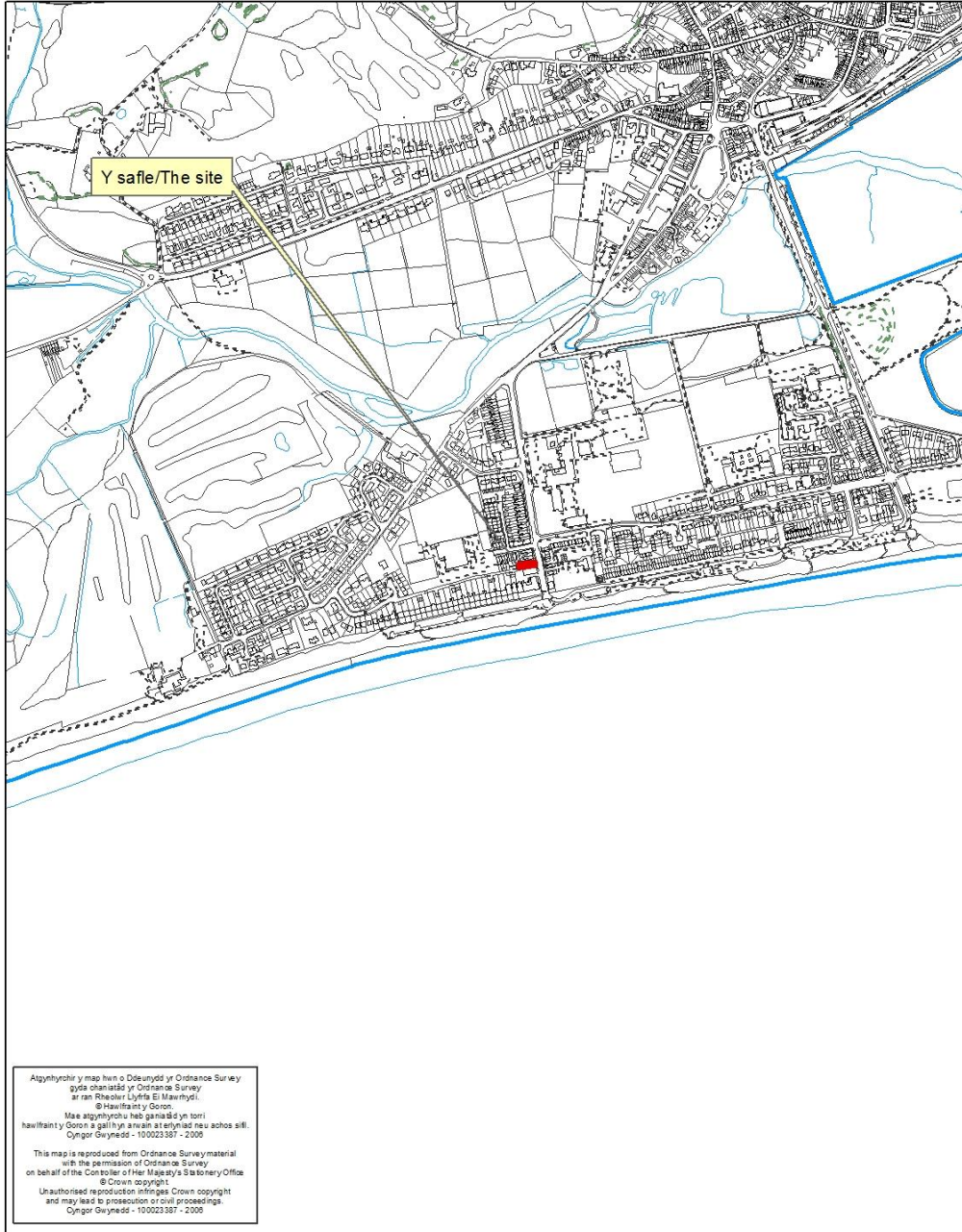


Number: 5.10



Rhif y Cais / Application Number : C16/0140/45/LL

Cynllun lleoliad ar gyfer adnabod y safle yn unig. Dim i raddfa.
Location Plan for identification purposes only. Not to scale.



PLANNING COMMITTEE	DATE: 04/07/2016
REPORT OF THE SENIOR PLANNING AND ENVIRONMENT SERVICE MANAGER	PWLLHELI

Application Number: C16/0140/45/LL
Date Registered: 04/03/2016
Application Type: Full - Planning
Community: Pwllheli
Ward: Pwllheli South

Proposal: CHANGE OF USE OF THE FORMER SHOP TO AN A3 UNIT (RESTAURANT/HOT FOOD TO TAKE AWAY)
Location: 37, CARDIFF ROAD, PWLLHELI, GWYNEDD, LL53 5NT

Summary of the Recommendation: TO DELEGATE POWERS TO APPROVE

1. Description:

- 1.1 This is a full application to change the use of a shop (which falls within class A1 under Use Classes Order 1987 (as amended)) to use within class A3 in order to create a restaurant that would include a facility to sell hot food to take-away. It is intended to install an extraction flue on the rear elevation of the property.
- 1.2 The site is located within the development boundary of Pwllheli. An unclassified road runs along the front of the site. Several dwellings are located near the site; however, there are also a number of non-residential uses nearby, such as a restaurant, launderette, leisure centre, school and nursery. The site lies within a C1 flooding zone.
- 1.3 The application is submitted to the committee after receiving 3 objections to the application.

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 in accordance with the Development Plan, unless material considerations indicate otherwise. Planning considerations include National Planning Policy and the Unitary Development Plan.
- 2.2 Under the Well-being of Future Generations (Wales) Act 2015 the Council has a duty not only to carry out sustainable development, but must also take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act, and in making 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. It is considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed decision.
- 2.3 **Gwynedd Unitary Development Plan 2009 (GUDP) :**

POLICY B22 – BUILDING DESIGN - Promote good building design by ensuring that proposals conform to a series of criteria aimed at protecting the recognised features and character of the local landscape and environment.

PLANNING COMMITTEE	DATE: 04/07/2016
REPORT OF THE SENIOR PLANNING AND ENVIRONMENT SERVICE MANAGER	PWLLHELI

POLICY B23 – AMENITIES - Safeguard the amenities of the local neighbourhood by ensuring that proposals conform to a series of criteria aimed at safeguarding the recognised features and amenities of the local area.

POLICY B24 – ADAPTING AND EXTENDING BUILDINGS WITHIN DEVELOPMENT BOUNDARIES, RURAL VILLAGES AND THE COUNTRYSIDE - Ensure that proposals for adaptations or extensions to buildings conform to a series of criteria aimed at protecting the character and amenity value of the local area.

POLICY B25 – BUILDING MATERIALS - Safeguard the visual character by ensuring that the building materials are of high standard and in keeping with the character and appearance of the local area.

POLICY B29 – DEVELOPMENT ON LAND AT RISK OF FLOODING - Manage specific developments in the C1 and C2 flood zones and direct them towards suitable land in zone A unless they conform with a series of criteria relevant to the features on the site and to the purpose of the development.

POLICY B33 – DEVELOPMENTS THAT CREATE POLLUTION OR NUISANCE - Protect public amenities, health and the natural or built environment from high levels of pollution.

POLICY D25 - HOT FOOD TAKE-AWAY DEVELOPMENTS - Hot food take-away developments will be refused unless criteria relating to the impact on adjacent land uses and that it will not lead to a concentration of this type of development in one specific areas can be met.

POLICY D26 - RETAIL STORES IN RESIDENTIAL AREAS WITHIN THE DEVELOPMENT BOUNDARIES OF CENTRES - Local shops that are outside the defined town centres but within the development boundary of the service centre will be protected by refusing proposals for alternative use unless they can conform to criteria relating to the accessibility of similar services, the availability of the unit to purchase or rent and the impact on nearby uses. Approve new small-scale stores in residential areas which will address residents’ needs from day to day for necessary daily goods.

POLICY CH30 – ACCESS FOR ALL – Refuse proposals for residential/business/industrial units or buildings/facilities for public use unless it can be shown that full consideration has been given to the provision of appropriate access for the widest possible range of individuals.

POLICY CH33 – SAFETY ON ROADS AND STREETS - Development proposals will be approved provided they conform to specific criteria relating to the vehicular entrance, the standard of the existing roads network and traffic calming measures.

POLICY CH36 - PRIVATE CAR PARKING FACILITIES - Proposals for new developments, extensions to existing developments or change of use will be refused unless off-street parking is provided in accordance with the Council’s current parking guidelines. Consideration will be given to the accessibility of public transport services, the possibility of walking or cycling from the site and the proximity of the site to a public car park. In circumstances where off-street parking is needed and where the developer does not offer parking facilities on the site, or where it is not possible to take advantage of the existing parking provisions, proposals will be

PLANNING COMMITTEE	DATE: 04/07/2016
REPORT OF THE SENIOR PLANNING AND ENVIRONMENT SERVICE MANAGER	PWLLHELI

approved provided the developer contributes to the cost of improving the accessibility of the site or providing the necessary parking spaces on another nearby site.

2.4 National Policies:

Planning Policy Wales (Edition 8) (January 2016)

Technical Advice Note 11: Noise

Technical Advice Note 12: Design

Technical Advice Note 15: Development and Flood Risk

3. Relevant Planning History:

C14/0228/45/LL - Change of use of flat into office on the first floor, refurbishment of flat and alterations to the rear of the property to build a car port - 37 Cardiff Road, Pwllheli - Approved 7 May 2014.

C14/0089/45/LL - Change of use of flat into office on the first floor, refurbishment of flat and alterations to the rear of the property including construction of car port on the ground floor and steel decking on the first and second floor - 37 Cardiff Road, Pwllheli - Refused 12 March 2014.

C03D/0024/45/LL - Demolition of existing garage and construction of new stores - West End Post Office, 37, Cardiff Road, Pwllheli - Approved 8 April 2003.

2/25/436A - New external staircase and ancillary works - West End Post Office, 37 Cardiff Road, Pwllheli - Approved 25 July 1991.

2/25/436 - Construction of garage - West End Post Office, 37 Cardiff Road, Pwllheli - Approved 8 June 1984.

4. Consultations:

Town Council: Not received.

Transportation Unit: It is assumed that the proposed development would not have a detrimental impact on any road or proposed road.

Natural Resources Wales: It is noted that the site is within a C1 flooding zone; however, considering its scale it is considered that the risk is acceptable subject to the developer being made aware of the potential flood risk.

Welsh Water: Propose observations including a condition to install a grease trap in order to prevent grease from gaining access to the public sewerage system.

Public Protection Unit: **Original observations dated 22 April 2016**
Additional information needed regarding the kitchen extraction system. It is recommended that the application does not receive approval until noise and odour issues have been addressed in full to ensure that no noise and odour problems derive from the development.

PLANNING COMMITTEE	DATE: 04/07/2016
REPORT OF THE SENIOR PLANNING AND ENVIRONMENT SERVICE MANAGER	PWLLHELI

Observations on the additional details submitted for the extraction system.

A response is awaited from the Public Protection Service regarding the additional details received regarding the extraction system.

Public Consultation:

A notice was posted on site and nearby residents were informed. The advertising period has ended and correspondence was received objecting to the application on the following grounds:

- Cooking odours coming from the proposal.
- More noise.
- Additional rubbish.
- Late opening hours.
- More traffic created.
- Location in a residential area.
- There was not enough local publicity for the application.
- Would create a place for youths to gather.

As well as the objections noted above, objections were received which were not valid planning objections which included:

- Would attract seagulls and vermin.

5. Assessment of the material planning considerations:

The principle of the development

- 5.1 Policy D26 of the GUDP requests that local shops that are outside the defined town centres but within the development boundary of the service centre are protected by refusing proposals for alternative use unless they can conform to criteria relating to the accessibility of similar services, the availability of the unit to purchase or rent and the impact on nearby uses.
- 5.2 It is understood that the shop has been empty for 5 years but no marketing details have been submitted. Shops are located not too far from the site. A shop is located approximately 650 metres to the east in Churton Street and similar services are available in the town centre approximately 800 metres away. It is considered that these sites are accessible for residents in the vicinity. It is also considered, as the shop has been empty for many years now, that obtaining an alternative use for the building would be better than leaving the property empty for a further extended period of time and the negative impact this could have on the appearance and character of the street.
- 5.3 In this case, the unit which is the subject of the application is relatively small, and it is only the ground floor which is the subject of the application for A3 use as a restaurant and hot food take-away facility. It is not considered that the proposal will be on a scale which is likely to cause an additional detrimental impact on the amenities of the area or any local residents, nor is it located in an area which would add to or create an unacceptable concentration of this type of development. In addition, approved change of use from A3 to A1 is possible under permitted development rights, and therefore the potential for the unit to be of A1 use in future remains. An existing restaurant is also located to the south of the application site, and similarly this property be used for

PLANNING COMMITTEE	DATE: 04/07/2016
REPORT OF THE SENIOR PLANNING AND ENVIRONMENT SERVICE MANAGER	PWLLHELI

A1 use under permitted development rights. Therefore, it is considered that the proposal is suitable in this case, and that it complies with the principle of policy D26 of the GUDP.

5.4 Policy D25 of the GUDP explains the policy context for proposals relating to hot food takeaway businesses. Although this proposal is for the creation of a restaurant, a facility to sell hot food to take-away is also included in it. Policy D25 states specifically that these proposals will be refused unless the following criteria can be satisfied: 1. That the use is in line with nearby land uses; 2. The development will not create excessive noise, odours or litter in a way which will unacceptably impact the area's character; and 3. The development will not lead to a concentration of this type of development in one specific area.

5.5 The property is located in an area that is mainly residential. However, there are also a number of non-residential uses nearby, such as a restaurant, office, launderette, leisure centre, school and nursery. The restaurant located near the site is one that could be used for the sale of hot-food to take-away as no condition restricts such use on the planning permission for that restaurant. Considering the scale of the development, it is considered that this use complies with the nearby land uses and complies with the first criterion of Policy D25. Given similar class A3 uses nearby, it is not considered that it would lead to an unacceptable additional impact in terms of noise, odour or litter. No details were received regarding the extraction system as part of the original application. Details regarding the system were received following the observations of the Public Protection Unit. The formal response of the Public Protection Unit regarding this information is awaited; however, it is understood that the applicant has discussed the needs before this additional information had been submitted. It would also be possible to include a standard condition for this type of thing on any permission, namely that agreement should be reached on the extraction system and its implementation prior to the commencement of use. It is not considered that the use would lead to an excessive concentration of uses of this type within this area of the town. It must also be borne in mind that the application is for the joint creation of a restaurant and hot food take-away and not as a hot food take-away only. To that end, it is considered that the proposal complies with the criteria included in policy D25 of the GUDP.

5.6 Based on the above, it is considered that the proposal is acceptable in principle.

Visual amenities

5.7 Policies B22, B24 and B25 of the GUDP involve the provision of suitable designs and finishes for developments and alterations, to ensure that they do not have a detrimental impact on the amenities and character of the buildings and areas in which they are located. The only exterior changes are those relating to the installation of the extraction system that would be located towards the rear of the property. It is not considered that the installation of this equipment would have a detrimental impact on the appearance of the building or the area in terms of visual amenities.

5.8 It is therefore not considered that the changes proposed in the application have a detrimental impact and that they comply with policies B22, B24 and B25 of the GUDP.

General and residential amenities

5.9 Policy B23 of the GUDP relates to safeguarding the amenities of the local neighbourhood and Policy B33 relates to developments that create pollution or nuisance.

PLANNING COMMITTEE	DATE: 04/07/2016
REPORT OF THE SENIOR PLANNING AND ENVIRONMENT SERVICE MANAGER	PWLLHELI

- 5.10 It is considered that the proposal would not be on a scale which is likely to cause a detrimental impact on the area's amenities or any local residents, nor is it located in an area which would add to or create an unacceptable concentration of this type of use; which would cause a detrimental impact on the area. It should also be noted that an increase of one business in an area which has similar businesses already is not likely to lead to an unacceptable increase in terms of the impact on residential amenities. It must also be borne in mind that there is permission to run a non-conditional shop from the premises and that the shop could be re-opened at any time. A shop of this nature could be open late into the night and there is potential for this to also create disturbance and/or affect amenities.
- 5.11 The applicant has stated his wish to be open from 11:00 until 23:00 Sundays to Fridays and then from 11:00 until 23:59 on Saturdays. Bearing in mind that there are residential dwellings in the vicinity, it is not considered that the closing hours offered are reasonable. However, it would be possible to impose a condition on any permission to restrict the opening hours. In this case, it is considered that restricting the hours to the following times would be more reasonable: Sunday to Thursday – between 11:00 and 22:00 and then Friday and Saturday between 11:00 and 23:00. It is considered that such a condition would ensure that there is no impact on the amenities of nearby residents and therefore it is believed that it is reasonable to include a condition to restrict the hours.
- 5.12 Details regarding the extraction system located to the rear of the property have been received. It is understood that the applicant has discussed the needs in relation to the extraction system with the Public Protection Unit prior to its submission. However, no observations had been received from the Public Protection Unit on the details of the extraction system when the agenda was being prepared. It would be possible to include a condition on any permission noting that the details of the extraction unit and its implementation are to be agreed prior to the commencement of use. This is in line with the Welsh Government Circular 016/2014 : Use Conditions for Development Management.
- 5.13 Based on the above, it is therefore considered that the proposal complies with all the requirements of policy B23 of the GUDP.

Transport and access matters

- 5.14 The site is located near an existing unclassified road which includes public parking on the street nearby. The site is also located within approximately 60 metres from the promenade where further parking spaces are to be found. No objection to the proposal was received from the Transportation unit in terms of its impact on the local roads network. It is considered that the proposal complies with Policy CH33 of the GUDP.

Flooding Matters

- 5.15 The site lies within a C1 flooding zone. As a result of the scale of the proposal, Natural Resources Wales do not object to the proposal but recommend that the applicant should be aware of flood risks. It is considered that the proposal is acceptable in terms of policy B29 of the GUDP.

Response to the public consultation

- 5.16 An observation was also received which noted that there had been no publicity for the application locally, it is confirmed that an advertisement had been placed on a

PLANNING COMMITTEE	DATE: 04/07/2016
REPORT OF THE SENIOR PLANNING AND ENVIRONMENT SERVICE MANAGER	PWLLHELI

lamppost near the site and that neighbours had been notified of the proposal. This is considered adequate and in line with the relevant plans relating to publicity of planning applications. Those guidelines for applications of this type request that a sign is displayed on or near the land that is the subject of the application for 21 days or by issuing a notice of the application to any owner or occupier of nearby properties. Therefore, in this case, more advertising than required was undertaken as a site advertisement was displayed and letters were sent out to the neighbours also. As a result of the publicity, 4 local objections were received. The main points arising from the objections are listed in the consultations table above. The objections express concern regarding the proposed use of the building, and the impact on the amenities of nearby residents, and these matters have been assessed in the above assessment. It is not considered that the day to day use of the building as a restaurant and hot food take-away is likely to cause unacceptable additional disturbance in the area, and there are public protection regulations in place for dealing with noise or pollution that is considered to be an unreasonable and persistent nuisance.

6. Conclusions:

- 6.1 The objections from local residents have received full consideration as noted above. Based on the above assessment, and having considered the relevant matters, including the objections, it is not considered that the proposal is contrary to the local and national policies and guidelines noted in the assessment, nor are there any material planning considerations that state otherwise. Based on the above, it is considered that the proposal is acceptable subject to relevant conditions.

7. Recommendation:

- 7.1 To delegate powers to the Senior Planning, Environment and Public Protection Service Manager to approve the application, subject to the receipt of favourable observations from the Public Protection Service and the following conditions:-
1. The development to commence within 5 years of the date of the permission.
 2. In line with the submitted plans.
 3. Opening hours 11:00– 22:00 (Sunday – Thursday); 11:00 - 23:00 (Friday and Saturday).
 4. Installation of grease trap.
 5. Any relevant planning condition recommended by the Public Protection Unit in relation to the extraction unit and ensure that the extraction unit is operational prior to the commencement of use.