

**Application Number:** 23/0321/COU

**Date Received:** 12.05.2023

**Applicant:** Rhymney Brewery Ltd

**Description and Location of Development:** Change the use and convert former Shoezone into A3 usage including the provision of traditional shop front, internal alterations and rear smoking area - 161 High Street Blackwood NP12 1AA

**APPLICATION TYPE:** Change of Use

### SITE AND DEVELOPMENT

Location: The application site is at 161 High Street, Blackwood.

Site description: The site is a vacant A1 use unit. The unit appears single storey and flat roofed from High Street, however at the rear, the property drops down to a basement level. The basement level can be accessed via a rear lane. Internally, the ground floor is largely open, with a single rear room containing a staircase to the basement level. The basement level also appears to be open, with no internal rooms. Externally, the front elevation consists of a dilapidated shop front, with blue framed aluminium windows and doors. To the rear, the building is finished in red facing brick work and has a small single storey projection with a flat roof.

Development: The proposed development is to change the use of the building, from A1 to A3, to be used as a drinking establishment. The majority of the works proposed are internal, which would consist of the installation of a bar and fixed seating around the northern internal wall. It would also include the installation of toilets, a beer cellar and a dry store. Externally, the shop front would be renewed. The front elevation would consist of the main entrance being located at the southern end of the elevation, with the remainder of the elevation being largely glazed. Signage would be installed above the glazing, along with decorative pilasters. To the rear, a smoking area would be provided by utilising the roof of the single storey projection as a roof terrace. A uPVC clad balustrade would be erected around the outer edges of the flat roof. The south and east elevations would remain open.

Dimensions: The rear balustrade would be 1.1 metres in height.

Materials: The front elevation would be finished with a low rendered wall, and timber framed glazing above. The door would be timber. The rear alterations would consist of uPVC cladding to the terrace.

Ancillary development, e.g. parking: None.

### PLANNING HISTORY 2010 TO PRESENT

19/0269/FULL - Retain part existing retail unit and convert/change the use to its rear into 1 No. studio apartments and the construction of a new storey at roof level to provide 2 No. one bed apartments - Granted - 13.12.2019.

## POLICY

LOCAL DEVELOPMENT PLAN The Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.

Site Allocation: The site is located within settlement limits.

Policies: SP2 (Development Strategy - Development in the Northern Connections Corridor (NCC), SP4 (Settlement Strategy), SP5 (Settlement Boundaries), SP6 (Place Making), CW2 (Amenity), CW3 (Design Considerations: Highways), CW14 (Use Class Restrictions - Retail), CW15 (General Locational Constraints), and advice contained within LDP5: Car Parking Standards, LDP6: Building Better Places and LDP12: Shop Fronts and Advertisements.

NATIONAL POLICY Future Wales: The National Plan (February 2021), Planning Policy Wales Edition 11 (February 2021), Technical Advice Note 4: Retail and Commercial Development (November 2016), Technical Advice Note 12: Design (March 2016), Technical Advice Note 18: Transport (March 2007) and Technical Advice Note 23: Economic Development (February 2014).

## ENVIRONMENTAL IMPACT ASSESSMENT

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

Was an EIA required? Not applicable.

## COAL MINING LEGACY

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

## CONSULTATION

Environmental Health Manager - No objection, subject to the following conditions:

The use hereby permitted shall not operate outside the following times:

- (a) 08.00 hours to 00:00 Monday to Thursday
- (b) 08:00 hours to 01:00 hours Friday and Saturday
- (c) 08:00 hours to 00:00 on Sunday.

REASON: In the interests of residential amenity.

The use hereby permitted shall not be open to customers outside the following times:

- (a) 11.00 hours to 23:00 Monday to Thursday
- (b) 11.00 hours to 00.00 hours Friday and Saturday
- (c) 11:00 hours to 23:00 on Sunday.

REASON: In the interests of residential amenity.

The use of the beer garden area of the premises is not permitted after 22:00. Other than access solely for the use of a smoking area. The smoking area shall not exceed the capacity of 6 persons at any one time post 22:00.

REASON: Amenity of the area.

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

Further conditions maybe added in terms of extraction equipment. The applicant is also advised to get in contact with the CCBC Food/Health & Safety team for advice when in operation

Transportation Engineering Manager - CCBC - No objection.

### ADVERTISEMENT

Extent of advertisement: The application was advertised by means of a site notice and nine neighbours were notified by way of letter.

Response: Two letters of objection were received.

Summary of observations: The letters of objection can be summarised into the following points:

1. No employee toilets are detailed.
2. Insufficient customer toilets are provided.
3. Insufficient mix of toilets, i.e. male, female, non-gendered.
4. An enclosed smoking area is proposed, which is illegal.
5. Fire doors detailed do not meet Building Regulations.
6. Unacceptable levels of noise will be generated.
7. No allocated parking is provided, leading to traffic offences.
8. Anti-social behaviour concerns.
9. Litter concerns.
10. Opening hours and delivery hours are not acceptable.

### 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?

There are no specific crime and disorder implications material to the determination of this application.

### EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

### COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? Yes, the development is CIL liable. As the development results in new A3 floor space, this is charged at £25 per sqm, plus indexation.

### ANALYSIS

Policies: The application has been considered in accordance with national policy and guidance, local plan policy and supplementary planning guidance. The application seeks to change the use of 161 High Street within the Principal Town Centre Boundary of Blackwood. The main issues for consideration in the determination of this application are whether the principle of the resultant change of use within the town centre is acceptable; its impact in terms of visual and residential amenity; and the impact on highway safety.

Strategic Policy SP6 of the Local Development Plan (LDP) sets out criteria relating to place making, notably that development should seek an appropriate mix in respect of the role and function of its settlement and realise the efficient use of land. The site is located within the Northern Connections Corridor (NCC) and within the defined settlement boundary of Blackwood with the development proposal providing the opportunity to provide a differing commercial element to the ground floor of the building. Therefore the presumption is in favour of development providing material planning considerations do not indicate otherwise.

Policy CW14 (Use Class Restrictions - Retail) of the Local Development Plan (LDP) states that that changes of use of the ground floors of A1 retail premises to other uses will only be permitted where the commercial vacancy rate of the centre has been over 10% for over a year. In that respect the commercial vacancy rate in Blackwood town centre at the time of the most recent survey (2022), was 12.1%, with it being 13.2% the year before. As such, the vacancy rate has been in excess of 10% for over a year. Therefore, the provisions of Policy CW14 allow for the change of use of the property from A1 to A3.

Notwithstanding the above, a recent appeal decision (reference: APP/K6920/A/20/3257883) for a change of use proposal within a different town centre in the borough with a much lower vacancy rate, the Inspector concluded:

"Whilst I can understand that a lower vacancy rate may justify the retention of A1 uses, on its own, it is not indicative of the robustness of a town centre to small changes. For example, there may be a greater tolerance for alternative uses, especially where they complement, and do not dominate, the primary retail function...I have no doubt that the COVID pandemic is having some impact but current vacancy levels and the balance and mix of uses in the town centre do not appear to be having any significant effect on its predominant retail character and function. In these circumstances, the proposed change of use would not lead to any fundamental change to the status quo."

In assessing development proposals within defined centres, Local Planning Authorities should assess retail and commercial centre performance and their overall vitality and viability. This is further explained in Paragraph 4.3.36 of Planning Policy Wales (PPW) which outlines that where premises have been vacant for some time and may undermine a centre's vitality and viability "planning authorities should consider how non-A1 uses may play a greater role to increasing diversity and reducing vacancy levels.

This is further reinforced by Technical Advice Note (TAN) 23: Economic Development where it addresses High Level Planning Objectives and considerations that the Local Planning Authority should have regard to in respect of market signals and respective demands.

On that basis it is not considered that a reduced floor area of retail space (A1) and the introduction of an A3 commercial use would be contrary to Policy CW14 or National policy and guidance, or be detrimental to the commercial viability of Blackwood Town Centre.

In terms of the visual impact of the proposed development, the existing scale and form of the building will not alter, whilst the proposed design alterations to the external elevations are considered to enhance the character of the building. The proposed external alterations include the renewing of the front elevation, with a timber framed, largely glazed shop front. The main door would be located at the southern edge of the front elevation. The styling and use of materials are of a traditional nature and would not look out of place within the town centre setting. The rear elevation includes the addition of a first floor terrace, to be used as a smoking area. The terrace would be located atop an existing single storey flat roof projection. The terrace would have a white uPVC timber clad balustrade erected around its edge. The south and east elevation would remain open. The design of the rear terrace is considered to be acceptable and would not appear out of place in its setting. As such, the proposed alterations are considered to comply with criterion B of Policy SP6.

Policy CW2 (Amenity) 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.

The proposed development introduces an A3 use, for a drinking establishment, which would inevitably have longer and later opening hours than a typical A1 use. However, further to consultation with the Environmental Health Manager, no objection has been raised to the use subject to a number of conditions relating to opening hours.

In this respect whilst the suggested conditions relating to the hours of operation i.e. 8am-12am Sunday to Thursday, 1pm close Friday and Saturday, are considered reasonable given the context, the more restricted hours recommended for use by customers have been discussed with the applicant who has raised concerns regarding the impact of such restrictions on the viability of the business. Notwithstanding this it should be recognised that the site falls within Blackwood High Street with adjacent public houses having later opening hours controlled by License conditions (e.g. Moggridge 2.30am close and New Foresters 2.00 am close on weekends). In addition to this, there is no first floor residential element to the host building and the nearest residential properties to the rear are at a considerably lower level and in excess of 60 metres from the application site separated by a public car park and mature trees. As such, it is not considered that, subject to the control on operating hours referenced above that the use would have a detrimental impact on neighbour amenity. A condition has also been added to ensure that the smoking area to the rear is used for smoking only and not as a beer garden after 22:00, in order to reduce the impact of customers congregating and drinking within this area late at night. The control of the number of people using the area is considered onerous and difficult to manage and enforce but as it represents a small area in any event, the suggested condition is considered sufficient to protect residential amenity given the context.

It is not clear if any extraction, or plant, is required in conjunction with the use, however a condition can be added to the decision requiring the submission and approval of any such apparatus.

Turning the consideration to the impact on the amenity of adjacent land, the proposal would bring a vacant unit back into use, as well as replacing the deteriorating shop front. Based on the above, the proposed development would be compliant with criterion A of Policy CW2.

Policy CW2 also seeks to ensure that proposals do not result in an overdevelopment of the site and should be compatible with surrounding land uses. It is considered that in this instance, the development would not constitute an overdevelopment, and is compatible with the surrounding land uses, which are primarily A1, A2 and A3 uses.

Given the above, the proposed development is compliant with the criteria outlined in Policy CW2.

Policy CW3 states development proposals must satisfy the following highways requirements:

A.The proposal has regard for the safe, effective, and efficient use of the transportation network.

B.The proposal ensures that new access roads within development proposals are designed to a standard that:

- i.Promotes the interests of pedestrians, cyclists and public transport before that of the private car, and
- ii. Safely and effectively accommodates the scale and nature of traffic, which those roads are intended to serve.

C.Parking, appropriate servicing and operational space have been provided in accordance with the CSS Wales Parking Standards 2008.

D.Where access onto a highway is required the proposal takes account of the restrictions relevant to the class of road as designated in the road hierarchy ensuring movements and speeds are controlled through appropriate design, in order to ensure highway safety and amenity.

Consultation with the Council's Transportation Engineering Manager was undertaken, in which no objection was raised. The site is well served by public transport and there is a large amount of car parking available through public and private car parks within the town centre vicinity. In that respect, there are no concerns in terms of highway safety and the proposal is compliant with Policy CW3.

In conclusion, the change of use of the building from A1, to A3, is considered to be acceptable as it complies with the requirements of criterion A of Policy CW14, whereby Blackwood Town Centre has a commercial vacancy rate in excess of 10% for over a year. The impact on neighbouring amenity can be appropriately managed by condition. The proposed development is considered to contribute to the socio-economic function of Blackwood Principal Town Centre and would not have an unacceptable impact upon highway safety. The proposal therefore complies with policies SP6, CW2, CW3 and CW14 of the Caerphilly County Borough Local Development Plan up to 2021 - adopted November 2010.

Comments from public: The following is provided in response to the objections raised:

1. No employee toilets are detailed. - This is not a material planning consideration.
2. Insufficient customer toilets are provided. - This is not a material planning consideration.
3. Insufficient mix of toilets, i.e. male, female, non-gendered. - This is not a material planning consideration.
4. An enclosed smoking area is proposed, which is illegal. - This rear smoking area is not fully enclosed, only a safety balustrade.
5. Fire doors detailed do not meet Building Regulations. - This is not a material planning consideration.
6. Unacceptable levels of noise will be generated. - The Environmental Health Manager has not objected, the full assessment related to noise is in the above report.

7. No allocated parking is provided, leading to traffic offences. - The Transportation Engineering Manager has not objected, the full assessment is in the above report.
8. Anti-social behaviour concerns. - It is not considered that an application of this type within a Town Centre would give rise to unacceptable impacts in planning terms. Anti-social behaviour is a matter to be addressed by other agencies.
9. Litter concerns. - This is not a material planning consideration.
10. Opening hours and delivery hours are not acceptable. - Appropriate opening hours have been outlined in the above report and will be imposed as conditions.

Other material considerations: None.

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.

Future Wales - The National Plan 2040 was published on 24 February 2021 and forms part of the statutory development plan for the county borough. In addition to this Planning Policy Wales (PPW) has been amended to take account of Future Wales and PPW Edition 11 has also been published on 24th February 2021. In reaching the conclusion below full account has been taken of both Future Wales and PPW Edition 11 and where they are particularly pertinent to the consideration of the proposals they have been considered as part of the officer's report. It is considered that the recommendation(s) in respect of the proposals is (are) in conformity with both Future Wales and PPW Edition 11.

**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 shall be carried out in accordance with the following approved plans and documents:  
Dwg No. Site Location Plan received on the 11.05.2023;  
Dwg No. 2 - Proposed Floor Plans received on the 11.05.2023; and  
Dwg No. Existing and Proposed Elevations received on the 11.05.2023.  
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.



- 03) Prior to development commencing on site, if required, 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 the amenity of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 04) Prior to the commencement of the use hereby approved, arrangements for the storage, collection and disposal of waste and recycling shall be implemented in accordance with a scheme to be agreed in writing with the Local Planning Authority.  
REASON: In the interests of the amenity of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 05) 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 in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 06) The use hereby permitted shall not operate outside the following times:  
(a) 08.00 hours to 00.00 Monday to Thursday;  
(b) 08.00 hours to 01.00 hours Friday and Saturday; and  
(c) 08.00 hours to 00.00 on Sunday.  
REASON: In the interests of residential amenity in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 07) The smoking area associated with the use hereby permitted, as indicated on Drawing No. 02 - Proposed Floor Plans received 11.05.2023, shall be used as a smoking area only after 22:00 and shall not be used as a beer garden after 22:00 on any day.  
REASON: In the interests of residential amenity in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.