

# RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

## MUNICIPAL YEAR 2022-2023:

**PLANNING AND  
DEVELOPMENT COMMITTEE  
20<sup>th</sup> OCTOBER 2022**

**REPORT OF: DIRECTOR  
PROSPERITY AND  
DEVELOPMENT**

	Agenda Item No. ....
<p><b>APPLICATION NO: 21/1283/10 – Change of use of the ground floor from Use Class A2 (Betting Office) to Use Class A3 (Takeaway) and the installation of extraction flue to the rear elevation of the property to facilitate the new use. (Amended Plans Received 01/11/21)(Noise and Odour Assessment Received 01/02/22) LADBROKES PLC, 45 YNYSHIR ROAD, YNYSHIR, PORTH, CF39 0EL</b></p>	

### **1. PURPOSE OF THE REPORT**

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

### **2. RECOMMENDATION**

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

### **3. BACKGROUND**

This application was originally reported to the 21<sup>st</sup> July 2022 meeting of the Planning and Development Committee with a recommendation of approval. A copy of the original report is attached at **APPENDIX A**. At that meeting Members were minded to defer the determination of the application to a future meeting of the Planning & Development Committee to obtain further information from the Public Health Department in respect of impact to the amenity of properties to the rear of the proposed development.

### **4. PLANNING ASSESSMENT**

The considerations in respect of the potential impact the proposed development works would have upon the residential amenity are set out in the original Committee report, however, a brief summary is set out below:

The proposal will utilise an existing commercial unit that is located within the designated retail centre of Ynyshir. As such, it is not considered the proposal to operate an A3 use in this settling will significantly increase the current level of disturbance with customer comings and goings being similar in

number to that which already exist at the property although timings will change. In addition, with a public house and existing A3 takeaway also in the vicinity of the site there is a general level of activity that is greater than that which would be experienced in solely residential area.

Nevertheless, there are a number of residential properties within the vicinity given the location of the retail centre and there will inevitably be a degree of impact upon the amenity of the occupiers of these properties. As such, the application is supported by Noise and Odour Assessments that were requested following initial consultation with the Council's Public Health and Protection Division. These reports set out that the proposed use would result in a low impact in these regards. Therefore, it is not considered that the proposed change of use would have any adverse impact upon the amenity of the surrounding properties. 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 retail centre.

Following additional consultation, the Council's Public Health and Protection Division reiterated their previous comments that no objection is raised to the Odour Strategy/Survey provided as supporting material. Providing the guidance supplied namely regular cleaning of fine and grease filter and regularly changing the carbon filters with the time frame specified then there should not be a problem for surrounding residents with odours as they are sufficiently far away. It must be noted here that it is impossible to remove 100% of cooking odour no matter what system is used and no matter how much filtration is used. With regard to the Ynyshir Band Practice Hall immediately to the rear of the premises in question, this property has openable windows at the stack discharge height. However, the impact upon this building was not considered previously as Public Health comments were solely relating to the effect of the stack discharge vapours/effluvia on surrounding domestic dwellings.

If the impact upon the band practice hall is to be a consideration the discharge stack would have to be extended above the openable windows of the building. Members are advised that whilst it would be possible to extend the height of the discharge stack to above the height of the windows of the band hall. Such an increase would likely be around 2-3 metres in height above the proposed arrangement. A stack of this scale given its design and siting would result in an incongruous feature that would be out of keeping with the street scene along Ynyshir Road to the detriment of the character and appearance of the locality and would be considered unacceptable in this regard. As such, it is considered unreasonable to request the applicant to revise the height of the stack to address this concern.

Therefore, whilst the application is recommended for approval, if having considered the above advise and after further consideration, should Members wish to take into consideration the impact upon the band hall to the rear then it would be reasonable to recommend refusal of the application. It is suggested that the following reasons would reflect those views:

**REASONS:**

- 1. The proposed take away use would represent an un-neighbourly form of development that would be detrimental to the amenities of adjacent properties to the rear through the introduction of nuisance odours/waste, contrary to Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.**

**PLANNING & DEVELOPMENT COMMITTEE**

**21 JULY 2022**

**REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

**PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 21/1283/10 (JE)  
**APPLICANT:** Mr Syed Zain Ummar  
**DEVELOPMENT:** Change of use of the ground floor from Use Class A2 (Betting Office) to Use Class A3 (Takeaway) and the installation of extraction flue to the rear elevation of the property to facilitate the new use.(Amended Plans Received 01/11/21)(Noise and Odour Assessment Received 01/02/22)  
**LOCATION:** LADBROKES PLC, 45 YNYSHIR ROAD, YNYS-HIR, PORTH, CF39 0EL  
**DATE REGISTERED:** 01/02/2022  
**ELECTORAL DIVISION:** Tylorstown and Ynyshir

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**RECOMMENDATION: APPROVE**

**REASONS:** The principle of the change of use is acceptable and the proposal would bring a vacant unit back into beneficial use. Further, it is not considered the proposed use would have any undue impact upon the amenity, privacy or operation of the neighbouring properties, or upon highway safety in the vicinity of the site. The application is therefore considered to comply with the relevant policies of the Local Development Plan.

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**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 from a betting office (Use Class A1) to a takeaway (Use Class A3) at Ladbrokes PLC, 45 Ynyshir Road, Ynyshir, Porth, Cf39 0EL.

The proposed change of use would be facilitated largely through internal alterations to the property in order to better assist in the running of the takeaway. Whilst no external changes are proposed to the shopfront, the proposal would see the installation of extraction equipment to the rear of the property in the form of a flue.

The proposed flue would be constructed of galvanized steel and would measure a height of 2.6 metres, protruding 1 metre above the eaves level of the property.

The following opening hours are proposed:

Monday to Friday:	11:00 – 21:00
Saturday:	11:00 – 23:00
Sunday and Bank Holidays:	15:00 – 21:00

The application is accompanied by the following:

- Noise Impact Assessment
- Odour Impact Assessment
- Design and Access Statement

## **SITE APPRAISAL**

The application property is a single storey semi-detached commercial premises located within Ynyshir, Porth. The property directly fronts Ynyshir Road which is the main highway through the village. It is currently vacant however has previously operated as a betting shop. The property benefits from a commercial style frontage, large display windows and has space for associated fascia signage. To the south of the property is Ynyshir Cenotaph and associated enclosed garden which separates the site from Ynyshir Hotel beyond, which is currently vacant. The area to the west of the site is significantly elevated with a large retaining wall located along the western boundary. As such, the hall used by Ynyshir Brass Band located to the west is significantly elevated above the site.

Whilst the area surrounding the site is predominately residential, its location within the retail centre results in a number of other commercial uses being located in the vicinity along Ynyshir Road.

## **PLANNING HISTORY**

There are no recent planning applications on record associated with this site.

## **PUBLICITY**

The application has been advertised by direct notification to neighbouring properties as well as notices displayed at the site.

5 No. letters of objection from neighbouring occupiers have been received following consultation. The points raised have been summarised below:

- The extraction flue will vent out over the cenotaph gardens which will destroy the features of this cherished monument.
- The discharge of the flue into the cenotaph is disrespectful.
- A large number of takeaways in the surrounding area.
- Will result in indiscriminate parking along Ynyshir Road due to limited parking in the vicinity of the site.

- Site is in close proximity to a bus stop and zebra crossing and visitors parking outside may impact upon these features creating safety issues and traffic congestion.
- Increase in traffic will likely be detrimental to air quality.
- Use as a takeaway would result in a risk of littering and discarded food.
- Smell created by the use.
- Fumes from flue will impact upon band hall to the rear and result in all windows needing to be closed.

## **CONSULTATION**

**Transportation Section:** No objection raised or conditions suggested.

**Public Health and Protection:** No objection subject to conditions.

**Flood Risk Management (Drainage):** No objection raised or conditions suggested.

**Dwr Cymru/Welsh Water:** No objection subject to conditions.

## **POLICY CONTEXT**

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

Members will be aware that the current LDP's lifespan was 2011 to 2021, that it has been reviewed and a replacement is in the process of being produced. The Planning (Wales) Act 2015 introduced provisions specifying the period to which a plan has effect and providing that it shall cease to be the LDP at the end of the specified period. These provisions were commenced on 4<sup>th</sup> January 2016 but do not have retrospective effect. Therefore, the provisions do not apply to LDPs adopted prior to this date and plans adopted before 4<sup>th</sup> January 2016 will remain the LDP for determining planning applications until replaced by a further LDP. This was clarified in guidance published by the Minister on 24<sup>th</sup> September 2020. Subsequently, Members are advised that the existing Plan remains the development plan for consideration when determining this planning application.

The application site lies within the settlement boundary for Ynyshir and is located within the retail centre of the village which is allocated as a Local and Neighbourhood Centre.

**Policy CS1** – sets out the criteria for development in the Northern Strategy Area.

**Policy AW2** – supports development 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 placemaking, 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 NSA18** – sets out the retail hierarchy in the Northern Strategy Area with Ynysir classed as a Local and Neighbourhood Centre.

#### Supplementary Planning Guidance

- Design and Placemaking;
- Access, Circulation and Parking Requirements.

#### 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 minor 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 national policy guidance considered:

PPW Technical Advice Note 12: Design

PPW Technical Advice Note 18: Transport;

PPW Technical Advice Note 23: Economic Development.

#### **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 seeks the change of use of an existing commercial premises from a betting office (Use Class A2) to a takeaway (Use Class A3).

Out of the existing 10 units within the Ynyshir retail centre 1 is A3. The proposal would see this increase to 2 with a percentage of 20%. As such, whilst the objectors have commented that the use would result in a high number of takeaways in the area, it is not considered the proposed change of use would lead to an overconcentration of A3 uses in the village, and it would in fact make a valuable contribution to the local area, complying with the objectives of Policy CS1 which seeks to promote sustainable growth within the Northern Strategy Area.

Policy NSA18 recognises that A2 and A3 uses add to the vitality of a retail centre by attracting customers and increasing footfall. It does however aim to avoid an over-concentration of such uses as they inevitably detract from the established retail character of the area. The policy seeks to create a sufficient day and evening economy but states that A3 uses, such as hot food takeaways (which are generally closed during the day), make a rather limited contribution to the centre and create areas of day-time inactivity in the retail frontage. In this instance the applicant seeks opening hours of 11:00 – 21:00 Monday to Friday, 11:00 to 23:00pm Saturdays and 15:00 – 21:00 on Sundays, therefore it is considered that this proposal complies with the requirements of Policy NSA18 in adding to a vibrant day and evening economy and is consequently acceptable in principle.

Further, the site is in a highly sustainable location, within the defined retail centre of Ynyshir, and in close proximity to a number of bus stops and within walking distance from a large residential area. The proposal would also be compatible with surrounding uses and can attract footfall to the centre. The proposal therefore complies with Policy AW2.

It is therefore considered that the change of use would be compliant with the relevant policies set out in both the Rhondda Cynon Taf Local Development Plan and Planning Policy Wales and the development is acceptable, in principle.

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

In terms of the extraction equipment, given its location to the rear of the property, it is not considered the flue would form a significant addition to the street scene at Ynyshir Road. Whilst some views of the flue would be possible,



given its relatively minor scale, it would not create an addition that would dominate the overall appearance of the property.

Furthermore, the proposal simply seeks renovation and improvement works to the existing property and does not propose any increase to the footprint of the building or any external works to the shopfront. Consequently, it is not considered that the proposed change of use would result in any undue impact upon the character and appearance of the property or the wider surrounding area. The application is therefore considered acceptable in this regard.

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

Whilst the objectors concerns regarding the impact upon residential amenity through increased noise and disturbance are acknowledged, the proposal will utilise an existing commercial unit that is located within the designated retail centre of Ynyshir, where a degree of noise and disturbance would be expected and the general level of activity would be greater than that in solely residential area. As such residents residing in such areas must accept that this is a consequence of living in a retail centre.

Nevertheless, there are a number of residential properties within the vicinity and there will inevitably be a degree of impact upon the amenity of the occupiers of these properties. As such, the application is supported by Noise and Odour Assessments that were requested following initial consultation with the Council's Public Health and Protection Division. The reports set out that the proposed use would result in a low impact in these regards, and this claim was not disputed following a review by the Council's Public Health and Protection Division who raised no objection to the proposal.

Therefore, it is not considered that the proposed change of use would result in a degree of impact upon the amenity of the surrounding properties significant enough to warrant refusal of the application. It is also noted that there is a public house and an existing A3 takeaway in the vicinity of the site, and it is not considered the proposal to operate an A3 use at this property will significantly increase the current levels of disturbance with customer comings and goings being similar in number to the nearby uses.

Consequently, whilst it is acknowledged that there will inevitably be a degree of impact from the A3 use, on balance, it is not considered that the proposed operation of the unit under Use 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 should be added to any consent to restrict the opening hours in this case to ensure any impact is minimised. The application is therefore considered acceptable in this regard, subject to the condition detailed below.

### **Impact on highway safety**

Whilst the objector's comments with regard to the impact upon parking and highway safety are acknowledged, no objections were raised following

consultation with the Council's Transportation Section. In their consideration of the scheme the Transportation Section gave the following response:

The property is served off Ynyshir Road, which has a carriageway width of 7.3m with 1.8m footways which is acceptable to serve the proposed use. There is a TRO on the opposite side preventing on street car parking with limited on-street car parking available on the development side. There is a zebra crossing to the north with zig zag line traffic regulations to prevent on-street car parking maintaining sight lines to the crossing point.

In accordance with the Council's SPG Access, Circulation & Parking 2011 there is a requirement that service and customer vehicles can park in the vicinity without affecting highway safety and free flow of traffic. There are traffic regulations in place on the opposite side preventing on-street car parking with limited parking only on the development side due to existing demand. Taking into account the width of carriageway which can accommodate parking on one carriageway lane without impacting on the free flow of traffic, on-balance the proposed is acceptable. The existing use as a betting shop would have also generated a number of trips to and from the proposed by both vehicle and on foot.

There is some concern that takeaways by their nature encourage indiscriminate on-street car parking. However, taking into account the existing road width 7.3m with restrictions preventing on-street car parking on the opposite side to maintain free flow of traffic, on-balance the proposed is acceptable and no highway objection is raised.

### **Other points raised by the objectors**

A number of the objectors raised concerns that the original proposal would see the flue directly discharge into the adjacent war memorial garden. Members should note that given the objectors concerns the flue was subsequently relocated to the rear of the property with amended plans being received on the 01/11/21. As such, further consultation was undertaken with the neighbouring residents, but the objectors did not remove their comments regarding this issue.

### **Public Health & Protection**

The Council's Public Health and Protection Department have also recommended that a number of conditions be attached to any consent in relation to construction noise, waste and dust. Whilst these comments are noted, it is considered that construction noise, waste and dust matters can be more efficiently controlled by other legislation. It is therefore considered the conditions suggested in this respect are not necessary.

In addition, it was also noted that there is a potential for issues to arise in respect of food waste entering the drainage system. Nevertheless, it is advised that this issue can be overcome through the installation of specialist equipment and therefore no objections have been raised subject to conditions being added to any consent in this respect.

### **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 principle of development is supported, and the change of use is deemed to have an acceptable impact upon the character and appearance of the area, the amenities of nearby properties and highway safety within the vicinity of the site. The application is therefore considered to comply with the relevant policies of the Local Development Plan as highlighted above.

## **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 plan

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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 public opening hours for the business hereby approved shall be as follows:

Monday to Friday:	11:00 – 21:00
Saturday:	11:00 – 23:00
Sunday and Bank Holidays:	15:00 – 21:00

Reason: To define the scope of the permitted use and in the interests of the amenity of neighbouring occupiers 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 Policy AW10 of the Rhondda Cynon Taf Local Development Plan.