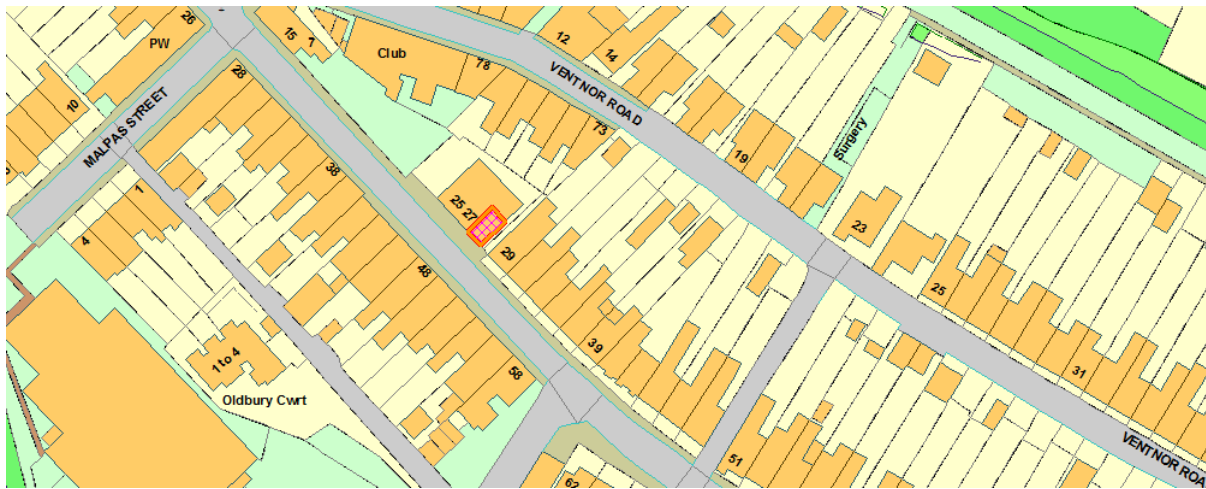


OFFICER REPORT

Application Number: 18/P/0248/FUL
Received Date: 24th April 2018
Proposal: Change of use of retail unit to A3 takeaway (AMENDED PLANS NO SECOND FLUE)
Site Address: 27 Victoria Street Old Cwmbran Cwmbran Torfaen
Ward: Llantarnam
Applicant: Mr Serkan Karadag **Agent:** N/A



SITE HISTORY:

App Number	Proposal	Status	Received Date	Decision Date
16/P/01296/HH	Rear extension	REF	18.10.2016	09.02.2017
17/P/0672/HH	Build a brick shed to the rear of the building	APPCON	24.08.2017	13.11.2017
16/P/00127(C)	Discharge of condition 1 of 15/P/00251 Details of boundary enclosure	ACC	02.03.2016	18.04.2016
15/P/00251	Removal of conditions 4 & 6 & alteration to condition 5 of Planning	APPCON	06.05.2015	20.11.2015

	Permission 14/P/00338 to allow flat roof to be used as private amenity space with amended boundary treatment.			
15/P/00228C	Discharge of condition 6 (marking of car parking area) of planning consent 13/P/00242	PARD	20.04.2015	30.04.2015
14/P/00633	Replacement fascia sign	APPCON	17.11.2014	17.12.2014
15/P/00225C	Discharge of condition 1 (acoustic enclosure) of planning consent 14/P/00338	ACC	20.04.2015	14.05.2015
14/P/00338	Amendments to planning permission 13/P/00242 - new replacement flue, 2 x refrigeration units, revised stairway and cladding to front elevation.	APPCON	25.06.2014	17.03.2015
14/P/00070	Two new staircases to rear elevation, new flue to side elevation, new door to front elevation and four roof lights	WDN	29.01.2014	03.03.2014
13/P/00155	Certificate of lawful existing use in respect of restaurant & takeaway.	APP	15.04.2013	15.08.2013
13/P/00242	Conversion of existing restaurant with takeaway into takeaway & separate retail unit. Creation of 2 no	APPCON	15.04.2013	18.02.2014

	separate accesses to upper floor living accommodation.			
86/P/11394	Erection of 2 No. Signs	APPCON	09.05.1986	23.06.1986
00/P/03670	Renewal of planning permission	APPCON	25.01.2000	13.04.2000
	98/P/02399 without condition 2			
89/P/14853	Sale of take-away food	REF	16.11.1989	12.02.1990
91/P/16034	Take-away service	REF	14.03.1991	06.06.1991
94/P/19086	relaxation of restriction on restaurant opening hours on sunday evenings	REF	24.05.1994	07.07.1994
98/P/02399	extension of restaurant hours to include Sunday evenings	APPCON	15.09.1998	19.02.1999
	modification to condition 3 attached to permission P/7270			
88/P/12950	extend opening hours on sunday evenings to 12:00 mid night	REF	16.03.1988	13.06.1988
91/P/16683	Relaxation of restriction on restaurant opening hours on Sunday evenings	REF	13.12.1991	06.02.1992

BACKGROUND

Members of the Planning Committee visited the site on 5 June 2018 and the notes of that visit are appended to this report.

The site has an extensive planning history dating back to the late 1970s including a current lawful use as an A3 hot food take-away on the ground floor. The current application has been submitted in response to a planning enforcement investigation complaint(ref. 18/ENF/0071).

DESCRIPTION OF SITE

The premises to which the application relates is a detached two storey building on Victoria Street within the neighbourhood centre of Old Cwmbran. There is an informal parking area

(6 spaces) adjacent to the building. Land associated with a solicitors' premises is located to the northwest and a terrace of 11 residential properties is located on the other side of the building, extending in a south eastern direction. A terrace of 6 dwellings is located to the rear of the site. The south western side of Victoria Street features a mixture of small scale commercial premises with residential accommodation above.

The building comprises an A3 takeaway on the ground floor with two residential flats to the first floor served by an external staircase at the rear of the building. The ground floor has recently been subdivided into two planning units, pursuant to planning permission 13/P/00242 for the 'conversion of existing restaurant with take-away into take-away and separate retail unit'.

DESCRIPTION OF DEVELOPMENT

Full planning permission is sought to change the use of the retail unit, which is currently vacant, into an A3 take-away. The submitted application originally included a second external flue to serve the new use but, following complaints made to the EHO about the noise emanating from the existing flue, the existing flue has been modified to reduce the noise and accommodate the demands of the proposed second take-away use. This involves works within and underneath the existing building so that the external appearance of the building is not materially affected.

The proposed hours of operation are 08:00-24:00 (midnight) Mondays-Saturdays and 11:00-23:00 (Sundays), which is the same as that already approved pursuant to planning permission 13/P/00242.

PLANNING POLICY:

LDP Policy S1 - Defines the Urban Boundaries to promote the full and effective use of urban land, to allow for development to contribute to the creation of sustainable communities and define the urban area within which there is a presumption in favour of development. Land outside Urban Boundaries is within the Countryside where development is restricted.

LDP Policy S7 - seeks to ensure that development proposals promote the conservation and enhancement of the Natural, Built and Historic Environment.

LDP Policy RLT4 provides criteria for the consideration of proposals for new small scale retail uses of below 235m² gross which would not otherwise be permitted.

LDP Policy RLT8 provides criteria for the consideration of proposals that will strengthen and maintain the role and function of Local and Neighbourhood Shopping Centres.

LDP Policy RLT9 states that Food and Drink Establishments will not be permitted which would give rise to environmental conditions which would harm the amenity of nearby residents as defined in two criteria.

LDP Policy BW1 - provides a detailed Borough wide General Policy on Development Proposals with criterion covering 'Amenity and Design', the 'Natural Environment', the 'Built Environment', 'Utilities Provision' and 'Design and Transport', against which all planning applications will be determined in conjunction with other relevant policies of the Local Development Plan.

CONSULTATION RESPONSES:

Environmental Health (food
Premises/hygiene/registration)

(original plans): I have reviewed the planning application concerning the change of use to A3 at 27 Victoria Street, Old Cwmbran. However, I can find no information concerning the specification for the extraction system. Could you please ask the applicant to provide detailed drawings of the extraction and ventilation system and specifically the abatement methods that will be incorporated to control cooking odours escaping the site boundary and prevent them being detected at the nearest odour sensitive property to prevent a statutory nuisance.

Once I am in receipt of this information I will provide a consultation response.

(amended plans 1): I refer to the additional information submitted by the applicant concerning the proposed ventilation system to be installed at 27 Victoria Street, Old Cwmbran. I would advise you that the applicant has simply submitted a brochure for the abatement methods to control the escape and detection of cooking odours beyond the site boundary but they have not provided the information I requested in my email to you of the 3 May 2018.

For clarity the applicant's ventilation engineer should carry out a site specific assessment of the premises and surrounding area and design the ventilation canopy and associated flue to incorporate the most appropriate size carbon filter that will effectively filter cooking odours so they are not detected beyond the site boundary. The size of filter must be chosen based upon the maximum mechanical air flow from the ventilation fan and the residency time the air will need to be in contact with the filter in order to effectively de-odourise. Associated technical drawings should also be submitted showing the location of the carbon filters and how they will be accessed for routine maintenance and cleaning

(amended plans 2): The supplementary information in the 'CVS Ltd brochure rec 17-5-18' now provides details on the specification of the components of the ventilation system. In particular the information states that the activated carbon filters to be installed will achieve a 0.3 second contact (or residency) time of the air drawn through the system - this residency time is considered the minimum necessary to control odours associated with the nature of cuisine at the premises. I therefore have no other comments to make in respect of the application.

Environmental Health
(noise/contam/housing)

(original plans): I would advise that this application not be determined until the developer has provided full details including the predicted noise levels associated with the

extraction/ventilation system to along with the specific details of the odour control system to be employed, to be agreed by the LPA.

Manufacturers' data sheets will often detail predictive noise levels, being either the sound power level or measured sound pressure level at a specified distance.

(amended plans 1): I would object to the erection of the flue to the side of the building.

The Public Health team are currently in receipt of complaints from 6 individual households around the premises regarding noise from the existing flue at 27 Victoria Street. Senior Environmental Health Officer Anne Garratt has determined this noise to be a Statutory Nuisance under the auspices of The Environmental Protection Act 1990. The addition of a second flue on the opposite facade of the premises would expose the same households to yet additional noise, exacerbating what is already an unacceptable situation and in detriment to the public amenity.

(amended plans 2): Public Health advise that the opening hours applied for be conditioned as such.

Ward Members

No reply received

Community Council

(original plans): No objections.

(amended plans): No observations.

Highways And Transportation

When consulted on application 13/P/00242 which was for a takeaway and a retail unit on this site, it was my view that a retail unit in the commercial centre of Old Cwmbran should be encouraged and I did not oppose the application. However I did state that I would not want to see the building spilt into two separate takeaway units but it would be difficult for me to oppose this current application given its location in the centre of Old Cwmbran and the fact that there is a public car park nearby.

I would not oppose the application from a highway standpoint and there are no specific conditions that I would wish to see attached to any grant of approval.

Licensing/street Trading Team

No reply received

PUBLICITY

An Article 12 site notice was erected at the site and notification letters sent to 23 neighbouring properties.

REPRESENTATIONS RECEIVED

In total the Local Planning Authority has received 19 letters of representation - 9 letters raising no objection, 10 letters objecting (from 7 individuals) - raising the following issues:

- inadequate and illegal parking
- increase in traffic
- increase in pollution
- information missing and inaccurate in plans
- noise nuisance
- light pollution from car headlights
- smell
- litter/attract vermin
- loss of privacy
- out of keeping with character of area
- too many take-aways already
- closing time should be 10.30
- breach of original planning conditions

ASSESSMENT AND CONCLUSION

The application site is located within the urban boundary as defined by the Adopted Torfaen LDP and the application therefore falls principally to be determined within the context of Policies BW1, RLT4, RLT8 and RLT9 of the Adopted LDP.

Matters to consider include the principle of a take-away (A3) use in this location, the impact on the environment particularly with regard to smell/noise/disturbance/litter, and the impact on residential amenity and highway safety.

The scale of this development is not considered to undermine the vitality, viability and attractiveness of any strategic retail town or neighbourhood centre and the site already benefits from an A3 lawful use which is considered to be a significant material consideration in this case. The proposal will not therefore lead to a proliferation of A3 uses or undermine the role and function of this local centre (LDP Policy RLT8).

The site does not have any on-site customer parking and therefore some indiscriminate parking does occur, particularly in the evenings. However given the planning history and lawful use as two separate commercial retail units the Highways Officer raises no objection to the proposals.

With regard to visual amenity the application no longer includes a second flue and the alterations to the existing flue/building are of an appropriate scale within the context of the site and it is considered that this would respect the character and appearance of the area.

LDP Policy RLT9 states that Food and Drink Establishments will not be permitted which would give rise to environmental conditions which would harm the amenity of nearby residents in terms of concentration of and cumulative impact of food and drink establishments or unsatisfactory arrangements for refuse disposal.

The EHO originally objected to the application but, through the submission of amended/additional details and the removal of the second flue from the proposal, these concerns have been satisfactorily addressed.

Management of litter can be controlled by condition and whilst the introduction of a second, separate take-away business will likely increase the number of visitors to the site, in turn increasing the potential for noise and disturbance to local residents, it is considered that the existing site context and fall-back position having regard to the planning history of the site means that any such increase will not be to the extent that would warrant refusal of the application on residential amenity grounds.

It is therefore recommended that the application be approved.

RECOMMENDATION: Approve with Conditions

CONDITIONS:

- 1 Unless otherwise specified by another condition of this Notice, the development shall be carried out in accordance with the following approved plans and documents: Red-edged site location plan received on 24 April 2018, CVS Ltd extraction system specification details received on 17 May 2018 and AMENDED PLANS proposed elevation and layout plans received on 30 August 2018.

Reason: To ensure the development is carried out in accordance with the approved details. Any material alteration to the approved details may have an impact that has not been assessed.

- 2 The development shall begin not later than five years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990

- 3 No part of the development shall be brought into use until the provision of a litter bin(s) has been made on site and thereafter retained for the duration of the development.

Reason: To ensure the provision of a litter bin(s) in the interests of visual amenity and the environment.

- 4 The premises shall not be open and no customers shall be permitted on the premises outside the following hours:

08:00-24:00 (Midnight) Mondays-Saturdays; and
11:00-23:00 Sundays

Reason: In the interest of residential amenity.

INFORMATIVES:

- 1 Torfaen Local Development Plan covers Torfaen County Borough. The following policy/policies is/are relevant to the consideration of this application: S1, S7, RLT4, RLT8, RLT9 and BW1.

- 2 This Notice gives Planning Permission for the new use only and any new signage, unless deemed to have consent by virtue of the Town and Country Planning (Control of Advertisements) Regulations 1992, (as amended) must not be displayed until the relevant express advertisement consent has been obtained on formal application to the Local Planning Authority.

Mrs Claire Hall

Appendices	None
Background Papers	Note: Members of the public are entitled, under the Local Government Act 1972, to inspect background papers to reports. The following is a list of the background papers used in the production of this report. Planning Application File: 18/P/0248/FUL

For a copy of the background papers or for further information about this report, please telephone: Richard Lewis, Head of Development Management (Tel. 01633 647628)