

Our Ref: 298CRP201221

23 October 2023

David Cross
Merthyr Tydfil County Borough Council
Planning Department
Unit 5 Triangle Business Park
Pentrebach
Merthyr Tydfil
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Dear Mr Cross,

Section 73(5) Town and Country Planning Act 1990
Application to Extend the Time Limit ('Renew') Planning Permission P/18/0399
Erection of a Coffee Shop (use Class A1/A3) with Drive Thru Facilities
Land to the South of Cyfarthfa Retail Park, Swansea Road, Merthyr Tydfil

Introduction

This application is submitted under Section 73(5) of the Town and Country Planning Act 1990 as amended by Planning (Wales) Act 2015, s 35(7).

The application seeks to change Condition 1 in planning permission P/18/0399 [the Permission] to extend the time within which the development permitted must be started.

The Permission was granted on 2 May 2019 and permitted - *"Erection of a coffee shop (use class A1/A3) with drive-thru facilities and associated car parking, service area and landscaping (Full)"*

Condition 1 requires that the development shall be begun not later than 5 years from the date of the decision, i.e. not later than 2 May 2024.

The Permission is extant, but development has not yet begun. The application proposes that the time period for the commencement of development be extended by a further 5 years from the date on which this application is approved.

Since the Permission was granted, in May 2019, economic circumstances have changed significantly, particularly due to the COVID-19 pandemic. This has affected the Applicant's ability to secure a tenant, which is a prerequisite to progressing with the development.

The Applicant is in discussions with operators and the extension of time is required in order to facilitate a longer period for the satisfactory conclusion of these discussions and provide certainty that the permission can be implemented when a tenant has been secured. This is an alternative to undertaking material operations to commence development prior to the current expiry date, which is a fallback position to which weight can be attached in the determination of this application.

Circular WGC 016/2014 – The Use of Planning Conditions for Development Management states (at paragraph 5.21) that as a general rule applications for renewal of planning permissions should only be refused where there has been some material change in planning circumstances since the original permission was granted; or continued failure to begin the development will contribute unacceptably to uncertainty about the future pattern of development in the area; or the application is premature because the permission still has a reasonable time to run.

The proposal is a minor application that raises no issues in terms of “uncertainty about the future pattern of development in the area”; and given the extant permission has only 7 months until it expires the renewal application cannot be considered to be premature.

The assessment of the application, therefore, focusses on whether there has been any material change in planning circumstances since the original permission was granted that would weight against the permission being renewed.

Planning Policy Context

Development Plan

The Development Plan has changed since the permission was granted in May 2019.

The national development framework, Future Wales - The National Plan 2040 was published in February 2021.

Merthyr Tydfil County Borough Council Replacement Local Development Plan (LDP) 2016 – 2031 was adopted in January 2020. This replaced the LDP 2006 – 2021.

The Replacement LDP was at an advanced stage in production when application P/18/0399 was being assessed having been submitted for Examination in January 2019.

Other Planning Policy Documents

Planning Policy Wales Edition 11 was published in February 2021 replacing Edition 10 (December 2018).

There has been no change to relevant Technical Advice Notes (TAN) since the Permission was granted.¹

Relevant Supplementary Planning Guidance also remains unchanged.²

Planning Considerations

The assessment below adopts the sub-headings used in the Delegated Report on application P/18/0399.

Land Use

The application site is within the settlement boundary and Primary Growth Area defined in the Replacement LDP, as was the case under LDP 2006 – 2021. Current LDP Policy SW4: Settlement Boundaries encourages development within urban areas and supports the re-use of previously developed land.

The Delegated Report noted that the proposal would not be out of character with its surroundings, being located adjacent to the Retail Park, and that the principle of development was acceptable subject to compliance with other relevant LDP policies.

There has been no material change in circumstances regarding the principle of the development on this site.

¹ The Delegated Report on application P/18/0399 took account of TAN4, TAN5, TAN12 and TAN18 all of which remain unchanged

² SPG4 Sustainable Design 2013; SPG5 Nature and Development 2015

Retail Impact

The considerations of need, retail impact and sequential test are not materially different under the current PPW and LDP compared to the previous policies under which the original application was assessed.

The proposal is not for a scale or type of retail development that requires an assessment of need (i.e. a typical convenience goods or comparison goods needs assessment) and is too small to require retail impact assessment.

As the Delegated Report on the original application noted, assessment of retail need and retail impact was not carried out because of the particular nature of the proposal, i.e. essentially providing an ancillary food and drink establishment to Cyfarthfa Retail Park; with a limited catchment area unlikely to overlap with the catchment of town centre coffee shops/cafes; and with the restriction on use under Condition 3 in the planning permission.

In terms of the sequential test, the Delegated Report found that the ancillary nature of the proposal and the inclusion of the drive thru facility meant that locating it as part of the established retail park was sufficiently justified and it could not be accommodated in or on the edge of any centres. The same site specific justification for the proposal continues to apply.

To the extent that it is necessary to give further consideration to town centre or edge of centre sites given this location specific justification and given the fallback position where the existing consent could be implemented, an up to date assessment has not identified any suitable town centre or edge of centre opportunities that are be available to accommodate the proposal in any event.

None of the vacant units in the town centre are suitable to accommodate a drive thru lane. There are no town centre or edge of centre sites that are suitable and available to accommodate the proposal including the former bus station site at Victoria Street.

There are no suitable and available opportunities to accommodate the proposal in the local centres at Dowlais, Gurnos, Cefn Coed and Brecon Road/Morgantown, Troedyrhiw, Aberfan, Treharris or at the proposed new local centre forming part of the 'Hoover Strategic Regeneration Area'.

The proposal complies with PPW paragraphs 4.3.13 – 4.3.29 and Replacement LDP Policy EcW3.

Design and Landscaping

The application proposes no change to the approved design and landscaping which was considered to be acceptable under LDP 2006 – 2021 Policy BW7.

Policy BW7 of the superseded LDP raised similar considerations to Replacement LDP Policy SW11: Sustainable Design and Placemaking in terms of requiring good quality sustainable design, which is appropriate for the local context, and minimising the demand for energy.

The proposal is in conformity with the requirements of LDP Policy SW11 in terms of sustainable design and landscaping.

Amenities

There has been no change in the proximity of residential development to the application site. The Delegated Report on the original application found that the proposal would have a limited and acceptable impact on the amenities of nearby residents.

The proposal is on conformity with LDP Policy SW11 in terms of protecting amenity.

Highway

The Delegated Report on the original application note that the proposal would abut a public footpath along the south west boundary which provides a link to the wider network of pedestrian/cycle routes that supports sustainable transport. The proposal is in conformity with maximum car parking standards and cycle parking standards, and will not have an unacceptable impact on highway safety.

The proposal complies with LDP Policy SW11(5).

Environment

There has been no change to the characteristics of the site in terms of ecology or to the potential environmental effects of the proposal. As reflected in the grant of the original permission, the site has no features of ecological value and the proposal will not result in an unacceptable impact on people, residential amenity, property and / or the natural environment.

The proposal complies with LDP Policy EnW1 and Policy EnW4.

Conclusions

Planning permission P/18/0399 is extant and material operations to commence development can be undertaken prior to the current expiry date on 2 May 2024.

The proposal to renew the planning permission is consistent with sustainable development principles in the Well-being of Future Generations (Wales) Act 2015; it is in conformity with PPW Edition 11; and it is in conformity with the Replacement LDP.

There has been no material change in planning circumstances since the original permission was granted that weighs against the permission being renewed.

Accordingly, the proposed extension of time for the commencement of the development approved under Permission P/18/0399 should be approved.

Please contact Colin Burnett at this office if you have any queries or require further information.

Yours sincerely

Burnett Planning & Development Limited

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