

PLANNING COMMITTEE	DATE: 25/06/2018
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	DOLGELLAU

Number: 5

Application Number: C18/0235/45/LL

Date Registered: 11/04/2018

Application Type: Full - Planning

Community: Pwllheli

Ward: Pwllheli North

Proposal: Change of use of shop (A1 use class) to cafe (A3 use class)

Location: 25, Gaol Street, Pwllheli, Gwynedd, LL535DB

Summary of the Recommendation: TO APPROVE WITH CONDITIONS

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1. Description:

- 1.1 This is a full application to change the use of a shop (A1 use class) to a café (A3 use class) in the property at 25 Gaol Street, Pwllheli. It was previously the Ethel Austin shop, which shut a number of years ago, and planning permission was subsequently granted to change it into two separate shops with a dance studio above. This proposal is for a Welsh themed café that would exhibit local crafts and produce and Welsh music. It is not proposed to make any external changes to the shop front, although it is intended to install a flue/extractor on the gable end of the building.
- 1.2 The building lies in a prominent location within the designated Town Centre of Pwllheli Urban Service Centre, within the designated Principal Shopping Area and the Conservation Area. The class 3 county road of Gaol Street runs past the front of the building. The whole building is also within a C1 flooding zone as shown in the development advice maps linked to Technical Advice Note (TAN) 15 Development and Flood Risk.
- 1.3 This application is submitted to the Committee as the applicant is married to a Councillor.

2. Relevant Policies:

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 2.1.2 of Planning Policy Wales emphasise that planning decisions should be made in accordance with the Development Plan, unless material considerations indicate otherwise. Planning considerations include National Planning Policy and the Local Development Plan.
- 2.2 The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet the seven well-being goals within the Act. This report has been prepared in consideration of the Council's duty and the 'sustainable development principle', as set out in the 2015 Act. In reaching the recommendation, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
- 2.3 **Gwynedd and Anglesey Joint Local Development Plan 2011-2026 adopted 31 July 2017**

TRA 2: Parking Standards

TRA 4: Managing transport impacts

PS 6: Alleviating and adapting to the effects of climate change

PCYFF 2: Development Criteria

PCYFF 3: Design and place shaping

PS 15: Town centre and retail developments

MAN 1: Proposed developments in town centres

MAN 2: Principal retail areas (the retail core)

PS 20: Preserving and where appropriate enhancing heritage assets

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AT1: Conservation Areas, World Heritage Sites and Registered Historic Landscapes, Parks and Gardens.

2.4 National Policies:

Planning Policy Wales (Edition 9) 2016
 Technical Advice Note (TAN) 4: Retail and Commercial Developments (2016)
 Technical Advice Note (TAN) 23: Economic Development (2014)

3. Relevant Planning History:

3.1 Y18/000135 Pre-application enquiry regarding change of use from shop to café

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 Confirmation that a planning application was required.

C17/1082/45/LL Adaptations to a shop front to create two new access doors and change of use of first and second floor to form dance school: Approved 13 December 2017

C17/0773/45/LL Construction of 3 three storey dwellings and bungalow on land at rear of 25 Gaol Street:
 No decision - awaiting the signing of a 106 agreement

C17/0582/45/CT Fell a sycamore tree within a Conservation Area:
 Approved 26 July 2017

C14/0994/45/HY Install illuminated fascia sign and projecting sign: Approved 27 November 2014

C14/0480/45/LL Install external air conditioning unit, satellite dish and aerial on rear:
 Approved 23 July 2014

C14/0238/45/LL Change of use of one shop to create two units with one remaining as a shop (A1) and the other unit to be used for A2 Financial and Professional Services and a new shop front: Approved 2 May 2014

4. Consultations:

Community/Town Council: Not received.

Transportation Unit: No objection, no detrimental impact on any road or proposed road.

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Food, Health and Safety Team, Public Protection:

The development must comply with all requirements of the following legislation:

- Health and Safety at Work etc. Act 1974 and the relevant regulations made under the Act.
- Food Hygiene (Wales) Regulations 2006.
- Food Safety Act 1990

The Food, Health and Safety Team, Public Protection, provided the following observations: Matters relating to food - we notice that the plan shows a food preparation kitchen and we are of the view that the space shown is small. The applicant must ensure that the space provided for food preparation is sufficient for the type of food that will be prepared in order to comply with current Food Safety regulations. If successful, the applicant is advised to contact the department to discuss the matters further.

Public Protection:

As there is no natural ventilation in the property, a simple extraction unit must be installed. If only sandwiches and paninis are to be prepared, **no** additional system will be required.

If the business develops and the type of food served changes e.g. the addition of fried food - chips etc., the details below must be provided to the Authority prior to the installation of any system. Conditions to ensure that the development does not affect the area's amenities;

- If any cooking/frying equipment is installed, a ventilation and odour control system must be installed in the kitchen to deal with cooking odours. The ventilation/extraction equipment must have the Authority's approval before use, and be maintained in accordance with the manufacturer's guidelines.
- Before any ventilation/extraction system is used in the development, it will need to be enclosed and installed in such a way that reduces the transmission of noise and vibration of the unit. The noise details of the equipment should be included to ensure it will not cause noise problems to the residents of the area.
- It is important that the system is of an appropriate size and design to ensure that the extraction of cooking fumes are dispersed. The efflux velocity should be at least 8m/s up to a maximum of 15 m/s. We recommend where possible to take the

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flue to 1 meter above roof ridge. The fan and motor should be sited within the building's structure to minimise outdoor noise and fixed on anti-vibration mounts.

- The operation of any plant, machinery or equipment used in connection with the development hereby approved shall be such that any associated noise complies with Noise Rating Curve 25, between the hours of 2300 and 0700 and Noise Rating Curve 35 at all other times; when measured within any nearby residential dwelling.

I have attached a document, 'A3 Restaurant Odour Extract Specifications', for the applicant's attention if they wish to fry/cook food.

Natural Resources
Wales:

NRW has no objection to the application.

Flood Risk:

The application site lies entirely within zone C1 as defined by the development advice map (DAM) referred to under TAN 15 Development and Flood Risk (July 2004). The flood map information confirms the site to be within the extreme flood outline. Historic flooding has also occurred approximately 70 metres to the south of the site. You should also be aware that the map does not include any allowance for climate change.

Given the scale of the proposed development (change of use from a less vulnerable use to a different less vulnerable use), and in the absence of a flood consequence assessment, we consider the risk could be acceptable subject to the developer being made aware of the potential flood risks, and advised to install flood-proofing measures as part of the development where possible, such as tiled or concrete flooring rather than carpet or wood, raised electrical sockets etc. Further information is also available on the suggested websites.

Protected Species

We note that there is no information regarding protected species with the application and therefore we take it for granted that your Authority has screened the application and has concluded that there is no reasonable likelihood of protected species being present on the site.

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Public Consultation: A notice was posted on the site and the neighbours were informed. A notice was also placed in the press. The consultation period ended on 11 May 2018. One observation / objection was received, but it was not on planning grounds:

- Many food businesses opening – already a sufficient number of cafes/restaurants
- Shops, not restaurants, are needed.

5. Assessment of the material planning considerations:

The Principle of the Development

- 5.1 This is a proposal to change the use of an empty shop (A1 use class) to a café (A3 use class). The information submitted with the application states that the proposal is to develop a Welsh themed café that would promote local art and crafts, Welsh music and local foods.
- 5.2 The Gwynedd and Anglesey Joint Local Development Plan shows that the building is within Pwllheli Town Centre and within the principal shopping area. Policy MAN 1 states that proposals for new retail, commercial and leisure development will be directed towards town centres in the first instance, provided that they are of a scale and type appropriate to the size, character and function in the retail hierarchy. In this case, it is considered that the proposal meets the criteria of MAN 1 as:
1. Such a use would contribute towards the vitality of the town centre.
 2. Although it is not a retail use, it would add to the centre, and attract people, and therefore it is not considered that it would undermine the retail role.
 3. This use would complement adjacent uses that include a variety of shops, estate agents, a pub and food establishments.
 4. The A3 use would return a shop that has been empty since 2014 to business use that would reduce the number of dead frontages on the street.
- 5.3 The second clause of the policy is not relevant as it relates to buildings outside the principal shopping area, and this building is shown as being within that designation. It is considered that the proposal meets the requirements of policy MAN 1 of the LDP.
- 5.4 Policy MAN 2 relates to developments within Principal Retail Areas (the Retail Core), and the building in question is within the designation in Pwllheli. The policy states that proposed changes of use of the ground floor of premises in these areas from Class A1 shops to other uses will be permitted provided that they conform to the following criteria:
1. It can be shown that the premises is no longer viable for A1 use and the retention of A1 use at the premises has been fully explored without

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success, by way of marketing at a reasonable market rate for a minimum of six months; and

2. The proposed change of use does not have an unacceptable impact on the retail function or character, vitality attractiveness or viability or of the primary retail area.

5.5 Since being granted permission to convert the building into two shops in 2014, the shop in question has not been occupied, but the adjacent shop operates as a William Hill bookmaker. Previously, the Ethel Austin shop occupied the whole property, before the chain went into the hands of the administrators in 2010; it was then briefly occupied by the Life and Style retail business until 2011. Given that the shop has been empty for a lengthy period, it is considered that there are justified grounds to change the use in order to bring the shop back into some use, and remove a dead frontage in such a prominent and central location in the town. It is therefore considered that the proposal satisfies criterion 1, bearing in mind that the shop has been empty for several years. In relation to the second criterion, it is not considered that permitting the change of use would have an unacceptable impact on the retail function in this case, considering that the right would exist to change it back from A3 to A1 without permission, if the use ended in future. It could be argued that any use is preferable than no use, by helping to attract and maintain the vitality of the town. It is noted that one objection was received on the application, from a restaurant owner who was concerned about having another café/restaurant in the town, alleging that there is a sufficient number already, and that it would make things more difficult for existing businesses. While these observations are appreciated, competition between businesses is not a planning consideration. It is also not considered that there is an over-provision of food establishments in the close vicinity of the application site. The proposal is therefore acceptable in principle in relation to policy MAN 2 LDP.

5.6 Strategic policy PS15 promotes a variety of suitable uses, that would attract a wide range of people to town centres, maximising opportunities to re-use suitable buildings within town centres. Bringing empty units back into use is encouraged, and it is considered that this development would be suitable for the site, and that it would not be harmful to the character of the area or the viability of the Town Centre. It is therefore considered that the proposal is acceptable in relation to the business policies MAN1, MAN2 and PS15 of the LDP.

Visual amenities

5.7 It is not intended to make any changes to the shop front, as it has recently undergone changes under another application. However, it is noted that it is intended to install a flue/extractor on the gable end of the building, adjacent to the access road to the land at the rear. Although the shop's gable end is visible from the street, it is only visible from nearby, from the opening of the access road, and therefore it is not considered that adding a flue/extractor is likely to have a substantial detrimental impact on the wider area's visual amenities. Similarly, it is not considered that adding a flue/extractor will have a significant detrimental impact on the setting, vistas, or character of the Conservation Area

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in this unobtrusive location. It is therefore considered that the proposal is acceptable in respect of Policies PCYFF 3, PS 20 and AT1 of the LDP.

General and residential amenities

- 5.8 Applications to change the use of a building to A3 use can cause concern to local residents, however, no objections were received in relation to amenities following the advertising of the application. An initial consultation was received from the Public Protection Unit, with recommendations in relation to the requirements for installing an extraction system/flue on the building. Details about the flue/extractor were subsequently received, and we have consulted on the details again, but no response has been received while preparing this report. It is therefore possible that additional conditions may be set by the Public Protection unit, if it is decided to approve the application. The application form states that it is intended to operate opening times of between 8.00 a.m. and 5.00 p.m. from Monday to Saturday, and between 9.00 a.m. and 3.00 p.m. on Sundays and bank holidays. As this is a town centre site with activities happening at various times of the day and night, it is not considered that any restriction in the hours is necessary in this case. There are powers outside the planning system to restrict the hours if there are any future problems. It is considered that the use is suitable for such a site in relation to the amenities of the neighbourhood, without causing significant harm to the amenities of the local residents. With the appropriate conditions, it is believed that the development would be acceptable under Policies PCYFF 2 in relation to the amenities.

Highways matters

- 5.9 The building is located in a town centre, close to regular public transport services and several local car parks. Due to the convenient location of the site within the town centre, the Transportation Unit has no roads concerns regarding the proposal. Therefore, it is considered that the application meets the requirements of policies TRA 2 and TRA 4 of the LDP.

Flooding matters

- 5.10 The whole site lies within a C1 flooding zone. Natural Resources Wales submitted observations on the application, stating that they had no objection to the proposal, as the proposed use would be considered as less vulnerable use as defined by TAN 15. Given the scale of the proposal, and the nature of the change of use, they reach the conclusion that it is acceptable in relation to the flooding risk. They advise the applicant to include flood resistance measures as part of the development, and a copy of the letter can be sent for their attention. It is considered that the proposal conforms with the requirements of policy PS 6 in relation to flooding risk and the requirements of TAN 15.

6. Conclusions:

- 6.1 Having assessed the proposal against the relevant policies, it is considered that the proposed change of use is acceptable in relation to the principle, visual

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amenities, transportation and flooding matters. It is considered that the application can be approved with the planning conditions noted below, provided that favourable observations are received from the Public Protection Unit on the suitability of the proposed extraction system/flue.

Recommendation:

- 7.1 To delegate powers to the Senior Planning Manager to approve the application, subject to the receipt of favourable observations from the Public Protection Unit on the suitability of the proposed extraction system/flue.
1. Commence within five years.
 2. In accordance with the plans
 3. Conditions recommended by the Public Protection Unit in relation to noise/extractor/flue.

Note:

1. Copy of the letter from Natural Resources Wales, dated 25 April 2018.