

**CHANGE OF USE FROM A1 RETAIL TO A3/A5 RESTAURANT/TAKE AWAY  
AND INTERNAL ALTERATIONS AT 17 FORE STREET, WELLINGTON**

Grid Reference: 313861.120572

Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

The proposed change of use would improve the marketability of the existing retail premises, increasing the likelihood that a use can be found, which would bring the empty shop back into use, to the benefit of the vitality and viability of the town centre. Any impacts on neighbouring property would be acceptable given the town centre location and the proposal would preserve the listed building and its setting and the character and appearance of the conservation area. It is, therefore, in accordance with Policies S1 (General Principles) and W7 (Primary Shopping Areas), EN14 (Conservation Areas) of the Taunton Deane Local Plan, Policy 9 (The Built Historic Environment) of the Somerset and Exmoor National Park Joint Structure Plan Review, and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

**RECOMMENDED CONDITION(S) (if applicable)**

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A3) Location Plan  
(A1) DrNo 2011.03.02 Proposed Plans - Section and Elevations  
(A1) DrNo 5188.1 Ground, First & Second Floor Plans  
(A1) DrNo 5188.2 Front, Rear & Side Elevation  
(A1) DrNo 5188.3 Section A-A, B-B & C-C  
(A1) DrNo 5188.4 Layout

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The premises shall only be open for trade between the hours of 08.00 and

23.00 on any given day. No food shall be served later than 22.00 on any given day.

Reason: To minimise disturbance to nearby residents from noise and smells, in accordance with Policy S1 of the Taunton Deane Local Plan.

4. No extraction equipment shall be installed at the premises without the further grant of planning permission.

Reason: To ensure that any required extraction equipment would be acceptable in terms of its impact on neighbouring property and the character and appearance of the conservation area, in accordance with Policy S1 of the Taunton Deane Local Plan and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

5. The use of the premises shall be restricted to Class A1 and A3/A5 and for no other purpose (including any other purpose in Class A2 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 revoking and re-enacting that Order with or without modification).

Reason: To prevent an over-representation of financial and professional services that would threaten the vitality and viability of the Primary Shopping Area in accordance with policies W7 and W8 of the Taunton Deane Local Plan.

#### Notes for compliance

1. This permission prevents the installation of any extraction equipment without the further permission of the Local Planning Authority. It is acknowledged that this may prevent some users from occupying the premises, but in the absence of any detail in the application, the Local Planning Authority cannot be certain that extraction equipment could be installed without detriment to the amenities of neighbouring residents or the character and appearance of the conservation area. There is no certainty that such an approval would be forthcoming.

## PROPOSAL

This application seeks full planning permission for the change of use of the ground floor of 17 Fore Street to a restaurant/takeaway (classes A3/A5 of the Use Classes Order). No changes (except removal of the existing shop sign) are proposed to the shop front. Two new openings are proposed to be installed in the side (southwest) elevation to provide a secondary entrance/exit at the rear of the property and a new, externally accessed, refuse store.

Various internal alterations are required to provide the kitchen/WC facilities for staff and customers. These do not require planning permission, although listed building

consent is required, and that is the subject of application 43/11/0076.

## **SITE DESCRIPTION AND HISTORY**

The site, in the centre of Wellington, is currently a large empty retail premises, being the former Woolworths store. Since the closure of Woolworths around 2 years ago, the shop is understood to have traded for a short time as 'Richleys Stewarts' but has otherwise remained empty.

The main 3 storey building at the front is grade II listed, from where further ancillary buildings stretch back through the burgage plot to the rear of the site. Most of the ancillary building is a two-storey brick building, which adjoins the principle building, with a further two-storey stone building beyond that. Access to the rear of the plot is available via a passage extending from the frontage, under part of the main building, and in addition to providing access to the rear of the plot, also gives access to a further retail premises and the Wellington Silver Band practice rooms beyond the site.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*WELLINGTON TOWN COUNCIL* – Recommend that the application be refused as insufficient information was available on which to make a decision. (At the meeting the Town Council expressed concerns that the end user was not known and that the proposal would result in the loss of a large retail unit in the town centre).

*SCC - TRANSPORT DEVELOPMENT GROUP* – No observations to make on this application.

*HERITAGE* – No objection to principle. Details for ventilation runs and terminals for WC's should be sought by condition. A note stating that the redecoration of the shop front and advertisements are likely to require Listed Building Consent should be included.

*ENVIRONMENTAL HEALTH - FOOD SAFETY* – Will send a letter and food premise registration form.

*ENVIRONMENTAL HEALTH – NOISE AND POLLUTION* - I note that the plans do not show any details of the extraction system from the kitchen.

There are buildings on the adjacent premises which could make it difficult for any cooking fumes and odours to disperse if any system vented at a low level. The amount and type of odours would depend on the catering being carried out, however, there is the potential for it to affect nearby premises.

I would recommend that the applicant looks at options for installing an extraction system from the kitchen to vent at a high level. It is normally recommended that a flue vents at least 1m above the roof eaves or nearby windows.

It would be easier to agree any proposals at an early stage, rather than have to design and install a system after the property has been converted.

*ECONOMIC DEVELOPMENT* – Note the concerns of Wellington Town Council and those of the Chamber of Commerce expressed verbally at the Town Council meeting; however the application would bring a long term empty unit back into use. Even in the absence of an end user, the proposal would improve the likelihood of a use being found. Therefore, support the application on the basis of job creation.

## **Representations**

Some representations were submitted in respect of the associated listed building consent applications, but raised issues relevant to the planning application. On the basis that this may have been an error on behalf of those making comment, the following letters are taken to have been received:

3 letters of OBJECTION has been received, making the following comments:

- There will be increased traffic and noise from delivery vehicles.
- Having a change of use to a restaurant or takeaway will ultimately end in a liquor licence being sort.
- There would be a new level of antisocial behaviour. Pubwatch, other pub landlords and the police regularly campaign against such behaviour.
- If another public house came to Wellington they would have no interest in keeping the local environment safe and friendly and would further hit existing licensed premises which have already been hit by cuts, tax and VAT highs.
- The proposal is for a KFC – there will be a smell of food on the high street and a magnet for vermin. This type of deep fried food does little to encourage healthy eating; note that restaurants do not serve food in buckets.
- As a local café owner, Wellington is already over subscribed with cafes/takeaways (there are 20 in the town centre). Adding another of this size would compromise existing small businesses.

2 letters of CONCERN have been received, but stopping short of a formal objection and raising the following issues, in addition to those raised above:

- Refuse would be stored in an area where customers pass for entrance to the retail premises to the rear. This would be a health and safety issue and attract vermin, which already exist in the area.
- The access onto the alley to the side may interfere with tenants and businesses that use the alley.
- It would be useful to know the end user and the proposed opening hours.
- There should be no harm caused to the character of the conservation area by the change of use.
- Extraction will create noise and smell late into the night, causing a disturbance to local residents.
- There is insufficient parking in this location. Takeaways inevitably generate a number of traffic movements and there will be a breach of traffic regulations by customers.
- Understand that a previous owner was advised that a change of use would not be permissible as this is a prime retail area; query what has changed.

## **PLANNING POLICIES**

EN14 - TDBCLP - Conservation Areas,  
EN23 - TDBCLP - Areas of High Archaeological Potential,  
S1 - TDBCLP - General Requirements,  
S2 - TDBCLP - Design,  
EN14 - TDBCLP - Conservation Areas,  
W7 - TDBCLP - Primary Shopping Area,  
S&ENPP9 - S&ENP - The Built Historic Environment,  
PPS 5 - PPS5 Planning for the Historic Environment,  
PPS4 - Planning for Sustainable Economic Growth,

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main issues in the consideration of this application are the principle of the development and the impact on neighbouring residents. The impact on the listed building and conservation area must also be considered. Local concerns regarding parking problems and traffic generation are noted, however, the breach of parking regulations is a matter for the police and the Local Highway Authority have raised no objection to the proposal.

### Principle

The site is in the centre of Wellington and within the primary shopping area. Policy W7 of the Taunton Deane Local Plan applies and is the most relevant to the proposal. It states that within the primary shopping area the change of use of retail premises to non-retail uses would not be permitted unless the proposal would contribute to sustaining the vitality and viability of the primary shopping area, amongst other considerations.

Policy W7, therefore, provides a general presumption against the proposed change of use. In general, the introduction of non-retail uses into the town centre is considered to reduce the vitality and viability of the area, because the diversity of the retail offer is reduced. It is clear from the representations that Wellington already has a significant number of takeaways and cafes, although the number of restaurants appears to be less.

In this case, the shop (one of the larger units in Wellington) has been empty for a substantial period of time. At this stage, there is no known proposed end user, with the applicant hoping to increase the attractiveness of the property in order to find a use. This has raised significant concern amongst local residents and the Town Council, who consider that they cannot make an objective judgement without knowledge of the final user. However, it must be remembered that any planning permission would not be restricted to any particular user, so, even if the first user were known this could not be guaranteed into the future. The application must, therefore, be determined on its own merits on the basis of the use applied for.

The site is located towards the western extent of the primary shopping area, and, therefore, with the right use, has the potential to 'anchor' this end of the town, drawing trade along Fore Street. In this context, the loss of the property to a non-retail use is regrettable but this must be balanced against the fact that the

property has been empty for almost two years. The absence of any use does not contribute to the vitality and viability of the town centre at all, and there are uncertain prospects for any use to be found in the near future. If a change of use to A3/A5 were permitted, planning permission would not be required to return the property to A1 (retail) should this be required in the future. In this context, it is considered that, on balance, allowing the change of use would improve the likelihood of a new use being found for the premises and that would improve the viability and vitality of the town centre from the current situation.

As it is also permitted development to change from an A3/A5 to and A2 (financial and professional services) and this may have an impact on the viability and vitality of the town centre, it is recommended that a planning condition restrict the permitted development rights to change to class A2.

### Neighbouring residents

The site is surrounded by neighbouring residential property. Residents are, understandably, concerned that a restaurant/takeaway use could lead to additional disturbance by noise, smells and litter. The Environmental Health Officer has commented that in order to prevent disturbance from smell, a flue would likely need to discharge above eaves level. No proposals for extraction equipment have been submitted and, at the time of writing, the applicant's agent has been asked to provide his proposals. However, some catering establishments may not require extraction equipment and it is considered that, in the event that no proposals are forthcoming, planning permission could be granted with a condition that no extraction equipment should be installed without a further grant of permission.

In terms of noise and disturbance, no proposed opening hours have been submitted. Given the proximity of nearby residents, and the general absence of other late trading premises in this part of the town centre, it is considered reasonable to require that no food is served after 10.00pm. This would prevent the late night disturbance that local residents fear, however, it would be unreasonable for a restaurant to be completely vacated by this time, so any permission should be couched in these terms.

### Listed building and conservation area

In deciding whether to grant planning permission, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the listed building, its setting and any features of special architectural or historic interest are preserved. Section 72 of the same Act requires that special regard is paid to the desirability of preserving or enhancing the character and appearance of the conservation area.

The proposals do not propose any physical changes to the shop front and main front elevation. Given the conclusions reached in respect of the associated application for listed building consent, it is considered that the listed building would be preserved. It is also considered that the proposal would not harm the character and appearance of the conservation area, due to the limited external changes required.

### Conclusions

The proposed change of use would improve the marketability of the existing retail premises, increasing the likelihood that a use can be found, which would bring the

empty shop back into use, to the benefit of the vitality and viability of the town centre. It is considered that sufficient control can be imposed to make the impact on neighbouring residents acceptable and, therefore, it is recommended that planning permission is granted.

**In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.**

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