

REFERENCE: P/21/541/FUL

APPLICANT: Michelle Jones
c/o Plan R Ltd, 39 Merthyr Mawr Road, Bridgend CF31 3NN

LOCATION: Sweet Lil Treats, Heol Llangeinor, Llangeinor CF32 8PW

PROPOSAL: Change of use to fish and chip shop (A3 Use Class) from existing retail shop (A1 Use Class)

RECEIVED: 8 June 2021

SITE INSPECTED: 9 July 2021

DESCRIPTION OF PROPOSED DEVELOPMENT

Full Planning permission is sought retrospectively for the change of use of Sweet Lil Treats, Heol Llangeinor, Llangeinor from Class A1 (Shops) to Class A3 (Food and Drink), as defined by The Town and Country Planning (Use Classes) Order 1987.

The proposal comprises the change of use to a fish and chip shop which is proposed to operate between the hours of 12:00pm and 9:00pm Monday to Saturday and 4:00pm and 9:00pm on Sundays and Bank Holidays. The fish and chip shop will employ four members of staff, three full-time and two part-time, and is proposed to have an internal arrangement as follows:

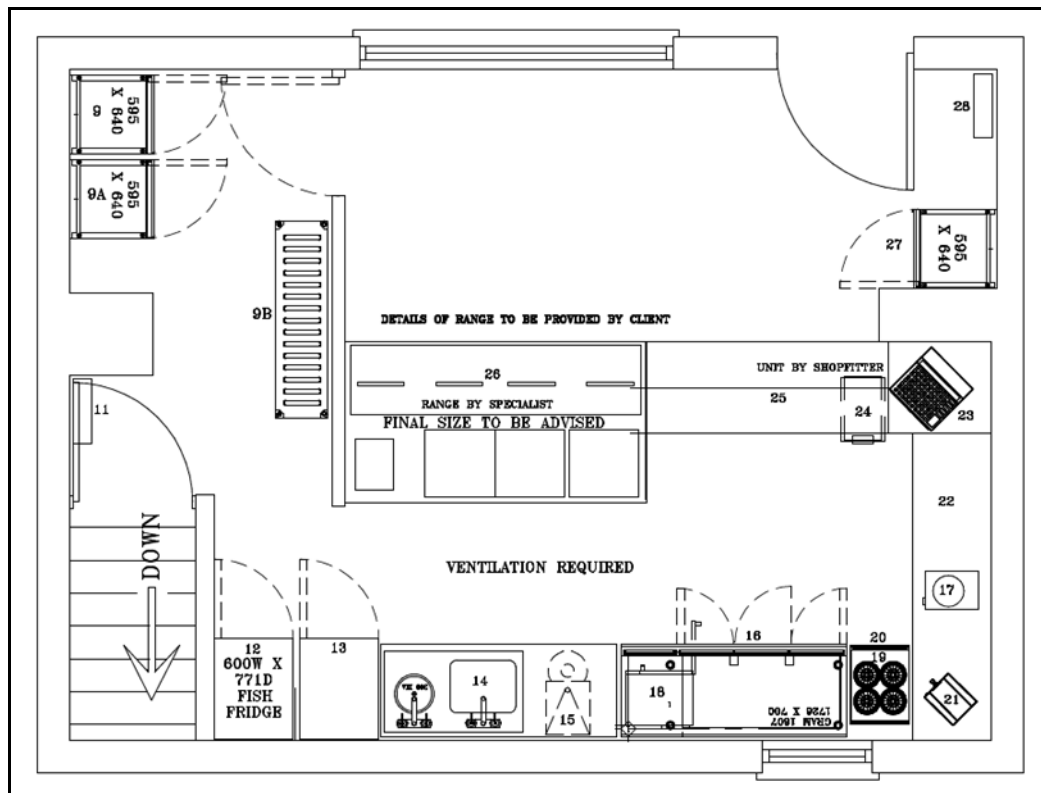


Fig. 1: Proposed Ground Floor

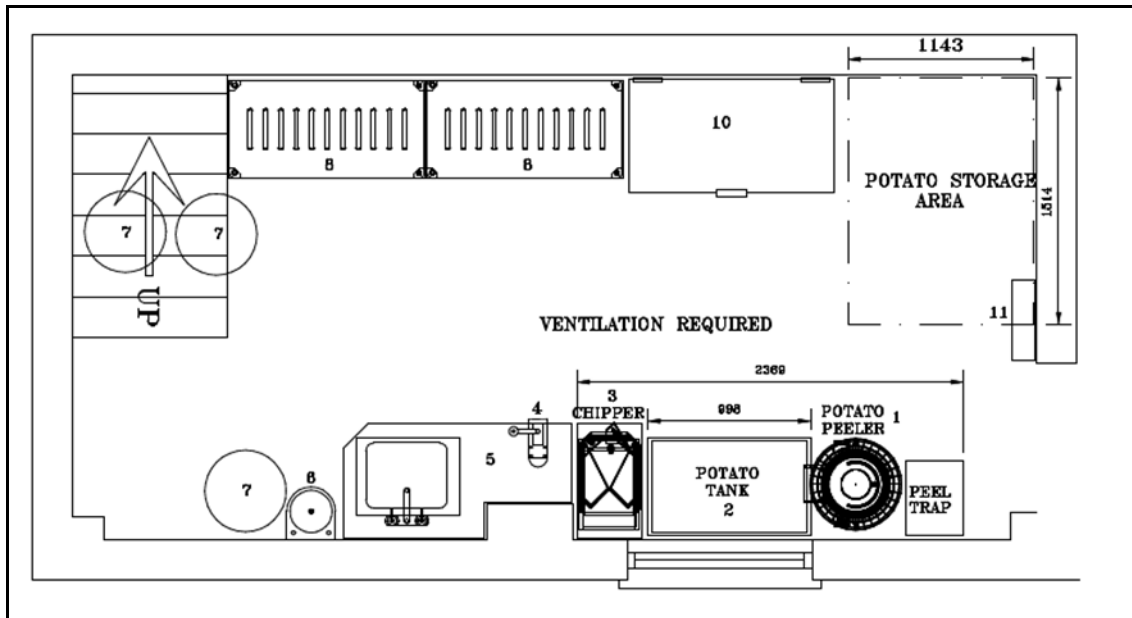


Fig. 2: Proposed Lower Ground Floor

The application is a resubmission of Planning application reference P/20/958/FUL which was refused on 11 March 2021 for the following reasons:

The proposed hot food take-away at this location would give rise to a greater intensity of short term on-street parking along the Classified Route A4064 Heol Llangeinor in close proximity to a Pedestrian Crossing and bus stops which will affect the safety and free flow of traffic to the detriment of highway safety, contrary to the provisions of Policies SP3 and PLA11 of the Local Development Plan (2013) and guidance contained within Planning Policy Wales (Edition 11, February 2021).

The proposed hot food take-away at this location would give rise to a greater intensity of 'U turn' manoeuvres in the adjacent junction of the Classified Route A4064 with Heol Llwynffynon to the detriment of highway safety and contrary to the provisions of Policy SP3 of the Local Development Plan (2013) and guidance contained within Planning Policy Wales (Edition 11, February 2021).

At the time of writing, it is understood that the site is currently operating as an A3 Use Class, albeit at a reduced capacity and reduced operating hours than those proposed.

No external alterations are proposed as part of this application.

SITE DESCRIPTION

The application site is located within the countryside, as defined by Policy PLA1 of Bridgend County Borough Council's adopted Local Development Plan (2013), and is positioned on the western boundary of the Small Settlement of Llangeinor, as shown edged in purple below:



Fig. 3: OS Map of Application Site and Settlement Boundary of Llangeinor

The site comprises a detached split-level flat roof building which principally faces the east. It lies on the western side of Heol Llangeinor (A4064) which runs adjacent to the eastern boundary of the application site.

The site lies to the west of an established residential area where properties are predominantly two storey semi-detached dwellings which are centrally located within residential plots and benefit from front and rear garden areas. Generally, the topography of the wider area slopes upwards from west to east.

RELEVANT HISTORY

Application Reference	Description	Decision	Date
87/0972	Shop extension	Consent	15/10/1987
88/1051	Change of use from shop to café	Refused	15/09/1988
88/1515	Change of use from shop to café and/or takeaway	Refused	12/01/1989
89/1358	Change of use from retail A1 to café/takeaway	Conditional Consent	09/11/1989
89/A016	Internally illuminated projecting sign	Conditional Consent	04/05/1989
P/02/985/FUL	Change of use from convenience store to limited hours fish and chip fast food takeaway	Refused (Dismissed on Appeal)	20/11/2002
P/13/359/FUL	Change of use from convenience store (A1) to Hot Food Shop (A3)	Refused	21/06/2013
P/20/958/FUL	Change of use from shop selling cakes to chip shop	Refused	11/03/2021

CONSULTATION RESPONSES

CONSULTEE

COMMENTS

Highways Officer
16 July 2021

Objects to the development.

Land Drainage
2 July 2021

As there is no increase in hardstanding areas, no further surface water consideration is required.

Dwr Cymru/Welsh Water
5 July 2021

No objection.

Shared Regulatory Services Public Protection
14 July 2021

Recommends the inclusion of a planning condition which required the submission of details of the extraction system to be installed to control the emission of cooking smells from the premises.

REPRESENTATIONS RECEIVED

The application has been advertised through the erection of a site notice and direct neighbour notification. The period allowed for response to consultations/publicity expired on 19 July 2021.

A total of three objections have been received from local residents in response to the consultation undertaken, generally objecting to the proposed development on the following grounds:

- Concerns about the impact of the change of use on highway safety and demand for on-street parking when customers visit the fish and chip shop.
- The change of use would increase the volume of traffic and encourage the entrance into Heol Llwynffynon to be used as a turning point.
- The position of bus stops and zebra crossing causes issues with being able to park on-street and will result in customers illegally parking.
- There have been no changes to the area since the previous applications were refused.
- The fish and chip shop will result in more littering within the vicinity of the site.
- The smell from the fish and chip shop is a concern.
- Obesity levels and proximity of the fish and chip shop to a school.

COMMENTS ON REPRESENTATIONS RECEIVED

Factors to be taken into account in making Planning decisions must be Planning matters, that is they must be relevant to the proposed development and use of land in the public interest.

The matters raised in the representations received which are considered to be material to the determination of this application, namely the impact of the development on highway safety and odours associated with the use, are considered in the appraisal section of this report.

RELEVANT POLICIES

Local Policies

The Bridgend Local Development Plan 2006-2021 (LDP) was formally adopted by the Council in September 2013 and within which the following Policies and Supplementary Planning Guidance are relevant:

Policy PLA1	Settlement Hierarchy and Urban Management
Policy SP2	Design and Sustainable Place Making
Policy SP3	Strategic Transport Planning Principles
Policy PLA11	Parking Standards
Policy SP4	Conservation and Enhancement of the Natural Environment
Policy ENV1	Development in the Countryside

Supplementary Planning Guidance 17 Parking Standards

National Policies

In the determination of a Planning application regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan. The following Welsh Government Planning Policy is relevant to the determination of this planning application:

Future Wales – the National Plan 2040

Planning Policy Wales Edition 11

Planning Policy Wales TAN 4

Retail and Commercial Hierarchy

Planning Policy Wales TAN 12

Design

WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015

The Well-being of Future Generations Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles 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).

The well-being goals identified in the act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of the proposed development.

THE SOCIO ECONOMIC DUTY

The Socio Economic Duty (under Part 1, Section 1 of the Equality Act 2010) which came in to force on 31 March 2021, has the overall aim of delivering better outcomes for those who experience socio-economic disadvantage and whilst this is not a strategic decision, the duty has been considered in the assessment of this application.

APPRAISAL

This application is referred to the Development Control Committee to consider the objections received from nearby residents and at the request of Cllr S Dendy who is supportive of the scheme.

PRINCIPLE OF DEVELOPMENT

The site is located within the countryside, demarcated by Policy PLA1 of Local Development Plan (2013), which defines the countryside as land outside of the designated settlement boundaries. It states at paragraph 4.1.9 of Local Development Plan (2013) that the countryside should be protected for its own sake (i.e. for its beauty, landscape quality, natural resources, and its agricultural, ecological, geological, physiographic, historical, archaeological and recreational value". Therefore, development in the countryside will be strictly controlled and the Policy will not be set aside lightly in the interests of maintaining the integrity of the countryside.

Planning Policy Wales Technical Advice Note 6 (July 2010), entitled Planning for Sustainable Rural Communities, advises that Local Planning Authorities must "protect and enhance the natural and historic environment and safeguard the countryside and open spaces".

Policy ENV1 of the Local Development Plan (2013) states that development in the countryside should benefit the rural economy whilst maintaining or enhancing the environment. It stipulates that all development will be strictly controlled but may be acceptable where it can meet one of the following criteria:

- 1) Agriculture and/or forestry purposes;
- 2) The winning and working of minerals;
- 3) Appropriate rural enterprises where a countryside location is necessary for the development;
- 4) The implementation of an appropriate rural enterprise/farm diversification project;
- 5) Land reclamation purposes;
- 6) Transportation and/or utilities infrastructure;
- 7) The suitable conversion of, and limited extension to, existing structurally sound buildings where the development is modest in scale and clearly subordinate to the original structure;
- 8) The direct replacement of an existing dwelling;
- 9) Outdoor recreational and sporting activities; or
- 10) The provision of Gypsy Traveller accommodation.

Whilst the change of use of the existing shop to a fish and chip shop does not strictly require a countryside location, it is considered to be compliant with criterion (7) of Policy ENV1 of the Local Development Plan (2013). The fish and chip shop will occupy an existing building which is capable of being commercially operational under an A1 Use Class (Shops). As such, the proposal cannot be described as being detrimental to the countryside location as it will accommodate an existing building which is technically capable of being commercially occupied under an A1 Use Class.

Given the nature of the proposal, its limited scale and owing to the fact that the fallback position in that the existing building can be commercially operational, the proposal is unlikely to have an adverse impact upon this countryside location. In addition, when taking into consideration the close proximity of the site to the settlement boundary of Llangeinor, the change of use is considered to be compliant with Policy ENV1 of the Local Development Plan (2013) in this regard.

HIGHWAY SAFETY

As no external alterations are proposed, the main consideration in the determination of this application is its impact on highway safety. Policy SP3 of the Local Development Plan (2013) refers to Strategic Transport Planning Principles and is intended to encourage and establish an integrated, safe and equitable transport system. It states

that “all development should promote safe, sustainable and healthy forms of transport through good design, enhanced walking and cycling provision, and improved public transport provision”. Development proposals should “improve road safety” and provide “appropriate standards of car parking”.

Planning permission for the change of use of the convenience store to a limited hours fish and chips/fast food takeaway was refused under Planning application reference P/02/985/FUL by Bridgend County Borough Council on 20 November 2002 for the following reason:

The hot food take-away at this location would give rise to a greater intensity of short term on-street parking along the adjoining highway and affect the safety and free flow of traffic to the detriment of highway safety.

The refusal of Planning permission was appealed by the applicant and was subsequently dismissed on 8 July 2003 by the Planning Inspectorate under appeal reference APP/F6915/A/03/1114748.

As noted by the Planning Inspector when considering the appeal, the site is located in a position whereby *the road is straight and subject to a 30 mph speed limit in the immediate vicinity. Generally visibility is good, the road is two lanes wide with footways on both sides. However, there is an acute junction immediately opposite the site which leads steeply uphill into a residential area. There are double yellow lines, a bus stop and pedestrian crossing on the main road on either side of the site. This effectively means that vehicles may not legally stop or park on the highway for about 45 metres to the north of the site and about 60 metres to the south. Parking is only restricted on the access road opposite for about the first 9 metres, however the narrow width of that carriageway means that vehicles can only park on one side and when doing so they reduce the useable width to a single vehicle only.*

The appellant at that time argued that the road has good visibility and whilst the double yellow lines would not allow vehicles to park outside the shop, local residents park within the vicinity of the site and an additional one/two vehicles parked for customers of the fish and chip/fast food takeaway would not be detrimental to highway safety. It was also argued by the appellant that the shop was intended to serve local people which would mean that the vast majority of customers would walk to the premises.

The Inspector disagreed, stating that when visiting the site at around 5:00pm *there were a significant number of cars parked on the main road and the road opposite even though many residents would not be home from work at that time, and that there was no reason to doubt the views expressed by some local residents that the space available for legal parking is generally fully used in the evenings.*

It was observed that the *main road carries a significant amount of traffic and that from the Inspector’s experience, a significant number of customers to any fish and chip shop are likely to use their car, either passing on the way home or in order to make a purchase and return home as quickly as possible whilst the food is hot.*

The Inspector concluded that *the proposal would be unacceptably harmful to the safety and free flow of traffic* and dismissed the appeal.

Subsequently in 2013, Planning permission was sought for the ‘change of use from convenience store (A1) to hot food shop (A3)’ under Planning application reference

P/13/359/FUL. The application was refused on 21 June 2013 on highway safety grounds as follows:

The proposed hot food take-away at this location would give rise to a greater intensity of short term on-street parking along the classified route A4064, Heol Llangeinor, in close proximity to a pedestrian crossing and bus stops and affect the safety and free flow of traffic to the detriment of highway safety contrary to Policies EV6, T2 and Supplementary Planning Guidance 14 Hot Food Take-Away Establishments.

The proposed hot food take-away at this location would give rise to a greater intensity of "U" turn manoeuvres in the adjacent junction of the classified route A4064 with Heol Llwynffynon, Llangeinor, to the detriment of highway safety contrary to Policies EV6, T2 and Supplementary Planning Guidance 14 Hot Food Take-Away Establishments.

The refused application did not result in an appeal to the Planning Inspectorate.

Again, in December 2020, Planning permission was sought for the 'change of use from a shop which sells cakes to a chip shop' under Planning application reference P/20/958/FUL. When assessing the application, the Highway Authority considered that there was no change of circumstance since the previous Planning applications were refused and the appeal dismissed and raised an objection to the development. The application was refused on 11 March 2021 but again no appeal was lodged with the Planning Inspectorate.

To provide an accurate site context in terms of the highway network, the site is located on the western side of Heol Llangeinor that is a single carriageway road with significant traffic restrictions. The site is located to the west of an established residential area which mainly consists of two storey semi-detached dwellings which do not provide off-street parking facilities. The immediate area within the vicinity of the application site, owing to the highway restrictions in the form of double yellow lines, a bus stop and a zebra crossing as well as the predominant house type, suffers from over-subscription of on-street parking. This is supported by the representations received from local residents.

Given the location of the application site and its context in terms of the highway network, the Council still considers that the change of use would generate additional on-street parking to the detriment of highway safety. The change of use will also increase instances of illegal parking such as parking on double yellow lines or parking on a bus stop, particularly during periods of inclement weather. The application site does not provide space or an access point to provide any off-street parking provision and the Council therefore considers the development to be detrimental to highway safety.

The safety issue is evidenced in the photographs below, taken at around 4:00pm on 19 February 2021. The photographs show several cars parked on the highway to the east of the application site:



Fig. 4: Cars parked on-street close to the junction between Heol Llangeinor and Heol Llwynffynon



Fig. 5: Cars parked on-street on Heol Llwynffynon

It is considered that the proposed development will increase the need for legal on-street parking spaces where it is evidenced that this is already at a premium and it is considered that this will result in the occurrence of illegal on-street parking closer to, and in front of, the application site opposite the junction between Heol Llangeinor and Heol Llwynffynon, to the detriment of highway safety. As stated by the Planning Inspector, *the general consequence of even a modest number of customers using their cars is that there would inevitably be conflict with the free flow of through traffic and danger to other road users. Such danger would be increased for pedestrians using the crossing, bus stop or being tempted to cross directly from the housing area.*

In support of this application, the applicant has submitted a Planning Statement, written by Plan R Ltd, which seeks to provide further justification for the change of use of the premises to an A3 Use Class. The applicant has also included around 24 letters of support from residents of the County Borough.

The Planning Statement claims the following:

The applicant also feels that previous applications and an appeal have overly focused on the use of the premises by car whereas there are (based on 2011 census figures) over 1200 residents who for the most part live within a 5-10 minute walk of the premises and therefore the proposed use is not car dependent.

Evidence has also been provided about customer use of a nearby Premier Shop (A1 Use Class) which shows that around 60 of the 138 customers who visited the shop during the dates and times the survey took place came by car.

Concerns were raised by the Highway Authority that the survey provided in support of the application was not comparable to the application being considered given that the nearby Premier Shop operates within an A1 Use Class not an A3 Use Class as proposed. The applicant subsequently submitted a further survey of the fish and chip shop, undertaken between Thursday July 22 2021 and Sunday July 25 2021, which is reproduced below:

Proposed A3 Use Heol Llangeinor					
Survey of Customers July 22 – July 25 2021					
	July 22 (Thurs)	July 23 (Fri)	July 24 (Sat)	July 25 (Sun)	Totals
Customer Nos in total	35	34	57	39	165
Direction of Travel (originating location)	23 from north/north east and from main housing areas. 12 form east and south/east.	19 from north/north east and from main housing areas. 15 form east and south/east.	35 from north/north east and from main housing areas. 22 form east and south/east.	26 from north/north east and from main housing areas. 13 form east and south/east.	103 from north/north east and from main housing areas. 62 form east and south/east.
Mode of Transport (walking, cycling, public transport, car)	Walking - 32 Bus Car - 3	Walking -32 Bus Car -2	Walking -50 Bus - 2 Car - 5	Walking - 36 Bus Car - 3	Walking - 150 Bus - 2 Car - 13
If by car where parked?	on Heol Llangeinor to north of shop in area with no Traffic Restrictions	on Heol Llangeinor to north of shop in area with no Traffic Restrictions	on Heol Llangeinor to north of shop in area with no Traffic Restrictions	on Heol Llangeinor to north of shop in area with no Traffic Restrictions	All on Heol Llangeinor in designated area with no TROs
If by car any use of Heol Llwynffynon for U turn.	no	no	no	no	None.

Fig. 6: Copy of Additional Survey

At the time of making this application and upon receipt of the survey, an attempt was made by the Highway Authority to undertake a survey of customers accessing the premises to corroborate the applicant's survey and witness any highway impacts.

Unfortunately, at that time, it was apparent that the operating hours of the takeaway, and the food choice available was limited at best and a very limited number of customers were found to visit the shop. Accordingly, it is considered that the survey provided is not representative of a fully operational A3 use and therefore, the concerns previously raised by the Highway Authority are not fully realised as they would be with a fully operational A3 use operating between the proposed hours of operation.

The argument put forward by the applicant was also previously used as part of the appeal made against Planning application reference P/02/985/FUL (appeal reference APP/F6915/A/03/1114748) and the appeal was dismissed by the Inspector who stated that, despite living within close proximity, *a significant number of customers to any fish and chip shop are likely to use their car, either passing on the way home or in order to make a purchase and return home as quickly as possible whilst the food is hot.* Given this, it is considered that the retention of the A3 Use Class at the premises would exacerbate the concerns raised by the Highway Authority, as it is likely that more customers would be reliant upon the use of the car, due to the type of food which is for sale. Customers would in effect, be constrained by time in order to eat the food when it is still hot, and would therefore be more likely to use a car as a mode of transport in order to return home more promptly than walking.

Whilst it is acknowledged that the applicant has attempted to overcome the previous reasons for refusal through the submission of letters of support and additional surveys, it is considered that the evidence provided does not address the reasons for refusal, particularly given that the Inspector has previously dismissed the argument put forward that the majority of customers who visit the site are from nearby residential properties and would walk to the premises.

Given the above, on balance, taking into account the additional information provided as part of this application, the proposal is still considered to give rise to a greater intensity of short term on-street parking which will detrimentally affect the safety and free flow of traffic along the A4064 (Heol Llangeinor).

CONCLUSION

Having regard to the above, the change of use is considered to result in an increase in short term on-street parking which will detrimentally affect the safety and free flow of traffic and the change of use would give rise to a greater intensity of 'U-turn' manoeuvres in the junction between Heol Llangeinor and Heol Llwynffynon to the detriment of highway safety. Whilst the additional information submitted in support of the latest application is acknowledged, it is not considered to be sufficient to overcome the previous reasons for refusal and therefore the application is recommended for refusal for the following reasons:

RECOMMENDATION

(R30) That permission be REFUSED for the following reason(s):-

1. The proposed hot food take-away establishment, by reason of its form, location and lack of on-site customer parking provision, would give rise to a greater intensity of short term on-street parking along the Classified Route A4064 Heol Llangeinor in close proximity to a Pedestrian Crossing and bus stops and would affect the safety and free flow of traffic to the detriment of highway safety, contrary to the provisions of Policies SP3 and PLA11 of the Local Development Plan (2013) and guidance contained within Planning Policy Wales (Edition 11, February 2021).
2. The proposed hot food take-away establishment, by reason of its form and location, would give rise to a greater intensity of 'U turn' manoeuvres in the adjacent junction between the Classified Route A4064 and Heol Llwynffynon to the detriment of highway safety and contrary to the provisions of Policy SP3 of the Local Development Plan (2013) and guidance contained within Planning Policy Wales (Edition 11, February 2021).

**JANINE NIGHTINGALE
CORPORATE DIRECTOR COMMUNITIES**

Background Papers
None