

DELEGATED REPORT

Application No: P/21/0303

Site Address: 19 Lower High Street
Merthyr Tydfil
CF47 8EB

Development: Change of use from retail to non residential educational use

Case Officer: David James

Site Visit: 15th September 2021

Application Expiry Date: 15th October 2021

Consultation reply date expired: 8th October 2021

APPLICATION SITE

The application relates to a two-storey commercial property located within Merthyr Tydfil town centre and the Town Centre Conservation Area. The site is bound by a highway to the front, and commercial premises on all other sides. It is attached to a larger commercial premise on its north side and to the rear, but is a self-contained unit.

The application site lies within the settlement boundary and the Merthyr Tydfil Town Centre boundary, as designated within the Merthyr Tydfil Replacement Local Development Plan 2016 – 2031.

PROPOSED DEVELOPMENT

Full planning permission is sought to change the use of the property from a retail use (A1) to a non-residential educational use (D1).

No details of any external alterations or signage have been supplied.

PLANNING HISTORY

There is no relevant planning history to be considered.

CONSULTATION

The following bodies were consulted and their responses are presented below:

Planning Division's Policy Group Leader	No objection
Public Health Manager	No comments

PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to neighbouring properties.

No letters of objection were received following this publicity exercise.

POLICY CONTEXT

National Development Framework

Future Wales: the National Plan 2040 (February 2021) sets out a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.

National Policies

Planning Policy Wales (Edition 11, February 2021) is relevant to the determination of this planning application, namely:

- Strategic & Spatial Choices: Accessibility and Inclusive Design (paragraphs 3.5, 9, 10, 12, 13 & 16) & Promoting Healthier Places (paragraph 3.19).
- Active and Social Places: Sustainable Transport (paragraphs 4.1.10, 12, 15), Car Parking (paragraph 4.1.51 & 54), Retail and Commercial Development, including educational and non-retail establishments (paragraphs 4.3.30-36 & 39).
- Distinctive and Natural Places: The Historic Environment (paragraphs 6.1.21 & 29), Water and Flood Risk (paragraphs 6.6.5, 18, 19, 24, 26 & 29); Air Quality and Soundscape (paragraphs 6.7.5, 6, 7, 14, & 24) & Lighting (paragraph 6.8.4).

These policies are supplemented by guidance contained in the following Technical Advice Notes:

- TAN 4: Retail and Commercial Development
- TAN 12: Transport
- TAN 15: Development and Flood Risk
- TAN 24: Historic Environment

Local Planning Policies

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

- SW4: Settlement Boundaries
- SW9: Planning Obligations
- SW11: Sustainable Design and Placemaking

- SW12: Improving the Transport Network
- SW13: Protecting and Improving Local Community Facilities.
- CW1: Historic Environment
- EnW4: Environmental Protection
- EcW3: Retail Hierarchy – supporting retail provision
- EcW5: Town and Local Centre Development

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

- SPG 2 - Planning Obligations
- SPG 4 - Sustainable Design
- SPG 5 - Nature and Development

PLANNING CONSIDERATIONS

The main issues to consider when assessing this application relate to whether the proposal would have an acceptable impact on the character and appearance of the existing property and wider street scene, and on the Town Centre Conservation Area. The impact on the amenity of neighbouring residents and occupiers is also an important consideration.

The application site is located within the settlement boundary, and the Primary Growth Area, where there is a presumption in favour of development where it satisfies other relevant planning policies and material planning considerations (Policy SW4).

Policy SW11 relates to sustainable design and placemaking, and requires development to contribute to the creation of attractive and sustainable places through high quality, sustainable and inclusive design. The proposal does not contain details of any external alterations and, therefore would not have any harmful impact in this regard. Given the previous retail use of the site, the change of use to a non-residential educational use would not result in a harmful impact on the amenity of surrounding residents or occupiers. The site has a small parking area to its front and, being located in the town centre, a number of public car parks are in close proximity. As such, considering the previous and proposed uses, it would not result in a harmful impact on parking or highway safety. Therefore, the proposal is considered to comply with Policy SW11.

Policy SW12 recognises the Transport Hierarchy as outlined in PPW11, which supports development that encourages a modal shift towards sustainable transport. The proposal would be located within Merthyr Tydfil Town Centre, which is considered to be a sustainable location in terms of public transport, and other non-car forms of transport. As such, it is considered to comply with Policy SW12.

Policy SW13 relates to community facilities, including educational facilities, and seeks to support community facilities subject to satisfying other relevant LDP policies. The provision of community facilities foster cohesive communities and contribute to a sense of place that is important to the health, well-being and amenity of local communities. Their existence is often a key element in creating viable and sustainable communities. The development as a proposed educational facility is therefore in accordance with Policy SW13.

The application site lies within the Town Centre Conservation Area, the Town Centre (High Street and Pontmorlais) Urban Character Area (UCA1) and the Merthyr Tydfil Landscape

of Outstanding Historic Interest. Accordingly, Policy CW1 is relevant, which aims amongst other things, to preserve or enhance the character and appearance of conservation areas, support localised management initiatives, regeneration and conservation schemes in relation to urban character areas and appropriately inform the process of change with regard to historic landscapes.

It is not considered that the proposed change of use would impact these historic assets to any greater extent than the previous retail use, and no external alterations are proposed to the property. As such, it would comply with Policy CW1.

Policy EnW4 states that development proposals will be required to demonstrate that they would not result in an unacceptable impact on people, residential amenity, property, and / or the natural environment from either:

- Pollution of land, surface water, ground water and the air.
- Land contamination.
- Hazardous substances.
- Land stability.
- Noise, vibration, dust, odour nuisance and light pollution; or
- Any other identified risk to public health and safety.

The application site lies entirely within Zone C2 as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Section 6 of TAN15 outlines four tests, which must be met in order to justify development within a Zone C. It is considered that the proposed development complies with the first three tests for the following reasons:

i. and ii. Being within the Town Centre, the proposal would assist the local authority strategy to regenerate the town centre and sustain this area.

iii. It concurs with the aims of PPW and meets the definition of previously developed land.

In terms of the final test, a Flood Consequence Assessment (FCA) has been not produced. However, while the proposal is for an educational use, it is considered (given its small scale and hours of operation), that the use is more akin to a private commercial use than a school. As such, it could be classed as 'less vulnerable development, according to TAN15. Furthermore, the proposal involves just a change of use and no external alterations. Therefore, it is considered that it may not be proportionate to require an FCA in this instance. However, a suitably worded informative could be added, to any permission granted, to make the applicant aware of the potential flood risks, and advise them to install flood-proofing measures as part of the development. In this regard, it is noted that NRW have not objected to the proposal, and concur with the above.

The application site also lies within the Town Centre boundary, where Policies EcW3 and EcW5 apply.

Policy EcW3 relates to the retail hierarchy, with the Town Centre being the favoured location for retail and other complementary uses where they improve the vitality and viability of the Town Centre. A non-residential educational use is considered to be a complementary use, and therefore is acceptable in this location.

Policy EcW5 also supports development that enhances the vitality and viability of the Town Centre. This Policy recognises that careful blending of retail uses with cultural, leisure and other uses is essential if the Town Centre is to continue to thrive. Given that, the development proposal would bring a vacant property into beneficial use and that the property is located outside the Primary Shopping Area, it is in accordance with this Policy.

Conclusion

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

Accordingly the following recommendation is made:

RECOMMENDATION: BE APPROVED subject to the following **CONDITIONS:**

1. The development shall begin not later than five years from the date of this decision.

Reason - To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following approved plans and documents:

Proposed drawings received on 20th August 2021

Reason -To ensure compliance with the approved plans and clearly define the scope of the permission.

INFORMATIVES

1. This planning permission does not provide consent to undertake works that require a European Protected Species (EPS) licence.
All bats and their roosts are protected under UK and European legislation. It is an offence to deliberately kill, injure, capture or disturb a bat or to recklessly damage or destroy their breeding sites or resting places.

If works are planned on a building/tree in which bats are found to be roosting, Natural Resources Wales (NRW) must be contacted. on 0300 065 3000 or at <https://naturalresources.wales/permits-and-permissions/species-licensing/apply-for-a-protected-species-licence/bat-licences/?lang=en>.

If work has already commenced and bats are found, or if any evidence that bats are using the site as a roost is found, work should cease and NRW should be contacted immediately.

Under these circumstances, an EPS licence is likely to be required to undertake the works within the law.

2. All birds, their nests and eggs are protected by law under the Wildlife and Countryside Act 1981 (as amended) while they are breeding.

If works to any trees, hedgerows and/or other nesting bird habitat (including buildings with suitable features) are to be undertaken, they will take place outside of the bird nesting season. If the works must be undertaken during the nesting season (generally from 1st March until 31st August, although birds are known to nest outside of these dates in suitable conditions), a breeding bird survey will be required and must be carried out by a suitably qualified ecologist. Any active nests identified will be protected until the young have fledged.

Where a Schedule 1 species (as defined in the Wildlife and Countryside Act - <https://www.legislation.gov.uk/ukpga/1981/69/schedule/1>) is involved, compensation for impacts, e.g., loss of nesting sites, will be devised and implemented.

3. The application site lies entirely within Zone C2 of the Development Advice Map (DAM) as contained in TAN15. As such, there are potential flood risks. Natural Resources Wales have therefore advised the installation of flood-proofing measures as part of the development. In areas at risk of flooding, they recommend that consideration be given to the incorporation of flood resistance/resilience measures into the design and construction of the development. These could include flood barriers on ground floor doors, windows and access points, implementation of suitable flood-proofing measures into the internal fabric of the ground floor and locating electrical sockets/components at a higher level above possible flood levels.

The developer is referred to their website for further advice and guidance. The developer may also wish to carry out a Flood Consequence Assessment (FCA), using a suitably qualified person. The FCA should be proportionate to the development proposed. Guidance in preparing an FCA, containing technical advice and recommendations, can be found here: <https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/advice-for-developers/developing-in-a-flood-risk-area/?lang=en>

Additional guidance including the leaflet 'Prepare your Property for flooding' can be found here <https://www.gov.uk/prepare-for-flooding>

The developer can also access advice and information on protection from flooding from the ODPM publication, 'Preparing for Floods: Interim Guidance for Improving the Flood Resistance of Domestic and Small Business Properties', can be found here https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/11485/2187544.pdf

Finally, Natural Resources Wales have recommended the developer consider the future insurability of the development now. Although they have no involvement in this matter they would advise the developer to review the Association of British

Insurers published paper, 'Climate Adaptation: Guidance on Insurance Issues for New Developments', to help you ensure any properties are as flood proof as possible and insurable.

RECOMMENDATION ENDORSED



P.P.

Head of Town Planning

DATE: 11/10/2021