

DELEGATED REPORT

Application No:	P/24/0087
Site Address:	Unit 1 Paisley Park Pant Industrial Estate Merthyr Tydfil CF48 2SR
Development:	Change of use from use classes B1,B2,B8 to a Veterinary Practice (Sui Generis use).
Case Officer:	Kate Glover
Site Visit:	18th April 2024
Application Expiry Date:	21st August 2024
Consultation reply date expired:	8th August 2024

APPLICATION SITE

The application site is a 329 m² industrial unit, which is part of a larger development of 14 units. The site is under construction and was granted planning permission via consent reference P/20/0109.

The application site is located within the settlement boundary (LDP Policy SW4), a Primary Growth Area and the Pant Industrial Estate Protected Employment Site (LDP Policy EcW2).

PROPOSED DEVELOPMENT

An application for the change of use from use classes B1, B2,B8, to a Veterinary Practice (Sui Generis use), at Unit 1, Paisley Park, Pant Industrial Estate, Merthyr Tydfil.

The proposal includes the installation of a mezzanine floor at first floor level. The mezzanine floor will provide an additional 264 m² of floor area.

The proposed veterinary practice includes a customer seating area (12 seats), customer toilets, reception area, four consulting rooms, two operating theatres, kennels, cattery, x-ray room, laboratory, dental area, dispensary, janitor room/cupboard, morgue and isolation area. At first floor level there would be two offices, a call centre (3 seats), a boardroom (12 seats), staff room (four seats), two operating theatres, staff kennels, pharmacy store, staff toilets, staff shower, janitor room/cupboard and IT room.

The proposal includes external alterations to the principal elevation. a large industrial door would be filled with glazing and, for security reasons the glazed area would be secured with a roller shutter door. There are no changes proposed on the rear or side elevations.

Five full time staff would be employed. Five parking spaces have been identified for use by the proposal.

Opening hours would be 8.00 to 18.30, Monday to Friday.

Clinical waste would be collected by a specialist contractor.

Further information has been submitted in response to concerns raised in respect of the principle of development and parking and highway safety. The details of the further information are provided in the relevant sections below.

PLANNING HISTORY

The relevant planning history is summarised below:

P/96/0121	Erection of a factory Unit 5306 sq metres (57113 sq ft) and associated car parking and landscaping Granted 10.04.96
P/20/0109	Erection of industrial units (Use Classes B1, B2, B8) and associated works Granted 12 Aug 2020
P/20/0278	Vary condition 8 (retaining walls) of planning permission P/20/0109 Granted 10 Dec 2020
P/23/0226	Removal of conditions 11 and 13 and variation of conditions 2, 3, 5, 6 and 12 of planning permission P/20/0109 Granted 06 Nov 2023

CONSULTATION

Planning Policy Officer:	Objection. Proposal is not compliant with policy requirements.
Head of Engineering and Highways:	Objection. Insufficient information on parking requirements.
Dwr Cymru/Welsh Water:	No objection. Approve subject to conditions.
Environmental Health Manager:	No objection

PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012, a site notice was displayed within the vicinity of the site.

No letters of objection were received following this publicity exercise.

POLICY CONTEXT

National Development Framework

Future Wales: The National Plan 2040 (February 2021) (Future Wales)

Future Wales provides guidance on matters relevant to this application, including, but not limited to:

- Policy 1: Where Wales will grow
- Policy 2: Shaping Urban Growth and Regeneration – Strategic Placemaking
- Policy 16: Heat Networks
- Policy 33 – National Growth Area – Cardiff, Newport and the Valleys

National Planning Policies

Planning Policy Wales (Edition 12, February 2024) (PPW)

PPW provides guidance on matters relevant to this application, namely:

- Placemaking in Action: Good Design Making Better Places
- Strategic Placemaking: Previously Developed Land
- Economic Infrastructure: Economic Development
- Distinctive and Natural Places: Recognising the Special Characteristics of Places 3
- Distinctive and Natural Places: Recognising the Environmental Qualities of Places

The following Technical Advice Notes (TAN) provides guidance on matters relevant to this proposal:

- TAN 5: Nature Conservation and Planning
- TAN 18: Transport
- TAN 23: Economic Development

Local Planning Policies

The following policies of the Merthyr Tydfil County Borough Council Replacement Local Development Plan 2016-2031 (LDP) are relevant to the determination of this application:

- SW4 Settlement Boundaries
- SW11 Sustainable Design and Placemaking
- EnW1 Nature Conservation and Ecosystem Resilience
- EnW3: Regionally Important Geological Sites, Sites of Importance for Nature Conservation, Local Nature Reserves and Priority Habitats and Species
- EnW4: Environmental Protection
- EcW2: Protecting Employment Sites
- SW9: Planning Obligations

In addition, the application will be determined having regard to the advice contained within the following Supplementary Planning Guidance (SPG) Notes:

- Note 2: Planning Obligations (March 2012)
- Note 4, Sustainable Design

- Note 5, Nature and Development

PLANNING CONSIDERATIONS

The issues to consider under the assessment of this application relate to the principal of development, parking provision and highway safety, ecology, environmental protection and visual impact.

Principle of Development

Economic Well-being Policy EcW2 states that at ...Pant Industrial Estate... development will be permitted if:-

- It is within Use Classes B1(b), B1(c), B2 or B8; or
- It provides an ancillary facility or service that supports the primary employment use, or
- It is an acceptable complementary commercial service outside class B uses, or
- It is an appropriate waste management facility compatible with existing industrial and commercial activities.

Development proposals for uses other 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 proposal would not lead to an unacceptable change in the nature of the employment site and where the existing use is inappropriate, or the land / premises are surplus to the requirements of the employment market.

The Policy goes on to state that acceptable complementary commercial service outside B-class uses are also permitted under Policy EcW2. These are generally small-scale commercial activities outside of the B-class uses, which provide a service to local employees or users of the existing employment site. These could include for example, small snack bars, cafés, local shops or trade uses, training centres, day nurseries or fitness gyms. As complementary uses should support the users of the industrial estate or business park, the scale and number of similar complementary uses will also be relevant.

Development proposals at existing or allocated sites for uses other than those specified that result in the loss of employment land or premises will only be permitted where it can be demonstrated that the proposal would not lead to an unacceptable change in the nature of the employment site. This requires that alternative uses do not undermine or have an unacceptable effect on the employment sites characteristics in terms of its role and function. Such uses could include for example, children's soft play, activity centres, fitness/sports centres or retail units, where the intended customer-base is further afield than the users of the existing employment site. Alternative uses will also need to satisfy other relevant policies of the Plan and ensure there are no unacceptable conflicts with existing users.

Proposals for alternative uses will also need to demonstrate either that the existing use is inappropriate, in terms of unacceptable impacts on amenity or the environment, or that the land or premises are surplus to the requirements of the employment market. Where existing uses are surplus to the requirements of the employment market viability and marketing evidence should be provided to justify the loss of employment land or premises. The type of evidence required will vary depending on the use and individual circumstances but may include details of why the land or premises is no longer in use and evidence to

show that 6 appropriate and reasonable efforts have been made to market it for sale or lease for its existing use. Information from the agent or applicant regarding demand could take the form of a marketing report or correspondence from a suitably qualified property agent or surveyor. The type of information could include the following:

- Details of existing occupiers, if any;
- If appropriate, the length of time a property or site has been vacant;
- The type of use which the property/site has been marketed for, and what the marketing strategy involved and its duration (typically there should be a minimum of 12 months appropriate marketing);
- The amount of interest in the site during the marketing period – this should detail the number of queries, the type of use sought, and if known, the reason for not pursuing the initial query;
- Whether the relocation of existing occupiers to other suitable accommodation will be facilitated; and,
- Evidence that demonstrates the existing use is inappropriate with regards to any unacceptable adverse impacts on amenity or the environment.

The proposal is for the change of use of a B-Class unit (under construction), to a Veterinary Practice (a sui generis use, although akin to a D use). Therefore, it is not within Use Class B, nor is it a non-B use which is ancillary to an existing B use, or a waste management facility.

Additionally, a veterinary practice is not considered to be an acceptable complementary commercial service outside class B, as defined above. While the vets could provide a service to the users and employees of Pant Industrial Estate, the intended user/customer-base is further afield than the users of the existing employment site.

The proposal would therefore result in the loss of employment land/premises. As such, it would need to be demonstrated that this would not lead to an unacceptable change in the nature of the employment site, or undermine or have an unacceptable effect on the employment sites characteristics in terms of its role and function. It would also need to be demonstrated either that the existing use is inappropriate, in terms of unacceptable impacts on amenity or the environment, or that the land or premises are surplus to the requirements of the employment market.

Information submitted with the planning application indicates that Pant Industrial Estate comprises (as of July 2024), 75% B Class uses. As such, it could be considered that the proposal would not lead to an unacceptable change in the nature of the employment site, or undermine or have an unacceptable effect on the employment sites characteristics in terms of its role and function. However, future proposals for non-B Class uses would need to be considered carefully so that an unacceptable impact does not result, including the remaining 13 units comprising the Paisley Park development.

Notwithstanding this, evidence is also required to demonstrate that the existing use is inappropriate, or that the land/premises are surplus to the requirements of the employment market. However, given that the application site is still under construction (at the time of writing), and has therefore never been occupied, it does not appear that either of these can be demonstrated at this stage. Nevertheless, additional information has been submitted in support of the application, in this regard.

The letting agent for the Paisley Park development has stated that there has been a low level of interest for the industrial properties within the development. They have also confirmed 7 that the property remains vacant, as do the remaining 13 units within the development (again, it should be noted that the development is still under construction). They state that they have undertaken an extensive marketing campaign for the permitted use of the development for a period of 9 months, which included direct mailshots, commercial agent targeting, website entries (Rightmove, EG Property Link, CoStar) together with regular social media posts on Linked In and X. They state that they have also met with MTCBCs Economic Development Dept, who, despite having initial enquiries for the development, have not been able to convert any of this interest into viewings. The number of enquiries received *“for a diverse range of occupations, has been less than 20 with no other occupier currently progressing to the level and detail”* [sic]. The agent states that the predominate interest has been for the provision of activity which fits with services to the general public, whether that be small start-up businesses or larger established companies.

It should be emphasised that the types of information, listed in Policy EcW2, are potentially appropriate ways of demonstrating that the existing use of a site is inappropriate, or that the land/premises are surplus to the requirements of the employment market. It is therefore not prescriptive. Policy EcW2 states that *“the type of evidence required will vary depending on the use and individual circumstances but may include details of why the land or premises is no longer in use and evidence to show that appropriate and reasonable efforts have been made to market it for sale or lease for its existing use”*, and that *“typically there should be a minimum of 12 months appropriate marketing”*. Therefore, the circumstances of a particular site may require additional/different information, and/or a longer period of appropriate marketing.

The marketing agent has advised that the property/site has been marketed for 9 months, as stated in an email of July 22nd. Therefore, the required minimum of 12 months marketing has not been satisfied, and has been undertaken during a period when the site is still under construction. Consequently, it is not considered that a sufficient period of appropriate marketing has been undertaken, in this instance, to demonstrate that the existing use of the site is inappropriate, or that the land/premises are surplus to the requirements of the employment market.

The applicant has also questioned whether or not Policy EcW2 is in direct conflict with the published objectives of Cardiff Capital Regional (CCR) Development, specifically: “A Destination for Services – A focus for high quality public services for the communities of the Borough”. It is not considered that there is any conflict here, for a variety of reasons. For example, CCR objectives are high-level, strategic and region-wide, while documents such as LDPs contain objectives and policies which are more local and focused, relating to specific areas of land and buildings within Local Planning Authority areas. Local documents can be guided directly and indirectly by regional/national etc. documents, and can be seen to clarify and expand on higher level aims and objectives. Additionally, the LDP has been subject to public consultation, and examination by PEDW, and has subsequently been found to be sound, and adopted.

In summary, the proposal is not a B-Class use, nor is it a non-B use ancillary to an existing B use, or a waste management facility. Furthermore, it is not considered to be an acceptable complementary commercial service outside class B, as defined by Policy EcW2. The proposal therefore results in the loss of employment land.

The evidence submitted to justify the loss of employment land, as defined by Policy EcW2, is not sufficient, and therefore the proposal does not comply with Policy EcW2.

Parking and Highway Safety

LDP Policy SW11, Criterion 1, seeks to ensure development demonstrates that any traffic movements will not have an unacceptable impact on local amenity or highway safety and satisfy the Council's parking standards.

The Head of Engineering and Highways raised concern that only five parking spaces are available for the proposal.

Officers requested the application was supported with further information relating to the number of people anticipated to be using the proposal site at any time i.e. practitioners, ancillary staff and customers.

Further information on parking requirements has been submitted. In summary the further information acknowledges the increase in floor area and a pro rata parking space requirement is put forward. The applicant advises that the increase in floor area will not necessarily create more employment space. As the not all four operating theatres which will be used at the same time, as one theatre will be a "clean" theatre reserved for orthopaedic operations (as this is required to be extremely sterile due to risk of infection) and one reserved for emergency admissions. The other two operating theatres will be used for general surgery including dentistry (i.e. one in use and one being cleaned and prepared for use.) The mezzanine floor will house the staff facilities such as changing rooms and showers, a kitchen, a board room and a Practice managers office for private meetings such as employee interviews and appraisals. Most customers will be attending by appointment with only emergencies (road traffic accidents) being seen on an ad hoc basis.

Officers accept that the functioning of the proposal would not require all the medical facilities, ancillary staff or customer seats to be in use or occupied at the same time. However, Officers raise concern over the disparity between the additional information on parking requirements and the floor area given over to customers and activities ancillary to the veterinary practice.

There are concerns that the parking provision for the other units within the area could be used as ad-hoc parking overspill for the veterinary practice and this would prejudice the function of the units.

Officers are also mindful that the premises is part of a large industrial area and therefore in a location, where large vehicles require more space on the public highway and at junctions. It is noted that there are no restrictions for parking on the nearby highways/access roads and some ad-hoc parking is to be expected.

As such it is considered necessary to establish the parking requirement for the proposal to ensure that there is sufficient parking capacity is available for the proposal.

It is considered, therefore, that insufficient information has been provided in relation to parking requirements and the impact on highway safety and movement of traffic. As such the proposal fails to meet with the requirements of LDP Policy SW11, Criterion 5.

Ecology

Ecology Policies EnW1 and EnW4 seek to ensure that green infrastructure is protected, enhanced and the effects of climate change mitigated, such requirements accord with policy and guidance within Future Wales 2040 and Planning Policy Wales.

The proposal, raises no significant concerns in this regard given the existing context and extent of development proposed. The scale and siting of the development is such that it would have minimal impact upon green infrastructure or biodiversity interests. At present the site has limited ecological value.

Given the low level of ecological value on site at present the proposed scheme presents an opportunity to provide a net benefit in this respect. No ecological enhancement has been proposed through this application. The Local Planning Authority have a duty to take action towards securing the maintenance and enhancement of the afore mentioned features and to mitigate against the effects of climate change, as no enhancement is proposed it is considered that the proposed development is contrary to national planning policy. The Dear CPO Letter of 2019 is clear that "...where biodiversity enhancement is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission."

It is considered, therefore, that insufficient information has been provided in relation to biodiversity enhancement. As such the proposal fails to meet with the requirements of LDP Policies EnW1 and EnW4.

Environmental Protection

Environmental Policy EnW4 seeks to ensure that development will not result in an unacceptable risk to surface water and public health. The policy advises that conditions may be imposed to secure any necessary mitigation.

Welsh Water/Dwr Cymru (WW/DC) has no objection to the proposal and advise any planning permission includes the following conditions:

- 1) that no surface from any increase in the roof area of the building or impermeable surfaces shall drain to the public sewerage system.
- 2) That animal waste is not disposed directly or indirectly to public sewerage system.

Officers note that the proposal does not increase in the roof area of the building or impermeable surface. Therefore, such a condition would not be relevant to the proposed development.

As noted above, animal waste will be disposed of via specialist contractor. Officers consider that it is acceptable to impose WW/DC condition, to ensure that at no time animal waste is disposed via the public sewer.

It is considered that the proposal meets with the requirements of LDP Policy EnW4.

Visual impact

LDP Policy SW11, Criterion 1, seeks to ensure that development is appropriate in its local context in terms of scale, height, massing, elevational treatment, materials and detailing, layout, form, mix and density.

It is considered that the insertion of a glazed area into the large doorway, would not materially affect the character and appearance of the building or surrounding area.

It is considered that the proposal meets the requirements of LDP Policy SW11, Criterion 1.

Wellbeing of Future Generations Act

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.

Conclusion

The proposal fails to demonstrate that the land or premises are surplus to the requirements of the employment market or that the permitted use is inappropriate. Furthermore, the proposed use is not considered to be an acceptable complementary commercial service outside Class B or an ancillary facility/service. The proposal fails to demonstrate that there is parking commensurate to the proposed use and that the proposal would not result in a detriment to the functioning of the nearby units and highway safety. In addition, the proposal does not include any net benefit in respect of biodiversity.

No concern is raised in respect of environmental protection or visual impact

Accordingly, the following recommendation is made:

RECOMMENDATION: BE REFUSED for the following REASONS;

1. The application has not demonstrated that the land or premises are surplus to the requirements of the employment market, or that the permitted use is inappropriate, or that the proposed use is ancillary to the wider function of the employment site, contrary to Policy EcW2 of the Merthyr Tydfil Replacement Local Development Plan.
2. The application has not demonstrated that the proposal would be supported with parking commensurate with the proposed use, contrary to Policy SW11 of the Merthyr Tydfil Replacement Local Development Plan.
3. The application has not demonstrated a net benefit in respect of biodiversity contrary to Policy EnW1 and Policy EnW4 of the Merthyr Tydfil Replacement Local Development Plan, Planning Policy Wales 12 and The Environment (Wales) Act 2016.

RECOMMENDATION ENDORSED

p.p. 

Director of Neighbourhood Services

DATE: 21st August 2024