

## PETITION AND LOCAL MEMBER/MP CONCERNS

COMMITTEE DATE: 21/04/2021

APPLICATION No. **21/00337/MNR**

DATE RECEIVED: 10/02/2021

ED: **PLASNEWYDD**

APP: TYPE: Full Planning Permission

APPLICANT: Thornedge Properties Ltd.

LOCATION: 53 Wellfield Road, Roath, Cardiff, CF24 3PA

PROPOSAL: CHANGE OF USE OF GROUND FLOOR TO PROVIDE MIXED  
CLASS A1 (RETAIL) AND A3  
(CAFE/RESTAURANT/COFFEESHOP) USE

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**RECOMMENDATION 1:** That planning permission be **GRANTED** subject to the following conditions:

- 1 C01 – Statutory Time Limit
- 2 The premises shall only be used as a mixed class A1/A3 purpose as specified on drawing numbered 02, and the class A3 part shall only be used as a restaurant, café or coffee shop and for no other purpose (including any other purpose in Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument amending, revoking or re-enacting that Order).  
Reason: The use of the entire premises for class A3 use could affect the Primary Shopping Frontage of the District Centre, and use of the premises for other purposes within Class A3 could detract from the amenities of nearby occupiers.
- 3 Members of the public shall only be admitted to or allowed to remain on the class A3 part of the premises between the hours of 08:00 and 22:00 on any day.  
Reason: To ensure that the amenities of other premises in the vicinity are protected, in accordance with policy EN13 of the Local Development Plan.
- 4 Members of the public shall only be permitted to use the outdoor area to the rear of the premises for class A3 purposes between the hours of 09:30 and 21:00 on any day.  
Reason: To ensure that the amenities of other premises in the vicinity are protected, in accordance with policy EN13 of the Local Development Plan.

- 5 The arrival, departure, loading or unloading of HGV delivery vehicles to the rear of the site shall only occur between the hours of 08:00 and 20:00.  
Reason: To ensure that the amenities of other premises in the vicinity are protected, in accordance with policy EN13 of the Local Development Plan.
- 6 A scheme of sound insulation works to the floor/ceiling structure between the class A3 part of the premises and any first floor residential accommodation shall be submitted to and agreed by the Local Planning Authority in writing and implemented prior to occupation.  
Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected, in accordance with policy EN13 of the Local Development Plan.
- 7 If at any time the use of the premises requires the installation of any external extraction equipment associated with the permitted use, details of the equipment shall be submitted to and approved by the Local Planning Authority in writing prior to installation of the extraction equipment.  
Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected, in accordance with policy EN13 of the Local Development Plan.

**RECOMMENDATION 2:** The applicant is advised that a commercial contract is required for the collection and disposal of all commercial wastes under section 34 of the Environmental Protection Act 1990. Owners or developers of commercial developments/properties who require Cardiff County Council to collect and dispose of their waste are advised to contact the Commercial Services dept. (tel: 029 2071 7500).

**RECOMMENDATION 3:** The granting of planning permission does not remove the need to comply with the statutory nuisance provisions of the Environmental Protection Act 1990. The rating level of the noise emitted from fixed plant and equipment on the site shall achieve a rating noise level of background -10dB at the nearest noise sensitive premises when measured and corrected in accordance with BS 4142: 2014 (or any British Standard amending or superseding that standard).

**RECOMMENDATION 4:** The applicant is advised that a suitable grease trap should be provided to prevent entry into the public sewerage system of matter likely to interfere with the free flow of the sewer contents, or which would prejudicially affect the treatment and disposal of such contents.

## 1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 The application seeks planning permission to change the use of a ground floor commercial unit within a two storey terraced building from retail use (class A1) to a mixed class A1/A3 (retail/food & drink) use.

- 1.2 Pedestrian access would be via the existing entrance from Wellfield Road. Internally the premises would accommodate approximately 72 square metres of class A1 floor space at the front and 48 square metres of class A3 floor space at the rear. External seating would be accommodated at the rear. The application form indicates opening hours of 08:00 – 22:00.

2. **DESCRIPTION OF SITE**

- 2.1 The premises currently accommodates a shop. Internally the premises has a floor area of 120 square metres. The site is located within the Albany Road/Wellfield Road district centre, it lies within a group of commercial units along the north west side of Wellfield Road adjoined by a retail shop at no. 51 and a restaurant/bar at no. 55. The upper floor is in use as storage.

3. **SITE HISTORY**

- 3.1 90/00531/W – planning permission granted for alterations and extension to the rear.

3.2 Related History:

20/02238/MNR – planning permission granted for variation of condition 1 and removal of conditions 2 & 4 of 08/00598/C to alter opening hours and use at no. 43 Wellfield Road.

20/01524/MNR – planning permission granted for change of use from A1 retail use to A1/A3 mixed use at no. 21 Wellfield Road.

20/00693/MNR – planning permission granted for variation of condition 2 and removal of condition 4 of 93/00066/W to extend the opening hours and formalise the class A3 use at no. 3 Wellfield, Road.

19/01845/MNR – planning permission granted for change of use to provide mixed class A1/A3 use at no. 22 Wellfield Road.

19/00290/MNR – planning permission granted for variation of condition 2 of 16/00449/MNR to allow A3 use at no. 41 Wellfield Road.

18/00816/MNR – planning permission granted for change of use from class A1 use (retail) to class A3 use (cafe) at no. 15 Wellfield Road.

18/02739/MNR – planning permission granted for change of use from vacant class A1 (retail) to class A3 (restaurant/café) at no. 26 Wellfield Road.

17/02841/MNR – planning permission granted for change of use from A1 to A3 cafe with hot food and the garden area to be used for outdoor seating as part of the café at no. 36 Wellfield Road.

16/00378/MJR – variation of conditions 2 and 4 of 14/01953/DCI to extend the times so that no member of the public shall be admitted to or allowed to

remain in the rear outdoor seating area between the hours of 21:00 and 09:30 on any day and that the front balcony area can be used as a seating area between the hours of 09:30 and 21:30, at No. 55 Wellfield Road.

#### 4. **POLICY FRAMEWORK**

##### 4.1 Relevant National Planning Guidance:

Planning Policy Wales (Edition 11, 2021)  
Future Wales - the National Plan 2040

##### 4.2 Relevant Cardiff Local Development Plan (2006-2026) policies:

Policy EN13 (Air, Noise, Light Pollution and Land Contamination)  
Policy R4 (District Centres)  
Policy R8 (Food and Drink Uses)  
Policy T5 (Managing Transport Impacts)  
Policy W2 (Provision for Waste Management Facilities in Development)

##### 4.3 Relevant Supplementary Planning Guidance

Food, Drink and Leisure Uses (2017)  
Managing Transportation Impacts (Incorporating Parking Standards) 2018  
Waste Collection and Storage Facilities (2016)

#### 5. **INTERNAL CONSULTEE RESPONSES**

5.1 Neighbourhood Services – request conditions: to control opening hours and delivery hours; to restrict the A3 use principally be to a restaurant, café or coffee shop only; to require a scheme of sound insulation between the proposed A3 use and first floor flat to be agreed; to require details of future kitchen extraction equipment to be agreed; to control noise of fixed plant equipment.

5.2 Transportation – no comments received.

5.3 Waste Management – A part change of use to A3 may lead to an increase in the volume of waste produced. No reference is made to the storage of waste and recycling. All A3 units are required to provide litter bins at the front of the unit in order to prevent littering on the adopted highway. The tenant will be required to provide, service and empty a litter bin to be placed at the front of the unit during opening hours and removed from the highway during closing hours. Please advise the agent/applicant that a commercial contract is required for the collection and disposal of all commercial waste.

#### 6. **EXTERNAL CONSULTEE RESPONSES**

6.1 South Wales Police – no comments received.

## 7. **REPRESENTATIONS**

7.1 The application was publicised by letter and site notices. A petition of objection was received, signed by 62 residents, all of which could reasonably be affected by the matter. Full details are viewable online.

7.2 An objection was received from the occupiers of no. 32 Bangor Street. Full details are viewable online, their comments are summarised as follows:

- a) *Noise from the proposed rear garden, added to the noise from the existing beer gardens;*
- b) *Noise from kitchen fans;*
- c) *Noise from deliveries and rubbish collection from Bangor Street;*
- d) *Parking impact upon Bangor Street;*
- e) *Inadequate toilet facilities.*

7.3 Local Members – Councillors Dan De'Ath, Mary McGarry, Sue Lent have concerns, as follows:

*We have been contacted by a number of Bangor Street residents who are concerned about the application made by Boutique 53 on Wellfield Road to turn the unit into a café/restaurant and we are making a representation on their behalf. Bangor Street is directly behind Wellfield Road and a number of residents feel that there is now an excessive amount of cafés and bars on the street which is negatively impacting on their quality of life due to a number of factors including noise pollution, early morning deliveries, commercial waste and litter problems and so forth. If this application was successful it would only compound these problems. They feel that there are plenty of cafes and restaurants on Wellfield Road and that more aren't needed.*

7.4 Jo Stevens MP has concerns, as follows:

*I have been contacted by a constituent who lives in close proximity to 53 Wellfield Road who has asked me to reflect her concerns about the above change of use application. These are as follows:*

- 1) *Noise from the proposed rear garden (added to what my constituent describes as the intolerable noise from existing beer gardens on Wellfield Road).*
- 2) *Noise from industrial kitchen fans (added to what my constituent describes as already intolerable noise that can be heard even when residents windows are shut).*
- 3) *Noise and inconvenience from deliveries and collection of waste from Wellfield Road heard in Bangor Street:*
- 4) *Multiple contractors are used so multiple lorries drive through Bangor Street, often at very antisocial times of the morning. The collection of noisy bottles is not uncommon in the early hours.*
- 5) *Additional pressure on parking. Customers use residents' parking on Bangor Street when they use the restaurants on Wellfield Road often making it impossible to park.*

6) *Inadequate toilet facilities. Particularly during the pandemic, residents have reported bar customers allegedly using lanes to the rear of Wellfield Road as a public toilet.*

*Whilst Wellfield Road is a vibrant area with shops, cafes and restaurants, it does back on to a quiet residential setting. Residents along this road (Bangor Street) have already had issues with noise, especially from industrial fans situated along the rear of Wellfield Road) and disturbance from being in such close proximity to these establishments.*

7.5 An occupier of no. 45 Bangor Street supports the application, summarised as follows:

*The proposal would enhance the vibrancy of the area and bring a high class of dining.*

## 8. **ANALYSIS**

### 8.1 Land Use Policy

Policy R4 aims to promote and protect the shopping role and character of district centres whilst supporting a mix of appropriate uses and favours retail, office, leisure and community facilities within District Centres. Given the retail unit already benefits from an A1 consent, the A1 element of the proposal, located to the frontage of the store raises no land use policy concerns. In relation to the A3 element of the proposal, Policy R4 identifies that proposals for uses other than Class A1 will be permitted at ground floor level if they would not cause unacceptable harm to the predominant shopping role and character of the centre, the vitality, attractiveness and viability of a specific frontage or group of frontages.

Policy R8 identifies that food and drink uses are most appropriately located in the city centre, the Bay and district and local centres, subject to amenity considerations, highway matters and crime and fear of crime considerations and where they do not cause unacceptable harm to the shopping role and character of designated centres. Paragraph 5.296 recognises that food and drink uses are complementary, in principle to the main shopping role of District Centres as long as they do not adversely affect the living environment of nearby residents, or with other non-shopping uses reach such a level that they undermine the shopping character of the area.

Assessed against the above policy framework, the change of use would not result in a continuous stretch of 3 non-shopping uses or more within a frontage and would not therefore negatively impact the frontage, or add to a continuous stretch of non-shopping use. It is noted that 60% of the unit is to be retained for an A1 use which is located the front of the store. The application therefore raises no land use policy concerns

## 8.2 Residential Amenity

Policy R8 of the LDP identifies that A3 (food and drink) uses are most appropriately located in the City Centre, the Bay and District and Local Centres, and the Food, Drink and Leisure Uses SPG identifies that A3 (food and drink) uses are most appropriately located in the City Centre Principal Shopping Area, District and Local Centres and the City Centre Principal Business Area. It is noted that there is residential accommodation at first floor level of buildings within the vicinity, however the site is located within a commercial centre and residents in such a mixed use area cannot expect the same standards of amenity as those living in a wholly residential area.

Conditions are considered necessary: (2) to prevent any future changes of use of the class A3 part within the A3 use class to a more harmful use such as a public house; (5) to restrict HGV delivery times at the rear of the premises to 08:00 – 20:00; (6) to require sound insulation measures to the structure separating the class A3 part of the premises with any first floor residential accommodation to be submitted and agreed; and (7) to require details of any future external kitchen extraction system to be submitted and agreed

With regard to opening hours paragraph 5.26 of the Food, Drink & Leisure Uses SPG recommends that hours of openings in district centres are normally restricted to 11.30pm, accordingly the proposed opening hours are considered reasonable. Condition 3 would restrict the opening hours of the class A3 part to the hours proposed (08:00 – 22:00).

It is noted that an external seating area is proposed at the rear of the premises and use of this area during the same late evening hours as the interior of the premises could have an unreasonable amenity impact. Paragraph 5.26 of the Food, Drink & Leisure Uses SPG states that '*any external seating area should also be restricted to no later than 9.00pm in the interests of residential amenity*'. Accordingly, it is considered that use of the rear external seating area between the hours of 09:30 and 21:00 would not have any unreasonable amenity impact, this would be consistent with permissions granted within the Albany Road/Wellfield Road district centre at nos. 3, 36, 41, 43 and 55 Wellfield Road. Condition 4 is considered necessary to restrict the hours of use of the external area to 09:30 – 21:00.

The condition recommended from Neighbourhood Services to control the noise of fixed plant equipment is not considered reasonable as the application does not propose external plant equipment. Any external fixed plant equipment would require planning permission in its own right therefore would be dealt with as and when an application is submitted.

Having regard to the above it is not considered that the proposal would have any unreasonable amenity impact.

### 8.3 Crime & Disorder

Paragraph 3.11 of Planning Policy Wales states that *'Local authorities are under a legal obligation to consider the need to prevent and reduce crime and disorder in all decisions that they take. Crime prevention and fear of crime are social considerations to which regard should be given in the preparation of development plans and taking planning decisions.'* The Food, Drink and Leisure Uses SPG identifies District Centres as an appropriate location for food and drink (A3) uses, subject to detailed considerations. The SPG states that consideration should be given to whether a proposal, in conjunction with existing and approved similar uses, would create a concentration of such uses, or give rise to (or exacerbate) problems of public safety and security. South Wales Police were consulted, no comments were received.

Condition 3 would restrict the opening hours use of the class A3 use to 08:00 – 22:00 and condition 2 would prevent any future changes of use of the class A3 part within the A3 use class to more harmful uses such as a public house. Having regard to the above it is not considered that the proposal would have any unreasonable crime/disorder impact.

### 8.4 Transportation

The Managing Transportation Impacts (Incorporating Parking Standards) SPG identifies a minimum requirement of no car parking spaces and cycle parking for staff at a ratio of 2 per 100 square metres for class A1 and A3 uses. The proposed use is therefore considered to be car parking policy compliant. Having regard that the proposed class A3 use would be of small scale in relation to the existing class A1 use, and that on-street cycle parking is available at Wellfield Road, it is not considered reasonable for cycle parking to be provided within the premises in this instance.

### 8.5 Access

The entrance is level with the street, it is therefore considered that the proposal is inclusive in terms of access equality.

### 8.6 Other Matters

The request from Waste Management for a litter bin to be placed outside the unit is not considered reasonable having regard that the revised proposed use is not primarily for hot food takeaway use and that there are existing litter bins within Wellfield Road.

### 8.7 Representations

The representations received from neighbouring residents, local ward members and Jo Stevens MP are noted. Specific issues are addressed as follows:

a) Noise from rear garden: It is considered that the proposal would not result



in unacceptable noise consequences as detailed within the above amenity analysis. Condition 4 would restrict the hours of use of the external area to 09:30 – 21:00. There are also statutory powers to control noise under the Control of Pollution Act 1990.

- b) Noise from kitchen fans: It is considered that the proposal would not result in unacceptable noise consequences as detailed within the above amenity analysis. Condition 7 would require details of any kitchen extraction system to be submitted and agreed prior to installation as requested by Neighbourhood Services. There are also statutory powers to control noise under the Control of Pollution Act 1990.
- c) Noise from deliveries/rubbish collection: It is considered that the proposal would not result in unacceptable noise consequences as detailed within the above analysis. Condition 5 would restrict HGV delivery times at the rear of the premises to 08:00 – 20:00.
- d) Parking: The proposed use is compliant with the Council's adopted Managing Transportation Impacts (Incorporating Parking Standards) SPG with no off street parking provision as detailed within the transportation analysis.
- e) Inadequate toilet facilities: Not a material planning matter. Provision of toilet facilities would be required to comply with the Building Regulations.
- f) Concentration of restaurant and café uses: The proposed use is considered policy compliant as detailed within the land use policy analysis.

The representation received in support is noted.

## 8.8 Other Legal Considerations

*Crime and Disorder Act 1998* – Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

*Equality Act 2010* – The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The Council's duty under the above Act has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic.

*Well-Being of Future Generations Act 2016* – Section 3 of this Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that there

would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

## 8.9 Conclusion

It is concluded that the application is acceptable in accordance with the planning policies listed, and is recommended that planning permission be granted, subject to conditions.

**53 Wellfield Road, Cardiff**  
Site Location Plan (1:1,250@A4)  
Dwg. No: 210210-01



**Promap**v2  
● LANDMARK INFORMATION

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