



PLANNING & DEVELOPMENT COMMITTEE

5 NOVEMBER 2020

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 20/0827/10 (KL)
APPLICANT: Plan R Ltd
DEVELOPMENT: Change of use from A3 coffee house to A3 fish and chip shop (takeaway).
LOCATION: 6 MILL STREET, TONYREFAIL, PORTH, CF39 8AA
DATE REGISTERED: 03/09/2020
ELECTORAL DIVISION: Tonyrefail East

RECOMMENDATION: Approve

REASONS:

The application site is located within the defined settlement boundary within a designated retail zone where the principle of an A3 use is considered to be acceptable. The proposed use would contribute to the daytime and evening economy of the town by attracting footfall to this area of the town and would inevitably prevent further units in the town centre from becoming vacant.

The proposal would involve very few alterations to the external fabric of the property and it is not considered that it would have any impact upon the character and appearance of the application property or the surrounding area. Furthermore, conditions can be imposed to ensure that the proposed A3 use would not have an adverse impact upon the amenity of neighbouring residential properties.

Two off-street car parking spaces would be provided at the rear of the property which would be an improvement to the current situation and the proposal is considered to be acceptable in terms of the impact it would have on highway safety in the vicinity of the site.

REASON APPLICATION REPORTED TO COMMITTEE

- A request has been received from Councillor Owen-Jones for the matter to come to Committee in order for Members to consider highway, access and environmental issues.

APPLICATION DETAILS

Full planning permission is sought for the change of use of an existing commercial property from an A3 use (coffee shop) to A3 (fish and chip shop takeaway). Permission would not usually be required for a change of use between uses that fall within the same Use Class, however, a condition was added to the original application for the change of use to a coffee shop (ref. 08/1331) which prevents it from being converted to a hot food takeaway under permitted development rights.

The proposal would not involve any internal or external alterations to the application building, however, two off-street car parking spaces would be created at the rear of the property with access of the rear lane (served off High Street). The works would involve the demolition of the existing rear boundary wall and the creation of a hardstand area.

Details submitted with the application indicate that the proposed use would have opening hours of 11:00 – 22:00 Monday to Saturday (closed on Sundays) and would lead to the employment of 4 permanent staff, including 4 part-time members of staff.

The change of use would relate to the ground floor only and the existing residential flat above, along with its separate access, would be retained.

The application is accompanied by the following:

- Planning Statement;

SITE APPRAISAL

The application site relates to an existing commercial property that is located within the defined retail zone of Tonyrefail. The property is typically a two-storey terraced property that is located towards the northern end of the high street. It is set back from the edge of the pedestrian footway by a small courtyard area and is accessed via an existing shop front consisting of a large display window and an entrance door. A separate entrance is situated immediately adjacent to the shop front, which provides access to a first floor residential flat (currently appears to be vacant).

The surrounding area is predominantly commercial in character with various different commercial uses visible in the immediate vicinity. It is, however, noted that there are a number of residential flats above shops.

PLANNING HISTORY

08/1331	6 Mill Street, Tonyrefail	Change of use from sweet shop to coffee house with alterations to shop front	Granted 31/10/08
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08/1828	6 Mill Street, Tonyrefail	Change of use to general office purposes (solicitors)	Granted 27/01/03
89/0643	6 Mill Street, Tonyrefail	Change of use from ground floor shop selling hot food to shop/office providing financial services	Granted 28/09/089
85/0651	6 Mill Street, Tonyrefail	Convert ground floor of dwelling to retail shop	Granted 18/08/85

PUBLICITY

The application has been advertised by means of direct neighbour notification and through the erection of a number of site notices in the vicinity of the site. Two letters of objection have been received from the owners of other hot food takeaways in the vicinity of the site. The letters are summarised as follows:

- There are already many fast food outlets in this area and Tonyrefail does not need another fish and chip shop;
- There is concern that the proposed fish and chip shop will cause our business not to move forward which will risk the jobs that we are planning to provide;
- There are already 2 Indian takeaways, 4 fish and chip shops and Chinese takeaways. There is also a restaurant and other food outlets;
- There should be space on this high street for other non-related food businesses such as gift shops etc;
- Existing takeaways are already losing money due to Coronavirus as we have to shut early and people do not want to go outside;
- Business is struggling at the moment'

Further correspondence has also been received from Councillor Owen-Jones with concerns being raised in relation to:

- Highway safety and access with the proximity of the property to busy traffic lights;
- The area is also subject to emissions of a high level and an outlet of this nature, especially in close proximity to the busy traffic lights, will cause no end of problems;
- The current business and the neighbouring waffle bar depend highly on foot traffic but this will not be the case with a fish and chip shop.

CONSULTATION

The following consultation responses have been received:

Flood Risk Management: No comments to make in respect of flood risk.

Highways and Transportation: No objection, subject to conditions relating to the laying out of the proposed parking spaces before the development is brought into use, the details of the parking area entrance apron and tie in with the lane and surface water run-off.

Public Health: No objection subject to conditions relating to noise, dust, waste and details of odour control and grease containment.

Welsh Water: Advises that the site is crossed by a public sewer and recommends conditions in relation to surface water drainage and grease traps. Further advisory notes recommended in relation to connection to the public sewer.

No other consultation responses were received at the time of writing this report.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The application site is located inside the defined settlement boundary for Tonyrefail and is not allocated for any specific purpose. The following policies are considered to be relevant to this proposal:

Policy CS2 - sets out criteria for achieving sustainable growth including, promoting and enhancing transport infrastructure services.

Policy AW2 - advises that development proposals 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 - development proposals must overcome any harm to public health, the environment or local amenity.

Policy SSA16 - defines Tonyrefail as a Key Settlement and promotes changes of use to retail uses inside the defined boundaries, which would maintain or enhance the centre's position in the retail hierarchy.

Policy SSA17 - promotes proposals for Class A1, A2, A3 and other use that will add vitality and viability to the retail centre by attracting footfall that benefits the daytime and evening economy.

Supplementary Planning Guidance

Design and Placemaking
Design in Town Centres

Access Circulation and Parking

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 Edition 10 (PPW) sets out the Welsh Government's (WG) current position on planning policy. The document incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out the WG's policy on planning issues relevant to the determination of planning applications.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is also consistent with the Well-being of Future Generations (Wales) Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable development and building healthier communities and better environments.

Other relevant national policy guidance consulted:

PPW Technical Advice Note 4: Retailing and Town Centres;

PPW Technical Advice Note 11: Noise;

PPW Technical Advice Note 18: Transport;

Manual for Streets

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 site is located inside the defined settlement boundary and within the defined retail centre of Tonyrefail. As such, the site is considered to be located within a highly sustainable location and the proposal would therefore satisfy the key objectives of Policy AW2.

Policy SSA16 encourages retail uses (Class A) within town (retail) centres that would maintain or enhance a centre's position in the retail hierarchy. It identifies Tonyrefail as a Key Settlement which is expected to act as a district centre where the emphasis is on convenience (food) shopping with an element of day-to-day comparison (non-food) shopping. Policy SSA17 emphasises this and acknowledges that Class A uses add to the vitality of a town by attracting customers and increasing footfall. However, it also recognises that hot food premises that are closed during the day make a limited contribution to the vitality of retail centres and it therefore seeks daytime opening hours for A3 uses to encourage uses that would complement other retail uses.

In the case of this application, the application proposes the use of the property as a hot food takeaway (Use Class A3) that would be open between the hours of 11:00-22:00 Monday – Saturday. It would therefore ensure an active frontage which would benefit the daytime and evening economy of the town centre and which would inevitably add to the vitality of the centre by attracting customers and increasing footfall to this part of the town. It is noted that the current use of the application property is also A3 and, given its operation as a coffee shop, it is likely that the opening hours are limited to daytime hours only and the proposal would therefore increase the potential footfall and benefit other convenience (food) uses during the evening.

One letter of objection has been received from the owner of a nearby hot food takeaway which raises concern that the proposal would unacceptably increase the number of A3 uses in the town. Whilst these concerns are acknowledged, there is no policy within the Rhondda Cynon Taf Local Development Plan that sets a limit for A3 uses within Key Settlements such as Tonyrefail. However, an assessment of the Council's most recent retail data (October 2019) has been undertaken in order to determine the classification of uses in the defined retail centre. The data reveals that there are a total of 54 units within the defined retail area of Tonyrefail with:

- 27 units (50%) falling within the A1 Use Class;
- 8 units (14.81%) falling within the A3 Use Class;
- 11 units (20.37%) fall within another use (A2, Sui Generis, B1 & D1);
- 8 units (14.81%) are currently vacant.

It is clear from this assessment that the predominant used within the town is A1 with only a small percentage of units being recorded as an A3 Use and, taking into account that the proposal would not change the overall use of the application property, the predominant use of the town would therefore continue to be A1. It is therefore not considered that the proposal would lead to an overconcentration of A3 uses in the retail centre of Tonyrefail.

It is noted that the retail figures identified above are not up-to-date however, the Council have been unable to conduct this year's retail survey due to the current Covid-19 pandemic. It is therefore recognised that the figures may not be an accurate reflection of the current situation. Indeed, it is widely recognised that town centres have been greatly impacted by the current situation with many local business having to

close indefinitely. Information submitted with the application (Planning Statement) indicates that 12 shops in Tonyrefail currently lie empty with a further 4 being up for sale (data collected August 2020). Furthermore, It was noted during the officer's site visit that there were signs in the display window of the existing coffee shop that advised of its imminent closure and the proposal would therefore prevent a further unit from becoming vacant.

Whilst it is noted that there are a number of similar hot food takeaways in and surrounding Tonyrefail town centre, it is not considered that the use of the application property as a hot food takeaway would undermine the retail character of the town centre and, given that the proposal would prevent a further unit from becoming vacant, it is considered that it would help to maintain the centre's position in the retail hierarchy. As such, the application would comply with Policies SSA16 and SSA17.

In light of the above, the principle of the proposed development is considered to be acceptable, subject to an assessment of the criteria set out within other policies of the Rhondda Cynon Taf Local Development Plan.

Impact on residential amenity and privacy

The application site is located within the defined retail centre and the surrounding area is therefore predominantly characterised by commercial properties. It is however, noted that there are a number of residential properties in the vicinity, including flats above shops. It is therefore important to consider the potential impact of the proposal on the amenity of nearby occupiers in terms of potential cooking odours and noise associated with the operational use of a hot food takeaway.

The proposed A3 use would inevitably require some form of equipment to suppress and disperse fumes and odours produced by the preparation and cooking of food. The application does not include any details in this regard and the Council's Public Health and Protection team have therefore recommended conditions for the submission of full details of any proposed extraction equipment, as well as details of a system that would be operated to prevent waste cooking oil, fat, grease and food debris from entering the foul drainage system. It is therefore considered that odour control can be adequately addressed through the imposition of planning conditions.

In terms of the potential for noise and disturbance associated with the proposed use, the application property is located within a retail centre where a greater level of activity throughout the day and night is to be expected. Furthermore, such A3 uses are typically located in such locations and the occupiers of any surrounding residential properties would therefore be accustomed to the activity associated with town centre locations. Notwithstanding this, the proposed hours of opening are considered to be reasonable and not too dissimilar to other A3 uses in the area and it is therefore not considered that surrounding residents would be subject to an unacceptable level of noise and disturbance from the proposed use that would be detrimental to their residential amenity. It is, however, recommended that a condition restricting the hours

of opening to those specified within the application is included should Members be minded to approve the application.

As such, it is not considered that the proposal would result in an unacceptable degree of noise and disturbance or result in a harmful impact upon the levels of amenity currently enjoyed by surrounding residential or commercial occupiers. The application is therefore considered to comply with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

Access and highway safety

The application has been assessed by the Council's Highways and Transportation section with a view to determining the potential impact of the proposal on highway safety in the vicinity of the site. The response received raises no objection to the proposal (subject to conditions). The comments are summarised as follows:

Access

Access to the application site is directly off Mill Street and, given that there are no alterations proposed and that there are numerous comparable uses in the vicinity, there is no undue cause for concern with regards to access arrangements.

There are numerous Traffic Regulation Orders in place on Mill Street, including double yellow lines, no loading/unloading and limited waiting parking bays to control on-street parking and to protect the free flow of traffic.

The proposed rear off-street parking with access off the rear lane is acceptable as a secondary access only.

Parking

The existing A3 use (café with dining area) requires up-to a maximum of 1 space per 14m² of dining area and one commercial space. No spaces are currently provided.

The proposed A3 use (hot food takeaway) requires deliveries and servicing to take place safely. There is concern with regards to the location of the site in close proximity to the signal head for the controlled crossing/junction. However, taking into account the existing traffic regulations in place preventing obstruction to maintain free flow of traffic, the proposal is considered to be acceptable.

It is also noted that two off-street car parking spaces would be provided to the rear which would go some way to mitigate the impact of the proposal and conditions are recommended to ensure that the spaces are laid out in accordance with the plan prior to the propose use becoming operational and to secure details of the design and detail of the parking area entrance and tie in with the lane.

Impact on the character and appearance of the area

The proposal would not result in any physical alterations to the application property however, works would be undertaken at the rear of the building to facilitate two off-street parking spaces. The works would involve the demolition of the existing rear boundary wall and the creation of a hardstand area. Given that these alterations would not be visible from the high street, it is not considered that the proposal would have an adverse impact upon the character and appearance of the site or the surrounding.

As detailed in the *Impact on residential amenity and privacy* section above, the Council's Public Health and Protection team have recommended a condition to secure details of any extraction equipment required in the operation of the proposed used. Whilst no details have been included in this application to determine the likely siting of such equipment, it is likely that it would be situated at the rear of the property where it would not have any impact upon the visual appearance of the application property.

As such, the application would comply with Policies AW5 & AW6 of the Rhondda Cynon Taf Local Development Plan.

Other Issues:

The following other material considerations have been taken into account in considering the application, though were not the key determining factors in reaching the recommendation.

Other issues raised by objectors

The letter of objection received raises concern that the approval of this application and the subsequent operation of a fish and chip shop would impact upon similar hot food takeaways and risk existing jobs. Whilst these concerns are duly noted, they are not planning considerations and cannot be taken into consideration in the determination of this application. Similarly, the impacts of the current Coronavirus pandemic cannot be taken into consideration.

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 liable for a charge under the CIL Regulations 2010 (as amended) however, the CIL rate for this type of development as set out in the Charging Schedule is £nil and therefore no CIL is payable.

Conclusion

The application is considered to comply with the relevant policies of the Local Development Plan in respect of the principle of the development, the impact it would have upon the amenity and privacy of neighbouring properties, the impact it would have upon highway safety in the vicinity of the site and the impact it would have upon the character and appearance of the surrounding area.

RECOMMENDATION: Grant

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 and documents received by the Local Planning Authority on unless otherwise to be approved and superseded by details required by any other condition attached to this consent:

- Site Location Plan (rec. 03/09/2020);
- Drawing No. hdw/ph/rh.03: Proposed Block Plan (rec. 03/09/202);
- Drawing No. hdw/ph/rh.02 Proposed Floor Plan (rec. 03/09/2020)

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

3. The development shall not be brought into use until space has been laid out within the site for vehicles to be parked in accordance with the submitted plan hdw/ph/rh.03 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.

4. Before the parking area is brought into use, design and detail of the parking area entrance apron and tie in with the lane shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented to the satisfaction of the LPA prior to beneficial use.

Reason: To prevent damage to the public highway, in the interests of highway safety, in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

5. Prior to commencement of the development, 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.

6. The use hereby permitted shall not be operated from the premises except between the hours of:
 - Monday to Saturday (11:00-22:00) (including Bank Holidays)
 - Sundays (Not at all)

Reason: To ensure that the noise emitted from the development is not a source of nuisance to occupants of nearby residential properties in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.