

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
18/1067/FULL 19.12.2018	Costa Ltd C/o Mango Planning & Development Ltd Mr D Brown Number Two Waterton Park Waterton Bridgend CF31 3PH	Partially demolish and make external alterations to existing building, create drive through lane, outdoor seating area and associated works and remove condition 4 of planning consent P/03/0956 in respect of opening hours Unit 6 Gallagher Retail Park Parc Pontypandy Caerphilly CF83 3GX

APPLICATION TYPE: Full Application

SITE AND DEVELOPMENT

Location: The application site is the former Pizza Hut restaurant at Crossways/ Gallagher Retail Park, Caerphilly.

Site Description: The premises are an existing purpose-built single storey A3 restaurant which is largely rectangular in shape with a curved, Dutch Barn style roof. The building is finished in face brickwork with large glazed areas beneath a profile sheet roof. The site is bounded to the south and east by the McDonalds Restaurant, to the north by the Nant yr Aber and then the Tesco store and to the south by the Travel Inn Motel and the Crossways Public House. To the south west of the site is the roundabout on the junction of Parc Pontypandy and Heol Ty Merchant. Dwellings are located on either side of Heol Ty Merchant.

Development: This application seeks full planning consent to demolish part of the existing building to enable a drive-thru facility to be created. Approximately one third of the southernmost part of the building will be removed and a drive-thru lane will be created running from the existing car park to the north east of the building around to the south and west of the structure and exiting back into the car park to the north of the building. The principal entrance to the building will be on the eastern elevation facing towards the car park (as existing), with a secondary access being created on the southern elevation facing the roundabout. A drive-thru service window will also be created on the northern elevation facing Parc Pontypandy.

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Consent is also sought to remove or vary condition 4 of planning consent P/03/0956 to allow the restaurant to open 24 hours. The condition currently restricts the hours of opening to 7.30am to 11.00pm Monday to Thursday and Sundays and 7.30am to 12.00pm Fridays and Saturdays.

Dimensions: The existing building measures 22.7m long by 19.6m wide. The proposed building will measure 14.7m long by 19.6m wide.

Materials: To match the existing.

Ancillary development, e.g. parking: A new delivery lay by is to be created to the rear of the building with a new planting area on the grassed area to the south of the building.

PLANNING HISTORY 2005 TO PRESENT

None.

POLICY

Local Development Plan: Within settlement limits.

Policies

Local Development Plan: SP3 (Development in the Southern Connections Corridor), SP5 (Settlement Boundaries), SP6 (Place Making), CW2 (Amenity), CW3 (Design Considerations: Highways) and CW15 (General Locational Constraints).

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

Supplementary Planning Guidance LDP 6 Building Better Places to Live gives advice on all levels of development.

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National Policy: Paragraph 3.16 of Planning Policy Wales states

"Planning authorities should through a process of negotiation seek to improve poor or average developments which are not well designed, do not take account of their context and consider their place, or do not meet the objectives of good design. Where this cannot be achieved proposals should be rejected. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions. If a decision maker considers that a planning application should not be approved because of design concerns they should ensure that these reasons are clearly articulated in their decision and justified with sufficient evidence."

National Planning Guidance contained in Technical Advice Note 12 - Design. Cont'd

ENVIRONMENTAL IMPACT ASSESSMENT

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

Was an EIA required? No.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? Not applicable.

CONSULTATION

Ecologist - No objection subject to conditions.

Head Of Public Protection - No objection subject to conditions.

Transportation Engineering Manager - No objection subject to conditions.

Senior Engineer (Land Drainage) - No objection subject to conditions.

Rights Of Way Officer - Provides advice to be conveyed to the developer.

The Coal Authority - No objection.

Natural Resources Wales - No objection subject to a condition in relation to the historic contamination of the site.

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ADVERTISEMENT

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

Response: Two letters of objection were received from the Local Ward Members.

Summary of observations:

1. 24 hour opening is unacceptable in such close proximity to residential properties.
2. Acoustic fencing should be erected on the Parc Pontypandy boundary of the site.
3. Pedestrian access to the premises should be improved.
4. CCTV should be erected on site to control anti social behaviour.
5. Deliveries should not be made during the night.
6. The access for delivery vehicles appears to be inadequate.

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?

Late night hot food takeaways are often associated with anti-social behaviour, although one does not necessarily follow the other. In this case, this is an area where there are already a number of such uses, and it would be unreasonable to object to the scheme on crime and disorder grounds unless there was firm evidence that the proposed development would give rise to significant problems.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? Based on current evidence, this is unlikely to be a significant issue in this case, but an advisory note will be attached to the consent and sent to the applicant as a precautionary measure.

Is this development Community Infrastructure Levy liable? No.

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ANALYSIS

Policies: The application has been considered in accordance with national planning policy and guidance, local plan policy and supplementary planning guidance. The main points to consider in the determination of this application are the design of the resultant building and the impact of the proposal on the amenity of neighbouring properties. With regard to the design of the building it is considered that it would not detract from the character of the host building. The partial demolition of the building would drastically reduce its profile when viewed from Parc Pontypandy and the alterations to the external appearance in terms of new openings would not be significant. Whilst the creation of a drive-thru lane would reduce some of the grassed areas on the site a new planting area is to be created on the grassed area to the front of the building in order to enhance the visual appearance of the site and soften its appearance.

In terms of the impact of the proposal on the amenity of the neighbouring properties it should be noted that the nearest residential properties are over 50m away from the facade of the building and there is a roundabout and the access road through the site and an electricity sub station in between. It should also be noted that the application building is an established A3 restaurant within an established retail park. Whilst consent is required for the partial demolition of the building, the fact remains that the applicants could have operated out of the premises under the existing consent. In that regard it is not felt that this proposal would have an unacceptable impact on the amenity of neighbouring residents.

However, it is acknowledged that 24 hour operation of the facility to all customers could cause issues for residents in the area and as such it is considered that only 24 hour operation of the drive thru should be allowed in accordance with the operation of the adjacent McDonalds restaurant. A condition to that effect can be attached to any consent granted.

Comments from Consultees: No objection raised. Whilst the Council's Ecologist has requested that conditions be attached to this consent requiring the provision of ecological mitigation, it is not considered that this would be reasonable in this instance. This application seeks the partial demolition of an existing building on a retail park where a bat survey has found no evidence of bats. There is existing lighting on the site and the proposal does not seek to remove any significant areas of vegetation. For these reasons it would not be reasonable to impose such conditions on any planning consent.

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Comments from public: The comments of the public are addressed as follows:-

1. The 24 hour operation of the facility as addressed above.
2. The noise assessment submitted with the application establishes that the operation of the business would not cause any noise nuisance to adjacent residential properties. It is also considered that an acoustic fence along the Parc Pontypandy boundary of the site would have a detrimental impact on the visual amenity of the area. In that regard it is not considered that the erection of such a fence would be reasonable or necessary in planning terms, nor would it be acceptable in design terms.
3. Whilst it is accepted that there is no direct pedestrian access to the site from Parc Pontypandy, an adequate pedestrian access is provide via the access road to the site and through the car park. Providing an access directly off Parc Pontypandy would also require pedestrians to cross the drive-thru lane at a dangerous point and as such this would be unacceptable in highway safety terms.
4. There is no evidence that this proposal would lead to anti social behaviour and it is a matter for the landowner to determine whether CCTV is required for the security of their site. It is not a material planning consideration in this instance.
5. It is accepted that deliveries should only be made at sociable hours and a condition can be attached to any consent granted to that effect.
6. The access to the site is considered to be acceptable for all vehicles.

Other material considerations: None.

In conclusion it is considered that the proposal is acceptable in planning terms subject to the imposition of conditions.

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

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.

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- 02) The development shall be carried out in accordance with the following approved plans and documents: AP02, AP14 Rev F and AP16 Rev C.
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 03) Prior to the commencement of works on site a scheme of land and surface water drainage within the site shall be submitted to and agreed in writing by the Local Planning Authority. All works that form part of the agreed scheme shall be carried out before any part of the development to which it relates is occupied.
REASON: To ensure the development is served by an appropriate means of drainage.
- 04) 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 from deliveries. 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.
- 05) The hours of operation at the premises subject of this consent shall be as follows: the indoor restaurant shall not be open to customers between 2300 hours and 0600 hours Monday to Sunday inclusive; the drive through facility may operate 24 hours a day Monday to Sunday inclusive.
REASON: In the interests of residential amenity.
- 06) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.
REASON: To protect controlled waters in the local area - the initial development of the retail park is assumed to have undertaken a level of remediation, however there is the potential for residual contamination to be discovered during this development.

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- 07) Prior to the commencement of the development a scheme depicting hard and soft landscaping shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be carried out in the first planting and/or seeding season following the occupation of the development. Any trees or plants which within a period of 5 years from the completion of the development die or are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.
REASON: In the interests of the visual amenity of the area.
- 08) The proposed parking area shall be kept free of obstruction at all times for the parking of vehicles only.
REASON: In the interests of highway safety.
- 09) The proposed delivery bay shall be laid out in accordance with the submitted plan prior to beneficial occupation of the building, and shall be maintained thereafter free of obstruction for the use of delivery vehicles only.
REASON: In the interests of highway safety.
- 10) Details of a scheme of signage, making clear to customers that they should not queue onto the highway shall be submitted to and approved in writing by the Local Planning Authority, and shall be implemented on site in accordance with the agreed details prior to beneficial use of the building commencing.
REASON: In the interests of highway safety.

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 and CW3.

Please find attached comments of the Council's Rights of Way Officer, Public Health and Protection Officer and Land Drainage Officer and also the comments of Natural Resources Wales.

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

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It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: <https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.

