



## **PLANNING & DEVELOPMENT COMMITTEE**

**21 OCTOBER 2021**

### **REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

#### **PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 21/1020/10 (BJW)  
**APPLICANT:** Mr Anjam  
**DEVELOPMENT:** Proposed change of use from retail to a take away.  
**LOCATION:** 27 BROOK STREET, WILLIAMSTOWN, TONYPANDY, CF40 1RB  
**DATE REGISTERED:** 04/08/2021  
**ELECTORAL DIVISION:** Penygraig

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#### **RECOMMENDATION: Approve**

**REASONS:** The proposed change of use would be suitable and appropriate to the existing retail area of a Local and Neighbourhood Centre (Williamstown) and would add to the vitality and viability of this area. The operation of the use would not have a detrimental impact on the amenity of neighbouring residential properties (including those above the shops).

The application is considered to comply with the relevant policies of the Local Development Plan in respect of its impact on the visual amenities of the area, highway safety and the amenities of nearby residential properties as well as maintaining the position of the retail centre within the retail hierarchy.

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#### **REASON APPLICATION IS BEING REPORTED TO COMMITTEE**

Three or more letters of objection have been received.

#### **APPLICATION DETAILS**

Full planning approval is sought for the conversion of the existing property, 27 Brook Street, from a retail premises – selling hardware, to a hot food takeaway.

The application proposes no external alterations to the shopfront of the property while a new extraction flue from the internal cooker hood would be installed to the rear, single storey annexe to serve the proposed use. The proposed hours of operation of the business would be 11am to 11pm Monday to Saturday and 5pm to 11pm on Sundays and Bank Holidays. The new use would generate employment for two full time and three part time staff.

The floor plan for the proposed business includes a counter and waiting area to the front of the property and a food preparation area to the centre and rear. Also included is a storeroom and staff toilet.

The application is almost identical to a previous application, reference no. 15/1164/10, which was approved at the property, subject to conditions, on 06/11/2015. The only physical difference to the previously approved application is the location of the cooker hood which will now be located within the main servery area at the front of the premises. The only operational change would be the hours of operation as detailed above.

## **SITE APPRAISAL**

27 Brook Street, Williamstown is an end of terrace, commercial property located within a terrace of businesses in the retail area of the village of Williamstown. The property is currently in retail use, selling items of hardware and appliances, with a flat above.

There are a variety of business premises within the general locality, some of which have residential flats on the upper floor.

## **PLANNING HISTORY**

15/1164	27 Brook Street, Williamstown	Proposed Change of Use from A1 Retail to A3 to Take-Away.	Granted 06/11/15
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## **PUBLICITY**

This has included site notices and the direct notification of properties surrounding the site. 5 responses have been received, which are summarised below:

1. The residents of Rowling Street oppose this application as it would exacerbate existing parking issues in an already busy street from local businesses owners and customers parking to use the services. Five of which are open late evenings.
2. We feel there would be no need for a takeaway in this street either and it would add to late night problems with parking, noise and smell. We residents often come home from work and can't park in street due to customers parking and residents of Brook Street parking their vehicles, sometimes for days at a time.
3. We already have an approval for a takeaway (28-30 Brook Street) which has been delayed opening due to COVID. We had to provide parking for our proposal but none is offered with the current proposal. This seems to be unfair.
4. Antisocial behaviour of patrons attracted to the area for late night food including increased noise and disturbance.
5. Difficulty of large vehicles, including buses being able to get through the main thoroughfare of Brook Street due to the increased parking of vehicles in the area.
6. There were no signs in the area advising of this application.

## **CONSULTATION**

Transportation Section – no objection. There is concern with regards the proposal adding to the existing high demand for on-street car parking along Brook Street and

the surrounding residential streets. However, taking into account that the proposal is in the retail area of Williamstown close to public transport links and a number of trips are anticipated to be on foot and cross linked with other local shopping trips, and with a similar planning permission granted in 2015 for conversion of the property to A3 takeaway, on balance, the proposal is acceptable. No conditions are suggested.

Land Reclamation and Engineering (Drainage) – no objection. From a flood risk perspective, the applicant has proposed a change of use which does not increase the footprint of the building and does not increase the impermeable area, as such we offer no comment. As such there is no objection or recommendation for condition in relation to surface water flood risk for this application. It is considered that the development's surface water flood risk will be adequately managed by both the Building Regulations and Schedule 3 of the Flood and Water Management Act 2010. Advice is provided in relation to these matters.

Public Health and Protection Division – No objection, subject to conditions to restrict the hours of operation, hours of deliveries/collections, within/to/from the business; a condition for the details of equipment to suppress and disperse odours and noise generated from cooking and a condition for the system for the disposal of fat, oil and grease generated by the development to be agreed and installed prior to the use commencing and operated for as long as the proposed use continues.

Dwr Cymru Welsh Water – no objection, subject to conditions and advisory notes.

## **POLICY CONTEXT**

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

The application site lies within the settlement boundary in Williamstown and is within a Local and Neighbourhood Centre, Williamstown (Policy NSA18.3 refers).

**Policy CS1** - sets out criteria for achieving sustainable growth including, promoting and enhancing transport infrastructure services.

**Policy AW 2** - supports development in sustainable locations.

**Policy AW 5** - lists amenity and accessibility criteria that will be supported in new development proposals.

**Policy AW 6** - lists design and placemaking criteria that will be supported in new development proposals.

**Policy NSA 18.3** - designates the area as a Local and Neighbourhood Centre (Williamstown) and supports development that would maintain or enhance a centre's position in the retail hierarchy.

**Policy NSA19** – states that proposals for Class A1, A2 and A3 uses in retail centres will be permitted provided that they add vitality and viability to the centre.

### **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 11) (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. Future Wales: The National Plan 2040 (FW2040) sets out guidance for development at both regional and national level within Wales, with the thrust and general context also aimed at sustainable development.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is 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.

Given the relatively modest scale of the proposed development and its relationship with only the immediate surrounding area, there are limitations to the extent such a scheme can have in promoting planning objectives at a national scale. As such, whilst the scheme aligns with the overarching sustainable development aims of FW2040, it is not considered the policies set out in the document are specifically relevant to this application.

Other relevant national policy guidance consulted:

Planning Policy Wales Technical Advice Note (TAN) 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**

It is considered that the principle of changing the use of the premises from a retail shop to a takeaway would be acceptable in terms of the provisions of the Local Development Plan.

The existing use of the premises as a retail shop would be Use Class A1 while the proposed use would be Use Class A3. National Guidance considers that retail uses

(A1) should underpin centres however a lively mix of uses, including A2 and A3 uses, is encouraged in order to promote and improve vitality and viability.

As this application mainly proposes to open from 11:00am until 11:00pm it is considered that it would not have a detrimental impact upon the retail frontage within Williamstown being open throughout the day.

It is also considered that the change of use would not result in an over-concentration of A3 uses in this instance as the most recent retail survey of Williamstown 5<sup>th</sup> of July 2021 identified that there were 14 properties within the retail centre with a breakdown of the following use classes:

- A1 - 9 properties (64.29%)
- A3 - 2 (14.29%)
- Sui Generis (unique uses) - 1 (7.14%)
- Vacant - 2 (14.29%)

By removing an A1 use and adding an A3 use retail would still be the dominant use in this case (remaining at 57.15%). Therefore, whilst the balance in Williamstown is getting close to a point where non-retail uses could become more dominant than retail and there would be an objection if this was to happen, the current proposal would not result in the centre reaching that limit.

It is also acknowledged that there is a previous consent for conversion to an A3 use at this property which only expired in November 2020. It is considered that there have been no substantive material changes in circumstance since the previously approved application and this is confirmed by the retail survey results which are largely unchanged over the intervening period.

Consequently, it is considered that the principle of a change of use to an A3 use is acceptable.

### **Impact on the Local and Neighbourhood Centre (Williamstown)**

The site is within a Local and Neighbourhood Centre, the village of Williamstown. As such developments for retail units and other uses should enhance or maintain the centre's position within the retail hierarchy.

As detailed above, it is considered that the change of use to an A3 use would add to the mix of shops within the retail area and consequently, to the vitality and viability of the area. Additionally, the development would provide a productive, continued commercial use to the property.

Consequently, it is considered that the change of use would positively meet the requirements of the policy for the retail centre and maintain and enhance the centre's position in the retail hierarchy and is acceptable.

### **Impact on neighbouring properties**

The proposal utilises an existing retail unit that is located within a terrace of commercial properties. Therefore the impact on the closest properties would primarily be on business premises and would be considered to be acceptable.

It is acknowledged however that there are residential units above some shops and that A3 uses do have the potential to be harmful to the amenities of dwellings due to increased levels of noise, odours and disturbance. However, it is considered that these concerns could be adequately addressed through the imposition of planning conditions as suggested by the Public Health and Protection Division in their observations to the proposal.

It is also considered that within retail areas there is a general level of activity that is greater than in purely residential areas and that residents accept that this is a consequence of living in such areas.

It is however acknowledged that there have been several objections raised by residents of surrounding residential streets in relation to noise, disturbance and off-street parking. These issues, where not already considered, will be addressed later within the report.

### **Visual amenity**

The façade of the property would remain largely unaltered with the change of use being achieved through internal alterations that themselves use the existing spaces and partitions of the premises.

The one external alteration proposed would be the installation of an extraction flue at the rear of the premises. It is considered that this alteration would be relatively minor and visually acceptable within the setting of this property and its immediate surroundings.

### **Highway safety**

The Transportation Section has raised no objection to the application. This view acknowledges that there is concern with regards the proposal adding to the existing high demand for on-street car parking along Brook Street and the surrounding residential streets.

However, taking into account the positive planning history for an almost identical use at the site and that the proposal is in the retail area of Williamstown, is close to public transport links and that a number of trips are anticipated to be on foot and cross linked with other local shopping trips, it is, on balance, that the proposal is considered to be acceptable in this respect.

### **Other Issues**

The comments of neighbouring properties in relation to the application are acknowledged. Where these comments have not been addressed already in the report the following additional comments are offered:

1. The application has been subject to consultation with the Council's Transportation Section who, while acknowledging the concerns and existing situation within the area, have raised no objection to the application. While it is acknowledged that there is an ongoing problem with parking and access within the area there are also Traffic Regulation Orders (TRO's) which restrict parking within the area. It is also acknowledged that, by their very nature, hot food takeaways have the capacity to generate a greater intensity of indiscriminate, short-term parking as patrons seek to park as close as possible to the premises to collect their food. However, it is likely that the majority of this activity will be after the other commercial uses within the centre are closed or less busy. Additionally, many users would travel to the premises on foot or as part of cross-linked visits to the centre. Consequently, it is considered that the proposed use would not have a significant enough impact in this regard to warrant refusal on these grounds.
2. The number of takeaways within the retail centre of 14 businesses is such that the predominant use would remain as retail (A1 – 57.15%, down from 64.29%). It is not considered that one additional A3 use would alter the balance to the detriment of the vitality and viability of the retail centre.
3. The case referred to 17/0536/10 was for the conversion of part of the storeroom of the existing retail use to an A3 use. The application included the provision of a parking space to serve the development, which was a new unit within the existing retail area, that has still not been implemented.
4. Antisocial behaviour is a concern but is dealt with as part of the crime and disorder powers of the Police. The closing time of the proposed use (11pm) is such that it is unlikely to exacerbate antisocial behaviour within the area. And in any case, there is no evidence to suggest the proposed use would exacerbate any existing issues.
5. The use of Brook Street as a main thoroughfare for vehicles is acknowledged as is the difficulty for large vehicles due to parking issues within the street. It is considered that this is already addressed through the existing TRO's and their enforcement.
6. All surrounding properties were directly notified by letter and signs notifying the public of the application were displayed on site on 4<sup>th</sup> August 2021. Photographs of the notices are included in the presentation.

One of the suggested conditions (condition 9 below) from the Council's Public Health and Protection Division has been amended as the wording would have been unduly restrictive to the operation of the business. The suggested condition has been re-worded to restrict deliveries to the business to the times specified.

## **Conclusion**

The application is almost identical to a previously approved application for a change of use at this site. It is considered that there has been no significant material change in circumstances since the previous approval that would warrant a different decision to that previous made, to approve the application.

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, impact upon

neighbouring properties, highway safety and the impact on the existing local and neighbourhood retail centre (Williamstown) - Policies AW5, AW6 and NSA18.3 refer.

Consequently, a recommendation to approve the application is offered, subject to the conditions set out below.

**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 plan(s) no(s)

- Site location plan (includes existing ground floor, front, side and rear elevation plans), drawing no. hdw/ph/sid/01
- Proposed ground floor, front, side and rear elevation plans, drawing no. hdw/ph/sid/02

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 hours of operation for the business hereby approved shall be as follows:

- Monday – Saturdays 11.00 to 23.00
- Sundays including Bank Holidays 17.00 to 23.00 hours

Reason: To ensure that noise emitted from this 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

4. A scheme of odour/effluvia/fume control shall be submitted to and approved in writing by the Local Planning Authority prior to any development works commencing on site. The approved scheme shall be implemented before the beneficial use of the premises commences and shall operate for as long as the premises operates as a food outlet 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.

5. A scheme of odour/effluvia/fume control shall be submitted to and approved in writing by the Local Planning Authority prior to any development works

commencing on site. The approved scheme shall be implemented before the beneficial use of the premises commences and shall operate for as long as the premises operates as a food outlet 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.

6. Equipment such as extraction systems, discharge stacks and odour control systems etc. shall be installed to suppress and disperse fumes and smells produced by the preparation and cooking of food. Details of the intended exhaust ventilation equipment shall be submitted to and approved in writing by the Local Planning Authority prior to any development works commencing on site, and installed in accordance with the approved details prior to the beneficial use of the premises as a food outlet. All equipment shall be maintained and operated for as long as the premises operates as a food outlet.

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

7. Details of the system intended to prevent waste cooking oil, fats, grease and food debris entering the foul drainage system shall be submitted to and approved in writing by the Local Planning Authority prior to any development works commencing on site, and installed in accordance with the approved details prior to the beneficial use of the premises as a food outlet.. The system shall be maintained and operated for as long as the premises operates as a food outlet.

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

8. Prior to the development hereby approved commencing a noise impact assessment must be carried out by a competent person and must be submitted to and approved in writing by the Local Planning Authority prior to the installation of the extraction system.

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.

9. Hours of deliveries to the business shall be restricted to:

Mondays to Saturdays	08:00 – 18:00
Sundays or Public Holidays	10:00 – 16:00

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.