

APPLICATION DETAILS

No: 21/0285 **Ward:** Shaftesbury

Type: Full Application

Expiry Date: 6th May 2021

Applicant: N Young

Site: 14-16 Malpas Road Newport NP20 5PA

Proposal: **PROPOSED CHANGE OF USE FROM BETTING SHOP TO A3 TAKEAWAY AND INSTALLATION OF FLUE AT REAR**

Decision: REFUSED

1. CONSULTATIONS

1.1 None.

2. INTERNAL COUNCIL ADVICE

2.1 **HEAD OF STREETSCENE (HIGHWAYS):** The site is located within a parade of shops on B4236A4051 Malpas Road, a classified road with a 30mph speed limit where it passes the site. The site has no vehicular access but is served by a layby with parking restricted to 20 minutes.

The site is located in Parking Zone 3: Urban which requires the existing use as a betting shop to provide 1 parking space per 35m² which requires 3 parking spaces to comply with Newport City Council SPG Parking Standards (August 2015). The proposed use as a takeaway will require 1 commercial vehicle space, 1 space for non-residential staff and adequate on-street parking for customers nearby to meet the standard. The parking demands for both uses are therefore similar and the proposal will be acceptable.

I would therefore offer no objection to this application on highway grounds.

2.2 **PUBLIC PROTECTION MANAGER (NOISE):** I note that the application contains some limited information regarding the proposed extraction system to be installed at the rear of the premises, however should permission be given I would recommend the condition below in order to ensure full details are submitted for approval.

The applicant should note that the duct should terminate no less than 1m above the roof ridge of any building within 15m of the vent serving the commercial kitchen. If this cannot be complied with due to planning reasons, then it should terminate no less than 1m above the roof eaves of the building housing the kitchen. However there may be requirement in this case for additional odour control measures. Care should be taken to ensure that the stack is as far as possible from residential accommodation.

Fume Extraction

Fumes from the food preparation areas shall be mechanically extracted and the extraction system shall be provided with de-greasing and de-odorising filters. Details of the extraction equipment (including scaled schematics, location plans, odour attenuation measures and future maintenance) shall be submitted to and approved in writing by the Local Planning Authority prior to its installation, and the equipment shall be installed in accordance with the approved details prior to the commencement of use for the cooking of food.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected and in the interests of visual amenities.

I would also recommend the additional conditions below;

Opening Hours - Public

The hours of operation shall be restricted to 16:00 to 23:00 Monday to Sunday. Outside of these hours the premises shall be vacated and closed to the public.

Reason: In the interests of the amenities of occupiers of adjoining properties.

Noise Insulation

Prior to first occupation, a scheme of sound insulation works to the floor/ceiling structure between ground and first floor of 14-16 Malpas Road shall be implemented in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained thereafter in perpetuity.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

Plant and Equipment Noise

Noise emitted from plant and equipment located at the site shall be controlled such that the rating level, calculated in accordance with BS4142 2014, does not exceed the existing background level, with no tonal element to the plant.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

Fume Extraction – Maintenance

The extraction equipment shall be regularly maintained in order to ensure its continued satisfactory operation and the cooking process shall cease to operate if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning authority.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

Waste Storage and Recycling

Prior to first beneficial use, a scheme for the provision of waste storage and recycling shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to first beneficial use and thereafter maintained for the duration of the use.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected

- 2.3 HEAD OF STREETSCENE (WASTE MANAGER): The property would require trade waste and recycling collections. NCC would be happy to quote for services at an appropriate time.

3. REPRESENTATIONS

- 3.1 NEIGHBOURS: All properties within 50m were consulted (57no properties). 11no responses received objecting to the application stating the following:

-I strongly object to the proposed change of use from betting shop to A3 takeaway and especially installation of flue at rear. My home is directly adjacent to the rear of 14-16 Malpas Road and I can already see, hear and smell the discharge from five large flues of the take away outlets currently trading.

I understand that the proposed kitchen/food preparation area is to be sited at the rear of the property and considering the very close proximity to my home, it is highly likely to be very noisy six evenings a week.

Furthermore, there is a huge problem in this area with littering from some mindless customers eating from the current takeaway's and opening yet another will undoubtedly add to this.

-We strongly oppose this application. Following are the reasons,

1. There are already six (A3 license) shops and two A2 licence shops. Five A3 license shops are fully operational. One A2 license shop opening very soon. It is already too much competition and businesses are struggling.

2. There is 20 minutes parking in front of the shops and after 6.30pm anyone can park vehicles till 9.30am. Mostly A3 licence holders start business in evenings. Nearly all shops have above flats and people living there don't have parking spaces. So in evening they park their vehicles. Our customers struggle to find the parking which impact our businesses. On the other hand residents also struggle to find parking.

3. This area is already high polluted. As shown by atmosphere graph. Council definitely know about this and this must be considered.

4. This area is very close to M4 and there is already 50mph speed introduced to reduce the pollution. I think it is a contradiction to allow another A3 licence in this area which is already highly polluted.

So we oppose this application and hopeful that Council would consider the situation of other businesses and number of the businesses and will reject this application.

- I think there are enough takeaways on this road as it is, anymore will bring more trouble to the area with all the street kids hanging around. There are enough youths with nowhere to go lurking around Maplas Road as it is we don't want anymore.

-I would like to state that I strongly oppose this, as this would mean a complete failure of my current business. We are currently struggling due to the global covid-19 pandemic.

Business is not as usual and we are looking at way of making sacrifices in order for the business to continue to trade.

Combined with the economic downturn the pandemic has had a negative impact of nearly 50% on our turnover. The overall population of Gwent is around 70,000. There are tens of takeaways, an additional takeaway would have immense and massive impact on all the others. However, this specific takeaway licence would mean that we are especially but out of business as it is only a 4 doors away from us.

This would mean our employees losing their jobs and we losing our business. I therefore strongly oppose this planning application and ask that it is refused.

I am extremely worried that the grant of such planning will impact our environment as well.

- We have 2 x Kebab takeaways, fish and chips, Indian takeaway & Mcdonalds very close. The street is covered with litter & discarded food on our pavements every morning making the retail shops look shabby. We barely have enough car spaces at the moment for our customers to park & this would make it even worse. I strongly object to yet another one.

- I strongly disagree and do not think it is acceptable to put in place a fourth takeaway shop on Malpas Road I think it would be a conflict of interest I am the landlord for the 8 Malpas road and I don't not agree for another take-away to open.

1no response received as follows:

- I am the owner of Icon Computing on Malpas Road. I am going to stay slightly neutral as it does not mention what type of take away or opening hours, but one thing I will say is there are a lot of takeaways all in the same area that are very concerned that this will take business away from them as some are already struggling to stay open in this area.

- 3.2 COUNCILLOR PAUL COCKERAM: Can you please register my strong objection to the application of a change of use from betting office to a takeaway. Malpas Road is clearly becoming an area of takeaways, we clearly don't need anymore. We need a more variety of shops, takeaways create anti social behaviour and rubbish.

I understand the difficulty officers have but we must speak up for area we represent.

- 3.3 COUNCILLOR HERBERT THOMAS: I would like to raise my objections to the planned conversion of said premises into another food take away outlet. The Shaftsbury area is already serviced by multiple food outlets. At present there are 5 existing takeaways within an area of 50 yards.

Objections:

1. Inevitable parking implications
2. Number of existing takeaways already in this areas
3. Late opening of such premises drawing further antisocial behaviour to the area

4. RELEVANT SITE HISTORY

04/1948	ALTERATIONS TO FIRST FLOOR ACCOMMODATION	Granted
---------	--	---------

5. ASSESSMENT

- 5.1 This application seeks a change of use from Betting Office (Use Class A2) to A3 Takeaway and installation of flue at rear. The property has a double frontage and is currently vacant. The property is located within the Malpas Road District Centre and Flood Zone C1.
- 5.2 Internal changes are proposed to the layout and an extraction flue is proposed to the rear elevation. No external alterations are proposed to the front of the property. The proposed hours of opening are 16:00 to 23:00 Tuesday to Sunday.
- 5.3 The following policies of the Newport Local Development Plan, 1996-2011 (Adopted January 2015) are relevant to the proposals:

Policy SP1 Sustainability favours proposals which make a positive contribution to sustainable development.

Policy SP3 Flood Risk ensures development is directed away from flood risk areas.

Policy GP2 General Development Principles – General Amenity states that development will not be permitted where it has a significant adverse effect on local amenity in terms of noise, disturbance, overbearing, light, odours and air quality. Development will not be permitted which is detrimental to the visual amenity. Proposals should seek to design out crime and anti-social behaviour, promote inclusion and provide adequate amenity for future occupiers.

Policy GP4 General Development Principles – Highways and Accessibility states that development should provide appropriate access for pedestrians, cyclists and public transport along with appropriate car parking and cycle storage. Development should not be detrimental to the highway, highway capacity or pedestrian safety and should be designed to enhance sustainable forms of transport and accessibility.

Policy GP6 General Development Principles – Quality of Design states that good quality design will be sought in all forms of development. In considering proposals, a number of factors are listed which should be considered to ensure a good quality scheme is developed. These include consideration of the context of the site; access, permeability and layout; preservation and enhancement; scale and form of the development; materials and detailing; and sustainability.

Policy GP7 General Development Principles – Environmental Protection and Public Health states that development will not be permitted which would cause or result in unacceptable harm to health.

Policy T4 Parking states that development will be expected to provide appropriate levels of parking.

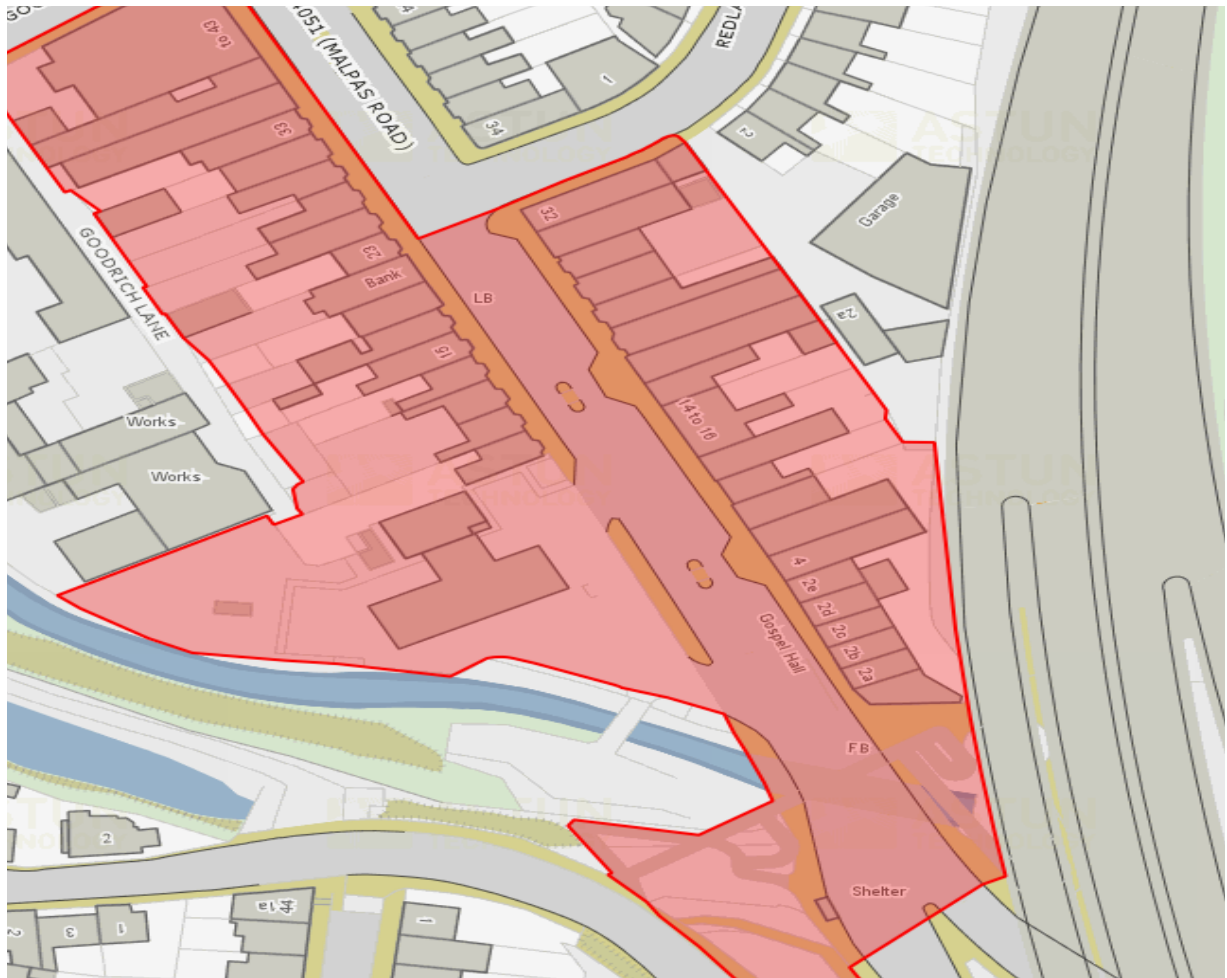
Policy R7 Non-Retail Uses in District Centres states that use classes A2 and A3 and leisure/community uses will be permitted in District Centres providing they would not prejudice the viability of the centre's retailing role; adequate parking is in place or provided; and there would be no unacceptable effect on the local residential amenities or general character.

Policy W3 Provision for Waste Management Facilities in Development states that where appropriate, facilities for waste management will be sought on all new development.

The following Supplementary Planning Guidance is relevant to the proposals:

*Waste Storage and Collection
Flat Conversion
Affordable Housing
Parking Standards*

- 5.4 As noted above the site is located within the Malpas Road District Centre as can be seen below:



Therefore Policy R7 is relevant. Adjoining uses include A3 Takeaway and a barber shop. The policy states that an alternative use from A1 will only be permitted where it can meet three criteria:

R7 non-retail uses in district centres

In district centres activities in use classes A2 (financial and professional services), A3 (food and drink) and various leisure and community uses will be permitted only where:

- i) The concentration of such uses at ground floor level would not prejudice the viability of the centre's retailing role;
- ii) Satisfactory car parking and access arrangements exist or can be provided;
- iii) There would be no unacceptable effect on the local residential amenities or the general character of the area in terms of noise and disturbance or extra traffic generated.

- 5.5 The unit is already in non-A1 use as a betting office. However, the main aim of the policy is to preserve the Centre's retailing role and the proposals must be examined to ensure they would not conflict with the policy criteria. A Council survey undertaken in January 2020 identified that out of 36 units six were in A3 use which equates to 16.6%. A recent site visit confirms the survey to be up to date in terms of A3 usage. If the application were to be granted and units 14-16 included in the number of A3 uses this would equate to 22.2% or nearly a quarter of all of the units within A3 use. The policy does not specify a threshold but this proportion of A3 and non A1 uses is considerable. Furthermore, the unit has a double frontage, thus the proposals would result in a large, prominent further presence of A3 within the centre and of the other existing A3 uses within the Centre several are within close

proximity. The proposed opening hours (16:00-23:00) would mean that the unit is closed during the day unlike an A2 use which is likely to be daytime focussed, and along with other A3 units which operate in the evening only, would not contribute to the vitality of the centre during the daytime. The unit is centrally located within the centre and a key building within it. The centre occupies a beneficial and important strategic location close to the city centre and in a densely populated area on a strategic highway linking central Newport to the M4 and beyond. A lack of vitality and vibrancy here will reflect poorly on the amenity of this gateway as a whole and a good range of retail and non retail or community uses is imperative to encourage passing trade and to attract local residents and those employed in local business and to prevent continued visual and economic decline of the centre itself.

- 5.6 The re-use of this vacant property does have regeneration benefits but this would not be felt during the day when the unit would be closed. Whilst the removal of the Ladbrokes fascia signage has not helped the visual amenity of the unit, other than this the unit frontage is not in disrepair and is considered to be one of the more attractive in the Centre. While the principle of the loss of the A2 use may not have a significant impact on its own, cumulatively the A3 uses within the block and district centre is considered to be significant. The nighttime economy of the centre benefits from a range of units, both retail and other, that remain open beyond daytime hours. The detrimental impact to the vitality and viability of the District Centre is considered to outweigh the regeneration benefits.
- 5.7 Turning to matters of amenity there are flats directly above the unit and above adjacent units. The proposed A3 use has potential to result in a greater impact to residential amenity than the betting shop due to the comings and goings of customers late into the evening and cooking odours along with the size of the unit itself, which compared to other takeaways is large and appears to have historically been 2 units. The Council's Environmental Health officers have advised that subject to conditions relating to sound insulation, opening hours and fume extraction, no objection is offered to the proposals. Given the location of the unit within a district centre, on a busy main road, and the surrounding commercial uses, a greater degree of noise and disturbance is to be anticipated than in a residential area. The proposed opening hours until 11pm are considered to be on the limits of acceptability in terms of residential amenity but subject to being no later than this and conditions to control amenity interests the proposals are considered to be acceptable in this regard and the extraction equipment requirements specified can be complied with. The extraction equipment would be located at the rear of the property and not be highly visible. Nor would it be within close proximity to residential windows.
- 5.8 The property is located within a highly sustainable area and the Head of City Services (Highways) has advised that the existing use generates a parking demand which is greater than the proposed development and therefore no objections are offered to the proposals on parking or highway safety grounds.
- 5.9 The application site is located within Zone C1 of the Development Advice Map (DAM) contained in TAN15. The application is not accompanied by a Flood Consequence Assessment (FCA). However, given that the existing and proposed use are both low vulnerability it is not considered that the proposals would result in an increased risk to life from flooding.
- 5.10 In terms of air pollution, as noted by the Head of Streetscene (Highways) the parking demands for both uses are similar and as is the likely number of vehicle trips associated with the unit. It is therefore not considered that the proposals would result in a worsening of air quality.
- 5.11 The objections of neighbouring occupiers of both residential properties and business are duly noted and have been considered in the above assessment. However, it should be noted that business competition is not a material planning consideration and no weight has been given to objections of this nature.

6. OTHER CONSIDERATIONS

6.1 *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.

6.2 ***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.

6.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

6.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

6.5 ***Planning (Wales) Act 2015 (Welsh language)***

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

6.6 ***Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 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. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have 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 proposed decision.

7. **CONCLUSION**

7.1 The re-use of this vacant unit does have regeneration merit and the proposals are not considered to result in an adverse highway impact or an adverse impact upon amenity or flood risk. However, the proposals would result in a further large and prominent A3 use in this District Centre and a subsequent over concentration of A3 uses that will have a significant adverse impact upon daytime vitality and viability. This impact is significant given the scale of the unit with a double frontage and its key location within the district centre on a main arterial route linking Newport City Centre to the M4.

7.2 The proposals conflict with Policy R7 of the NLDP and are refused.

8. **DECISION**

REFUSED

01 The proposed change of use to A3 when combined with existing A3 and non retail uses in the centre would result in a significant and prominent building, and a significant

proportion of units in the centre, being closed during the daytime. This will result in a significant adverse impact to the viability and vitality of the District Centre and will prejudice its retailing role contrary to Policy R7 of the Local Development Plan for Newport 2011-2026 (Adopted January 2015).

NOTE TO APPLICANT

01 This decision relates to: Design and Access Statement March 2021, Existing Ground Floor Plan DWG 01, Existing Side Elevation DWG 02, Proposed Ground Floor Plan DWG 03, Proposed side Elevation DWG04, Site Location Plan, Extraction Details.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3 Flood, GP2, GP4, GP6, GP7, T4, R7 and W3 were relevant to the determination of this application.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.