

DELEGATED REPORT

Application No: P/19/0295

Site Address: Units 10 And 11 Harlan Business Park
Goat Mill Road
Dowlais
Merthyr Tydfil
CF48 3TE

Development: Retrospective change of use from "B" use class
to an ice cream parlour "A3" use class

Case Officer: Caroline Pulley

Site Visit: 20th November 2019

Application Expiry Date: 8th January 2020

Consultation reply date expired: 11th December 2019

APPLICATION SITE

The application site comprises units 10 and 11, Harlan Business Park, Merthyr Tydfil. The units are located in a detached building located within the south-western corner of a small group of industrial units located off Goatmill Road. The building is industrial in its appearance, having a gated access with parking to the front. Neighbouring units are predominately industrial in character and include a valeting centre, a large tyre fitting company (Tyreman) and a carpet and flooring centre.

PROPOSED DEVELOPMENT

Retrospective planning permission is sought for the change of use of the building to an ice cream parlour falling within use class A3. The proposed use comprises an area measuring 165sqm. It includes a small kitchen area, a serving counter, a seating area for customers and a store and office/canteen. No external alterations are proposed as part of this application. However, it is noted that the submitted plans illustrate a small discrepancy in so far that the proposed ground floor plan incorrectly shows a window where a doorway is currently located. The proposal includes provision for eight off-road parking spaces within the enclosed area to the front of the building.

PLANNING HISTORY

P/12/0061 - Erection of 2 No. industrial units
Approved 05.10.12

CONSULTATION

Engineering and Traffic Group Leader: No objection.

Planning Division's Policy and
Implementation Officer:

Raises a policy objection to the application.

Environmental Health Officer:

No objection.

PUBLICITY

In accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, two site notices were displayed within the vicinity of the site.

No letters of representation were received following this publicity exercise.

POLICY CONTEXT

National Policy

Planning Policy Wales (PPW) Edition 10 (December 2018) sets out the land use policies of the Welsh Government. The most relevant sections are:

Paragraphs 3.3 – 3.16 set out the principles of good design in new development proposals, which should take into account its relationship to its surrounding context.

Paragraph 4.3.25 advises retail development outside designated retail and commercial centres, which are not located on an allocated site, can impact on the viability and vibrancy of a centre. In relation to smaller retail planning applications, paragraph 4.3.27 advises planning authorities will need to determine whether or not a retail impact assessment would be required.

Paragraphs 5.43 – 5.4.4 highlight that planning authorities should support the provision of sufficient land to meet the needs of the employment market at a strategic and local level. It states that sites identified for employment use in a development plan should be protected from inappropriate development.

The policies in PPW are supported by Technical Advice Notes (TANs). The most relevant TANs to this application are as follows:-

TAN 12 - Design advises that the Assembly Government is strongly committed to achieving the delivery of good design in the built and natural environment, which is fit for purpose and delivers environmental sustainability, economic development, and social inclusion at every scale throughout Wales. Paragraph 4.13 highlights that consideration should be given to movement to and from a proposed site and ease of access for all, with a view of supporting a shift from car use to walking, cycling and public transport. It also points out that consideration should be given to areas of conflict and congestion throughout the area surrounding the site.

TAN 4 - Retail and Commercial Development requires local planning authorities, in their development plans, to develop a local hierarchy to classify their various retail and commercial centres and to apply appropriate policies to those centres based on their characteristics.

TAN 24 – Economic development highlights that traditional B1 – B8 uses continue to form the foundation of many development plan employment policies and site allocations. Whilst recognising that other uses contribute to the economy, it advises that traditional land use classes B1 – B8 must continue to be planned for in a sustainable way and planning authorities should only consider the release of existing employment sites where it can be demonstrated that there is no longer a need/demand for the industrial use.

With reference to the goal of sustainability and weighing up the economic benefit of a proposal, the TAN advises at paragraph 2.1.3 that *'It is a central objective of the planning system to steer development to appropriate locations. Therefore, where a proposed development would cause unacceptable environmental or social harm, demand should be steered to an alternative location...'*

Paragraph 4.6.7 states *'Certain industrial and related uses may conflict with other uses, especially housing. To operate effectively, these activities usually need dedicated industrial areas, where they can be confident that they will not be a bad neighbour to anyone. In managing the retention and release of existing employment sites authorities should aim to ensure that the integrity of remaining employment sites is not compromised.'*

Paragraph 4.6.8 states *'The traditional employment uses tend to generate lower land values than many other land uses, especially housing and retail, consequently, any land lost to these uses is generally difficult to replace. Planning authorities should avoid releasing for other uses sites where there is strong evidence of likely future need for B1-B8'*

Paragraph 4.6.9 advises local planning authorities that existing employment sites should only be released to other uses if:

- *'they have poor prospects of being re-occupied for their previous use;*
- *the particular market that the site is part of is oversupplied;*
- *the existing employment use has unacceptable adverse impacts on amenity or the environment;*
- *the proposed redevelopment does not compromise unduly neighbouring employment sites that are to be retained;*
- *other priorities, such as housing need, override more narrowly focussed economic considerations; and/or*
- *land of equal or better quality is made available elsewhere, even if this is not within the local planning authority boundary.'*

Local Policy

Merthyr Tydfil Local Development Plan (LDP) 2006-2021:

Policy BW1 – Development Strategy – Primary Growth Area
Policy BW4 – Settlement boundaries/location constraints
Policy BW7 – Sustainable design and placemaking
Policy BW8 – Development and the water environment
Policy BW12 – Development proposals and transport
Policy BW17 – Securing community infrastructure benefits
Policy AS18 – Retail hierarchy
Policy AS24 – Employment site protection
Policy TB11 – Access, parking and accessibility of local facilities

Other documents consulted

Merthyr Tydfil Employment Land Review – June 2018

PLANNING CONSIDERATIONS

The main consideration in the determination of this application relates to whether the principle of the change of use in this location is acceptable, having regard to the effect of the proposal on the supply of employment floor space in the area. Also to be considered are the impacts of the scheme on the vitality and viability of the town/local retail centres, the impacts to amenity of any residential properties who may adjoin the site and highway safety. These matters are discussed in detail below:

Principle of the change of use

The application lies within the settlement boundary, where the majority of new development is generally supported in principle by Policies BW1 and BW4 of the LDP. Notwithstanding this, Goat Mill Road is a protected business/employment site and under Policy AS24, development will only be permitted if:

- it is within use classes B1, B2 or B8; or
- it provides an ancillary facility or service to the primary employment use, or
- it is an acceptable commercial service unrelated to class B uses.

Development proposals for other uses than those stipulated and that would result in the loss of employment land/premises at the above sites will only be permitted where it can be demonstrated that the existing use is inappropriate or the land/premises are surplus to the requirements of the employment market. The general purpose of this policy is to ensure that sufficient land/premises is retained to meet local employment needs.

As an ice-cream parlour falls within an A3 use class, it does not meet the first criteria (i.e. it does not fall within a B1, B2 or B8 use class). The second criterion offers the opportunity for ancillary complementary uses to be permitted within the industrial estate. These uses provide a benefit or service to local employees and businesses and are generally small scale commercial activities that support the primary employment use and do not singularly or cumulatively lead to a material change in the nature of the site. An ice cream parlour would not provide any obvious link or benefit to the traditional employment uses present within the industrial estate. The offer provided is relatively specialised and does not provide any clear benefit or support to the primary employment uses present within the industrial estate. Whilst acknowledging that some employees of local business may make use of the parlour, the business would inevitably need to rely heavily on attracting customers from outside the industrial estate to make it viable, especially at weekends when the number of workers on the industrial estate may be lower. For these reasons, the ice cream parlour is not an ancillary or complimentary use that would support the function of the industrial estate. As such, the development does not satisfy criterion 2. The third criterion offers the opportunity for non-B class uses to be located within protected employment sites. These type of uses are generally not favoured on employment sites due to compatibility issues. An ice cream parlour in particular, by virtue of its very nature would

cause of a level of conflict of interest that would not be in the best interests of the business or the neighbouring industrial uses. Its location within the industrial estate causes a number of issues/concerns and in particular, adverse effects relating to noise, dust and emissions and visual impact resulting from tyres being stored directly outside the site. There is also no good reason to believe that the application site is would be suitable for A3 retail use given its location away from the principal centres and range of sustainable transport modes. There is further concern regarding the proximity of the site to neighbouring industrial uses and the safety implications to customers resulting from the site conditions and the potential for heavy goods vehicles to be present in the area. Of particular concern is the adverse effects the ice cream parlour use could have on the operation of the existing businesses. A use of this nature is likely to generate a significant volume of short term visits which could lead to vehicular pedestrian safety issues and other parking problems in the immediate area. Given that the unit is located within a relatively small industrial cul-de-sac this could adversely affect the operation of the neighbouring industrial uses.

Additionally, and notwithstanding the above, no evidence has been provided to explain why the premises are surplus to the requirements of the employment market nor that the existing approved use of the site is inappropriate.

The LDP Strategy recognises the important role that the development of land for economic purposes can make to the economy of Merthyr Tydfil and the wider region. The identification of Goat Mill Road as a protected employment site clearly highlights the important role that the site has in delivering economic growth to the County Borough. The Council's Employment Land Review (June 2018), which is a background paper for the emerging LDP, indicates that there is a desire for growth amongst the County Borough's large businesses and, across the Welsh Valleys overall. Also, there are good prospects for inward investment, primarily from B2 uses. Paragraph 4.10 in particular highlights that of the 1,469 enquiries made to the Welsh Government for land/property in Merthyr Tydfil, 59% stated the size of the site/unit they required. The compiled data shows that demand is strongest from the smallest and largest of industrial and warehouse units of 464 sqm or less. This clearly demonstrates that there is a market demand for the size of the application unit.

The Council's Policy Officer has also pointed out that the Review has highlighted that the local industrial market is active, with properties of 201-500 sqm and 1001-5000 sqm regularly transacted for mixed freehold and leasehold occupancy. Shortages of all types of premises are also recorded. Importantly, the Council's Policy Officer states that the County Borough's Employment Areas are 92.1 percent occupied. This is considered low in average supply terms and points to a lack of availability and choice. The Review also identifies that Goatmill Road had a 0% vacancy rate, which suggests that the units in this industrial estate are in demand and should therefore continue to be protected for traditional industrial uses (i.e. uses falling within B1, B2 and B8 use classes). Therefore, based on this information, there is a strong prospect of the two units being used for the intended purpose in the future.

In summary, the development does not amount to a complementary ancillary use within an employment site and consequently, it cannot rely on the provisions of criterion 2 of the relevant part of Policy AS24. Also, it has not been demonstrated that the site or premises is no longer viable or suitable for employment uses falling within use classes B1, B2 or B8. It is therefore considered that that the change of use is detrimental to the supply of employment land within the County Borough and this would be contrary to Policy AS24 of

the LDP, the advice and guidance of TAN 23 Economic Development, paragraphs 4.6.8 and 4.6.9 in particular which state planning authorities should avoid releasing industrial uses where there is a strong evidence of likely future need for B1 – B8 uses and that the proposed development should not unduly compromise neighbouring employment sites.

Retail Impact

Policy AS18 of the LDP, seeks to protect the interest of the town centre as the favoured location for retail development. Applications relating to retail development outside of the town centre or other local centres would normally be subject to an assessment of need and a strict application of a sequential test. This is to demonstrate that the proposal by reason its scale and nature could not be accommodated in more appropriate locations in or on the edge of a designated town/local centre. Proposals will only then be permitted where they avoid causing harm to the town/local centre vitality and viability. In this respect, it should be noted that the application has not been supported by any special justification to explain why the ice cream parlour use could not be suitably accommodated in the town centre or in one of the local retail areas. This type of use would indeed be highly suited to the town centre where customers can make linked trips to other shops and have access a range of sustainable transport modes. Also, as the ice cream parlour does provide a specialist service which is currently not available in the town, it would help to draw trade to the town/local centres, which would be beneficial to the viability and vitality of those centres. Furthermore, there a number of vacant retail units available in the town centre, which would be of a suitable size to accommodate the use. As such, there is no clear justification as to why the town centre would not be an appropriate location for the business. The siting of the ice cream parlour outside the town/local centres clearly undermines their vitality/viability and causes unacceptable harm to the existing business currently located within the designated centres. Therefore, the proposal is contrary to policy AS18 of the LDP.

Design and visual impact

The application does not propose any external alterations to the building. As such, the scheme is acceptable in terms of its visual impact.

Residential amenity

The application building is surrounded by industrial uses. There are no residential properties within the vicinity of the site and therefore the impact of the use is acceptable to residential amenity.

Highway and pedestrian safety

A parking layout for the site has been provided indicating the provision of 8 car park spaces to the front of the application building. Whilst there is some concern that the ice-cream parlour use could generate a significant number of short term visits and this could lead to an overspill of parking during peak capacity periods, the level of off-road parking provision being provided with this application is generally in accordance with the Council's adopted parking guidelines. Also, the Engineering and Traffic Group Leader has considered the scheme and not raised any highway objections to the application. Therefore, the application is considered acceptable from a highway safety perspective. Notwithstanding this, concerns still exist in relation to the compatibility of the use and the risk that the site conditions present to pedestrian safety.

Conclusion

For the above reasons, the proposal, by virtue of its location within a protected employment site would result in an unacceptable loss of valuable employment space. The siting of the ice cream parlour in an out of town centre location, also harms the vitality and viability of the town/local centres.

The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act") has been taken into consideration when determining this application. In reaching the following recommendation, the ways of working set out at section 5 of the WBFG Act have been considered and thus the proposal is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

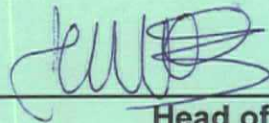
Accordingly the following recommendation is made:

RECOMMENDATION: BE REFUSED for the following REASONS

REASONS:

1. The ice cream parlour does not constitute an acceptable ancillary facility or service to the primary employment use present at Goatmill Road. As such, the development would result in the unacceptable loss of a business and employment land/premises contrary to Policy AS24 of the Merthyr Local Development Plan.
2. The proposal, by virtue of its out of town centre location, would undermine and cause unacceptable harm to the viability and vitality of the town centre, contrary to Policy AS18 of the Merthyr Tydfil Local Development Plan.

RECOMMENDATION ENDORSED



Head of Town Planning

DATE:

17/12/19