

**45-2024-1019**



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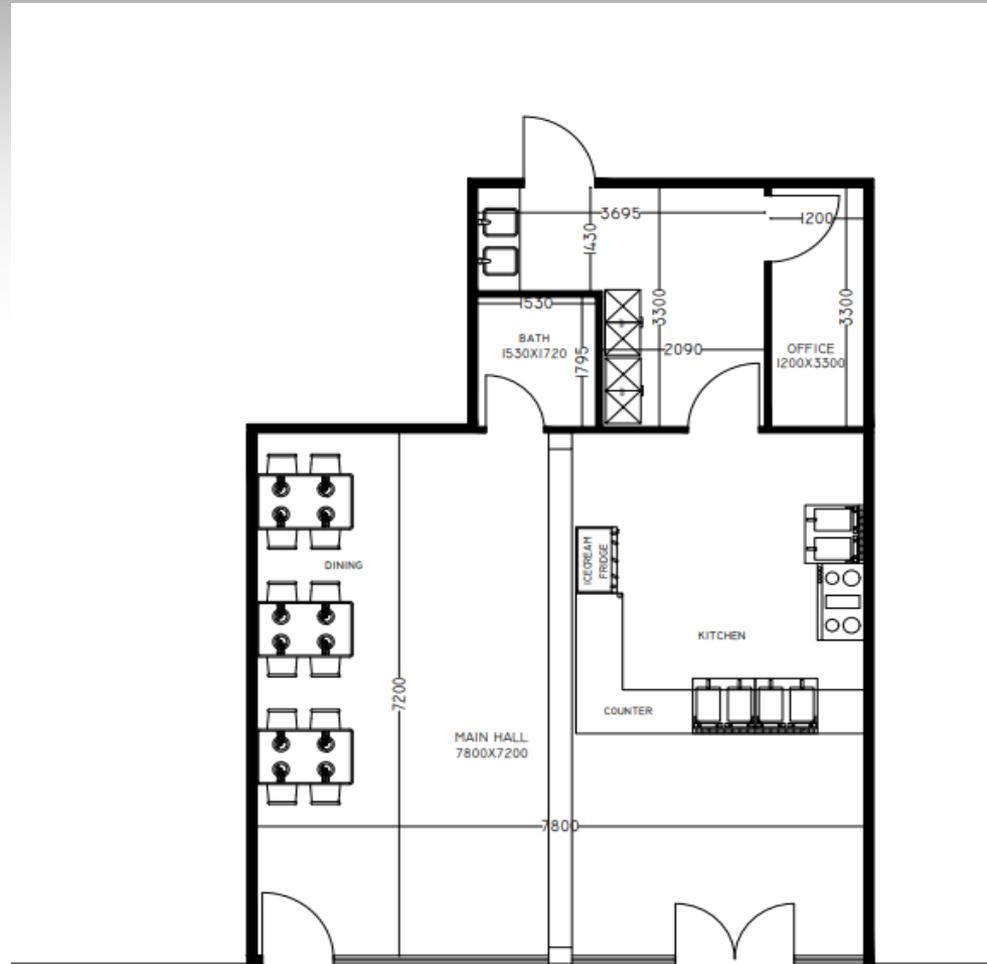
**45/2024/1019/PF – 1, Wellington Road,  
Rhyl**

**Change of use from shop (use class A1)  
to a hot food takeaway/restaurant (use  
class A3) and installation of new  
shopfront**

# Location Plan

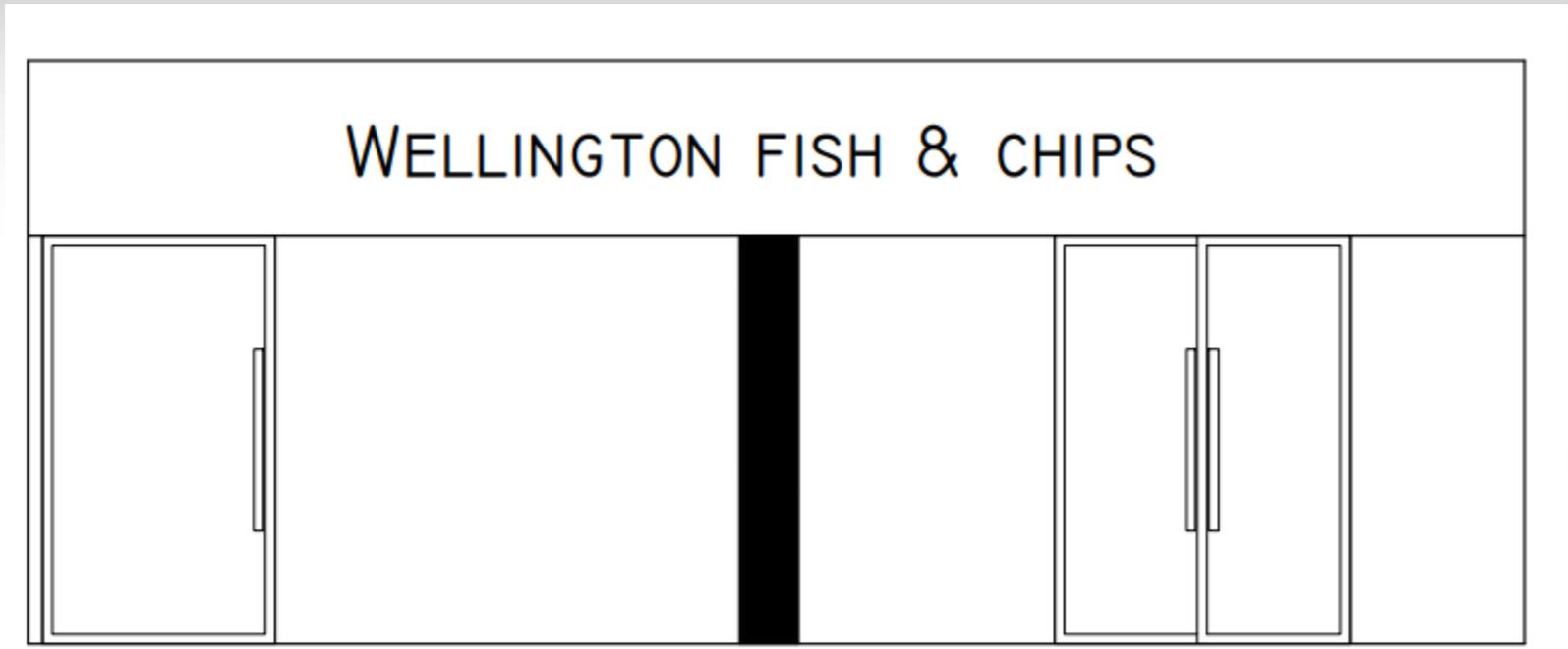


# Proposed Floor Plan



ROAD

# Proposed Elevation



# Extraction detail

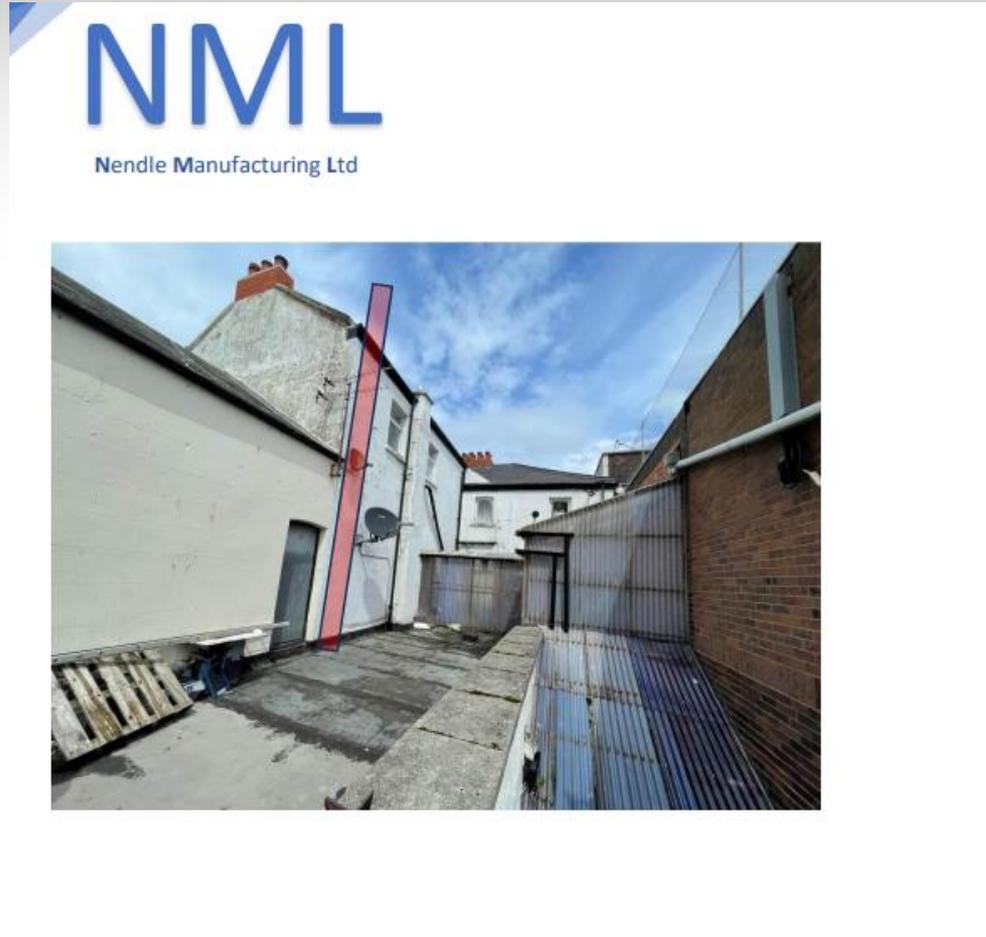


Figure 2: Proposed elevations showing ductwork

# Site photographs





**Officer** - Sarah Stubbs

**Ward** – West Rhyl

**Ward Member(s)** – Cllr Joan Butterfield and Cllr Alan James (c)

**Application Number** - 45/2024/1019/PF

**Proposal** - Change of use from shop (use class A1) to a hot food takeaway/restaurant (use class A3) and installation of new shop front

**Location** - Office 2 Home, 1 Wellington Road, Rhyl, Denbighshire, LL18 1AY

**Applicant** - Mr Muhammed Yasir Malik Parveen Coffee Limited

**Constraints**

Denbighshire Electoral Divisions	Rhyl West
City Town and Community Councils	Rhyl Community
Conservation Areas	Rhyl Central
Townscape Heritage	Rhyl Townscape Heritage Initiative area
Local Development Plan	Town Centre Boundary
Local Development Plan	Development Boundary
Local Development Plan	Conservation Area
Article 4 Directions	TP/R/1/3
Groundwater Vulnerability 100k	MAJOR

**REASON(S) APPLICATION REPORTED TO COMMITTEE:**

**Scheme of Delegation Part 2**

- Recommendation to grant / approve – 4 or more objections received
- Recommendation to grant / approve – Town / Community Council objection

**CONSULTATION RESPONSES:**

RHYL TOWN COUNCIL

"Objection on the following grounds:

*1. The premises is located close to the junction with High Street and Russell Road – probably the busiest junction within Rhyl with significant traffic usage by vehicles leaving Rhyl towards either Prestatyn to the East or along the A525 to the South. There is no on street permitted parking adjacent to the building.*

*Although the applicant submits that vehicle parking is not relevant to the application, the nature of the proposed use will inevitably result in the parking of vehicles immediately outside the premises. Experience at other similar premises suggests that in addition to*

*customer parking, food delivery service providers will also park immediately adjacent to the premises while collecting delivery orders. The Council therefore consider that the proposed takeaway service would result in on-street parking at this busy junction and create conflict with both other road users and pedestrians. This the Council submits would be contrary to paragraph viii of Policy RD1 of the adopted Local Plan.*

*2. The application makes no reference to the number of occupied flats immediately above the shop unit on the first and second floors of the building. It is not known whether adjacent buildings are similarly occupied. (The building also shares a boundary with properties on High Street which may also have occupied accommodation)*

*It is the opinion of the Council that the proposed change of use would give rise to an unacceptable impact on the amenity of these residential occupiers above, to the sides and to the rear of the application site by way of noise, disturbance and odours. On this basis, it is considered that the application is unacceptable as it is contrary to test vi) of Policy RD 1 of the Denbighshire Local Development Plan.*

*It has been noted that other retail units located adjacent to the premises have also expressed concerns regarding odours impacting on their business"*

Betsi Cadwalader University Health Board  
Express general concerns relating to the proliferation of hot food uses in the area

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –  
Traffic, Parking and Road Safety:  
- Highways Officer  
No objections

Public Protection Officer  
No objections subject to conditions ensuring compliance with the Noise and Odour Assessments

Conservation Officer  
No comments

#### **RESPONSE TO PUBLICITY:**

##### In objection: -

1. Adil Oflazoglu, Golden Razir Barbers, 66 High Street, Rhyl
2. Ross Starkey, High Street News, 66a High Street, Rhyl
3. Y. Aka (AJs Cafe) Mostyn Buildings, 3a Wellington Road, Rhyl
4. Kay Pidduck Les & Ritas Fish Bar, 28 Wellington Road, Rhyl

Summary of planning-based representations in objection:

##### General Comments

Rhyl doesn't need another a fish and chip shop; concerns about the drains blocking

##### Amenity

Concerns about smells and litter will increase

### Highways

Will increase traffic, parked cars in front of the shop, blocking exit gate and dangerous next to the traffic lights, also for the cars waiting and turning to the right direction.

### In Support:-

1. Amir Shahzad (Fone united) Unit 1a, White Rose Centre, High Street, Rhyl

Summary of planning-based representations in support:

Brings some opportunity for the town, will create a few jobs and contribute to the local economy, there are other shops in the town that are empty.

**EXPIRY DATE OF APPLICATION:** 06/11/2024

**REASONS FOR DELAY IN DECISION:** N/A

### **PLANNING ASSESSMENT:**

#### **1. THE PROPOSAL:**

##### 1.1 Summary of proposals

1.1.1 Full planning permission is sought for the change of use from a shop (use class A1) to a hot food takeaway/restaurant (use class A3) and installation of a new shopfront.

1.1.2 The empty shop unit is the former 'Office 2 Home' Stationery shop which has been vacant for some time. Planning permission is sought to form a hot food takeaway with a restaurant area with the proposed floor plan showing a kitchen, storage area, office and toilet facilities.

1.1.3 The proposal includes a new aluminium shopfront which includes a new doorway to access the take away and restaurant separately. A grey shopfront colour has been specified (illustration shown at front of report).

1.1.4 The plans include a kitchen extraction system comprising of a wall type canopy extracting through a carbon filter then an Electrostatic Precipitator (ESP) system before the extract fan discharges at 1m above roof ridge (illustration shown at front of report).

##### 1.2 Other relevant information/supporting documents in the application

1.2.1 A Noise Impact Assessment (including extraction details) and an Odour Assessment have been submitted with the application.

##### 1.3 Description of site and surroundings

1.3.1 The application site is a vacant retail unit fronting Wellington Road in Rhyl Town Centre.

1.3.2 The unit is located on a one way road section of Wellington Road close to it's junction with the High Street and Russell Road which is controlled by traffic signals.

1.3.3 Within the Wellington Road and High Street area close to the application site, there are a mix of Class A1 retail and Class A3 units along with a number of vacant units. Immediately adjoining the application site is a Barbers shop and AJ's cafe.

1.3.4 Upper floors of some premises in the area, including the application site are in residential use.

#### 1.4 Relevant planning constraints/considerations

1.4.1 The property is located in the development boundary of Rhyl and within the Policy PSE 8 Town Centre boundary.

1.4.2 The property is located within the Rhyl Central Conservation Area boundary.

#### 1.5 Relevant planning history

1.5.1 Planning permission was granted in 2010 for the use of the upper floors to be used as 4 no. self contained flats.

#### 1.6 Developments/changes since the original submission

1.6.1 A Noise Impact Assessment and an Odour Assessment has been submitted with the application along with additional information relating to the delivery arrangements and extraction system proposed.

1.6.2 The description has been amended to include the installation of a new shopfront.

#### 1.7 Other relevant background information

1.7.1 None

### **2. DETAILS OF PLANNING HISTORY:**

2.1 45/2007/1175/PF Change of use of 1st and 2nd floor offices to 4 no. self-contained flats GRANTED 21st January 2010

### **3. RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:

#### **Denbighshire Local Development Plan Adopted June 2013**

Policy RD 1 - Sustainable Development and good quality design

Policy PSE 8 - Development within town centres

Policy VOE 1 - Key areas of importance

#### **Supplementary Planning Guidance**

Supplementary Planning Guidance Hot Food Takeaways

#### **Government Policy / Guidance**

Planning Policy Wales Edition 12, 2024

Future Wales: The National Plan 2040

Development Management Manual 2017

Welsh Government 'Building Better Places: The Planning System Delivering Resilient and Brighter Futures' (July 2020)

### **4. MAIN PLANNING CONSIDERATIONS:**

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned.

The DMM further states that material considerations can include the number, size, layout,

design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Section 9.4).

The DMM must be considered in conjunction with Planning Policy Wales (Edition 12, 2024) and other relevant legislation.

Denbighshire County Council declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.

The Council aims to become a Net Carbon Zero Council and an Ecologically Positive Council by 31 March 2030. Its goal and priorities are set out in its Climate and Ecological Change Strategy 2021/22 to 2029/30. The actions, projects and priorities in the Strategy directly relate to council owned and controlled assets and services. One priority of the Strategy is to promote the existing policies within the Local Development Plan (LDP) 2006 to 2021 and Supplementary Planning Guidance (SPG) which contribute to environmentally responsible development. In preparing these reports to determine planning applications we therefore highlight the LDP 2006 to 2021 and appropriate SPG. Applications that are determined in accordance with the LDP 2006 to 2021 are environmentally responsible developments.

Planning applications are assessed in accordance with statutory requirements including The Environment (Wales) Act 2016, national policy (Future Wales, PPW 12) and local policy (LDP 2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

The following paragraphs in Section 4 of the report therefore refer to all statutory requirements, policies and material planning considerations which are considered to be of relevance to the proposal.

#### 4.1 The main land use planning issues in relation to the application are considered to be:

- 4.1.1 Principle
- 4.1.2 Visual amenity including impact on Conservation Area
- 4.1.3 Residential amenity including noise and odour
- 4.1.4 Drainage
- 4.1.5 Highways (including access and parking)

#### 4.2 In relation to the main planning considerations:

##### 4.2.1 Principle

The application site is located within the development boundary and town centre boundary (Policy PSE 8) of Rhyl.

Policy PSE 8 sets out the local policy criteria that address developments within a defined town centre boundary and permits development proposals provided they i) enhance the vitality and viability of the town centre and ii) they do not result in an unacceptable imbalance of retail and non retail uses.

As there has been a change in national policy stance on town centre development since the adoption of the LDP in 2013, Policy PSE 8 criteria should be interpreted in line with the provisions contained in Future Wales (2021), Planning Policy Wales (PPW) Edition 12 (2024) and Welsh Government 'Building Better Places' (July 2020). All of these

documents stress the importance of diversification in town centres uses to maintain vitality and viability.

Whilst Policy PSE 8 and Supplementary Planning Guidance focus the assessment of a proposal's impact on the balance of retail and non-retail uses in terms of town centre vitality and viability, preferring the retention of Class A1 retail uses, Welsh Government is very vocal about the 'town centre first principle' as set out in Future Wales and PPW. PPW, paragraph 4.3.21, prescribes the approach to identifying a sustainable location for restaurants/ takeaways (Use Class A3). "*The sequential approach applies to retail and all other uses complementary to retail and commercial centres. Other complementary uses include, for example, financial and professional services (A2), food and drink (A3), offices (B1), hotels (C1), educational and other non-residential establishments (D1), leisure (D2) and certain other uses such as launderettes and theatres.*" It is noted that National policy not only supports town centre diversification but explicitly considers food and drink establishments (Class A3 uses) as a reasonable complementary use.

In conclusion it is considered that there is no reason to oppose the principle of the proposal in terms of national and local planning policy.

#### 4.2.2 Visual amenity including impact on Conservation Area

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use of land / buildings and spaces between buildings, which are matters relevant to the visual impact of development; test (iv) requires that development does not unacceptably affect prominent public views into, out of, or across any settlement or area of open countryside; test (vi) requires the incorporation of existing landscape or other features, takes account of site contours, and changes in levels and prominent skylines; and test (xiii) requires the incorporation of suitable landscaping measures to protect and enhance development in its local context.

Local Development Plan Policy VOE1 seeks to protect sites of built heritage from development which would adversely affect them and requires that development proposals should maintain and wherever possible enhance them for their characteristics, local distinctiveness and value to local communities.

Planning Policy Wales (Edition 12, 2024) in Chapter 6 'Distinctive and Natural Places' states there should be a general presumption in favour of the preservation or enhancement of the character or appearance of a conservation area or its setting.

There are no objections raising visual amenity or Conservation based concerns.

The proposal seeks to replace the existing shopfront with a grey aluminium shopfront which would be in keeping with the area and Conservation Area. The final colour specification has not been provided therefore it is considered reasonable to impose a condition requiring the submission of this detail. The extraction system is located to the rear and is not visible from Wellington Road or locally.

Signage is shown on the proposed elevation plan submitted however as this may require separate Advert consent, a note to applicant is suggested.

The proposal is considered acceptable in relation to visual amenity and Conservation policies.

#### 4.2.3 Residential amenity including noise and odour

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use of land / buildings and spaces between buildings, which touch on the potential for impact on residential amenity; test (vi) sets the requirement to assess the impact of development on the amenities of local residents, other land and property users, or characteristics of the locality, in terms of increased activity, disturbance, noise, dust, fumes, litter, drainage, light pollution, etc.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The residential amenity impacts of development should therefore be regarded as a potential material consideration.

Representations from the Town Council and local business owners have been submitted raising general amenity concerns, such as noise, odour and litter impacts. Public Protection Officers have also been consulted.

A Noise Impact Assessment and Odour Assessment was requested and has been submitted in support of the application. Public Protection Officers have reviewed the assessments and have confirmed no objections, subject to conditions to ensure the development is carried out in accordance with the approved Noise and Odour Assessment details.

Whilst respecting the concerns raised, having regard to the location of the proposed development in the town centre where there are a mix of uses, it is considered that subject to conditional controls the change of use would not have an unacceptable impact on residential amenity.

#### 4.2.6 Drainage

Local Development Plan Policy RD 1 test (xi) requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding.

Planning Policy Wales confirms that factors to be taken into account in making planning decisions (material considerations) must be planning matters; that is, they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability. The drainage / flooding impacts of a development proposal are a material consideration.

Planning Policy Wales (Edition 12, 2024) at para 6.6.9 states '*The adequacy of water supply and the sewage infrastructure should be fully considered when proposing development, both as a water service and because of the consequential environmental and amenity impacts associated with a lack of capacity*'.

Planning Policy Wales ((Edition 12, 2024) at paras 6.6.22 to 6.6.29 identifies flood risk as a material consideration in planning and along with TAN 15 – Development and Flood Risk, which provides a detailed framework within which risks arising from different sources of flooding should be assessed. TAN 15 advises that in areas which are defined as being of high flood hazard, development proposals should only be considered where:

- new development can be justified in that location, even though it is likely to be at risk from flooding; and
  - the development proposal would not result in the intensification of existing development which may itself be at risk; and
- Concerns have been raised regarding drains blocking.

The proposal relates to an existing building with established drainage connections and facilities however it would introduce a hot food use. No specific drainage details have been provided with the application and therefore it is considered necessary to impose a condition requiring details of a grease trap which should be fitted to ensure the public sewerage system is protected.

#### 4.2.7 Highways (including access and parking)

Local Development Plan Policy RD 1 supports development proposals subject to meeting tests (vii) and (viii) which oblige provision of safe and convenient access for a range of users, together with adequate parking, services and manoeuvring space; and require consideration of the impact of development on the local highway network.

Policy ASA 3 requires adequate parking spaces for cars and bicycles in connection with development proposals, and outlines considerations to be given to factors relevant to the application of standards. The Parking Standards in New Developments SPG sets out the maximum parking standards for new developments

These policies reflect general principles set out in Planning Policy Wales (Edition 12, 2024) and TAN 18 – Transport, in support of sustainable development.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The highway impacts of development should therefore be regarded as a potential material consideration.

The Town Council and a local business owner has raised concerns relating to highway safety as a result of the proposal in this location. The particular concern relates to the proximity of the application to the junction with the High Street and Russell Road and where on street parking is prohibited.

Highways Officers have been consulted and have raised no objection to the proposal. It is acknowledged that the unit is located on a busy road and close to the High Street/Russell Road junction and that on street parking is prohibited on Wellington Road close to the application site. However, the site is in a town centre location, which is considered to be a sustainable and accessible location, there is on street parking available on nearby streets, with car parks and public transport links (bus and rail) all within close walking distance to the site.

There is a rear yard and small parking area to the rear of the property, it can be accessed off Wellington Road and the High Street. The applicant has advised that delivery vehicles would park in an unloading area on the High Street and bring goods via the rear access into the proposed shop at the back. This is typical of many businesses in High Street/town centre locations.

In conclusion, this site is located in a sustainable and accessible location. It is not considered that the proposed use conflicts with the highways considerations of the policies mentioned above.

### **Other matters**

In response to the comments from Betsi Cadwaladr University Health Board in relation to the proliferation of hot food/Class A3 uses in the area, the Class A3 uses are spread out over a wide area and not concentrated in a specific area. The application site is in a town centre location where a mix of uses, including Class A3 uses are supported by planning policy.

### **Well – being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

### **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. A public authority must, in the exercise of its functions, have due regard to advancing equality.

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.

The above duty 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, over and above any other person.

## **5. SUMMARY AND CONCLUSIONS:**

5.1 The principle of a Class A3 use in a town centre is considered acceptable. The proposal would also bring a vacant unit in the town centre and designated Conservation Area back in to use.

5.2 With the imposition of planning conditions requiring grease trap details and to ensure noise and odour details are implemented in accordance with approved details it is not considered that there would be any adverse residential amenity impacts.

5.3 The visual amenity impacts are considered acceptable subject to agreeing the final colour finish which is suggested as planning condition.

**RECOMMENDATION:** GRANT subject to the following conditions:

1. The development shall begin not later than 5 years from the date of this decision.

2. The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition pursuant to this permission:

Extraction details Received 30-05-2024 and 23-07-2024

Delivery Arrangements Received 23-07-2024

Odour Impact Assessment Received 18-07-2024

Noise Impact Assessment Received 18-07-2024

Proposed floor and Elevation plan Received 29-05-2024

Existing floor plan Received 29-05-2024

Location Plan Received 13-03-2024

Photograph of shop front Received 13-03-2024

3. The noise mitigation measures for the extraction system and for the noise from the premises shall be implemented in accordance with details in Section 5.5 and 6.0 of the approved Noise Impact Assessment.

4. Prior to the commencement of the Class A3 hot food takeaway, details to demonstrate the noise mitigation measures for the extraction system have been implemented in full compliance with the details approved in Section 5.5 and 6.0 of the Noise Impact Assessment ( DAA Group, Issue 01 dated 15/7/2024) shall be submitted to and approved in writing by the Local Planning Authority.

5. The odour mitigation measures for the extraction system shall be implemented in accordance with the details in Section 3.3 of the approved Odour Assessment, and the system shall be maintained in accordance with the details in Section 4 of the approved Odour Assessment.

6. Prior to the commencement of the Class A3 hot food takeaway, details to demonstrate the odour mitigation measures for the extraction system have been implemented in full compliance with the details approved in Section 3.3 of the Odour Assessment ( NML, dated 16/7/2024) shall be submitted to and approved in writing by the Local Planning Authority.

7. Prior to the commencement of the use, an adequate grease trap shall be 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.

8. The new aluminium shopfront shall be finished in a colour to be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with such approved details.

Reasons:

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure a satisfactory standard of development
3. In the interests of residential amenity
4. In the interests of residential amenity
5. In the interests of residential amenity
6. In the interests of residential amenity
7. To protect the integrity of the public sewage system and ensure the free flow of sewage
8. In the interests of visual amenity and character and appearance of the Conservation Area