

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2016-2017:**

**DEVELOPMENT CONTROL  
COMMITTEE  
1 DECEMBER 2016**

**REPORT OF: SERVICE  
DIRECTOR PLANNING**

	Agenda Item No.7
<p><b>APPLICATION NO: 16/0877/10 – PROPOSED CHANGE OF USE FROM A1 TO A3 HOT FOOD TAKE AWAY AND INSTALLATION OF AN EXTRACT VENTILATION FLUE TO REAR, WILLIAMS, 57 TYLACELYN ROAD, PENYGRAIG, TONYPANDY</b></p>	

**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 3<sup>rd</sup> November 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 were minded to refuse the application against officer recommendation. Members considered that the proposed change of use would result in the over-saturation of A3 establishments along Tylacelyn Road and would also have an adverse effect on highway safety (minute no 77(2) refers).

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 principle of the development and the impact it would have on highway safety are outlined in the original report, however, a brief summary is provided below:

Policy NSA18 encourages Class A uses inside the defined boundaries of retail centres providing that the use maintains or enhances the centre's position in the retail hierarchy. The policy does not set a limit to the number of A3 units permitted in Local and Neighbourhood Centres and it is therefore not considered that the proposal to increase the number of A3 units in the retail centre of Penygraig to 7/46 would result in the over-saturation of A3 uses in the area. In addition to this, the proposal would ensure continued occupation of the unit and potentially halt further decline in the centre.

In terms of highway safety, the application site is located on a section of Tylacelyn Road where traffic regulations are already in place to prevent on-street parking between the hours of 08:00 - 18:00 Monday to Saturday. The establishment would be open between the hours of 17:00 - 22:30 which is predominantly outside of the restricted hours and it is therefore not considered that the proposal would have such a significant impact on highway safety that it would warrant the refusal of the application.

## **5. RECOMMENDATION**

If, having considered the above advice, Members remain of a mind to refuse planning permission, it is suggested that the following reasons for refusal would be appropriate:

1. The proposed development would result in the over-saturation of A3 uses in the Local and Neighbourhood Centre of Penygraig which would be detrimental to the retail area and contrary to Policy NSA18 of the Rhondda Cynon Taf Local Development Plan.
2. The proposed development will generate a greater intensity of indiscriminate on-street parking in close proximity to a bus stop and controlled pedestrian crossing, therefore creating hazards to the detriment of highway and pedestrian safety. It would therefore be contrary to Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

**APPENDIX A.**

**APPLICATION NO:** 16/0877/10 (KL)  
**APPLICANT:** Mr King Leung Chung  
**DEVELOPMENT:** Proposed change of use from A1 to A3 hot food take away and installation of an extract ventilation flue to rear.  
**LOCATION:** WILLIAMS, 57 TYLACELYN ROAD, PENYGRAIG, TONYPANDY, CF40 1JU  
**DATE REGISTERED:** 25/08/2016  
**ELECTORAL DIVISION:** Penygraig

---

**RECOMMENDATION: APPROVE**

**Reasons:** Although a number of objections have been received in relation to the proposal, the application is considered to be acceptable in terms of its compatibility with other uses in the area and the impact it would have on the character and appearance of the surrounding area, the residential amenity and privacy of neighbouring properties and highway safety.

---

**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 no. 57 Tylacelyn Road, Penygraig from a retail store (planning use A1) to a hot food takeaway (planning use A3). The change of use would be undertaken entirely within the building itself with no external alterations taking place (with the exception of an extraction and ventilation flue to the rear).

The applicant has confirmed that the proposed hours of opening would be 1700 to 2230 six days a week (closed on Tuesdays) and would employ up to 3 members of staff. The internal layout of the property would be altered to suit its intended use as a chip shop with the existing first floor flat (currently empty) being used as residential accommodation for the owners of the premises.

The proposed extraction and ventilation flue would be located to the rear elevation, extending 1.9 metres from the mono-pitch roof of the existing single storey projection (0.5 metres above the eaves line of the main roof). It would have a galvanized zinc finish.

It is noted that the existing shop front would be retained and any new signage would be subject to a separate application for advertisement consent.

**SITE APPRAISAL**

The application site relates to a two-storey, mid-terrace property which is located on the main high street through Penygraig town centre. The property already benefits from an existing shop front to the front elevation with access provided directly off the adopted highway at Tylacelyn Road. An existing part-width, two-storey extension is located to the rear along with a small enclosed garden and detached garage (all to be retained). The property is currently occupied by the village greengrocers, however, the owner is due to retire and the establishment will close.

The surrounding area is characterised predominantly by commercial properties, however, it is noted that there are a number of residential properties nearby.

### **PLANNING HISTORY**

There is no recent planning history relevant to the determination of this application.

### **PUBLICITY**

The application has been advertised by means of direct neighbour notification and site notices. A total of 5 letters of objection have been received from surrounding residents and businesses and are summarised as follows:

- There is a parking and traffic control problem in the area already;
- The site sits on a bus stop with another directly opposite;
- The road is constantly congested there especially at peak times;
- Another takeaway would be a disaster to the existing problem;
- There is already a cafe, Chinese takeaway, Indian takeaway, Turkish kebab/pizza takeaway, delicatessen and a traditional fish and chip takeaway already on the high street and that is quite enough for a small street;
- We need some traditional shops i.e. butchers, bakers, fruit and veg shops to keep the street thriving and generate the area;
- There is no parking on the main street;
- The development will only cause more traffic jams during peak business hours due to illegal parking and would add noise pollution and potential smell to nearby residents;
- Penygraig was once a thriving village and now has a very limited retail area which has more fast food outlets and cafes than is necessary for its size;
- Any vacant retail building should be kept available to encourage an alternative business to relocate in to the village.

### **CONSULTATION**

**Transportation** – no objection is raised or condition suggested.

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

## **POLICY CONTEXT**

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

The application site lies inside the defined settlement boundary in Penygraig and is within a Local and Neighbourhood Centre.

**Policy CS1** – promotes commercial development in locations which support and reinforce the roles of retail centres.

**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 as a result of flooding.

**Policy NSA18** – identifies Penygraig as a local and neighbourhood centre.

**Policy NSA19** – advises that development proposals for Class A1, A2, A3 and other uses that add vitality and viability to the retail centre will be permitted.

### **Supplementary Planning Guidance**

- Delivering Design and Placemaking: Access, Circulation & 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 Chapter 3 (Making and Enforcing Planning Decisions), Chapter 4 (Planning for Sustainability), Chapter 7 (Economic Development), Chapter 8 (Transport), Chapter 10 (Planning for Retail and Town Centres) and Chapter 13 (Minimising and Managing Environmental Risks and Pollution) 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;
- 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 situated within the settlement boundary for an area of Penygraig which is designated as a local and neighbourhood centre under Policy NSA18 of the Local Development Plan. This policy recognises that Class A uses add to the vitality of a town centre by attracting customers and increasing footfall, however, it also aims to avoid over-concentration of A3 uses as there is potential for them to have a detrimental impact on the retail character of the area. As Penygraig currently has a 13% vacancy rate (6/46 units), it is considered that the change of use from A1 to A3 would ensure continued occupation of the unit and potentially halt further decline within the centre. It is acknowledged that the proposed hot food takeaway would be open between the hours of 17:00 – 22:30 (six days a week) and would therefore make a limited contribution to the day time economy of Penygraig. However, a new frontage that is active during the evening, will add vitality to the evening economy of the centre.

It is noted that a number of objections have been received in relation to the application which raise concern that the proposal would unacceptably increase the number of A3 uses in the town. However, the total number of A3 establishments would be increased to 15% (7/46 units) which would not raise any issues in terms of proliferation of this use. It is also noted that only 4 of the 6 existing A3 uses operate as takeaways; the remaining 2 are noted as a pub and a cafe. Whilst the comments received from the objectors are appreciated, it is not considered that the proposed change of use would lead to an overconcentration of A3 uses in the town and it would therefore make a valuable contribution to the local area and would ensure the continued use of the property. It is accepted that there are other takeaways within the surrounding area that operate a similar facility with comparable opening hours, however, it is considered that properties occupied by this use are best located within such centres.

It is also noted that the property is located within a sustainable location, being served by public transport and within walking distance of the surrounding residential area. Bus services frequently run through the area which is also served by a nearby railway station. Accordingly, the proposal is considered to comply with Policy AW2.

Whilst it is regrettable that an A1 shop use would be lost from the town, the proposal is in accordance with Policy NSA18 and AW2 and is therefore considered to be acceptable in principle, subject to an assessment of further policies within the Local Development Plan.

### **Impact on the character and appearance of the area**

The proposed development would not result in any physical changes to the external appearance of the existing property. However, a single extraction & ventilation flue of galvanised zinc would be sited to the rear elevation which would be incorporated into the mono-pitch roof of an existing rear extension. The flue would project a maximum of 1.9 metres from the roof slope, just 0.6 metres above the eaves height of the existing two-storey roof and it is therefore not considered that it would have an unacceptable visual impact on the character and appearance of the surrounding area.

### **Impact on residential amenity and privacy**

It is acknowledged that the property is located in close proximity to a number of residential properties (no's 1-4 Ffrwd Amos Cottages and Field Street) and there is potential for the intended use to have some impact on their residential amenity in terms of potential cooking odours and noise associated with members of the public using the establishment during the hours of operation (17:00-22:30).

However, following consultation with the Council's Public Health and Protection Section, no objection has been raised to the proposed use subject to conditions to ensure that appropriate equipment is installed to suppress and disperse fumes and smells produced by the preparation and cooking of food and 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 noise associated with the use of the premises, the property is located within a retail centre where uses of this type would usually be expected. In addition to this, the property would have reasonable opening hours of 17:00 to 22:30 and would not result in any additional noise to that created by the existing public house ('The Turberville') directly opposite the site. Notwithstanding this, a condition restricting the hours of opening to those specified within the application is considered necessary to protect the residential amenity of surrounding residential properties.

### **Access and highway safety**

Local residents have raised concerns with regard to the proposal contributing to an existing traffic problem in the area, particularly during business hours, and, whilst there is some concern that the proposal would result in indiscriminate on-street parking, the Council's Highway's Department have

raised no objection to the proposal. Taking into account the existing traffic regulations in place preventing on-street car parking between the hours of 08:00 - 18:00 Monday to Saturday, the proposed opening hours of 17:00 - 22:30 and the carriageway width of 8.8 metres which can accommodate some short term on-street car parking after 18:00 without affecting free flow of traffic, the proposal is, on balance, considered to be acceptable in terms of highway safety.

It is acknowledged that there are bus stops in close proximity to the site, however, the Council's Highway's Section consider that this would promote sustainable transport and prevent on-street parking at this location.

### **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:

### **Public Health**

The Public Health and Protection Section have also suggested a number of standard conditions in addition to those discussed above. Whilst these comments are appreciated, it is considered that issues relating to hours of operation, noise, dust and waste can be more efficiently controlled by other legislation. However, an appropriate Informative can be added to any permission notifying the applicant/developer of the need to comply with legislation concerning these matters.

### **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 is considered to comply with the relevant policies of the Local Development Plan in respect of the principle of the change of use, the impact on the character and appearance of the surrounding area, the impact on the residential amenity and privacy of neighbouring residential properties and the impact on highway safety.

### **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 5th August 2016, unless otherwise to be approved and superseded by details required by any other condition attached to this consent:

Drawing No. 16 - 086/P/06

Drawing No. 16 - 086/P/05

Drawing No. 16 - 086/P/07

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

3. 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 before the use of the premises commences and then shall operate in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the environmental amenity of the area in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

4. Prior to the use hereby permitted commencing, a scheme of odour/effluvia/fume control shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the location of the proposed equipment in relation to the party walls of neighbouring premises and of any provisions incorporated to reduce the emission of sound. The building/premises shall thereafter only be operated in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of the occupiers of adjoining properties in accordance with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

5. The use hereby approved shall not operate other than between the hours of:

- 17:00 – 22.30 (Monday-Sunday and Bank Holidays)

Reason: In the interests of the residential amenity of those living closest to the site in accordance with Policies AW5 and AW10 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**

**1 DECEMBER 2016**

**REPORT OF: SERVICE DIRECTOR PLANNING**

**REPORT**

**APPLICATION NO: 16/0877/10 –  
PROPOSED CHANGE OF USE  
FROM A1 TO A3 HOT FOOD TAKE  
AWAY AND INSTALLATION OF AN  
EXTRACT VENTILATION FLUE TO  
REAR, WILLIAMS, 57 TYLACELYN  
ROAD, PENYGRAIG, TONYPANDY**

**OFFICER TO CONTACT**

**MRS K NORTHAM  
(Tel. No. 01443 494779)**

**See Relevant Application File**