



PLANNING & DEVELOPMENT COMMITTEE

15 AUGUST 2019

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 19/0471/10
(GW)
APPLICANT: Mr K Fazili
DEVELOPMENT: Change of use from auction house (Sui Generis) to create 2 takeaway units (A3) and 1 retail unit (A1).

LOCATION: 66B HANNAH STREET, PORTH, CF39 9PY
DATE REGISTERED: 12/06/2019
ELECTORAL DIVISION: Porth

RECOMMENDATION: GRANT

REASONS:

The proposed uses would provide active uses within a vacant property that would increase footfall to Hannah Street in Porth and would contribute to the vitality and viability of the retail area.

Whilst two objections have been raised, stating there are too many takeaways in the area, the Council's retail policy in the Local Development Plan, however, supports food and drink uses within these areas. Furthermore, it is not considered there is an over dominance of food/takeaway uses and that the balance of different retail uses on the street is acceptable.

In all other material planning considerations it is considered the development would be acceptable.

REASON APPLICATION REPORTED TO COMMITTEE

A request has been received from Councillor Julie Williams for the matter to come before Committee for determination, for the reason that Members can fully consider the impact on the retail area and local trade.

APPLICATION DETAILS

This planning application seeks the conversion of an auction house on Hannah Street in Porth to create 3no. retail units on the ground floor of the building. Two hot food takeaways (A3 use class) and one retail unit (A1 use class) would be created with each having a shop area fronting Hannah Street and separate back areas to the rear of the building. The two takeaways would have ventilation systems through the building up to an extraction unit on the roof. New shop fronts and roller shutters would be provided for each unit.

The layout also shows an internal bin store area and plant room at the rear of the building. This can be accessed via the lane to the side of the building.

No opening hours have been proposed with the application.

The application is supported by the following:

- Planning, Design and Access Statement.

SITE APPRAISAL

The application property relates to a unit operating on the ground floor of a large building located both within the town centre of Porth and the defined retail zone.

The building appears to be a former chapel with a modified retail type frontage directly onto Hannah Street. The building currently appears to be vacant.

The surrounding area is characterised by retail and leisure uses with various different shop fronts being visible along the full length of the main shopping street. It is also noted that there are some residential flats above shops with other residential properties being located on Pontypridd Road to the south-west.

PLANNING HISTORY (Relevant to site and most recent)

17/0161	66C (Included 66B) Hannah Street, Porth	Change of use from A3 use to sui generis (Auction House).	Granted 12/5/17
13/1108	Arnies Steakhouse, 66B & 66C Hannah Street, Porth	Variation of condition 1 of planning approval 07/2134/10 to extend opening hours from 8am Monday to Sunday	Granted 14/01/14
12/0087	66B and 66C Hannah Street, Porth	Change of use of Retail Unit (A1) to A3 use including new window to front, proposed flue at roof level and retention of cellar cooling unit to side elevation	Granted 19/06/12

09/0670	65 Hannah Street, Porth	Proposed change of use to a restaurant (proposed A3 use) with opening times 9am to 12 midnight.	Refused 19/08/09 Appeal: Dismissed 04/03/10
07/2134	66C Hannah Street, Porth	Retrospective change of use of ground floor from D2 (Licensed Members Club) to A3 (Café/Bar)	Refused 06/06/08 Appeal: Allowed 24/02/09
07/1793	66 Hannah Street, Porth	Application for the variation of Condition 5 of Planning Permission 92/0675 to extend opening hours	Refused 20/08/08 Appeal: Allowed 24/02/09

PUBLICITY

The application has been advertised via the erection of site notice and by direct neighbour notification. At the time of writing this report two letters have been received, including one from Porth Chamber of Trade. The objections contained within are summarised below:

- There are currently in excess of 45 food outlets available in Porth and the Welsh Office made a decision in 2010 (09/0670) to stop any further food outlets stating that Porth is well catered for with available food outlets.
- We would welcome more shops and other business opportunities to enrich the shopping experience within Porth Town and increase footfall during the day. There are plenty of goods currently unavailable within Porth itself.

CONSULTATION

Dŵr Cymru/Welsh Water – no objection subject to conditions requiring that no surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system and that the approved use shall not commence until an adequate grease trap has been fitted in accordance with details that have been submitted to and approved in writing by the local planning authority.

RCT Flood Risk Management – no objection.

RCT Public Health and Protection – no objection subject to conditions on demolition of existing dwellings, hours of operation during construction, noise, dust, waste and

the provision of equipment to suppress and disperse fumes and smells produced by the preparation and cooking of food and a system to prevent waste cooking oil, fats, grease and food debris entering the foul drainage system.

RCT Transportation Section – there is some concern that there is no off-street car parking provided with the proposed. However, taking into account the proposed requires a lesser demand than the previous and is located in the centre of Porth retail area (Zone 2) where-by a number of trips through the week would be cross linked, the sustainable location of the proposed within easy walking distance of public transport, public car parks with traffic regulations protecting the loading bay on-balance the proposed is acceptable.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

The site is within settlement boundaries and is identified as a key settlement in the retail hierarchy in the Rhondda Cynon Taf Local Development Plan. It is also designated as being within the Rhondda historic landscape area by Cadw, within a high risk area from former coal mining works and within a C2 flood zone.

Policy CS1 - sets out criteria for achieving sustainable growth including: promoting residential and commercial development in locations which support the role of principal towns and key settlements and encouraging a strong, diverse economy

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 and requires the scale, form and design of new development to have an acceptable effect on the character and appearance of the site and surrounding area and existing features of the built environment to be retained.

Policy AW10 – covers environmental protection and public health.

Policy NSA2 – The policy supports proposals commercial development within the Key Settlement of Porth which: 1) supports and reinforces the role of the centre as a Key Settlement; 2) is of a high standard of design; 3) promotes the beneficial re-use of vacant floor space; and 4) supports the provision of local services.

Policy NSA18 – Identifies Porth as a key settlement in the retail hierarchy. Development of Class A retail uses which would maintain or enhance a centre's position in the retail hierarchy will be permitted.

Policy NSA19 – provides criteria for retail development in the principal town and key settlements. Development proposals for Class A1, A2, A3 and other uses that will add vitality and viability to the retail centre by attracting footfall that benefits the daytime and evening economy will be permitted.

Supplementary Planning Guidance

Access, Circulation & Parking

Design and Placemaking

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.

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 (Wales) Act into Town & Country Planning.

The following Planning Policy Wales chapters set out the Welsh Government's policy on planning issues relevant to the determination of the application.

Chapter 2 - People and Places: Achieving Well-being Through Placemaking;
Chapter 3 - Strategic and Spatial Choices (good design making better places, promoting healthier places, sustainable management of natural resources);
Chapter 4 - Active and Social Places (community facilities and recreational spaces);
Chapter 5 - Productive and Enterprising Places (reducing energy demand and use of energy efficiency); and
Chapter 6 - Distinctive and Natural Places (landscape, biodiversity and ecological network and lighting).

Other relevant policy guidance consulted:

PPW Technical Advice Note 4: Retail and Commercial Development;

PPW Technical Advice Note 11: Noise;

PPW Technical Advice Note 15: Development and Flood Risk;

PPW Technical Advice Note 18: Transport;

PPW Technical Advice Note 23: Economic Development; and
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.

Principle of the proposed development

The Rhondda Cynon Taf Local Development Plan (LDP) identifies the property is located within the main retail area of the key settlement of Porth. The properties current use is as an auction house; however it is understood that this use has ceased and the building is vacant.

Members are advised that previously to the auction house use, the building had a food and drink (A3) use (Reference 12/0087). Furthermore, that Policy NSA19 in the Local Development Plan supports proposals for Class A1, A2, A3 and other uses that will add vitality and viability to the retail centre by attracting footfall that benefits the daytime and evening economy.

An objection has however been received from the Porth Chamber of Trade and a local resident that details that there are too many hot food takeaways and that Porth needs more variety of shops to bring footfall.

Whilst the concerns above are noted, the number of takeaways in Porth's retail area is considered relatively low. A report from the Council's Planning Policy section details that 13.93% of the retail offer within Porth are within Class A3, with 8.19% being specifically 'takeaway' uses (including chip shops). From a recent site visit to Hannah Street, Members are advised, this figure is similar for just Hannah Street. It was counted that 9 out of 79 premises on the street were restaurant/takeaways (i.e. approximately 8%). Turning back to the survey, the percentage of Class A1 uses is also over half of the retail offer at a very respectable 51.64%. They conclude that these statistics are reflective of a relatively healthy, balanced retail centre. It is also worth noting that they detail around 15% of properties are vacant, which is above average within RCT. Members can see the whole of the report in **APPENDIX 1**.

One objector also points to a planning appeal decision (09/0670) where an inspector dismissed an appeal for a takeaway at number 65 Hannah Street and in close proximity to this application site. The objector infers that the Welsh Government's decision stops any further takeaways. Whilst this decision is noted it is considered the decision and other appeal decisions (identified above in the planning history section) were taken on the specific judgement of the inspector. Members should note also that a year before the above appeal, in 2009, the same inspector allowed an A3 unit at the current application site (Reference 07/2134).

For the appeal at number 65 the inspector stated, *"Vacant shops and A3 units that operate primarily in the evenings, have a propensity to create dead frontages during the day which weakens the retail function and attractiveness of a centre"*. It further states with regard, *"the existing concentration of A3 uses along this part of the street. In my judgement, this would detract from the attractiveness of the retail centre as a whole to the extent that the shopping character and function would be undermined"*.

Whilst it is considered an over-dominance of A3/vacant units can result in a negative impact, the local situation has however changed from the time of the above appeal. The auction house is vacant and a large unit on the high street. Bringing it back to an active use would provide footfall to the street and would benefit the character and function of the retail area. Members are also advised that it can be seen from the map in **APPENDIX 2** of current uses within the vicinity of the site that there are few A3 uses in the locality and that the introduction of 2 no. A3 units at the property is considered would not result in an over concentration of A3 uses.

In summing up, the proposed uses would accord with LDP policy for retail areas, would not result in an over saturation of A3 uses and would provide a beneficial use within a vacant building that would increase footfall to the benefit of the vitality and viability of

the retail area. Therefore, it is considered the principle of the proposal would be acceptable subject to the following material planning considerations, which are discussed below.

Impact on residential amenity

It is considered that the operation of the proposed retail business within a retail zone is unlikely to cause significant disturbance to any nearby residents as these types of uses are expected within such areas. In addition, no objections to this issue have been received as a result of the public consultation exercise.

No opening hours have been proposed and the selling of food would require a licence for these. In this location it is expected that takeaways would open late into the night.

Members are advised the previous café/bar (unrestricted A3 use) on the ground floor of the application site at 66 Hannah Street (allowed at appeal reference 07/2134) was granted opening hours 11:00 – 00:30, Sundays – Thursdays and 11:00 – 01:30 on Fridays and Saturdays. It has been suggested to the applicant that if permitted, that this application could be conditioned to similar opening hours, however with a starting time of 07:00 which would provide earlier scope for a café type use. The applicant has detailed this would be acceptable to them. It is considered that these hours would be acceptable for the A3 uses. The A1 use, due to the location with the retail area, would not require a restriction to its opening hours.

The Council's Public Health and Protection Section state that details would be required of ventilation system. It is considered this would be necessary to protect residential amenity and details of this can be obtained by a suitably worded condition.

Taking the above into account, it is considered this application would be acceptable in these terms.

Impact on the character and appearance of the area.

It is proposed to renew the shop fronts of the existing building and provide roller shutters. These would not change significantly the look of the building. However, due to the prominent position of the building in the retail zone it is considered necessary that details of the materials and colour of the shopfront and roller shutters should be obtained prior to commencement of the works. Details of these can be required by a suitably worded condition.

The proposal also involves ventilation and extraction flues for the kitchens. These would be located on the roof and would be considered acceptable.

Therefore, it is considered that the proposal would be acceptable in these terms.

Access and parking

The property is located on the main shopping street in Porth where the majority of places do not have off street parking. No objection is raised by the Transportation Section.

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:

Drainage

Dŵr Cymru/Welsh Water detail they do not object subject to a condition that no surface water should connect to the public sewerage network from any increase in roof surface or impermeable area. The development however does not propose any and therefore it is considered the condition is not necessary. They and the Council's Public Health Section also detail a grease trap should be provided to prevent such material and cooking waste potentially clogging up the drainage system. It is considered these details would be necessary and could be obtained by a suitably worded condition.

Other Public Health Section Comments

Whilst the comments raised by the Public Health and Protection Section are appreciated, it is considered demolition, noise, dust and waste matters can be more efficiently controlled by other legislation. An appropriate note can be added to any permission regarding these issues.

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 development, the impact on residential amenity, the impact on the character of the area and access and parking (Policies CS1, AW2, AW5, AW10 and NSA19).

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 no's:
 - Site Location Plan received on 30th April 2019.
 - 3726.PL.02 Block Plan received on 30th April 2019.
 - 3726.PL.05 Proposed Floor Plans received on 30th April 2019.
 - 3726.PL.06 Proposed Elevations received on 12th June 2019.

and documents received by the Local Planning Authority on 30th April 2019 and 12th June 2019, 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. The A3 uses, hereby permitted, shall not take place other than between the hours of: 07:00 – 00:30, Sundays – Thursdays; and 07:00 – 01:30 on Fridays and Saturdays.

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

4. Equipment shall be installed to suppress and disperse fumes and smells produced by the preparation and cooking of food. All equipment shall be maintained and operated for as long as the premises operates as a food outlet. Details of the exhaust ventilation equipment must be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the use of any part of the premises as a food outlet.

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. Details of a system that you are intending to operate to prevent waste cooking oil, fats, grease and food debris entering the foul drainage system must be provided to the Local Planning Authority for its approval in writing. The system must be in place prior to and operated for as long as the premises operates as a food outlet.

Reason: To protect the drainage system in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

6. Building operations shall not be commenced until samples (including colour) of the materials proposed to be used for the shopfront and roller shutters have been submitted to and approved in writing by the Local Planning Authority and all materials used shall conform to the sample(s) so approved.

Reason: To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

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Analysis of Porth Retail Centre

As identified in the Rhondda Cynon Taf Local Development Plan, the retail hierarchy of the Northern Strategy Area consists of the Principal Town of Aberdare, with the Key Settlements of Ferndale, Hirwaun, Mountain Ash, Porth, Treorchy and Tonypany sitting below. There are also a number of smaller Local and Neighbourhood Centres below these Key Settlements. The Principal Town of Aberdare performs a sub-regional retail role, with emphasis on achieving a good balance between comparison (non-food) and convenience (food) shopping. The Key Settlements, act as a 'district centre', where emphasis is on convenience shopping with an element of day-to-day comparison shopping.

The latest retail data for Porth (April 2018), indicates that there are 122 properties monitored within the defined retail centre. 19 properties are presently vacant meaning that Porth has a 15.57% vacancy rate overall. This is slightly above the RCT average vacancy rate for Principal Towns and Key Settlements, which stands at 12.37%, the Welsh average which stands at 13.6% and the UK average, which stands at 10.1% (Springboard, October 2018). Despite being above the Welsh and UK average, the town is still performing well, within difficult economic circumstances. It was also noted during the survey in April that some of the vacant properties were undergoing refurbishment and were to be opened soon thereafter (e.g. 'Welcome Kitchens' that was due to open on the 3rd May), therefore the vacancy rate of 15.57% is slightly false in this respect.

The defined retail centre hosts 17 Class A3 premises, including 10 takeaways, 3 cafés, 2 café/chip shops and 2 café/bars (the 2 café/bars are one business occupying two units). This equates to 13.93% of the retail offer within Porth being within Class A3, with 8.19% being specifically 'takeaway' uses (including chip shops). Class A2 comprises 7 units which equates to 5.73% of the retail offer. Class A2 and A3 combined represent a total of 24 units, which equates to a healthy 19.67% of the retail offer. The percentage of Class A1 uses is also over half of the retail offer at a very respectable 51.64%. All A Class uses combined total 71.31%. This leaves only 13.12% within other use classes including opticians, auction rooms, Porth Plaza, tanning/beauty salons, tattoo parlours and a nail bar. These statistics are reflective of a relatively healthy, balanced retail centre.

