

## **PLANNING & DEVELOPMENT COMMITTEE**

**05 October 2023**

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

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

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 23/0623/10 (JE)  
**APPLICANT:** Mr Nadarajah  
**DEVELOPMENT:** Change of use from shop (A1) to restaurant with hot food takeaway (A3) including installation of ventilation flue and extraction equipment.  
**LOCATION:** 123 MOORLAND CRESCENT, BEDDAU  
**DATE REGISTERED:** 20/06/2023  
**ELECTORAL DIVISION:** Beddau and Tyn-y-nant

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#### **RECOMMENDATION: APPROVE**

**REASONS:** The principle of the change of use is acceptable and 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**

- More than 3 letters of objection have been received.

#### **APPLICATION DETAILS**

Full planning permission is sought for the change of use from a bakery (Use Class A1) to a restaurant with hot food takeaway (Use Class A3) at 123 Moorland Crescent, Beddau.

The proposed change of use would be facilitated through internal alterations in order to better assist in the running of the proposed. No external alterations are proposed as part of this permission, apart from the installation of a flue and extraction equipment consisting of a carbon filter box, power box fan and silencer on the southern side elevation of the building. The proposed flue would be located 2.5 metres above ground level and would measure a height of 8.9 metres extending 1 metre above the roof level of the property.

The following opening hours are proposed:

- Monday to Sunday – 09:00 to 23:00

## **SITE APPRAISAL**

The application property relates to a ground floor commercial unit located within a larger detached building within Beddau. The building occupies a prominent location on the corner of Forest Road and Fairview. The application property benefits from an existing commercial frontage, roller shutters and areas for signage. The upper floors of the building accommodate a number of residential flats whilst the ground floor of the building accommodates the application unit which is currently vacant along with a hair salon and a convenience store. To the south and east of the building there are areas of off street parking which are directly accessed from Forest Road and Fairview. Access to the upper floor flats is gained from the rear of the building with additional areas of parking and garages to the rear.

Excluding the other commercial uses on the ground floor of the building the area surrounding the site is predominately residential in nature and is characterised by mix of flats and dwellings.

## **PLANNING HISTORY**

The most recent planning applications on record associated with the application site are:

**06/0327/15:** RED DRAGON RACING LTD, 119 & 123 MOORLAND CRESCENT, BEDDAU, PONTYPRIDD.

Remove variation of condition 2 of application 04/573 to extend opening hours for summer evening racing to 9.15.p.m. maximum

Decision: 14/04/2006, Grant

**10/0345/10:** 107, 111, 115, 119 & 123 MOORLAND CRESCENT, BEDDAU, PONTYPRIDD.

Provision of individual perforated metal roller shutters to front elevation of 5 no. shops. Roller shutters to be to ground floor only and individually controlled by electronic operation.

Decision: 29/11/2010, Grant

## **PUBLICITY**

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

3no. letters of objection have been received following consultation from neighbouring occupiers. The points raised have been summarised below:

- Proposal will create antisocial behaviour due to the consumption of alcohol in these premises.

- Takeaway will create noise and loitering in the area.
- Not sufficient parking in the area already which will be made worse by the proposal.
- Nuisance smells
- Will attract people late at night.
- Proposal will reintroduce problems that have been solved in the area.

## **CONSULTATION**

**Transportation Section:** No objection.

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

**Dwr Cymru/Welsh Water:** No objection subject to conditions with regard to surface water drainage and waste disposal.

## **POLICY CONTEXT**

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

Members will be aware that the current LDP's lifespan was 2011 to 2021 and 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 Beddau and isn't allocated for a specific purpose.

**Policy CS2** – sets out the criteria for sustainable growth in the Southern 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 place making, including landscaping.

**Policy AW10** – does not permit development proposals where they would cause or result in an unacceptable risk of harm to health and/or local amenity.

Supplementary Planning Guidance

- Design and Placemaking
- Access, Parking and Circulation

### **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.

Furthermore, 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 policy guidance considered:

PPW Technical Advice Note 12 – Design

PPW Technical Advice Note 18 – Transport

### **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**

This application seeks the change of use of an existing commercial premise from a retail shop (Use Class A1) to a restaurant and hot food takeaway (Use Class A3). The applicant advises that he is seeking a change of use as the unit is presently vacant and thus presents an opportunity to bring it back into effective use and attract further custom to this area of Beddau.

Firstly, it is noted that the unit is not located within a designated retail area but a residential area of the village. However, it forms a long-established retail unit within a small parade of similar commercial units that have been in situ since the development of the wider housing estate within which they are located. The principle of commercial use at the premises has therefore already been established.

Whilst there are several existing A3 uses within the settlement of Beddau, it is not considered the proposed change of use would lead to an overconcentration of such uses in the village. It is considered that it would in fact make a valuable contribution to the vitality of the local area by bringing a vacant retail unit back into use, complying with the objectives of Policy CS2 which seeks to promote sustainable growth within the Southern Strategy Area, particularly by reusing vacant and under used buildings.

It is also noted that the property is located within a sustainable location being well served by public transport with medium and high frequency bus services running through the area. As such, it is considered that the proposal is also compliant with the requirements of 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**

As the proposed change of use would be facilitated through internal conversion of the property with no external or enlargement works required, any impact upon the character and appearance of the area would be associated solely with the installation of the flue and extraction equipment proposed on the southern side elevation of the property.

Due to the scale and location of the proposed flue it would inevitably form a highly visible feature in the immediate locality being visible from several neighbouring residential properties and form the main highway through the estate. As such some concern was initially raised in this respect. In an attempt to address this concern amended plans were received which show that the flue system would be finished in matt black to reduce its prominence. While some concern remain with regard the scale

and appearance of the flue, it is considered the finishing colour would reduce the visual impact to a point where the structure would generally be considered acceptable in visual terms and any impact would not be great enough to warrant a refusal of the application.

As such, it is considered that the proposals would significantly detract from the character or appearance of the area and are considered acceptable in this regard.

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

While the proposal will utilise an existing commercial unit, the property is located within a predominantly residential area, surrounded mainly by residential properties. There is consequently some concern in respect of potential impacts the amenities of surrounding neighbours.

However, given the mixed use context of the immediate locality, the area is already likely to be characterised by some noise and disturbance associated with the comings and goings linked to the previous use, as well as other the other commercial uses in the parade. Furthermore, there is no reason to believe that car-borne customers of an A3 use are any more likely to raise their voices, slam car doors, start engines, leave engines idling or play car radios any more than customers of a retail store which could occupy the property without permission.

In addition, when considering the recent allowed appeal decision (CAS-02297-V9K9D6) for the change of use from A1 to A3 for a mid-terrace property located within a residential area of Tonypany where the Inspector considered similar impacts to be acceptable, it is not considered that the impact of this proposal would be any different or great enough to warrant a refusal of the application.

Notwithstanding the above, this proposal seeks opening hours of 09:00am to 11:00pm each day which has the potential to result in nuisance impacts to neighbouring properties. As such, it is considered that a more appropriate closing time would be 9pm which would also tie in with the appeal decision set out above. As such, a condition to restrict the hours of operation has been set out below should Members be minded to approve the application.

Taking the above into account, the proposal is not considered to adversely impact upon residential amenity and is considered acceptable in this regard.

### **Highway Safety**

The Council's Transportation Section were notified during the consultation period in order to assess the suitability of the proposal with regard to highway safety and parking provision. The following response was received:

#### Access

The property is an established retail premises within Beddau with continuous footways and carriageway widths to accommodate safe access to the proposed use. There are shared public car parks to the front on Moorland Crescent and to the side off Forest Road, and resident parking to the rear.

### Parking

The existing A1 use requires up-to a maximum of two off-street spaces with shared use provided.

The proposed restaurant requires up-to a maximum of 5 spaces for customers and 1 staff space taking the total to 6 spaces with shared use car parking provided. The shared use car parking and existing facilities for deliveries to the proposed are deemed acceptable to serve the takeaway.

### Conclusion.

The proposed will increase the maximum off-street car parking demand by up-to 4 spaces within the vicinity of the site compared to that of the existing use as a retail shop. However, there are off-street car parking facilities to the front and side of the proposed (18 spaces) which are not allocated to any specific unit and some degree of on-street space available without impacting on the free flow of traffic on Moorland Crescent and Forest Road with a carriageway width in the region of 8.1m. As such, on this basis no highway objection is raised or condition suggested.

### **Public Health & Protection**

Given the proposed use, the Council's Public Health and Protection Division have noted that there is a potential for issues to arise in respect of noise, smell and waste disturbances however, no details have been submitted with the application in this respect. It is advised however that these issues can be overcome through the installation of specialist extraction equipment and therefore no objections have been raised subject to conditions to be added to any consent to control odour and food waste.

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.

### **Other issues raised by the objectors**

With regard to the concerns raised by the objectors regarding anti-social behaviour, these are matters which can be addressed by the relevant enforcement agencies

through other controls outside of the planning legislation. There is also no evidence to suggest that proposed use would result in any anti-social behaviour issues in the area.

## **Drainage**

Whilst Welsh Water raised no objection to the proposal, they requested a condition be attached to any consent with regard to surface water drainage. However, in this instance the proposal would see no increase in the external footprint of the property or any works that would impact upon the current drainage arrangements. As such, it is considered that such a condition would be unreasonable and not required.

## **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 no's
  - 23-077/P/01 – Received 12/06/23
  - 23-077/P/05 – Received 12/06/23
  - 23-077/P/06 Rev A – Received 18/08/23
  - 23-077/P/07 – Received 12/06/23

and documents received by the Local Planning Authority, 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. Notwithstanding the approved drawings, before the use commences, equipment to control the emission of fumes and odour from the premises shall be installed in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of measures to suppress noise from the equipment to a level supported by a noise impact assessment in relation to adjoining residential property. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the approved details for as long as the use continues.

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

4. The approved use shall not commence until details of a scheme to prevent waste cooking oil, fats and grease and solid waste from entering the foul drainage system has been submitted to and approved in writing by the Local Planning Authority. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the approved details for as long as the use continues.

Reason: To protect the integrity of the foul drainage system in accordance with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

5. The hours of operation for the business hereby approved shall be restricted to between the following hours:

Monday to Sunday: 09.00hours – 21.00 hours.

Reason: To ensure that the 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.