

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
15/0764/COU 15.09.2015	CPL Foods Ltd Mr L Reddy C/o Agent	Change the use from Class A1 to Class A3 Unit 18 Castle Court Caerphilly CF83 1NU

**APPLICATION TYPE:** Change of Use

### SITE AND DEVELOPMENT

Location: The application property is situated on the south east side of the Castle Court shopping precinct.

Site description: The application property is an established retail premises within a defined primary retail area within the retail core of Caerphilly. There are retail premises to the north, east and west of the site with residential properties situated on the southern side of North View Terrace which is to the rear of the site.

Development: The application seeks full planning consent for the change of use of the property to an A3 hot food take away. The occupant according to the agents will be Burger King. There will be no change to the external fabric of the building but new signage will be required which will be the subject of a separate application.

Ancillary development, e.g. parking: None.

### PLANNING HISTORY 2005 TO PRESENT

No previous planning history from 2005 to the present.

### POLICY

Local Development Plan: Within settlement limits, within a Principal Town Centre and a Primary Retail Area.

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### Policies

Local Development Plan: SP5 (Settlement Boundaries), SP6 (Place Making), SP17 (Promoting Commercial Development), CW2 (Amenity), CW14 (Use Class Restrictions - Retail) and CW15 (General Locational Constraints).

Supplementary Planning Guidance LDP 5 Car Parking Standards sets out parking requirements for all developments.

National Policy: Paragraph 4.11.9 of Planning Policy Wales (2012) states: - "The visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. Local planning authorities should reject poor building and contextual designs. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions."

Paragraph 7.6.1 encourages a positive approach to applications for economic development, whilst paragraph 10.2.4 encourages diversity in town centres.

National Planning Guidance contained in Technical Advice Notes 4 - Retailing and Town Centres, 12 - Design, and 23 - Economic Development.

### CONSULTATION

Strategic & Development Plans - No objection.

Dwr Cymru/Welsh Water – No objection subject to conditions concerning sewerage.

Transportation Engineering Manager - No objection.

Head Of Public Protection - No objection subject to conditions.

### ADVERTISEMENT

Extent of advertisement: The application was advertised by means of a site notice and neighbour letters.

Response: At the time of writing the report no objections had been received. Any comments received prior to the matter being considered at committee will be conveyed orally to members.

Summary of observations: None.

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## 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 reasonably can to prevent crime and disorder in its area? A3 uses are frequently considered to increase anti social behaviour. However, as this property is located within a defined town centre it is not felt that this would be a significant issue in this instance.

## EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

Is this development Community Infrastructure Levy liable? Yes it is at a rate of £25 per square metre, but it is not payable in this case because the premises have been in use for 6 months in the last three years.

## ANALYSIS

Policies: The application has been considered in accordance with national guidance, local plan policy and supplementary planning guidance. The proposed development is within the Principal Town Centre of Caerphilly and a Primary Retail Area and as such the application has to be considered against Policy CW14 which states: -

### CW14 Use Class Restrictions - Retail

Development proposals incorporating a change of use from class A1 retail premises to another use will be subject to the following restrictions:

- A Within identified Principal Town Centres, changes of use of the ground floors of class A1 retail premises to other use will only be permitted where:
  - i. The commercial vacancy rate of the centre has been over 10% for over a year and
  - ii For a change to residential use the property is located on the edge of centre
- B Within identified Primary Retail Areas, the change of use of the ground floors of class A1 retail premises to residential use will not be permitted
- C Within identified Primary Retail Areas, proposals for new, or the change of use of the ground floors of class A1 retail premises to other class A uses will only be permitted where the total cumulative number of such units would not exceed 10% of the total number of commercial units within the Primary Retail Area.

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The commercial vacancy rate of the town centre is currently 9% (based on the 2014 survey) and has not been over 10% for a year. The proposal is also within a Primary Retail Area where the cumulative number of ground floor retail uses that are non A1, should not exceed 10% of the total number of units. The position currently within Castle Court is that there are 30 retail units, 4 of which are A3 (Greggs, Cadwalders, Costa and Glanmors), equating to 13% of the total number of units and if this application was approved, this would rise to 16%.

Principal Town Centres are the main shopping centres but also commercial service centres, community service centres and centres for commercial leisure activity, and as such they are also major employers. In this context, the proposed development is likely to create a greater number of employment opportunities than the unit's current use as a charity shop.

The proposal is also located within Castle Court which is a Primary Retail Area for the Principal Town Centre of Caerphilly. Primary Retail Areas are intended to protect the retail function, in order to ensure the maintenance of shopping interest and vitality. The purpose of such areas is to avoid a 'dead frontage' with the concentration of service outlets (A2 uses) such as banks and building societies and estate agents, and food and drink establishments (A3 uses) in the heart of shopping centres. Whilst the proposal could ultimately result in a dead frontage, the proposal would have the benefit of encouraging footfall to Castle Court.

The Council's Adopted Supplementary Planning Guidance - Caerphilly Town Centre Action Plan, in its 'swat' analysis, identifies Caerphilly Town Centre as a popular tourism destination attracting over 100,000 tourists per annum to Caerphilly Castle. The Castle is immediately adjacent to the retail offer in Castle Court and there is the opportunity to exploit the presence of the castle to encourage tourism related development in the town centre.

The development proposal is located within the Primary Retail Area of Caerphilly Town Centre and is contrary to policy CW14 and the provisions of CM3.2 and should be considered for refusal unless material considerations indicate otherwise. However, whilst the current percentage of non-A1 Use units is currently 13% of the total number of units and will rise to 16% if this application is approved, the proposal should be considered in the context of the economic benefits that it is likely to bring; the proposed development will provide increased employment opportunities in comparison to the unit's current use as a charity shop, is likely to encourage both tourist spend and footfall from the adjacent Castle and provides a greater offer for visitors to the town centre.

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In conclusion, the beneficial occupation of the unit, increased footfall and tourism related spend is considered to outweigh the potential adverse impact that may occur as a result of an increase in the number of A3 uses. Further it is considered that this proposal is a means of promoting footfall and patronage to Castle Court, making the area more attractive to potential retailers and improving the vitality and viability of the town centre as a retail and tourism hub. As such the application is acceptable in planning terms subject to the imposition of conditions regarding hours of opening, noise attenuation and odour control.

Comments from consultees: No objections raised.

Comments from public: None.

Other material considerations: The application has not stated any hours of opening for the premises but does state that it will be open in the evenings. As the application property is situated in a defined primary retail area the Local Planning Authority would normally restrict these hours to 07.00 hours to midnight Monday to Saturday and 07.00 hours to 23.00 hours Sunday. The proposed use is unlikely to have an impact on the amenity of neighbouring land users and in that regard it is considered that it would be reasonable in this instance to impose the standard opening hours condition.

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 use hereby permitted shall not be open to customers outside the following times:(a) 07.00 hours to midnight Monday to Saturday, and (b) 07.00 hours to 23.00 hours Sunday.  
REASON: In the interests of residential amenity.
- 03) If there is to be any external plant, details of all external and roof mounted plant/machinery associated with the application shall be submitted to and agreed in writing with the Local Planning authority. These details shall include the location of the plant and predicted noise levels (measured as a LAeq 1 hour) as measured on the boundary of the application site. Thereafter these agreed details shall be fully installed prior to the use of each of the units commencing.  
REASON: In the interests of residential amenity.

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- 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.

Advisory Note(s)

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.

Please find attached the comments of Dwr Cymru/Welsh Water.

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