

**DC/2015/01350**

**CHANGE OF USE FROM USE CLASS A1 (RETAIL) TO USE CLASS A3**

**UNIT 5 WESLEY BUILDINGS, NEWPORT ROAD, CALDICOT**

**RECOMMENDATION: APPROVE SUBJECT TO s.106 AGREEMENT**

Case Officer: David Wong

Date Registered: 08/12/2015

**1.0 APPLICATION DETAILS**

- 1.1 The property (Unit 5 Wesley Buildings) is within the Central Shopping Area (CSA) of Caldicot and as such Policy RET1 of the Local Development Plan would apply. This application seeks permission for a change of use from an A1 (shop) to A3 uses (food and drink). No external alterations are proposed.
- 1.2 The property is within the Central Shopping Area of Caldicot, and is well served by local bus services. There are several bus stops located within easy walking/cycling distance to and from the site. In terms of parking, there is off-street parking available at the rear of the premises for deliveries and staff parking. In addition, there is ample public car parking provision within close proximity of the premises.

**2.0 RECENT RELEVANT PLANNING HISTORY**

DC/2015/00771 – (Unit 11) Change of use, from use class A1 to use class A3. Approved 08/09/2015

DC/2014/00661 – (Unit 7) Change of use from use class A1 to A3. Approved 02/09/2014

DC/2008/01331 – (Units 1-4 and 14-15) Change of use from classes A1, A2 and B1 to class A3. Approved 23/01/2009

**3.0 LOCAL DEVELOPMENT PLAN POLICIES**

Strategic Policies

S6 – Retail Hierarchy

Development Management Policies

RET1 – Primary Shopping Frontage

RET2 – Central Shopping Area

**4.0 REPRESENTATIONS**

4.1 Consultations Replies

Caldicot Town Council - recommends refusal: too many take-aways in town centre.

Dwr Cymru-Welsh Water - no objection; grease trap shall be installed prior to the commencement of the approved use.

MCC Planning Policy - The site was previously an A1 retail outlet within a Primary Shopping Frontage in the Central Shopping Area (CSA) of Caldicot and as such Policy RET1 of the Local Development Plan would apply.

In this instance the premises in question is located between an Estate Agent and a Bank, both A2 uses, and a change of use to A3 would thus be contrary to criterion (a) of the policy as it would create a continuous frontage of three non-A1 uses. The unit is located at an angle to the rest of the row of shops and as such is quite prominent and with a frontage of nearly 12 metres has one of the longest frontages in the centre. A change of use to A3 of this unit would thus be contrary to criterion (b) of the policy. In addition, if this unit were to undergo a change of use to A3 the proportion of non-A1 uses would increase to 37%, taking it above the maximum proportion considered appropriate.

Given the above, criteria a) to c) are not complied with therefore, although an exception to this may arise when it can be demonstrated that the premises have been vacant for at least 2 years and genuine attempts at marketing the existing use have been unsuccessful. In this case the premises have been vacant for 3 years and it is noted that marketing evidence has been provided; nevertheless there are concerns. In the supporting text to the policy it states that particular consideration will be given to assessing proposals for A3 uses within primary shopping frontages as whilst it is recognised that cafes and restaurants can complement retail uses, hot food take-away premises that are closed during the day make a limited contribution to the vitality of the centre. The application doesn't state the type of A3 use proposed in this instance and, as a change of use to A3 could lead to a hot food take-away locating to the premises, this would need to be a consideration in assessing this application

SEWBREC Search Results - No significant ecological record identified.

#### 4.2 Neighbour Notification

No objections received

#### 4.3 Other Representations

The Caldicot Town Team – recommends approval as a restaurant would be a welcome addition catering for a different market and demographic than a regular take away outlet would. Letting out a larger unit within the town would bring visual improvements to the town centre, making the environment look more appealing and more vibrant. Based on the fact that the unit has been empty for a number of years with very little interest, this application should be approved. the property style does not suit most retail companies due to its obscure floor plan layout so would perhaps be better suited to an application for a change of use.

## 5.0 EVALUATION

### 5.1 Principle of the proposed change of use

- 5.1.1 The site is presently an A1 retail outlet within a Primary Shopping Frontage in the Central Shopping Area (CSA) of Caldicot and therefore Policy RET1 of the Local Development Plan would apply.
- 5.1.2 Under criterion a) of policy RET1, Primary Shopping frontages, a change of use from an A1 to an A3 use will be permitted unless it creates or further extends a continuous frontage exceeding two or more non-A1 units. In this instance the premises in question is located between an Estate Agent and a Bank, both A2 uses, and so a change of use to A3 would be contrary to criterion (a) of the policy as it would create a continuous frontage of three non-A1 uses.
- 5.1.3 Under criterion b) of the policy a change of use would be permitted providing it does not result in the loss of an A1 retail unit in a prominent location, a corner unit or a unit with a long frontage. In this instance the unit is located at an angle to the rest of the row of shops and as such is quite prominent and with a frontage of nearly 12 metres has one of the longest frontages in the centre. A change of use to A3 of this unit would thus be contrary to criterion (b) of the policy.
- 5.1.4 Under criterion (c) of the policy such a change of use would be permitted unless the number, frontage lengths and distribution of Class A2 or A3 uses in the primary shopping frontage create an over-concentration of such uses detracting from its established retail character. The Primary Shopping frontage Supplementary Planning Guidance assists with the interpretation of this criterion. Percentage figures are provided for the maximum proportion of non-retail (A2/A3) uses that the Council considers appropriate in each of the centres' primary shopping frontages. For Caldicot this figure is given as 35% of non-A1 uses; this level broadly reflects the historical and current level of non-retail uses within this primary shopping frontage and the Council's desire to prevent further erosion of retail uses beyond this level. It is considered that a higher level of non-retail uses would be likely to dilute the established important local shopping role as well as the character of the frontage and undermine the vitality and viability of the centre. If this unit was to undergo a change of use to an A3 use the proportion of non-A1 uses would increase to 37%, taking it above the maximum proportion considered appropriate.
- 5.1.6 Given the above, the proposal does not comply with policy RET1. However, there is an exception to this policy where the premises have been vacant for at least two years and genuine attempts at marketing the existing use have been unsuccessful. In this case the premises have been vacant for three years and it is noted that marketing evidence has been provided. Therefore, the exception

is applicable. However, in the supporting text to the policy it states that particular consideration will be given to assessing proposals for A3 uses within primary shopping frontages as whilst it is recognised that cafes and restaurants can complement retail uses, hot food take-away premises that are closed during the day make a limited contribution to the vitality of the centre. The application does not state the type of A3 use proposed in this instance and, a change of use to A3 in general could lead to a hot food take-away locating within the premises.

5.1.7 A history search of Wesley Buildings reveals that planning permissions have been granted for A3 uses at units 1, 7 and 11. The applicant's agent confirms that permission at no.1 has expired as no A3 use is in operation. However, the permission at nos. 7 and 11 are still 'live'. Therefore, these premises can still become A3 uses. These units, however, are under the same ownership as the site of the current application. Therefore, a legal agreement may be drawn up to 'swap' permissions. The agent has confirmed that the applicant would be willing to exchange the A3 permission from No.7 to No.5. Therefore, the percentage of non-A1 uses along this part of the primary shopping frontage would then be within the 35% limit required in criterion (c) of Policy RET1. This swap is achievable via a legal agreement, to which the agent has agreed. In addition, the applicant would be content with a condition restricting the property to a coffee shop/café/restaurant within use class A3, and not a general A3 permission. Therefore, with these measures in place, the proposal is considered to be acceptable under the exception allowed within Policy RET1 of the LDP.

## 5.2 Amenity

5.2.1 As the proposal is now for a more limited range of uses - a café, restaurant or coffee shop – but would exclude a hot food takeaway that might trade at much later hours, it is not considered necessary to apply an hours of opening condition. Such controls would in any case be exercised by the Council's Licensing function.

## 5.3 Design Appearance

5.3.1 No external alterations are proposed.

## 5.4 Economic Development Implications

5.4.1 There is no indication of how many staff are likely to be employed in respect of this proposal. However, the Council's Planning Policy Team confirms that the premises have been vacant for at least three years. Thus, approval of the application would help to find a fresh use for this unit, providing more prospects for employment.

## 5.5 Response to the Representations of the Town Council

5.5.1 Caldicot Town Council objected to this application on the basis that there are too many takeaway facilities in the town. However, as explained above, the

exception element of Policy RET1 is applicable as the premises have been vacant for three years and it is noted that marketing evidence has been provided. In addition, the agent has confirmed that the applicant would be willing to exchange the A3 permission at no.7 Wesley Buildings for approval of the current application at no.5 (these premises being under the same ownership). Furthermore, the applicant is willing to accept a condition restricting the approved use to a coffee shop/café/restaurant within use class A3. It is therefore concluded that this proposal would be acceptable under the exception allowed within Policy RET1 of the LDP.

**6.0 RECOMMENDATION: approve subject to a s.106 agreement requiring the applicant not to implement planning permission DC/2014/00661 at 7 Wesley Buildings**

Conditions

1. 5 years in which to commence development
2. Compliance with the approved plans
3. The use hereby approved shall be restricted to a coffee shop/café/restaurant only and for no other purpose within use class A3 of the Town & Country Planning (Use Classes) Order 1987 (as amended) or any Order revoking and re-enacting that Order with or without modification.
4. The hereby approved use shall not commence until an adequate grease trap has been fitted in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the grease trap shall be maintained so as to prevent grease entering the public sewerage system.

Informative:

Please refer to letter from Welsh Water, dated 18/12/2015 for more information.