

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
14/0210/COU 04.04.2014	Dylan Jones Retail C/O RPS Planning & Development Mr R Bowen Park House Greyfriars Road Cardiff CF1 3AF	Change use of the Former Nelson Police Station (sui generis) to a pizza delivery/takeaway (Use Class A3) Former Nelson Police Station Dynevor Terrace Nelson Treharris CF46 6PD

APPLICATION TYPE: Change of Use

SITE AND DEVELOPMENT

Location: The application site is situated on the western side of Dynevor Terrace approximately 150m from the roundabout at High Street.

Site description: The application property is a single storey rendered building with a slate roof which is a purpose built building formerly used as a Police Station. The building currently comprises a public reception room to the front with offices behind and a double integral garage to the rear. It is sited at the southern end of the Town Centre car park with a vehicle repair garage to the south, dwellings to the east and west and the car park and then the main bus terminal to the north. The site is also fronted by Dynevor Terrace, which is the Classified B4225 main road from Gelligaer, Trelewis and Bedlinog to the A472 and A470 to the southwest.

Development: The application seeks full planning consent for the change of use of the property from a Police Station to a Pizza delivery/takeaway falling within Use Class A3. The premises are proposed to be open from 11.00hrs to 23.00hrs 7 days a week. A vent and extractor fan are proposed to be attached to the side elevation of the property with no other external alterations. The integral garage is to be converted into a cold store and washing up area.

Dimensions: The building is irregular in shape having overall measurements of 17m by 10.5m.

Materials: Not applicable.

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Ancillary development, e.g. parking: None.

PLANNING HISTORY

P/97/0597 - Erect new police station - Granted 11.09.97.

POLICY

Site Allocation

Local Development Plan: Within settlement limits.

Policies

Local Development Plan: SP2 (Development Strategy - Development in the Northern Connections Corridor), SP4 (Settlement Strategy), SP5 (Settlement Boundaries), CW2 (Amenity), CW3 (Design Considerations: Highways), CW8 (Protection of Community and Leisure Facilities), CW11 (Affordable Housing Planning Obligation), CW15 (General Locational Constraints), CW16 (Locational Constraints - Retailing).

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

National Policy: Paragraph 3.1 of Planning Policy Wales (Edition 6. Feb. 2014) gives guidance on the matters to be considered when taking planning decisions.

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

CONSULTATION

Nelson Community Council - Raises objection to the application for the following reasons: -

1. Detrimental impact on residential amenity.
2. Noise and smell nuisance.
3. Loss of privacy.
4. Increase in traffic.

Head Of Public Protection - Subject to the imposition of conditions the detrimental effect on residential amenity will be mitigated.

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Transportation Engineering Manager - No objection subject to conditions requiring 3 parking spaces within the curtilage of the site and restricting the type and size of delivery vehicles.

Dwr Cymru - No objection subject to conditions.

ADVERTISEMENT

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

Response: 38 letters of objection and a petition containing 479 signatures were received.

Summary of observations:

1. Effect on residential amenity, especially in the evenings.
2. Attraction of vermin.
3. Out of keeping with the character of the area.
4. There is no need for this development.
5. Noise nuisance from customers, delivery drivers and external equipment.
6. Car parking problems in Dynevor Terrace.
7. Unpleasant odours from cooking.
8. The proposed opening hours could be extended thereby exacerbating any detrimental impact.
9. No description of the external signage has been provided.
10. Decrease in property values.
11. Loss of public open space.
12. Anti social behaviour.
13. Loss of privacy.
14. The building should be retained as a Police Station.

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? Takeaways can attract anti-social behaviour, particularly in the evening, but in view of the site's relative proximity to the centre of Nelson where there are other late night uses, such as public houses, this is a matter that would be best controlled by the Police.

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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.

ANALYSIS

Policies: The application has been considered in accordance with national guidance, local plan policy and supplementary planning guidance. The main points to consider in the determination of this application are the objections raised by members of the public, which are dealt with in turn below.

1. Residential amenity is a wide-ranging issue but is taken in this instance to refer to late night noise and disturbance that may be associated with an A3 use and disturbance during opening hours from additional vehicles in the vicinity of the premises. With regard to the first issue it is noted that there are residential dwellings to the east (front) and west (rear) of the application site and as such the proposed use could have a detrimental impact on the amenity of those dwellings. However, it should also be noted that this is a mixed use area on the edge of Nelson village centre. In Policy SP4 (Settlement Strategy) of the Local Development Plan, Nelson is identified as a Local Centre based on its function as a major employer, retail centre, provider of services and centre of population. It is expected that in these local centres there would be a wider range of services to meet the needs of a wider area and not just of the immediate community surrounding the site.

It should also be noted that there is an existing vehicle repair garage and a car sales garage situated immediately to the south of the application site and a public car park serving the village centre and a bus terminus to the north of the site. Finally it should be noted that the site is fronted by the B4225, which is the main route from the communities of Gelligaer, Trelewis and Bedlinog to the A472 and A470 to the south west of the site.

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It is against this backdrop that the application has to be considered and the Local Planning Authority has to consider whether the use proposed would significantly increase either the activities that currently operate at the above mentioned sites or indeed those that could operate without the benefit of further planning consent. It is accepted that at present both the garage and the bus terminus are either not operational in the evenings or are infrequently used, but there are no controls over either use that would prevent an intensification of the current operations and as such this must be taken into account. The applicants have also submitted information in relation to the number of staff to be employed at the premises, the expected level of custom at low and peak times and the type of cooking and extraction equipment to be used at the premises.

The Head of Public Protection has considered all of these issues and raised no objection subject to the imposition of suitable conditions regarding noise and odour suppression, hours of operation and control over external lighting. In that regard it is not considered that the proposal would have a detrimental impact on the residential amenity of the area such that it would justify refusal of this application.

2. With regard to the possible attraction of vermin, this is a matter for the Food Hygiene team within Public Health and Protection. However, it is considered that it would be prudent to impose a condition requiring the provision of adequate waste storage within the site.
3. As discussed above, the application site is situated in a mixed use area on the edge of the village centre and with commercial uses adjacent. As such it is not considered that the proposed use would be out of keeping with the character of the area.
4. Whether there is a need for this development or not is essentially a matter for the market to decide as competition is not a material planning consideration. Policy CW16 of the Local Development Plan provides criteria to consider in the determination of applications for retail development outside of the Principal Town Centres. In that regard it is considered that the proposed development will not undermine the vitality and viability of nearby Principal Town Centres nor the Council's retail strategy. The unit is less than 1000sq m in floor area and is to serve neighbourhood needs, therefore it is not considered to be contrary to this policy.

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5. Noise and disturbance is similar to the objection discussed at number 1 above. Again it should be noted that Public Health and Protection have raised no objection to this application. The application site is situated within a mixed use area where an increase in noise would normally be expected. It is accepted that there are residential properties to the east and west of the site but it is felt that any impact on the amenity of these properties by virtue of noise and disturbance would not be sufficient to warrant refusal of the application. It should also be noted that the proposed opening times for the premises are 11.00hrs to 23.00hrs and it is not considered that these hours are excessive and indeed are in line with a number of other similar establishments in the village centre, which are also in close proximity to residential properties.
6. With regard to potential car parking problems it should be noted that, having considered the likely traffic generation associated with the proposed use, the Transportation Engineering Services Manager has raised no objection to the application. Whilst the application property does not have any space to provide off street car parking for customers, it is situated immediately adjacent to a public car park intended to serve the village centre. It is acknowledged that a number of residents from Dynevor Terrace use this car park and it is alleged that the car park is over subscribed during evenings and weekends when the Pizza takeaway is likely to be at its busiest. However, officers of the Authority have visited the site on numerous occasions during the evening and at weekends and on each occasion there were ample spaces available for customers to use. In that regard it is considered that it would be unreasonable to refuse the application on the basis of a lack of adequate off street parking provision. With regard to the possibility of illegal parking occurring in the vicinity of the site case law suggests that it is debatable whether this is a material planning consideration and is likely to hinge on whether such parking would in itself pose a danger to highway safety. In this instance it is considered unlikely that this would be the case and as such refusal of the application would not be justified on this ground. It should also be noted that the Transportation Engineering Services Manager has suggested the imposition of a condition requiring the provision of three parking spaces for staff. These would have to be provided on the yellow hatched area to the front of the existing double garage. It is considered that this would still leave sufficient space for vehicles to manoeuvre around the car park.

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7. Given the nature of the food cooked in this instance and the extraction system proposed it is considered that odour would not be an issue here. It is also considered that there is sufficient separation distance from the application property to the nearest residential properties that adequate extraction equipment could be installed irrespective of the type of food to be cooked at the premises and as such it would be difficult to justify the imposition of a condition controlling the use.
8. The possibility for the extension of the operating hours is a matter that would have to be considered should an application be submitted. It is not in itself a reason to justify the refusal of this application if the hours of operation proposed now are considered to be acceptable. The Local Planning Authority would have regard for the proximity of residential properties in considering any future applications. The hours of operation proposed here are considered to be acceptable as discussed above.
9. Signage falls within a separate regime of control to land use planning and as such a separate application for consent to display may need to be submitted.
10. Loss of property values is not a material planning consideration.
11. No public open space will be lost as a result of this development.
12. Anti social behaviour is a matter for the Police although it is a material planning consideration. In this instance and having regard for the proposed opening times and the location of the site it is not felt that anti social behaviour should prejudice the determination of the application.
13. Loss of privacy would not be so significant as to justify a refusal of permission.
14. Policy CW8 of the Local Development Plan seeks to protect community facilities. Criterion B of that Policy states that the loss of such facilities is acceptable provided that it can be demonstrated that it is surplus to requirements. The loss of Nelson Police Station is an operational decision made by Gwent Police. As a result it is accepted that the use of the building as a police station is no longer required and as such the proposal complies with Policy CW8. It should also be noted that it is not for the Local Planning Authority to consider whether an alternative use to that proposed is more or less acceptable than that applied for as it can only consider what is before it.

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Comments from consultees: No objections raised.

Comments from public: Addressed above.

Other material considerations: In conclusion, it is considered that the proposed use would not have an unacceptable effect on the residential amenity of the area, there is adequate parking within the vicinity of the site to accommodate the use, noise and odour issues can be adequately dealt with by the imposition of appropriate conditions and the loss of the community facility is acceptable in this instance. There would be no loss of open space and devaluation of property, and anti social behaviour would not be significant. It is also considered that the proposal complies with national planning guidance and local plan policy and therefore it is acceptable in planning terms.

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: Drawing no. B8310-AEW-14017-00-DR-PRELIM-OO1 and letter received from RPS dated 22nd May 2014. Drawing no. JPW0366-001 received on 22nd April 2014 (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.
- 03) 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 and associated plant and equipment. The measures included in the approved scheme shall be implemented prior to the first occupation of the building 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.

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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.
- 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) The use hereby permitted shall not be open to customers outside the following times: 11.00 hours to 23.00 hours Monday to Sunday.
REASON: In the interests of residential amenity.
- 07) Notwithstanding the submitted plans, prior to the commencement of the use hereby approved details shall be submitted to and approved in writing by the Local Planning Authority which provide 3 off-street parking spaces, designated for the use of staff and despatch drivers associated with the business, within the curtilage of the site. Such provision shall be completed in accordance with the agreed details prior to the use hereby approved commencing and shall be maintained thereafter free of obstruction for the parking of motor vehicles only.
REASON: In order to ensure the provision of adequate off street car parking in the interests of highway safety.
- 08) Articulated vehicles associated with the use hereby approved shall not deliver to the premises. Delivery vehicles shall be limited to a rigid trailer type vehicle (FTA Design LG Rigid Vehicle) not exceeding 10.5m in length.
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.
