangement at the premises is a cause for concern with regard to its impact upon the character and appearance of the area. The proposed amendments to the flue are considered to be a more acceptable arrangement and would not form a dominant addition to the property once completed.

It is also acknowledged as the property does not benefit from any amenity space on its rear or side elevations, it would not be possible to relocate the flue to a less prominent area of the unit.

As such, whilst the extraction flue does inevitably form a prominent addition to the property, its impact upon the character and appearance of the area is not considered significant enough to warrant a refusal of the application.

Impact on residential amenity.

As the site is located in a predominantly residential area, it is important to consider the potential impacts of the development upon the levels of amenity that existing neighbouring occupiers currently enjoy.

Concern regarding the odours and discharge from the flue were raised within the objections received. Also raised by the objectors were concerns that the proposed flue does not meet the required standards.

The proposed flue and specifications would be an improvement to the existing arrangement at the site. Furthermore following consultation with the Council's Public Health and Protection Section no objection was raised and the following response was received; as there are no buildings within 15m of the vent and that a flue height of 1m will be achieved. Whilst it is recommended that the final discharge should be vertically upwards unimpeded by flue terminals, the design is not expected to cause an issue in this particular case. Additionally, the proposed grease trap appears to be satisfactory and noise issues associated with the extraction system is not anticipated.

On balance, in terms of the impact on the amenity of neighbouring residents, the application is considered to be acceptable.

Other issues raised by objectors

Impact on property value was raised within the objections received from neighbouring occupiers. However property value is a non material consideration and is not taken into account in determining the application.

Also raised within the letters of objection received were complaints regarding the A3 use of the property and its impacts on parking and litter in the immediate vicinity. An application was previously submitted (17/1370/09) for a certificate of lawful use for the premises. This application considered that the A3 use of the property was lawful. It is also acknowledged that this application only proposes works to the flue and extraction equipment. As such, whilst the concerns regarding parking and litter are acknowledged they are not considered in determining the application.

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

It is considered the proposal would not have a significant impact on the character and appearance of the locality or upon the residential amenity of the surrounding neighbouring properties. The application is therefore considered to comply with the relevant policies of the Local Development Plan (AW5, AW6 and AW10).

RECOMMENDATION: GRANT SUBJECT TO THE BELOW CONDITIONS:

1. The works to the flue shall be completed in accordance with the plans hereby approved within 3 months of the date of permission.

Reason: To improve the impact upon residential and visual amenity in accordance with Policy AW5, AW6 and AW10 of the Local Development Plan.

2. The development hereby approved shall be carried out in accordance with the approved plans.

- Flue Position
- Front Elevation
- Side Elevation
- Flue Dimensions

and documents received by the Local Planning Authority on 13/11/18, 20/02/19 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. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the approved details for as long as the use continues.

Reason: In the interests of public health and amenity in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

=====