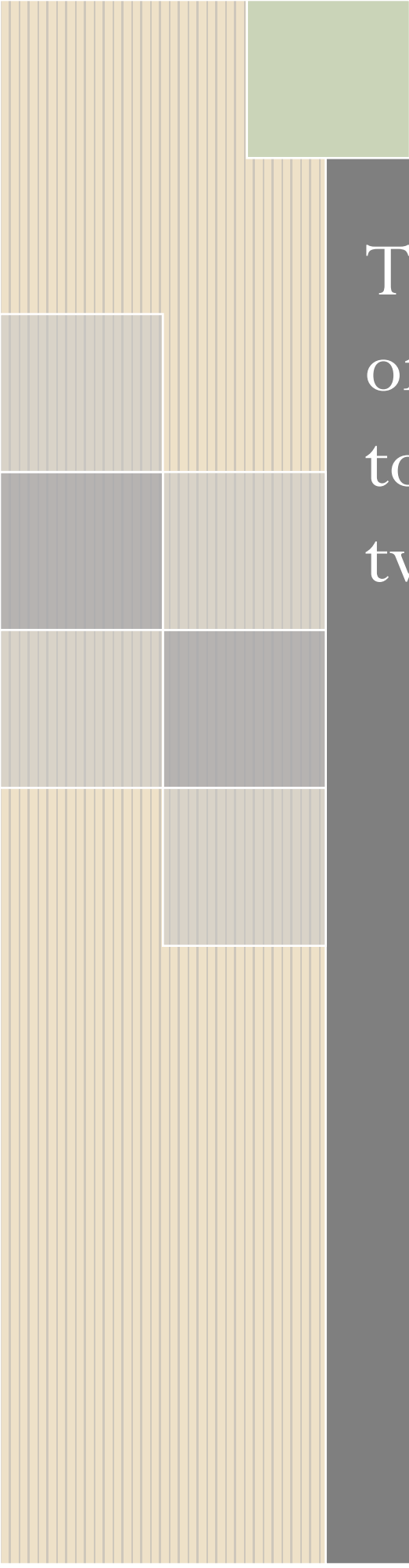




Trago Mills — Variation of Condition Application to allow introduction of two retail sales pitches



Trago Mills – Variation of Condition

Application to allow introduction of two retail sales pitches

1. Introduction

- 1.1. This report has been prepared by Reeves Retail Planning Consultancy (RRPC) on the instructions of Trago Mills (Merthyr) Ltd and accompanies a planning application to vary Condition 3 of Planning Permission P/00/0268.
- 1.2. This condition currently limits the areas at the Trago Mills site that can be used for the sale of convenience goods, to ‘ancillary franchise units’.
- 1.3. Trago Mills operates franchise units on either side of the main store entrance.
- 1.4. Trago Mills is seeking to vary this condition to allow the two mobile convenience traders who are currently operating from a very small part of the car park to continue to operate their businesses from the site.
- 1.5. This follows the recent actions by Merthyr Tydfil County Borough Council (MTCBC) who have sought to take enforcement action against the Company to prevent these units from operating.
- 1.6. The current application is seeking to legitimise the operation of these two units and the purpose of this report is to consider the implications of alternatively worded planning conditions and to assess these against the retail planning requirements set out in local and national policy, where this is necessary. The report is therefore structured as follows:
 - Section 2 provides a brief planning history of the site;
 - Section 3 sets out the proposed Variation of Condition that is being sought;
 - Section 4 reviews the retail context;
 - Section 5 provides a review of the retail planning policies and guidance relevant to the current proposal;
 - Section 6 considers the proposal against the sequential test;
 - Section 7 considers the impact that allowing the variation of condition would have; and
 - Section 8 sets out our conclusions.
- 1.7. Within the report we make reference to the following main documents:

Document	Author	Date	Reference
Pre-application Advice – Proposed Sales Pitches on land at Trago Mills, Swansea Road	Merthyr Tydfil County Borough Council (MTCBC) (David Cross)	10/11/2020	PAA
Delegated Report for Application P/19/0173	MTCBC	20/09/2020	DR1
Delegated Report for Application P/20/0054	MTCBC	09/04/2020	DR2
Appeal decision for APP/U6925/C/20/3246609 and APP/U6925/A/20/3246448	Vicki Hurst, Planning Inspector	24/08/2020	AD
Merthyr Tydfil Retail and Commercial Leisure Study Final report	Lichfields	14 June 2017	MTRS
Representations to Merthyr Tydfil Local Plan EIP on behalf of Trago Mills (submitted with Appeal documents)	Mango Planning (MP)	June 2019	MP1
Hearing Statement: Retail Matters on behalf of Trago Mills	MP	February 2020	MP2
Retail Statement for Extension to Trago Mills (Application ref: P/10/00140)	Nathaniel Lichfield & Partners (NLP)	November 2009	NLP1
Decision Notice for the Extension to Cyfarthfa Retail Park (Application ref: P/12/0219)	MTCBC	17/04/2013	CRP1
Full Council report for the Extension to Cyfarthfa Retail Park (Application ref: P/12/0219)	MTCBC	21/03/2013	CRP2
Retail Assessment accompanying the application for Extension to Cyfarthfa Retail Park (Application ref: P/12/0219)	GL Hearn	August 2012	GLH

2. Planning History of the Site

- 2.1. The relevant planning history of the application site dates back some 25 years, with the original application for the development of the site for retail purposes having been submitted by Trago Mills in 1994 (Appln ref: P/94/0206).
- 2.2. A planning history of the site is set out in the Delegated reports relating to Applications P/19/0173 and P/20/0054 (DR1 & DR2) but the following represent the key applications and permissions with respect to the retail uses on the site:
 - **Appln Ref: P/00/0268 Shopping Centre and Leisure Park (Outline)** – This application sought permission for a variation of the original outline permission (Application Ref: P/94/0206, approved on 07/02/1994) to allow for an extension of the consent for a further two years. This was approved on 6 November 2000 (PP1);
 - **Appln Ref: P/03/0130 Submission of “Reserved Matters” pursuant to Outline Planning Consent Permission P/00/0268 (Trago Mills Shopping Centre and Leisure Park) (Reserved Matters)** - This application was approved on 26 June 2003 (PP2); and
 - **Appln Ref: P/10/0014 Erection of extension to previously approved building to house additional storage and retail area, garden centre, loading building and plant house together with minor alterations to roof detail and accessibility improvements (Full)** - This was approved on 2 February 2013 (PP3).
- 2.3. The Trago Mills store and associated retail offer as built therefore comprises a combination of permissions PP1 / PP2 and PP3.
- 2.4. The use of the floorspace provided is the subject of a number of conditions which:
 - restrict the net sales area of the original store to 13,935 sqm net (PP1, Condition 2 and PP2, Condition 2). However, there is no equivalent restriction on the floorspace provided under the extension permission. The floorspace restrictions also exclude the external garden centre;
 - restrict the use of main store floorspace to non-food (comparison) goods (PP1, Condition 3; PP2 Condition 3; PP3 Condition 6);
 - allow up to 6,105 sqm of floorspace in the original store to be used for the sale of furniture and carpets and 2,940 for hardware and DIY sales (PP1, Condition 2; PP2, Condition 2), In the extension, a minimum of 65% of the net floorspace (unspecified) can be used for the sale of bulky goods which includes these items as part of a more extensive range (PP3, Condition 7);
 - allow up to 1,675 sqm of clothing and footwear sales from the original floorspace and 3,220 sqm for the sale of other durable (comparison goods) (PP1, Condition 2; PP2,

Condition 2) and up to 35% of the extension floorspace for the sale of unspecified non-bulky goods (PP3, Condition 7); and

- allow the ancillary franchise units to be used for unrestricted retail use including the sale of food (PP1, Condition 3; PP2, Condition 3).
- 2.5. As the purpose of conditions is solely to prevent any unacceptable harm as a result of a development, it is right that the conditions relating to retail sales should only seek to control those elements of the use which would otherwise be harmful. Restrictions on the total amount of floorspace provided and its use were therefore considered to be required to protect the vitality and viability of Merthyr Tydfil town centre at the time of the decisions.
- 2.6. However, the conditions also provide for a sensible degree of flexibility in terms of what can be provided on site, reflecting that the retail sector changes over time. Of relevance now:
- The ancillary franchise units are not restricted in terms of their net sales area, although the area used as ancillary franchise units occupies a combined net sales area of 540 sqm; and
 - There is no restriction on the use of the ancillary franchise units. The approved drawings indicate the units used as ancillary franchise units are ‘shop’ units. The sale of food items (convenience goods) is permitted. However, there are no planning restrictions that we are aware of that would prevent their use for other ‘shop’ (ie retail) purposes (save for the retail floorspace limits in Condition 2 – which the store is not in danger of currently breaching).
- 2.7. Otherwise, the only restriction on the franchise units appears to be that they cannot be subdivided (PP2, Condition 4).
- 2.8. More recently the site has been the subject of two planning applications, seeking a similar outcome to this current one, namely, to allow the continued operation of the two mobile units from the Trago Mills car park:
- **Appln Ref: P/19/0173 Change of use of land within the car park to accommodate 2 No. sales pitches;** and
 - **Appln Ref: P/20/0054 Change of use of land within the car park to accommodate 2 No. sales pitches.** This was essentially a resubmission of the previous application but accompanied by further information on the matter relating to the reason for refusal.
- 2.9. These applications were submitted following enforcement investigation and action by MTCBC by way of an enforcement notice, alleging that a change of use of the land had occurred as a result of the siting of the retail pitches.
- 2.10. An appeal was lodged against the enforcement notice under Section 174 of the Town and Country Planning Act 1990 (Reference: APP/U6925/C/20/3246609) and on 24 August 2020 the enforcement notice was quashed by the Inspector, who concluded that the notice did not

accurately specify the alleged breach of planning control and correcting the notice would cause injustice. The notice was therefore invalid (AD, para 16).

- 2.11. The two applications were refused by MTCBC for the following reason:

“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 policies EcW3 and EcW6 of the Merthyr Tydfil Replacement Local Development Plan 2016 – 2031”.

- 2.12. Application P/19/0173 was appealed under Section 78 of the Town and Country Planning Act 1990 and was determined by the Inspector at the same time as she determined the appeal against the enforcement notice. The Inspector dismissed the Section 78 appeal concluding that:

“Whilst I have found above that the sales pitches in themselves do not have a significant impact on the turnover of the town and noting that the Trago Mills site serves a wider catchment than just the local area, the reduction of associated visits has the further knock on effect of depriving the town centre of the linked trade that would otherwise have been captured by customer’s visiting the town. I find that this loss of trade is harmful to the centre’s viability and vitality particularly as it is identified as not being a strong centre”.

- 2.13. This decision reflected the Inspector’s conclusions that the Trago Mills site does not provide a suitable location for additional sales pitches due to the effect on the vitality and viability of the town centre and the discord with local and national planning policies in relation to the location of new retail development. She concluded that the location of the pitches outside the town was not in conformity with Policy EcW3 of the development plan (Local Development Plan (RLDP)) or the sequential approach to retail development as advocated as a core principle in national planning policies (para 34).

3. Proposed Variation of Condition

- 3.1. The Applicant is seeking permission to allow the two mobile convenience traders who currently operate from the car park to remain trading. The traders comprise:
 - A mobile butcher's van with serving hatch; and
 - A demountable stall selling fruit and vegetables.
- 3.2. Together the two units provide around 24 sqm of net convenience sales area, within a larger (gross) area of 96 sqm.
- 3.3. Having reviewed the planning history of the site and the conditions under which the Trago store and associated development currently trades, we find the reasons for the refusal of the previous applications for the two sales pitches and the subsequent appeal dismissal very surprising.
- 3.4. At its simplest, to seek to suggest that a retail development of over 17,995 sqm net sales area and where convenience sales are already permitted from up to 11 separate retail units with no further restrictions on the floorspace, is acceptable but the addition of two sales pitches providing just 24 sqm net of sales floorspace is not (less than 0.1% of permitted total and 4.4% of possible convenience floorspace), does not seem logical.
- 3.5. It also has to be borne in mind that:
 - The two businesses have been trading from the site since Trago Mills opened in April 2018 (or shortly after) and thus any theoretical adverse impact they may have had on Merthyr Tydfil town centre would have been reflected in the performance of the centre in December 2018. At that time Council officers told councillors that the Trago Mills development had resulted in an uplift in town centre visits of 91,000 over a 10 week period, a 28% rise, with many being first-time or returning visitors (MP1, Appendix 4). Even if there had been any reduction in footfall as a result of the two traders operating from Trago Mills, this has been greatly offset by the overall draw of the development and spin-off visits to the town centre;
 - The Policy Officer response in relation to the impact of the store extension of 4,060 sqm net (PP3) notes '*Given the relatively small size of the extension, I have no evidence to disagree with this conclusion*' [that the proposed extension will represent a slight reduction in the growth of expenditure rather than an absolute reduction in town centre turnovers from current levels]. Although the current proposal relates to convenience sales area, the floorspace represents just 0.6% of the quantum previously considered to be 'relatively small'; and
 - Around the same time as the Trago extension was allowed (February 2013), the extension to the Cyfarthfa Retail Park was allowed (April 2013, Application ref: P/12/0219). This included a food hall within the new Marks & Spencer store. Condition 31 of this permission allows up to 1,199 sqm of floorspace to be used for convenience purposes.

This was based on an anticipated convenience turnover of £7.76m in 2016 from just 697 sqm net. In allowing the application and limiting the gross floorspace for convenience goods but placing no restriction on the actual selling area, the Report to Full Council notes:

Given the localised nature of convenience goods, it is considered within the Retail Assessment that the majority of the diverted expenditure will be from zone 1 (Merthyr Tydfil and Treharris). Section 6.12 of the Retail Assessment acknowledges the most significant diversion is anticipated from the Tesco and Asda stores in Merthyr Tydfil at £2.21m and £1.99m respectively. However due to the lack of premium convenience goods retail, it is expected that the diverted expenditure will likely come from beyond this zone.

RTP concur with this view. The Retail Assessment (Section 6.13) considers the impact on these stores taking into account benchmark trading levels. In this regard, it has been assumed that the floorspace efficiency (from 2011 to 2016) of all the stores within Merthyr Tydfil, with exception to Co-op, currently trade well in excess of benchmark levels....

....The Retail Assessment (Section 6.14) identifies that the majority of the convenience stores have a strong performance in Merthyr Tydfil and that there is scope for accommodating substantial additional convenience floorspace without undue harm to the performance of either the existing stores or the convenience provision within Treharris. It is therefore concluded in the Retail Assessment (Section 6.16) 'that both Merthyr Tydfil town centre and Treharris local centres are capable of withstanding the modest impact arising from the trade diversion to the proposed M&S'. It is acknowledged in Section 6.17 of the Retail Assessment that it is anticipated that there will be modest trade diversion from centres beyond this zone.

It is expected that 65% of the turnover of the convenience goods element will be through diversion from stores in Merthyr Tydfil [£5.04m]....

*....The Retail Assessment states in Section 6.18 that it is clear that the convenience goods impact of the application is acceptable and will not result in substantive harm to the vitality and viability of any existing centre in or beyond the Study Area. **In this regard the Policy & Implementation Group Leader considers it unlikely that there will be any adverse impacts on existing convenience goods retailers in the study area and the contents of the applicant's submission are not contested**'. [our emphasis]*

- 3.6. Whilst the trade draw of the two mobile units may differ from that of the Marks & Spencer food hall, any impact has to be considered in the context of the overall health of the centre (see below). If the main convenience store in the town centre is trading sufficiently well to be able to withstand an individual impact of around £2.21m (GLH, Table 8b), it is nonsensical to suggest that the overall health of the centre will be harmed by two traders whose total turnover is likely to be less than a tenth of this (MP2, para 3.20) and where the trade draw from the town centre will be considerably less.

- 3.7. On this basis we can see no substantive reason why varying the existing planning condition to allow the continued trading of the two mobile convenience businesses should be opposed.
- 3.8. Further, an element of convenience sales is already permitted from the Trago site, as Condition 3 of PP1 and PP2 allow unrestricted food and drink sales from the franchise units.
- 3.9. Further, Condition 3 of Planning Consent P/00/0268 does not restrict the location of these sales as it states:

“This consent does not allow for food retailing, other than ancillary franchise units”

- 3.10. This restriction is sought to be imposed by Condition 3 of PP2 which states:

“This consent does not allow for food retailing, other than the ancillary franchise units specified upon the deposited drawings”

- 3.11. The Planning Statement accompanying this application addresses the conditions in the outline and reserved matters. It is therefore only Condition 3 of Permission P/00/0268 that we are seeking to vary at this point in time.
- 3.12. Our preferred option would be to vary the condition to specifically identify the areas that may be used for food retailing, namely the units at the front of the store and an area of the car park for mobile traders. We are therefore proposing that it be amended as follows:

Option A: “This consent does not allow for food retailing other than within the ancillary franchise units or from an area of the car park extending to no more than 96 sqm gross (as shown on plan [xxx]). The use of the car park area will be limited to mobile businesses only.”

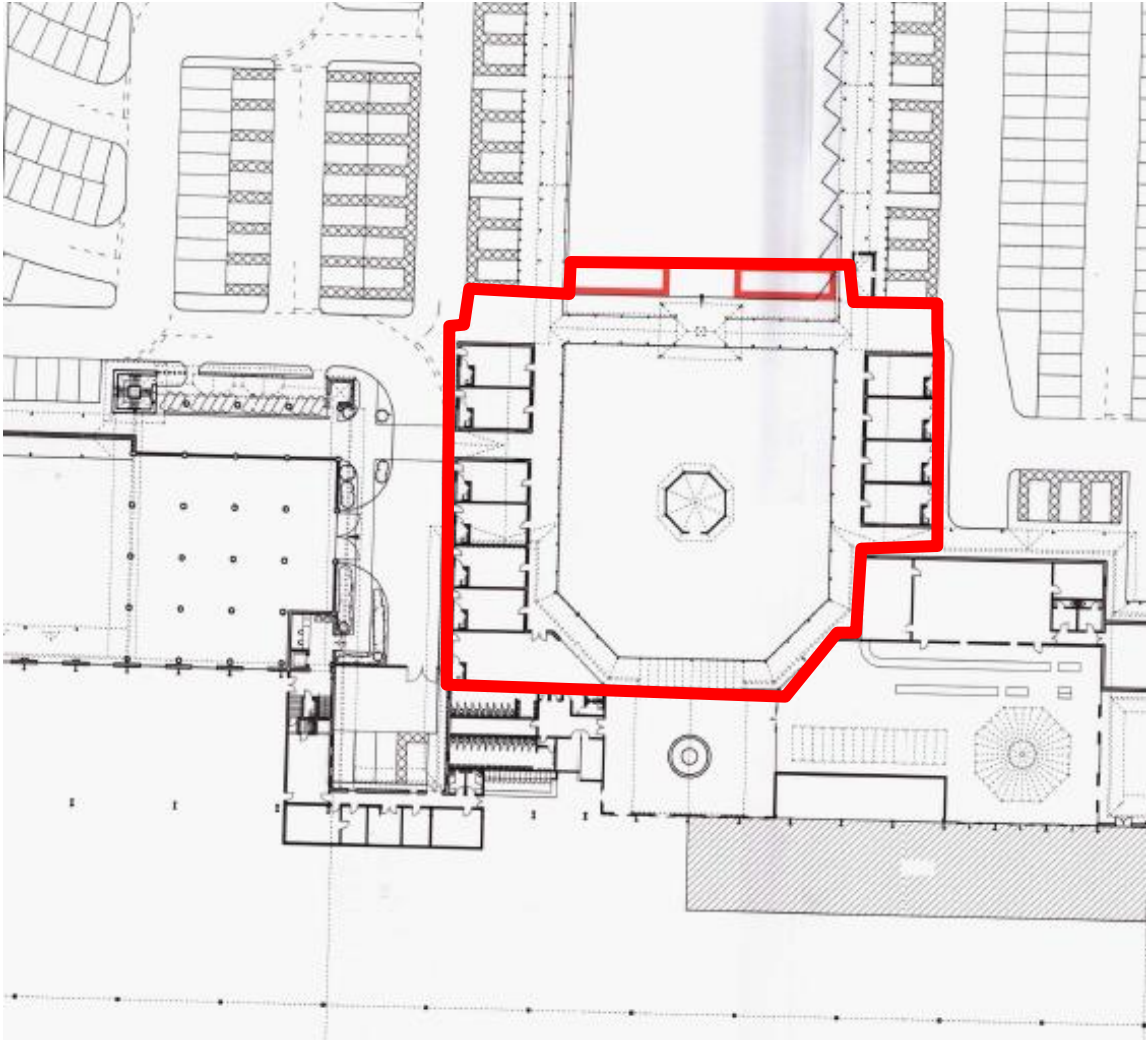
- 3.13. The effect of this variation of condition would be to increase the convenience sales area provided at the site by 96 sqm gross. The rest of this statement therefore considers whether such a change can be shown to be in accordance with national and local planning policy.
- 3.14. However, it is important to note that contrary to earlier comments, the introduction of the two mobile units does not ‘increase the range of goods that can be sold at the site’ (DR1, page 5), as unrestricted convenience goods can already be sold from the shop units. As such the introduction of the two mobile units increases the choice in terms of the way the goods are retailed but the products themselves can already be sold from the site. There is also no restriction on the trading hours of the main Trago store or any of the individual retail units.
- 3.15. However, in the event that the Council do not agree that the above amended wording is acceptable, then we would wish to suggest that the following alternative wording could be applied instead:

Option B: “This consent does not allow for food retailing other than within the area shown on the attached plan. The maximum net retail floorspace that can be used for the sale of convenience goods is 540 sqm”

OR

Option C: “This consent does not allow for food retailing other than within the ancillary franchise units or from the area of the car park shown on the attached plan. The maximum net retail floorspace that can be used for the sale of convenience goods is 540 sqm.”

3.16. The plan referred to would be similar to that shown below:



3.17. Under Options B and C the maximum net sales area for convenience sales is explicitly stated but is consistent with the convenience sales area specified on the previously approved plans. There is therefore no change in the convenience retail offer at the site.

3.18. Varying the condition in this way provides the Council with reassurance that the convenience offer at the site will not increase from that already implicitly permitted but also allows a maximum net sales area for convenience goods to be introduced. It does not increase the convenience floorspace permitted on the site and as such should not raise any issues of impact on the town centre.

3.19. Any retail floorspace above 540 sqm could be used for the sale of unrestricted comparison goods, as it could now, as there are no restrictions on the use of the units for other retail purposes. As a

result, a number of non-convenience businesses have operated from the site since Trago opened, including a hairdressers and an outlet selling conservatories and windows.

- 3.20. This represents an alternative approach to that discussed at the Pre-Application meeting regarding a temporary permission for the retention of the pitches (PAA, page 3).
- 3.21. On reflection however, we consider that a permanent change to the condition could be made that would ensure that the convenience floorspace allowed on site is not increased from that already permitted but which would also allow the pitches to remain permanently. It also has the advantage from the Council's perspective of specifying the maximum net convenience floorspace that can be provided on site, in a way consistent with Condition 2.
- 3.22. The ancillary franchise units could continue to be used for the sale of convenience or comparison goods, provided the total convenience offer does not exceed 540 sqm.
- 3.23. Amending Condition 3 in this way has no effect on the overall amount of convenience retail floorspace that can be provided on the site. The only change is that a very small amount of the permitted floorspace could be provided from mobile sales pitches in addition to the ancillary franchise units.

4. The Retail Context

- 4.1. Before undertaking an assessment of the proposed variation of condition against retail policy, it is important to first consider the retail context in which the planning condition was originally applied, when it was considered necessary to safeguard the vitality and viability of Merthyr Tydfil and other centres (DR1, page 5; AD, para 25), and the position today.
- 4.2. The permissions relevant to the store as constructed are detailed above but the original consent dates back to 1995 (NLP1 paras 2.1 – 2.4), a quarter of a century ago.
- 4.3. Since then, the condition has been replicated (with the same / similar wording), with no consideration given as to whether the need for the condition remains.
- 4.4. During this period there have been major changes to the way people undertake their convenience shopping including the rise of internet shopping and home delivery and the significant growth of the limited assortment discounters such as Aldi and Lidl. There has also been considerable retail development in the Merthyr area both within and outside the town centre.
- 4.5. As a result, it would seem unlikely that the need for the condition remains unchanged since 1995.

Key Retail Changes in the Convenience Sector

- 4.6. Whilst detailed information on the retail environment in the mid-1990s is not readily available, NLP1 which was prepared in 2009, provides information on some of the changes seen in the original 15 year period since permission was first granted (NLP1, paras 4.29 – 4.39).
- 4.7. Significantly this included not just the development of the Cyfarthfa Retail Park, which was recognised to have dramatically improved Merthyr's retail offer and retention of comparison expenditure (NLP1, para 4.36), but the town centre convenience offer had also been significantly improved (NLP1, para 4.37) with the opening of both the Aldi and Tesco stores in the town centre.
- 4.8. Tesco was identified as being a key attractor to the town centre and in 2007 the centre was considered to be performing in line with its position in the retail hierarchy (NLP1, para 4.38) and improvements to the vitality of the town centre had been seen (NLP1, para 4.39).
- 4.9. In the late 2000s therefore, Merthyr town centre appears to have been stronger than in the mid-1990s and any planning concerns regarding the health of the town centre that could justify the restriction on convenience sales at the Trago Mills site, would have been significantly lessened, if not removed. However, as there was no change to the convenience offer at the site, the condition remained unchanged.
- 4.10. This improvement in the health of the centre continued and was confirmed by the subsequent approval of the Marks & Spencer store, including a food hall as part of the extension to Cyfarthfa Retail Park approved in March 2013.

Current Health of the Centre

- 4.11. The most recent assessments of the health of Merthyr town centre are provided in Lichfield's MTRS which represents the Council's most up-to-date retail assessment and MP2, Appendix 7 which considers the health of the centre in early 2020.
- 4.12. The Council and Inspector considering the 2020 appeal appear to be concerned that the town centre is now vulnerable/ fragile and the Inspector makes it clear that, in reaching her decision '*I have no substantive evidence before me that there is any change in the circumstances that led to their [ie the conditions applied to the original consent] imposition*' (AD, para 30).
- 4.13. This is not to say that things have not changed, only that such information was not provided to her. In practice the town centre has seen significant convenience development since the imposition of the condition and now benefits from a key convenience anchor, improved trade draw as a result of the Cyfarthfa Retail Park development and extension, and more recently the opening of Trago Mills itself which the Council acknowledge has had a significantly positive impact (MP1, Appendix 4; NLP1, paras 6.25 – 6.27).
- 4.14. This improvement can be evidenced by comparing the findings of the Merthyr Tydfil Retail and Leisure Capacity Study (RCLCS) by Roger Tym & Partners, published in October 2008 (as summarised in NLP1), with the most recent Council study (MTRS) published in 2017.
- 4.15. This highlights a number of changes over time:

Retail Provision (sqm)	RCLCS (from NLP1, para 4.8) - 2007	January 2017 (MTRS Table A6.2)
A1 Convenience	8,100	10,195
A1 Comparison	26,920	16,152
A1 Service	Not specified	2,622
A2 Financial and Business Services	3,030	3,735
A3 Restaurant / café/ bars / takeaways	5,770	5,561
Vacant	6,320	5,360
Total	50,140	43,625

- 4.16. This shows that the convenience offer in the town centre increased between 2007 and 2017.

- 4.17. Unfortunately, the health check undertaken in 2020 (MP2, Appendix 7) provides information on units rather than floorspace which leads to a view that the centre has a below average level of convenience provision and is not considered to be particularly strong (AD, para 22).
- 4.18. However, this fails to recognise the substantial size of some the outlets, including Tesco (4,488sqm), Iceland (364 sqm) and Farmfoods (654 sqm), with a 787 sqm Aldi also located on the edge of the centre (MTRS, Appendix 5). In floorspace terms therefore convenience provision in the centre continues to be good. There also appears to have been an increase of 1 in the number of the convenience units in the centre between 2017 (MTRS, Table A.6.1) and 2020 (MP2, Appendix 7, para 1.6).
- 4.19. During the same period vacancies have increased by just 2 units (48 to 50), although it is not clear if the same areas have been used in the two reports, as MP2 refers to a total of 287 units and MTRS to just 257. This suggests that the former may be using a more extensively defined town centre and vacancies for this area in 2017 are unknown.
- 4.20. We note however that the Council refers to there being 40 vacancies in 2019 (DR2, page 5), which would seem to suggest an improvement since the 2017 Lichfield's study.
- 4.21. This suggests that in practice there has been very little change either in the convenience offer or vacancies between 2017 and 2020 and therefore nothing to suggest that Lichfield's conclusions on the health of the centre would have changed during this period.
- 4.22. They conclude that one of the centre's strengths is its good range of convenience shopping facilities and the indoor market. Weaknesses include a low number of national retailers and restaurants /cafes but there is no suggestion that more independent convenience shops or stalls are required (MTRS, Appendix 5).
- 4.23. This is particularly important as this period saw the opening of Trago Mills and the two mobile units. There is therefore no evidence that the two convenience stalls have impacted on the town centre as convenience store numbers appear to be the same or to have increased by 1 during this period.
- 4.24. Further, as has been noted by the Council, the town centre has benefitted from considerable investment in recent years (DR2, pages 7-8) and additional projects are on-going such as the 'Meanwhile' scheme. This is regenerating empty buildings by providing premises for entrepreneurs including new retail businesses.
- 4.25. The overall conclusion therefore must be that Merthyr town centre will be more resistant to competition from out of centre convenience store development now than it was in the mid-1990s. At that time the Council accepted that the proposed ancillary shop units at the Trago development could all be used for convenience sales and they have since approved a Marks & Spencer food hall, with an unrestricted net sales area (albeit the gross is controlled), whilst the town centre has seen increased convenience provision.

Merthyr Markets

- 4.26. Markets provide a different and complementary offer to retail shops and operate in a wide variety of locations, with varying frequencies and of different sizes. They can also sell a wide range of products, with some specialising in a particular type of offer, such as farmers' markets and 'flea' markets.
- 4.27. In Merthyr there are three markets currently operating:
- **St Tydfil's indoor market** which is managed by St Tydfil's Shopping Centre and is located in the market hall on the first floor of the shopping centre. There are a wide variety of stalls in the market, including a deli, bakery, jeweller, ironmonger, café and many more. The market is open between 9am and 5.15pm Monday to Saturday.
 - **M&B Street Market** which is operated by M&B Markets every Tuesday and Saturday in the main High Street and Market Square. The market provides a selection of goods and services including fruit, vegetables, meat, clothing and rugs; and
 - **A farmers market** which takes place on the High Street on the first Friday of every month between 10am and 2pm. This market is run by the Council and has strict controls over who may trade from it, including a limit of only one producer for each type of product and a requirement that the produce must come from within a 50 mile radius;
- 4.28. The latter two markets provide trading outlets for the types of businesses which aim to serve a variety of catchment areas, changing location depending on the day of the week / month. However, such mobility and limited hours trading is not in itself, a definition of a market type operation (DR1, page 5; PAA, page 2). Indeed, the indoor market in Merthyr operates 6 days a week, as does, for example, the considerably larger one in central Cardiff.
- 4.29. These markets and the stall holders who trade there, trade alongside the shop-based retailers, adding to the variety of outlets and increasing consumer choice. They are usually considered to be valuable attractions in their own right and we are not aware of any suggestion in Merthyr, Wales or the UK that such operations should be encouraged to close as shop units become vacant in the vicinity. Indeed, whilst some stall traders may decide to move on from a market stall to a shop unit once they have refined or expanded their trading offer, for many operating a market stall offers many benefits over the traditional shop unit.
- 4.30. As such markets and mobile traders represent an alternative and complementary trading format to that provided by retailers in shop units.

Trago Mills

- 4.31. The permitted Trago Mills store and associated retail offer opened in April 2018 and provides a retail development of over 17,995 sqm net. The majority of this floorspace is provided within the main Trago store but around 540 sqm of floorspace is provided in the 11 small unit shops by the store entrance.

- 4.32. Trago Mills was not open at the time that the MTRS household survey was undertaken in 2017, but in-house data confirms the original expectation that the development draws trade from an extensive catchment area, with less than a quarter of shoppers coming from the immediate Merthyr area.
- 4.33. Most recently, this has demonstrated by a survey of shoppers at the main store, which sought to collect information on shoppers' home postcode during the period 24 August to 6 September 2020.
- 4.34. A total 6,574 responses were collected by the till operators asking every 'paying' customer if they would be willing to provide the first four digits of their postcode and the results are presented in Appendix 1. This shows that:
- 77% of respondents come from outside Postcode areas CF47 and CF48 which cover Merthyr Tydfil and the immediately surrounding area;
 - 64% of shoppers come from areas with CF postcodes (41% from outside the two Merthyr Postcode areas);
 - 21% of respondents come from Newport postcode areas;
 - 10% of shoppers come from elsewhere in Wales (mainly Swansea and Llandridnod Wells postcodes); and
 - 5% of shoppers came from English postcode areas.
- 4.35. The importance of trade from the wider area can also be seen from the changes in turnover at the store as different lockdowns as a result of Covid-19 have come into effect:



- 4.36. As a result, it is not surprising that the development has seen positive spin-off benefits for the town centre. Significant numbers of new visitors are being attracted to the area to shop and at least some would be expected to visit the town centre. It is also likely that the improved retail provision at the site will mean local residents have less need to shop outside the immediate locality for some non-food purchases, reducing local leakage.

Mobile Units

- 4.37. The final consideration is the nature of the businesses which are the subject of this application, namely the use of a small part of the main car park for occupation by two mobile convenience traders.
- 4.38. Each mobile unit would occupy a sales pitch of around 48 sqm each (DR2, page 1), with the actual sales area being just 12 sqm each.
- 4.39. Importantly these businesses have been trading from the site since Trago Mills opened (or very shortly after) and comprise:
- A mobile butcher's van selling fresh meat. This is operated by Mark's Mobile Butchers; and
 - A demountable greengrocers stall selling fresh fruit and vegetables. This is operated by S Williams and Sons.
- 4.40. Both businesses trade on just 5 days a week (closed Monday and Tuesday) and with shorter hours than the main store (MP2, para 1.18), not daily as suggested in the PAA (PAA, page 2).
- 4.41. The two businesses attract trade from a wide area (DR2, page 6) reflecting the trade draw of the Trago store, as the stall holders benefit from spin-off trade.
- 4.42. This 'spin off' trade will make up the majority of their business and, just as three-quarters of the main store's trade comes from outside the Merthyr area, it would be expected that these two businesses would see most of their trade coming from outside the immediate Merthyr area.
- 4.43. This is evidenced by the greengrocer who is from Merthyr and who has also been trading at the town centre outdoor market for more than 20 years. He is supported there by a regular and loyal clientele and this business has not been affected by his opening at Trago Mills.
- 4.44. However, in this new location he is able to serve a wider customer base and to trade more frequently – an important factor for selling fresh fruit and vegetables, as the market only operates on two days a week. The site also allows him to serve local residents who are unable to visit the market – either due to access or timing difficulties (MP2, Appendix 8).
- 4.45. We would expect the butcher to have a similar draw but, contrary to what may have been indicated by the operator previously (MP2, Appendix 8), there is no evidence to suggest that the mobile van is a major draw in its own right, except perhaps in very unusual circumstances.
- 4.46. The company involved operates from several other locations on a regular basis including:

- Bristol, Kingswood (5 days a week);
- Bristol, Yate (3 days a week);
- Bristol, Knowle (2 days a week);
- Bristol, Little Stoke (2 days a week);
- Thornbury (1 day a week);
- Midsomer Norton (1 day a week);
- Pontypool (1 day a week);
- Treorchy (1 day a week); and
- Mountain Ash (1 day a week);

- 4.47. It would therefore seem unlikely that many shoppers would make a special journey to the Merthyr outlet, from further afield, unless they have another reason for visiting the area. This would most likely be to visit the Trago store but theoretically it could also involve a linked trip to the town centre, or to the Cyfarftha Retail Park.
- 4.48. It is also the case that similar businesses operate elsewhere in England and Wales and thus the likelihood of someone undertaking a long drive to Merthyr solely to purchase meat seems low.
- 4.49. We are confident that this view could be supported by survey data in normal circumstances, but the present situation as a result of the Covid-19 pandemic makes it impossible to undertake any primary research – any data collected will clearly not be ‘typical’ at the moment and, more importantly, face-to-face interviewing even outside, is not considered a sensible option.
- 4.50. However, common sense and our understanding of shopping behaviour generally indicates that the above is likely to be true. The two units provide an additional offer that appeals to Trago customers from across the store catchment, but their draw and turnover will always be very low compared with that at the main Trago Mills store, Cyfarftha Retail Park and Merthyr town centre.

5. Retail Planning Policy Review

- 5.1. The retail planning policies relevant to the determination of applications for retail development have previously been considered in a number of documents, including the delegated Reports for the 2019 and 2020 applications and the appeal decision (DR1, pages 3-4; DR2, pages 3-4), with the latter reflecting the policies in the most recently adopted RLDP.
- 5.2. We consider each of the key retail policies below.

Policy EcW3 Retail Hierarchy - Supporting Retailing Provision of the RLDP

- 5.3. The reason for refusing the 2020 application refers to the proposal being contrary to this policy and is also considered in the Inspector's report (AD, para 21). The policy states:

Merthyr Tydfil Town Centre is the favoured location for retail, leisure, and other complementary development, being situated at the head of a retail hierarchy and being followed by the local centres of Dowlais, Gurnos, Cefn Coed and Brecon Road/Morgantown, Troedyrhiw, Aberfan, Treharris and a new local centre forming part of the 'Hoover Strategic Regeneration Area'. Proposals for new and enhanced retail, leisure and other complementary provision in all these centres will be permitted where they improve the vitality and viability of the centre(s) concerned.

Outside the above centres, proposals will be subject to an assessment of need and a strict application of the sequential test. Proposals will then only be permitted where they avoid causing harm to town/local centre vitality and viability.

- 5.4. We note that in the PAA it is suggested that there are no conditions or planning obligations that could be applied to address the Council's concerns as *"this would not overcome the fundamental issue, being the out of town location of the sales pitches, which is at odds with the policies in Planning Policy Wales and the Replacement Local Development Plan (LDP)."* (PAA, page 2).
- 5.5. Very clearly though, Policy EcW3 does not seek to prevent out of centre development but requires it to demonstrate that:
 - There is a need for the development;
 - That the sequential test has been satisfied; and
 - Harm to the vitality and viability of the town centre is avoided.
- 5.6. In this context it is important to note that the sequential and impact tests are separate, and, whilst a town centre location may be preferable for a retail or town centre use, if it can be demonstrated that there are no sequentially suitable sites available, then the sequential test has been satisfied. The potential benefits of locating the development in the town centre are therefore irrelevant (DR2, page 7).
- 5.7. Adopting an approach that requires all developments to go to a town centre is not only contrary to the RLDP but also to national planning policy. PPW is clear that the Welsh Government

operates a ‘town centres first’ policy (PPW, 4.3.18) but the development of out of centre sites is acceptable where there is no sequentially preferable site available (PPW, para 4.3.19).

- 5.8. This is expanded in TAN4 (Section 7) and of course is consistent with primary objective of planning policy to contribute towards the delivery of sustainable development (PPW, para 1.2) – it is not to prevent development.
- 5.9. We would also note that, whilst failure to comply with the sequential test appears to be cited as a potential reason for refusing permission for the retention of the sales pitches (PAA, page 2), neither the 2019 nor the 2020 applications were refused on this basis. The reason for refusal only refers to an ‘*unacceptable harm to the viability and vitality of the town centre*’.

Policy EcW4: Retail Allocation

- 5.10. Whilst Policy EcW4 is not directly relevant to the current application as it relates to a convenience needs assessment for store based floorspace provision (DR2, page 6), it is of note that the RLDP provides no assessment of the need for additional non-store based trade. This is despite the amount of convenience spend going to such non-retail outlets increasing (DR2, page 6). As a result, there is potential capacity to support the proposed use.
- 5.11. On a related point, the Council’s subsequent reference in the Delegated Report to the core principle of directing retail development towards the town centre is noted (DR2, pages 6-7), but this is a sequential point rather than a policy consideration under Policy EcW4. It is also of note that whilst DR2 refers to stalls and markets as being covered by the sequential approach, this is not specified in the RLDP.

Policy EcW6: Out-of-Town Retailing Areas

- 5.12. The reason for refusal of the 2020 application also refers to Policy EcW6 which explicitly relates to out of centre retail development. This reiterates that proposals for retail development in such locations must demonstrate:
 - A need for the proposal;
 - Compliance with the sequential test; and
 - That the proposal would not, individually or cumulatively, have an unacceptable impact on the trade, turnover, vitality and viability of the town or local centres.
- 5.13. The supporting text recognises Trago Mills as an existing out-of-centre retail location (RLPD, para 6.7.51) but notes the policy applies to all proposals that create additional retail floorspace. However, paragraph 6.7.54 makes it clear that a retail impact assessment will normally only be required for developments over 2,500 sqm.
- 5.14. This is consistent with national planning guidance (TAN4, para 8.2) and whilst smaller schemes may also have to be assessed, TAN4 is clear this should only be where it is believed that a

development will have a significant adverse impact and should be proportionate to potential impacts (TAN4, para 8.2).

Conclusions on Policy Requirements

- 5.15. The proposed variation of condition will only create, at most an additional 24 sqm net of retail space, with a gross area of a maximum 96 sqm. As such, we consider this a de minimis change but note that the supporting text to Policy EcW6 indicates that the policy applies to all retail developments.
- 5.16. As such we consider that it is necessary to demonstrate compliance with the need and sequential requirements of Policies EcW3 and EcW6 if Option A of the proposed Variation of Condition is to be shown to be in accordance with policy.
- 5.17. It should not be necessary to provide a retail impact assessment (RIA) for a scheme that proposes less than 4% of the normal threshold for an RIA. It should also not be required as TAN4 is clear such a request should only be made where there is a concern the proposal may have a significant adverse impact.
- 5.18. In this case it has already been accepted that the direct impact from allowing the two pitches will not impact significantly on the turnover of the town centre (AD, para 24), and the concern relates to the loss of potential linked shopping trips (AD, para 31). However, whilst this is identified as potentially harmful (AD, para 31), there is no indication that that this indirect impact would be greater than the direct impact. As such it cannot be significantly adverse.
- 5.19. The presence of vacant units per se is also not a reason for refusing a planning application (PAA, page 2) unless it can be shown that the application proposal can be accommodated in one or more of these units. However, although this is a sequential test concern rather than one relating to impact and by definition no shop unit will be suitable for a mobile trader.
- 5.20. Similarly, the Council's concerns regarding the possible issue of indirect harm to the town centre is set out in the response to P/20/0054 but in summary seems to relate back to the sequential approach, citing the fact that Merthyr town centre is at the top of the retail hierarchy (PAA, page 2).
- 5.21. Notwithstanding this view, we consider the impact of the two pitches in a proportionate way in Section 8 of this report. The need for the development is considered in Section 6 and the sequential test in Section 7.
- 5.22. We consider that this provides the necessary information to demonstrate that the proposal is in accordance with retail planning policy, recognising that whilst the recent Inspector's decision dismissed an appeal for a similar outcome, this was based on the information before the Inspector at the time. This did not include the recent survey of shoppers which shows that 77% of store shoppers come from outside of the Merthyr area, nor does it appear that the full planning

history of the site or information on the changes in the wider retail offer in the area were presented.

- 5.23. It is also important to recognise that the alternative proposed variations to Condition 3 (Options B and C) do not require this level of policy justification, as they do not propose any increase in retail floorspace on the site.

6. The Need for the Proposal

- 6.1. The need for the two sales pitches has been discussed in relation to the earlier applications and appeal and failure to demonstrate need has not been a reason for refusal.
- 6.2. In quantitative terms, sales at market stalls are not covered by traditional retail expenditure and are one form of ‘Special Forms of Trading’ (SFT). This is the same category as online spending and the category as a whole is forecast to be increasing over time. Any need for additional provision is therefore not reflected in the Council’s retail study as this only considers ‘shop based’ retail spend.
- 6.3. This was considered by the Inspector at the recent appeal (AD, paras 27 – 28) and the quantitative need for the mobile units appears to have been accepted.
- 6.4. There is a demonstrable qualitative need for the pitches, as evidenced by the popularity of the two businesses which are already trading from the site. They are popular with customers and well used and the two independent businesses wish to continue operating from the site. As a result, there is a qualitative need from both the customer and business perspectives.

7. Sequential Approach

- 7.1. As set out above, the sequential test is an important aspect of retail and town centre planning policy, but it must be recognised that the test is not designed to prevent out-of-centre retail development - it is a 'town centre first approach' (DR2, page 7; AD, para 20), not a 'town centre only' policy.
- 7.2. This is acknowledged by the Inspector who notes that the RLDP requires development outside of centres to demonstrate that it cannot be accommodated within such areas (AD, para 26).
- 7.3. However, in any assessment of potential sequential sites, it has to be recognised that to be sequentially preferable, sites must be both suitable and available for the proposed use (PPW, para 4.3.19). TAN4 expands on this indicating that the format, scale and design of the proposed development are to be considered when assessing site suitability (TAN4, para 7.2).

Sequential Test – Search Parameters

- 7.4. The current application and the earlier applications considered previously have been explicit in seeking permission for two small retail sales pitches to allow a demountable stall and mobile van to be provided on the Trago Mills site.
- 7.5. It has been suggested that the proposal fails the sequential test as the two businesses could occupy permanent shop units in Merthyr town centre (for instance AD, para 29; PAA, page 2). However, such an approach itself fails to recognise the significant differences in business model between a retail shop and, what these businesses actually are, namely market stalls albeit one of which operates from a mobile vehicle due to the need for refrigeration.
- 7.6. The Inspector is correct to indicate that the food stuffs themselves could be sold from within a shop unit (PAA, page 3; AD, para 29) but it is the nature of the business, not the product, which dictates the property requirements of the business. Thus, the fact that there a number of vacant units in the town centre of a similar size (AD, para 32) is not determinative.
- 7.7. To suggest that these businesses could and should operate from shop units implies that:
 - Neither the Council nor the Inspector recognise that markets have a different role from shop units (PAA, page 2). In practice markets and stall holders across the UK trade alongside shop-based retailers, adding to retail variety and increasing consumer choice. Taken to its logical conclusion, the approach suggested by the Council should see them seeking the closure of the existing markets in Merthyr Tydfil, with stall holders encouraged to take leases in the vacant units within the centre instead. This would be neither practical nor desirable as, whilst some stall traders may decide to move on from a market stall to a shop unit once they have refined or expanded their trading offer, for many operating a market stall is their preferred method of operation and could not be transferred to a shop unit. Indeed, should they wish to do this, the opportunities already exist;

- A trader is only considered to operate as a stall holder or market trader if their business operates from a particular location on just one or two days a week. The street and farmers markets in Merthyr provide trading outlets for the types of businesses that wish to serve a variety of catchment areas, changing location depending on the day of the week / month. However, such mobility and limited hours trading is not in itself, a definition of a market trader or operation (DR1, page 5; PAA, page 2). Indeed, the indoor market in Merthyr operates 6 days a week from a fixed location, as does, for example, the considerably larger market in central Cardiff; and
 - The Council do not appear to appreciate the very high overheads that running a shop can involve, and these fixed costs cannot be supported by businesses that only trade on a part-time basis.
- 7.8. We recognise that there would be benefits to the overall vitality and viability of Merthyr town centre if some of the existing vacant units could be reoccupied. However, the businesses that operate from the sales pitches provide a different retail offer and their format is not consistent with operating from a fixed shop unit.
 - 7.9. Refusing the current proposal on the basis that the two businesses would instead operate from shop units in the town centre, is not realistic for two reasons. Firstly, both operators have made it very clear that they will not occupy shop units, regardless of their location.
 - 7.10. Secondly, even if they could be persuaded to move into a permanent building, they would not go to Merthyr town centre which serves a different and more local catchment than the Trago Mills site. Instead they would be expected to look for a shop unit located in an area with the same or similar catchment, and in this theoretical situation would be most likely to occupy one of the existing vacant shop units at Trago site. The town centre will therefore not benefit if this application is refused as shop units in the town centre cannot be considered suitable on either ground.
 - 7.11. There can be no uncertainty over this, as this application is not for speculative retail development, where the sequential test is considering the suitability and availability of sites for unknown retailers but is intended to provide space for two existing and known operators with an established and proven business model.
 - 7.12. Further, the fact that operators have different requirements is recognised in planning policy and TAN4 makes it clear that in undertaking a sequential assessment, the developer '*will need to provide evidence to explain why potential sites or buildings within the centre are unable to accommodate the format, scale and design of a proposed development*' (TAN4, para 7.2).
 - 7.13. Clearly the format, scale and design of two mobile units differs significantly from the format provided by a shop unit and as such cannot be considered suitable for the proposed use. This is not being inflexible, but rather recognising the fundamental difference in the offer provided by mobile and shop-based businesses.

- 7.14. This does not just apply to the current proposal, but to many traders and services that seek to complement the static shop-based offer with more mobile options, whether selling ice creams, hot food or services such as mobile hairdressers, car repairs or similar.
- 7.15. The difference is also clearly recognised in how retail expenditure is defined, with market stalls being identified as a ‘Special Form of Trading’ (SFT) ie expenditure that is not sold in shops (NLP, para 3.47).
- 7.16. As a result, a shop unit is not a suitable alternative for the current uses proposed and thus we do not consider the availability of vacant units in this report.
- 7.17. Instead, we have considered whether there are any opportunities within or on the edge of the town centre from which the two traders could operate, a scenario noted by the Inspector (AD, para 33).
- 7.18. However, it remains the case that a location in Merthyr town centre would serve a very different and considerably more local catchment than can be served from the Trago site. This is reflected in the fact that the greengrocer currently trades from both locations and has confirmed that opening at Trago did not affect his town centre business. As a result, even if a site were available in the town centre, it would not be suitable to meet the identified need which arises from the wider draw of Trago Mills.

Sequential Test – Potential sites

- 7.19. Our search has considered both existing markets and vacant sites within Merthyr with a view to seeing if they could provide a more central alternative location for the two businesses. However, no suitable or available sites have been identified:
 - The indoor market is primarily orientated towards non-food stalls and is therefore not a suitable location to generate the footfall required by the two convenience businesses;
 - The outdoor market is not suitable for a number of reasons, the key one being that it serves a different and considerably smaller catchment (as evidenced by the fact that the fruit and veg operator trades from both locations). It also operates on just 2 days a week when the two traders at Trago have identified a business need for 5 days operation; and
 - There are no known sites in the town centre or edge of centre that could physically accommodate the two units safely, whilst meeting the operator needs for high levels of footfall, good access and safe circulation for customers. This has been confirmed in the pre-application consultation response (PAA, page 3).

Sequential Test – Conclusions

- 7.20. The purpose of the sequential test is to encourage new retail development into town centres in the first instance but recognises that there may be no site that is suitable and available. In such circumstances, edge of centre and then out of centre sites may be considered and their

development will then be in accordance with the sequential test – put simply it is ‘town centres first’ not ‘town centre only’.

- 7.21. In this case the nature of the businesses operating from the mobile pitches have very different locational and property requirements that cannot be met by shop units in Merthyr town centre. Market stalls offer a different and complementary retail offer to that provided in shop units whilst the businesses at the Trago site also serve a very different catchment from the town centre, as evidenced by the greengrocer who trades from both.
- 7.22. As a result, vacant shop units do not provide a suitable alternative location for the two businesses, whilst Merthyr town centre serves a different market and catchment area to that served by the traders from the Trago site.
- 7.23. We have also shown that there are no more central sites that can accommodate the business requirements to operate the businesses on 5 days a week from a location where the requirements for footfall, access and customer safety can be met.
- 7.24. On this basis we conclude that the proposed development is in accordance with the sequential test and thus this element of RLDP Policies EcW3 and EcW6.

8. Impact

- 8.1. For the reasons set out above, it is not considered that it should be necessary to provide a retail impact assessment for the proposed variation of condition as it relates to just 96sqm gross of floorspace, under 4% of the policy threshold. The actual stall sizes are also considerably smaller at around 24 sqm (DR2, page 6). As such impact should not be a cause of concern.
- 8.2. Equally importantly, the planning conditions under which Trago Mills operates does not prevent the sale of either fruit and vegetables or fresh meat from the site and an equivalent or considerably greater amount of floorspace could be devoted to the sale of these products if they were located within the existing franchise units.
- 8.3. This is also a very unusual case in that the two units being considered have been trading from the time of or shortly after Trago Mills opened and thus the current health of Merthyr town centre already reflects any theoretical impacts that these two businesses will have had.
- 8.4. Further, whilst it is not possible to separate out the impact of the two trading pitches from that of the main store and other convenience operators that trade from the site, the Council has already publicly recognised the positive spin-off effects that the Trago development has had on Merthyr town centre (MP1, Appendix 4).
- 8.5. At the very least this means that, in an academic exercise to try to ascertain the impact such a small amount of additional convenience floorspace may have on the town centre, the starting point must be that the current health of the town centre already takes on board the effect of these two units. The question is the extent to which the centre would be healthier than currently indicated if the units were to be forced to close.
- 8.6. It has previously been demonstrated that the turnover of the two units would be very small in monetary terms – around £87,000 per annum (MP2, para 3.20) and it appears to be accepted by all parties that any direct impact on Merthyr town centre would not be significantly adverse (DR2, page 7; AD, para 24).
- 8.7. This reflects the fact that the units will have an extensive trade draw similar to that of Trago Mills, which will be the primary attractor for customers. A recent survey has indicated around a quarter of store customers come from the surrounding Merthyr area. Thus only £21,750 of the stallholders' trade is likely to have been drawn from stores in the Merthyr area, not all of which will be in the town centre.
- 8.8. However, even assuming a very worst case scenario with all this trade coming from the town centre, any impact would be negligible at around 0.04% of total convenience sales, which have been estimated at £49.81m in 2021 (MP2, para 3.10). It would be a considerably smaller proportion again of the total turnover of £176.84m (0.01%).
- 8.9. This level of impact would not be discernible and should also be seen in the context of online convenience sales which increased by 1.3% between 2018 and 2019 (Experian Retail Planner

Briefing Note 18, Figure 5) and is expected to increase by 4% to 18.1% of convenience sales by 2021. This is after allowance has been made for temporary changes in 2020 due to the pandemic.

8.10. Any adverse impacts as a result of lost linked shopping trips to Merthyr Town Centre (AD, para 31) will also be very small, as losses will be limited to very specific shopping behaviour and customers:

- The shopper at one or both of the mobile units would need to be solely wanting to combine a visit to Trago Mills with the purchase of fruit and vegetables and /or fresh meat only. If they required any other purchases they would still need to undertake a linked shopping trip to another location; and
- In the absence of fruit and vegetables and fresh meat being available at the Trago site they would otherwise have gone to Merthyr town centre, rather than another location, either within Merthyr Tydfil, such as Asda at Dowlais Top, or to a foodstore outside of Merthyr but closer to their place of residence.

8.11. Neither requirement will apply to more than a handful of customers at Trago Mills.

8.12. More generally, the purported importance of linked shopping trips to the town centre appears to be overstated :

- There is no evidence that more than a minority of customers at an out of centre comparison store will undertake a linked shopping trip to a nearby town centre. Most linked trips research comes from surveys of main food shopping behaviour and this indicated that the propensity of linked trips declines from about 50% of customers for shoppers at town centre stores to only around 20% or less for those at out of centre stores;
- There is no evidence that Merthyr town centre relies on linked trip or spin-off trade from Trago to any great extent and indeed, the Lichfields study of Cyfarthfa Retail Park suggests that linked trips between the Retail Park and the town centre are limited. 53% of respondents never make such a linked trip and only 12% do so often (MTRS, Appendix 8). This is recognised in the PAA (page 2). Given the slightly greater distance between the town centre and the Trago site, linked trips would be expected to be even less frequent; and
- Food (convenience) purchases are normally undertaken in locations close to home, which for around 77% of Trago shoppers will not be Merthyr town centre.

8.13. It therefore follows that of the total number of customers using these stalls, at most just 5% (23% x 20%) might undertake a linked shopping trip to Merthyr town centre and an even smaller % would be looking to buy just fruit and vegetables and / or fresh meat. The actual loss of linked trips will therefore be extremely small and limited to spend on these particular foodstuffs.

8.14. Further, it cannot be assumed that the absence of the stalls at Trago would in any way benefit the independent businesses in the town centre. Not only could the same products be sold from the franchise units in relatively unrestricted amounts, but the focus of the mobile butcher's operation

in particular on ‘value’ and ‘deals’ would suggest that retailers able to offer larger packets of meat products (the likes of Tesco, Asda and Aldi and Lidl) would perhaps be the most likely to benefit.

- 8.15. It is therefore apparent that, just as the direct impact of the two mobile businesses trading at Trago will be very small, so will the loss of town centre spend as a result of the loss of linked shopping trips. The mobile units do not have an unacceptable impact on the trade, turnover, vitality and viability of Merthyr town centres and there is therefore no impact reason why this variation of condition application should be refused.

9. Conclusions

- 9.1. The planning application that this report accompanies is seeking to vary Condition 3 of Planning permission 00/ 0268 to allow two small sales pitches within the Trago Mills car park to be retained for occupation by two mobile convenience traders selling fruit and vegetables and fresh meat.
- 9.2. Both product types can already be sold from the Trago site and the actual businesses have been trading as long as, or almost as long as the main Trago Mills store. Previous reports that have indicated the significant positive benefits to Merthyr town centre as a result of the Trago development therefore already reflect this provision.
- 9.3. On the basis that that the proposed retention of these two pitches represents a de minimis change to the retail offer on the site, we consider that the variation of condition should be permitted, with Condition 3 replaced with the following:

“This consent does not allow for food retailing other than within the ancillary franchise units or from an area of the car park extending to no more than 96 sqm gross (as shown on plan [xxx]). The use of the car park area will be limited to mobile businesses only” (Option A).

- 9.4. We have shown that varying the condition in this way would be in accordance with planning policy – specifically Policies EcW3 and EcW6 of the RLDP as:
 - The quantitative need for additional market stalls / mobile traders has not been assessed in the Council’s Retail Study, but spending on SFT is increasing;
 - There is a qualitative need for the two businesses as demonstrated by their popularity with customers and the operators wish to continue their business;
 - The nature of the business and catchment served from the Trago site are significantly different from that served by retail shops in Merthyr town centre. As a result, whilst the goods could be sold from vacant shops located there, these units would not provide a suitable alternative for the current businesses;
 - There are no other sites in the town centre that could accommodate the temporary stall and mobile unit and therefore the sequential test has been satisfied;
 - In practical terms, if the operators could be persuaded to operate from fixed shop units they would be likely to take units at the Trago site. There is no practical possibility of vacant units in the town centre being occupied if they are forced to close their operations at Trago Mills;
 - The impact of the developments has already been experienced by the town centre as the units have been trading for more than 2 years. The Council has acknowledged that, even with these two units trading, Trago Mills has had a positive effect on the town centre;

- Forcing the closure of the businesses would have a very small if any positive impact on the town centre. The majority of customers will come from outside of the Merthyr area and would be unlikely to visit the town centre solely for these types of purchases. The increase in the number of linked shopping trips will also be extremely small as only those trips which combine shopping at Trago Mills with the purchase of fruit and vegetables and / or fresh meat only would be affected; and therefore
- The impact on the vitality and viability of the centre will be minimal.

9.5. We therefore conclude that the proposed variation of condition is in accordance with retail planning policy and specifically Policies EcW3 and EcW6. It should therefore be permitted.

9.6. However, if the Council have any on-going concerns regarding the effect of the proposed retention of the two mobile units, we have proposed two alternative wordings for a new Condition 3, both of which would retain the convenience floorspace at the site at the same level as currently permitted. Indeed, the proposed wording would explicitly state the maximum convenience floorspace that could be provided at the site, something which the planning conditions do not currently do.

9.7. The proposed wording in this case would be:

“This consent does not allow for food retailing other than within the area shown on the attached plan. The maximum net retail floorspace that can be used for the sale of convenience goods is 540 sqm” (Option B);

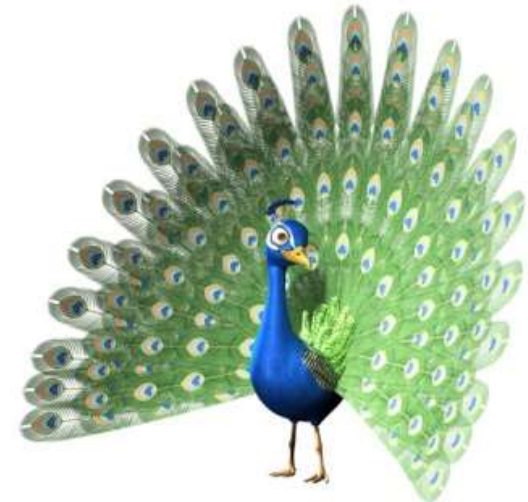
OR

“This consent does not allow for food retailing other than within the ancillary franchise units or from the area of the car park shown on the attached plan. The maximum net retail floorspace that can be used for the sale of convenience goods is 540 sqm.” (Option C).

Appendix 1 – Trago Shoppers Postcode Survey 2020

Merthyr Tydfil Postcode Survey

24th August
To
6th September



Introduction:

Over the 2 week period of Monday 24th August to Sunday 6th September we captured 6,574 Postcodes from the 20,898 Transactions completed between these dates. This gives us a sample size of 31.46%. This data was collected from store only, and excludes customers visiting any Leisure or Catering facilities.

To avoid any issues with Data Protection and GPDR customers were only asked to provide the first part of their postcode, that would identify their Postal area, no other personal details were requested. Anyone requesting to refuse such details was accepted, and transactions were carried out as normal.

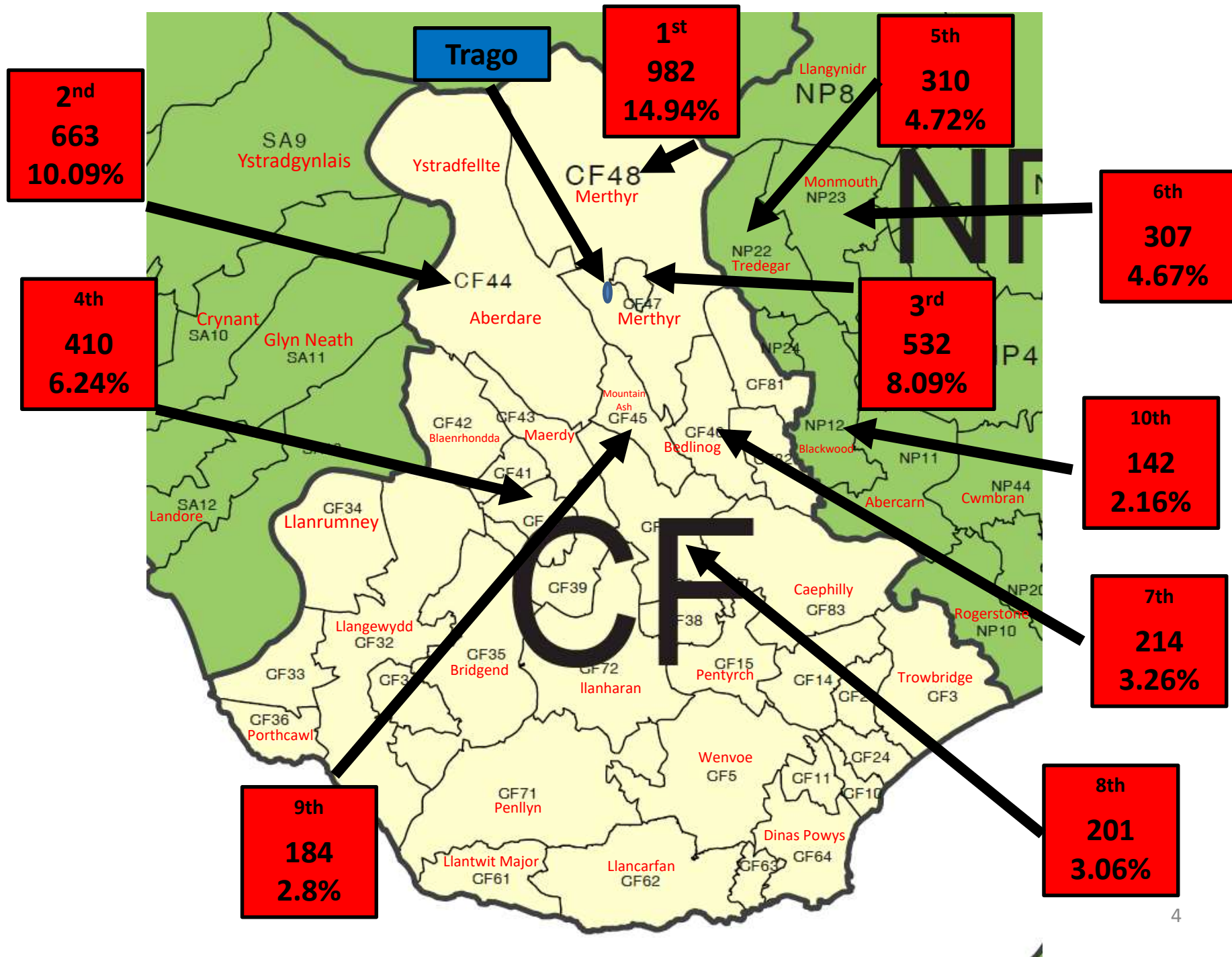
Top 10 Postal Areas:

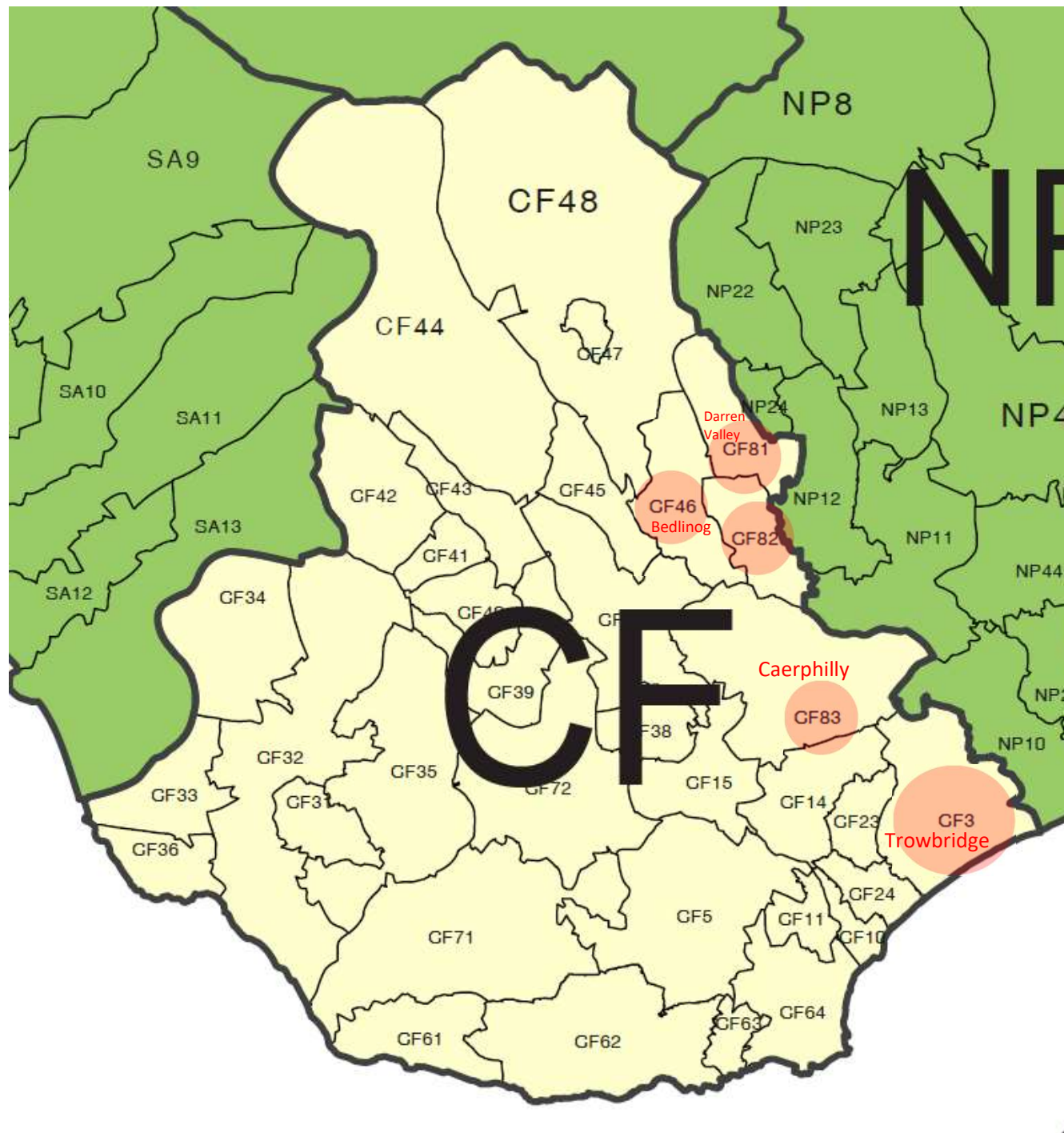
The Top 10 Postal Areas captured account for 3,945 of the 6,574 Postcodes Captured, 60.01%. These 10 areas are indicated in the map on the next page.
(Please note: Trago is located in CF48)

<u>Rank</u>	<u>Post Code</u>	<u>Count</u>	<u>% of Postcodes Captured</u>
1	CF48	982	14.94%
2	CF44	663	10.09%
3	CF47	532	8.09%
4	CF40	410	6.24%
5	NP22	310	4.72%
6	NP23	307	4.67%
7	CF46	214	3.26%
8	CF37	201	3.06%
9	CF45	184	2.80%
10	NP12	142	2.16%
Top 10 Total		3945	60.01%

As Expected, CF48 is the where majority of transactions come from.

CF47, which is Central Merthyr, is a small but compact area. Cf40 also appears quite small, but again a compact area including Tonypany and other towns at the heart of the Rhondda Valley.





Other Observations:

The below table shows the full sample by main postal areas.

There are many areas close to Merthyr, that are serviced by Cardiff, Newport and Swansea, and it is evident from the breakdowns the footfall from these Cities themselves make up a small minority of the figures below.

Also: areas of LD Postcodes appear large with some fairly close by, the number of transactions appear low, although this is a rural area. It also shows the small percentages we are getting from Hereford, Bristol, Gloucester & Worcester Areas.

Cardiff	Newport	Swansea	Llandrindod Wells	Hereford	Bristol	Gloucester	Worcester				
CF	NP	SA	LD	HR	BS	GL	WR	OTHER	TOTAL		
4187	1385	484	163	47	34	24	11	239	6574		
63.69%	21.07%	7.36%	2.48%	0.71%	0.52%	0.37%	0.17%	3.64%	100.00%		