

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2015-2016**

<p><b>DEVELOPMENT CONTROL COMMITTEE</b></p> <p><b>17 MARCH 2016</b></p> <p><b>REPORT OF: SERVICE DIRECTOR PLANNING</b></p>	<p style="text-align: right;"><b>Agenda Item No.5</b></p> <p><b>APPLICATION NO: 15/1441 - CHANGE OF USE FROM SANDWICH SHOP (A1) TO TAKEAWAY RESTAURANT (A3), 32 OXFORD STREET, MOUNTAIN ASH, CF45 3HB</b></p>
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**1. PURPOSE OF THE REPORT**

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

**2. RECOMMENDATION**

That Members consider the report in respect of the application and determine the application having regard to the advice given.

**3. BACKGROUND**

This application was reported to the 18<sup>th</sup> February 2016 Development Control Committee meeting with an officer recommendation of approval. A copy of the original report is attached as **APPENDIX A**. At that meeting Members resolved that they were minded to refuse the application contrary to the officer recommendation. Members considered that the proposed change of use of the premise from a sandwich shop (A1) to hot food takeaway (A3), by way of its location, would give rise to a greater intensity of short term on-street parking along Oxford Street to the detriment of highway and pedestrian safety and free flow of traffic.

As a consequence it was resolved to defer determination of the application for a further report to highlight the potential strengths and weaknesses of taking a decision contrary to officer recommendation.

**4. PLANNING ASSESSMENT**

The officer considerations regarding the highway safety implications of the proposed change of use are outlined in the original report, however, a brief summary is provided below:

Following consultation no objections were received by the Council's Transportation Section or conditions suggested. It was commented that the application property is located in a sustainable location at the heart of the Mountain Ash retail centre with a public car park sited opposite and a loading bay to the front which will allow the premise to be serviced without unduly affecting highway safety along the street. It is therefore considered that the development would not have any adverse impact in regards to pedestrian or highway safety in the vicinity of the site and the application is considered acceptable in this respect.

Further, whilst it is acknowledged that there will inevitably be a degree of impact upon the amenity of the closest residential properties, 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. This however would be subject to a condition being added to any consent restricting the opening hours to that suggested by the applicant.

It is subsequently considered that the scheme represents an appropriate change of use of an existing commercial premise within a town centre location. The application is therefore recommended for approval, subject to the conditions set out in the original report (**APPENDIX A**).

If, having considered the above advice, Members remain of a mind to refuse planning permission, it is suggested that the following reason for refusal would reflect the concerns expressed by Members at the previous meeting.

The proposed development is considered to be contrary to Policy AW5 of the Rhondda Cynon Taf Local Development Plan as it would result in an adverse impact upon pedestrian and highway safety in the vicinity of the application site for the following reasons:

- i. The proposed hot food takeaway at this location would give rise to a greater intensity of short term on-street parking along the B4275 (Oxford Street) to the detriment of highway and pedestrian safety and free flow of traffic.

**APPENDIX A**

**APPLICATION NO:** 15/1441/10 (MF)  
**APPLICANT:** Mrs Amily Akhter  
**DEVELOPMENT:** Change of use from sandwich shop (A1) to takeaway restaurant (A3)  
**LOCATION:** 32 OXFORD STREET, MOUNTAIN ASH, CF45 3HB  
**DATE REGISTERED:** 16/12/2015  
**ELECTORAL DIVISION:** Mountain Ash West

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**RECOMMENDATION:** Approve

**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.

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**REASON APPLICATION REPORTED TO COMMITTEE**

This application is reported to Committee by the request of Councillor Morgan in order to assess the impact of the proposed use upon the amenity of the surrounding properties and to consider whether the introduction of a further takeaway along Oxford Street would lead to a proliferation of A3 uses in the town centre. It is also noted that 4 letters of objection have been received.

**APPLICATION DETAILS**

Full planning permission is sought for the change of use of 32 Oxford Street, Mountain Ash from a sandwich shop (A1) to a hot food takeaway (A3). The change of use would be undertaken wholly within the building itself, no external alterations are proposed with the existing shop front and access being retained.

The applicant has indicated that the premise would be open to members of the public between the hours of 5pm to 11pm each day, employing 3 full time and 2 part time members of staff.

The application is accompanied by the following:

- (i) Design and Access Statement.

It is noted that no details of any proposed extraction equipment have been submitted with the application. Therefore if the applicant proposes to erect any at the property in connection with the proposed use, they would be subject of a separate planning application.

**SITE APPRAISAL**

The application property is a two-storey, mid-terraced commercial building located on the main high street through Mountain Ash town centre. The unit was previously occupied by a sandwich shop but has been vacant for some time. The property benefits from an aluminium shop front at ground floor level with a more residential appearance above. Being in a town centre location, there are a variety of differing uses within the vicinity of the site including a number of similar hot food takeaways to that proposed.

## PLANNING HISTORY

Previous planning applications submitted at the site:

08/0367	32 Oxford Street, Mountain Ash	Change of use from mortgage advice shop (A2) to sandwich shop (A1)	GTD 28/05/08
91/0351		Change of use to include estate agency	GTD 17/07/91
90/0436		Change of use to mortgage advice bureau	GTD 29/08/90

## PUBLICITY

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

- (ii) There are already too many hot food takeaways in Mountain Ash. The proposed would lead to an over concentration of takeaways in the town.
- (iii) The proposed takeaway would have a detrimental impact upon highway safety with increased vehicles along Oxford Street and customers parking outside.
- (iv) The property does not meet the relevant building regulations to accommodate the proposed business.
- (v) The proposed use may result in the town's drainage system getting blocked due to oil, grease, fat etc. being discarded into the sewers.
- (vi) The introduction of an additional takeaway operating in the evenings will exacerbate the existing antisocial behaviour problems in the town.

## CONSULTATION

Transportation Section – no objection, subject to conditions.

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

## **POLICY CONTEXT**

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

The application site lies within the settlement boundary for Mountain Ash and is within the Mountain Ash 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 NSA2** – sets out criteria for both residential and commercial development within the Key Settlements.

**Policy NSA12** – identifies the criteria for assessment of development proposals within and adjacent to settlement boundaries.

**Policy NSA18** – identifies the retail hierarchy for the Northern Strategy Area with Mountain Ash being classed as a Key Settlement. Supports retail development and Class A uses in the retail centre of Mountain Ash that would maintain or enhance the retail centre's middle position in the retail hierarchy.

**Policy NSA19** – considers retail and other Class A development in Principle Towns and Key Settlements. New and improved Class A facilities and other uses that are appropriate within the town centre will be permitted within the retail centre of Mountain Ash subject to certain criteria.

### **Supplementary Planning Guidance**

- (vii) Design and Placemaking;
- (viii) Access, Circulation and Parking Requirements;
- (ix) Design in Town Centres.

### **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 (8th Edition, January 2016)**

Planning Policy Wales Chapter 2 (Development Plans), Chapter 3 (Making and Enforcing Planning Decisions), Chapter 4 (Planning for Sustainability), Chapter 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.

## **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 a commercial premise within the retail centre of Mountain Ash from a sandwich shop (A1) to a hot food takeaway (A3). Policy NSA18 permits proposals for Class A uses in retail centres providing the use maintains or enhances the centre's position in the retail hierarchy. Additionally, Policy NSA19 further supports Class A uses in retail centres that add vitality and viability by attracting footfall that benefits both the daytime and evening economy.

Whilst it is acknowledged that there are already a number of hot food takeaway units within Mountain Ash, approximately 12% of all premises within the retail centre, there is no policy basis for resisting a further A3 use in the retail centre despite the proliferation concerns raised by objectors. The over concentration of A3 uses criterion set out in Policy NSA19 only applies to Aberdare town centre and there is also nothing to this affect set out within Planning Policy Wales. It is noted that the applicant only proposes to operate the business between the hours of 5pm to 11pm whereby there would be no contribution to the daytime economy, unlike A1 and A2 uses, however, the Council cannot oblige the takeaway to be open during the daytime and it is considered that an occupied but closed during the daytime unit is arguably better for the vitality and viability of the town centre than the currently vacant unit.

Consequently, it is considered that being sited within the retail centre of the town, an appropriate and sustainable location for a hot food takeaway, the change of use will make a valuable contribution to the local area, representing welcomed investment in the town and 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.

As such, it is considered that the change of use would be compliant with 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 the criteria set out below.

### **Residential Amenity**

The proposal will utilise an existing commercial unit that is located within a terrace of commercial properties in the retail centre of the town. As such, the majority of surrounding properties are commercial in nature including both adjoining properties which operate as a butchers shop and a hot food takeaway respectively. It is therefore considered that any potential impact in respect of amenity would mainly occur upon business premises and given the fact the application premise would only be open during the evening when most surrounding properties are closed, it is not considered that the change of use would significantly affect the operation of the neighbouring businesses.

It is acknowledged that the streets to the rear of Oxford Street are occupied predominantly by residential units and that unrestricted Class A3 uses do have the potential to be harmful to the amenities of dwellings due to increased levels of noise/disturbance/anti-social behaviour and odours. However, the adjoining property, 31 Oxford Street, as well as a number of others along Oxford Street, have operated as a hot food takeaways for some time and these operations have not resulted in any complaints by neighbouring properties in these respects. Therefore, it is not considered the proposal to operate a takeaway at the application property would be significantly different to the existing use at no. 31 and numerous other properties along the street and as such, it is not considered that the proposed change of use would have any further impact upon the amenity of the nearest residential 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. It is also noted that following consultation, no adverse comments have been received from the Councils Public Health and Protection Division in their observations to the proposal.

Consequently, whilst it is acknowledged that there will inevitably be a degree of impact from the additional takeaway in this respect, 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 (*condition 5*) 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 conditions detailed below.

### **Highway Safety**

Following consultation, the Council's Transportation Section commented that the property is located in a sustainable location at the heart of the Mountain Ash retail centre, close to various public transport hubs and local amenities as well as public car park sited opposite. Further, it is noted that there is a loading bay to the front of the property which will allow the property to be serviced without unduly affecting highway safety. It is therefore considered that the development would not have any adverse impact in regards to pedestrian or highway safety and no highway objections have been raised. Consequently, whilst the concerns raised by the objectors in this respect are noted, the application is considered acceptable in respect of its potential impact upon highway safety in the vicinity of the site.

### **Visual Impact**

As previously detailed, the conversion will be facilitated by internal alterations wholly within the fabric of the existing building only. As such, there will be no impact upon the visual amenity of the surrounding area and the application is considered acceptable in this regard.

### **Other Issues**

It is noted that an objector has commented that the proposed use may lead to waste materials being discharged into the local sewerage system exacerbating the existing overcapacity issues in the area. However, it is considered this issue can be overcome through the installation of specialist grease trap equipment and therefore a condition (*condition 4*) to this effect can be added to any consent.

It is also noted that an objector has commented that the property does not meet the current Building Regulations. However, this is not a material planning consideration and would be assessed through a future Building Regulations application should this planning application be approved.

### **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. Furthermore, it is not considered the use would have a significant impact upon the amenity of the surrounding properties or upon highway safety in the vicinity of the property. As such, the application is considered to comply with the relevant policies of the Local Development Plan.

**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 ref. Site Location Plan and A02 and documents received by the Local Planning Authority on 28/10/15, 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 takeaway hereby approved shall not be open to the public other than between the hours of 17:00 to 23:00 Mondays to Sundays.

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

**LOCAL GOVERNMENT ACT 1972**

**as amended by**

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**LIST OF BACKGROUND PAPERS**

**DEVELOPMENT CONTROL COMMITTEE**

**17 MARCH 2016**

**REPORT OF: SERVICE DIRECTOR PLANNING**

**REPORT**

**APPLICATION NO: 15/1441 -  
CHANGE OF USE FROM  
SANDWICH SHOP (A1) TO  
TAKEAWAY RESTAURANT (A3),  
32 OXFORD STREET, MOUNTAIN  
ASH, CF45 3HB**

**OFFICER TO CONTACT**

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**See Relevant Application File**

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