

APPENDIX 1

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
13/0703/FULL 07.11.2013	Mr C Williams C/o Geraint John Planning Limited Mrs A Roberts Sophia House 28 Cathedral Road Cardiff CF11 9LJ	Change use from mixed use (retail and nightclub) to public house and nightclub 3 Pentrebane Street Caerphilly CF83 1FR

APPLICATION TYPE: Full Application

SITE AND DEVELOPMENT

Location: The application site at 3 Pentrebane Street is located on the south side of a side street, to the west of the primary shopping area in Cardiff Road, Caerphilly.

Site description: The premises are occupied by an existing A1 retail use on the ground floor, and a nightclub on first and second floors. It is a three-storey commercial built property, in a group of smaller retail outlets, and extends into the space, which at one time would have been the rear garden/yards of properties in Clive Street. It is surrounded on all sides by other commercial uses, and there are first floor flats above the properties to the south in Clive Street.

Development: The proposal is to change the use from a mixed use (sui generis) as A1 retail on the ground floor and nightclub at first and second floors, to a mixed use as an A3 public house, and nightclub as defined by the Town and Country Planning (Use Classes) Order 1987. This application has been submitted following the refusal of the previous application (11/0581/COU) and the subsequent discussions with the applicant to amend the scheme.

Dimensions: The size and shape of each floor of the building differs, but the ground floor 'footprint' is generally 32m in length and 15m wide. The site has overall maximum dimensions of 37.5m x 17m.

Ancillary development, e.g. parking: None.

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PLANNING HISTORY

06/0665/FULL - Create a new mixed development containing town centre retail units, offices, and residential apartments with a related health club and a public library facility - Granted 20.08.07.

P/01/0264 - Obtain certificate of lawfulness for an existing use as a nightclub A3 use - Granted 04.05.01.

11/0581/COU - Change of use from mixed-use retail/nightclub to public house/nightclub (A1 to A3) - Refused 01.11.12.

POLICY

LOCAL DEVELOPMENT PLAN:

Site Allocation

Local Development Plan: Land within the settlement boundary and a principal town centre.

Policies

Local Development Plan: Policies CW2 (Amenity); CW3 (Design Considerations - Highways); CW15 (General locational Constraints), Planning Policy Wales and Technical Advice Note 4: Retail and Town Centres.

ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? Not a material consideration in this case.

CONSULTATION

Transportation Engineering Manager - no objection subject to a condition, and makes comments of which the applicant should be advised.

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Head Of Public Protection - has no objections subject to conditions concerning drainage, waste, noise, illumination and hours of operation.

Caerphilly Town Council - raise objection as the change of use will have an adverse effect on residents in the vicinity of the nightclub.

Chief Fire Officer - No objection, but makes comments of which the applicant should be advised.

Police Architectural Liaison Officer - No objections.

ADVERTISEMENT

Extent of advertisement: Twenty-nine neighbours notified by letter and a site notice erected.

Response: Eight letters or emails of objection from nearby residential neighbours, along with a 150-signature petition objecting to the proposals, have been received. One letter of support has been received from a resident of Caerphilly.

Summary of observations: The objections may be summarised as follows:-

1. Detriment to residential amenity due to: a) the Sunday opening; b) the premises staying open until 3.30am; and, noise so close to residential properties;
2. detriment to highway safety due to on-street parking; and
3. too many public houses in Caerphilly Town Centre, and the proposal would have a detrimental effect upon existing businesses.

SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonable can to prevent crime and disorder in its area? Although Gwent Police raised objection to the previous application, their comments in respect of the current application are: that it is reported that since that time the situation has changed resulting in a reduction of such behaviour (crime and disorder).

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It is believed that this reduction is attributed to a number of factors that include:

- a. The management of the premises engaged with the police in an "action plan";
- b. the introduction of "Town Safe"; and
- c. the fact that the premises are now open on an infrequent basis.

As a result the local police will not be objecting to this planning application, the situation will be monitored and should there be any increase in crime and disorder attributed to these premises these matters would be addressed through powers found within the Licensing Act.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? This is not an issue in this case.

ANALYSIS

Policies: Policy CW2 is of relevance and states that "Development proposals must have regard for all relevant material planning considerations in order to satisfy the following requirements:

- A There is no unacceptable impact on the amenity of adjacent properties or land.
- B The proposal would not result in over-development of the site and / or its surroundings.
- C The proposed use is compatible with surrounding land-uses and would not constrain the development of neighbouring sites for their identified land-use.
- D Where applicable, the viability of existing neighbouring land uses would not be compromised by virtue of their potential impact upon the amenity of proposed new residential development."

With regard to criterion A, this is a town centre site, but it is at the edge of the commercial area. There are residential properties immediately to the rear of the application site, and others within relatively short distances to the west (approximately 30 metres). Anecdotally, it appears the nightclub has not been open for business for several months, one of the consequences of which is that there have been no complaints either to the Police or to the Council's Environmental Health Division in respect of noise or disturbance from the nightclub or the immediate vicinity, in particular the noise levels from loud music, and the noise and behaviour of clientele leaving the premises.

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It is therefore difficult to draw accurate conclusions about the impact of a nightclub use continuing to operate or for that matter a new public house opening in this street. However, the Police have commented that the owners/management of the nightclub operation have agreed to adhere to an action plan, and a new initiative that is intended to resolve many of the problems associated with crime and disorder in the Town Centre.

As this application is for a change of use, criterion B is not significant in this case.

In respect of criterion C, firstly, the premises are located within the town centre, and the uses are appropriate to the nature of the commercial area of the surroundings. Whilst there were strong objections to the previous application on the grounds of anti-social behaviour, noise and disturbance, the current application addresses most, if not all, of those issues through the proposals to re-order the internal arrangements and replace the existing sub-standard roof. The existing corrugated steel constructed barrel shaped roof has had the effect of acting like an amplifier to the noise generated by the second floor nightclub. This has led to many of the complaints over a number of years. The current proposals would see the introduction of a public house on the ground floor, and the relocation of the nightclub from the second floor down to the first floor. Not only would the nightclub use be enclosed further into the building by being located on the first floor, the details of the application indicate the installation of a higher standard of noise insulation to serve the nightclub use, thus this should resolve the issue of loud music and noise 'leaking' out of the building.

The previous application included external smoking areas that would have inevitably led to noise and disturbance in the area. The current application indicates a smoking area on the ground floor, at the rear of the building, which would be accessible only from the pub element of the development. In order to provide a separate smoking facility for clientele of the nightclub, the details include a smoking area at second floor level. Whilst such an open area at second floor level has the potential for noise and disturbance, it is intended to put in place a number of factors to adequately control the facility. The Head of Public Protection requires a limit upon hours of use of the smoking area, and whilst this would be difficult for Council staff to realistically monitor, it should be feasible, through the employment of a CCTV facility at the expense of the applicant, to ensure no breaches occur. This would not only have the desired effect in respect of monitoring hours of use, but also provide evidence in the event that noise or disturbance has occurred.

Thus, criterion C is satisfied. Criterion D is not applicable.

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Comments from Consultees: There are no objections from technical consultees and their views can be accommodated by condition. The concerns of the Town Council are considered above and below.

Comments from public: The comments of the residents, and the 150 signature petition, reflect the strength of feeling locally in respect of how the premises have been allowed to operate in the past. This application enables the Local Planning Authority to set in place a number of factors to maintain greater control of the use of the premises.

In respect of the specific objections, the detriment to residential amenity should be substantially reduced through the introduction of improved insulation to reduce noise.

The introduction of an action plan in association with Gwent Police should mean the management have a more proactive role in the behaviour of their clientele arriving at or leaving the premises. The on street parking near the premises should remain unaltered, and is a matter for the Police to control.

The opinion that there are too many public houses in the Caerphilly Town Centre, and the consequent impact upon existing businesses, is not considered to be a valid planning objection. It is considered that an additional public house would merely provide more choice for the consumer, and would not unduly alter the character of the town centre.

Other material considerations: None.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 02) The development hereby permitted shall be carried out only in accordance with the following plans and other submitted details: 2214.01a; 2214.11.a; 2214.10.a; 2214.20.a received on the 30th October 2013, and the plans and documents submitted on the 30 September 2013. (or any plans or details subsequently agreed in writing by the Local Planning Authority as an amendment to the approved plans).
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.

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- 03) A grease trap, details of which shall be agreed with the Local Planning Authority prior to installation, shall be installed in the foul drainage system prior to the commencement of the use hereby approved.
REASON: To prevent pollution.
- 04) Prior to the commencement of the development hereby approved a scheme of odour/effluvia/fume control, including the erection of any associated stacks or vents, shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be carried out and operated in accordance with the approved scheme.
REASON: In the interests of the amenity of the area.
- 05) Unless otherwise agreed in writing with the Local Planning Authority, prior to the commencement of the use hereby approved arrangements for the storage, collection and disposal of commercial waste shall be implemented in accordance with a scheme to be agreed in writing with the Local Planning Authority.
REASON: In the interest of public health.
- 06) No part of the buildings shall be occupied until a scheme has been submitted to and approved in writing by the Local Planning Authority for the control of noise emanating from the building(s) and associated plant and equipment. The measures included in the approved scheme shall be implemented prior to the first occupation of the building that they relate to and thereafter the measures shall be operated in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.
REASON: In the interests of the amenities of the area.
- 07) Prior to the commencement of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority for external site lighting including details of the lighting units, levels of illumination and hours of use. No lighting shall be provided at the site other than in accordance with the approved scheme.
REASON: In the interests of residential amenity.
- 08) The public house hereby permitted shall not be open to customers outside the following times: (a) 09.00 hours to midnight on Sunday to Thursday, and (b) 09.00 hours to 01.00 hours on Friday and Saturday.
REASON: In the interests of residential amenity.

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- 09) The nightclub hereby permitted shall not be open to customers at any time from Monday to Thursday inclusive, and not outside the following times:
(a) 20.00 hours to 03.30 on Friday and Saturday, and (b) 20.00 hours to 01.00 hours on Sunday, and 02.30 hours on a Sunday preceding a Bank Holiday.
REASON: In the interests of residential amenity.
- 10) No use of the beer garden of the public house shall take place outside the hours of 09.00 to 22.30.
REASON: In the interests of residential amenity.
- 11) No use of the second floor external smoking shelter shall take place outside the hours of 20.00 to 01.00.
REASON: In the interests of residential amenity.
- 12) Prior to the commencement of the nightclub use a noise management scheme for the second floor smoking shelter shall be submitted to and agreed in writing with the Local Planning Authority. Unless otherwise agreed with the Local Planning Authority the scheme shall include:
- The use of CCTV to monitor activity within this area,
 - the proposed number of people allowed to use this area at any one time and how that would be managed by staff,
 - prohibition of drinks being taken into this area.
- The agreed scheme shall be complied with at all times.
REASON: In the interests of residential amenity.

Advisory Note(s)

Please find attached the comments of Chief Fire Officer that are brought to the applicant's attention.

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: CW2, CW3 and CW15.
