

DELEGATED REPORT

Application No: P/20/0097

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

Development: Retrospective Change of Use from "B" Use Class to an Ice Cream Parlour "A3" Use Class (resubmission following refusal P/19/0295)

Case Officer: Caroline Pulley

Site Visit: 13th May 2020

Application Expiry Date: 1st July 2020

Consultation reply date expired: 3rd June 2020

APPLICATION SITE

The application site comprises units 10 and 11, Harlan Business Park, Merthyr Tydfil. The pair of units form a detached building within the south-western corner of a small group of industrial units, located off Goatmill Road. The application building is typical of those found in industrial/commercial estates. It incorporates large roller shutter doors and a gated access with parking to the front. Neighbouring units are predominately industrial in character and include a valeting centre, a tyre fitting company (Tyreman) and a carpet and flooring centre.

PROPOSED DEVELOPMENT

Retrospective planning permission is sought for the change of use of the building to an ice cream parlour falling within use class A3. The application is a resubmission, following planning permission being refused for the same development in 2019 (Ref: P/19/0295) due to concerns over the loss of employment land/premises and the impact of the use on the vitality and viability of the town/local centres.

This application has been submitted with additional information seeking to address the reasons for refusal. The supporting letter accompanying the application explains that in addition to the ice cream parlour, the company also operate a separate delivery service from the building and this part of the business requires a large storage facility and good access for large delivery vehicles. It is argued that this element of the use cannot be operated from a town centre location for these reasons. Details have also been provided to demonstrate that the unit was marketed prior to a lease being given to the current occupier.

The proposed use comprises an area measuring 165sqm. It includes a dedicated retail area comprising a small kitchen, a serving counter with a seating area for customers and a separate store area which includes an office/canteen and a second w.c. The breakdown of floor space is approximately 60% retail and 29% storage with the remaining 11% comprising office space/canteen and the second W.C. The submitted plans show that the retail area is segregated from the store and the ice cream parlour has its own entrance door. No external alterations are proposed as part of this application. However, it is noted that the submitted plans illustrate a small discrepancy in so far that the proposed ground floor plan shows a window where a doorway is currently located. A total of eight off-road parking spaces have been provided within the enclosed area to the front of the building.

PLANNING HISTORY

P/19/0295 Retrospective change of use from "B" use class to an ice-cream parlour "A3" use class - Refused – 17.12.2019

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

CONSULTATION

Engineering and Traffic Group Leader: No objection.

Planning Division's Policy and Implementation Officer: No objection.

Environmental Health Officer: No objection.

PUBLICITY

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

No letters of representation were received following this publicity exercise.

POLICY CONTEXT

National Policy

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

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

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

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

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

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

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

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

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

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

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

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

- 'they have poor prospects of being re-occupied for their previous use;
- the particular market that the site is part of is oversupplied;

- the existing employment use has unacceptable adverse impacts on amenity or the environment;
- the proposed redevelopment does not compromise unduly neighbouring employment sites that are to be retained;
- other priorities, such as housing need, override more narrowly focussed economic considerations; and/or
- land of equal or better quality is made available elsewhere, even if this is not within the local planning authority boundary.'

Local Policy

Since the refusal of the last application the Merthyr Tydfil County Borough Council Replacement Local Development Plan (LDP) 2016-2031 has been adopted. The following policies in the replacement LDP are relevant:

Policy SW4 – Settlement boundaries

Policy SW11 – Sustainable design and Placemaking

Policy EnW4 – Environmental Protection

Policy EcW1 – Provision of Employment Land

Policy EcW2 – Protecting Employment Sites

Policy EcW3 – Retail Hierarchy – Supporting Retailing Provision

PLANNING CONSIDERATIONS

Having regard to the policies contained within the recently adopted LDP, the main issues are considered to be whether the principle of the change of use in this location is acceptable, having regard to the effect of the proposal on the supply of employment floor space in the area and the vitality and viability of the local/town retail centres. Also to be considered are the impacts of the scheme on highway safety and the amenity of any residential properties which may adjoin the site. These matters are discussed in detail below:

Principle of the change of use

Under the replacement LDP, the application site is located within the settlement boundary, where the majority of new development is generally supported in principle by Policy SW4. Notwithstanding this, Goat Mill Road is still a protected employment site and under Policy EcW2, development will only 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.

The general purpose of this policy is to ensure that sufficient land/premises is retained to meet local employment needs. Development proposals for other uses than those stipulated and that would result in the loss of employment land/premises at the above sites will only be permitted under Policy EcW2 where it can be demonstrated that the proposal would not lead to an unacceptable change in the nature of the employment site and the

existing use is inappropriate or the land/premises are surplus to the requirements of the employment market.

As an ice-cream parlour use falls within an A3 use class, it does not meet the first criteria (i.e. it does not fall within a B1, B2 or B8 use class). The second criterion offers the opportunity for ancillary uses to be permitted within the industrial estate. These uses provide a benefit or service to local employees and businesses and are generally small scale commercial activities that support the primary employment use and do not singularly or cumulatively lead to a material change in the nature of the site. An ice cream parlour would not provide any obvious link or benefit to the traditional employment uses present within the industrial estate. The offer provided is relatively specialised and does not provide any clear benefit or support to the primary employment uses present within the industrial estate. Whilst acknowledging that some employees of local business may make use of the parlour, the business would inevitably need to rely heavily on attracting customers from outside the industrial estate to make it viable, especially at weekends when the number of workers on the industrial estate may be lower. For these reasons, the ice cream parlour is not an ancillary or complimentary use that would support the function of the industrial estate. As such, the development does not satisfy criterion 2. The third criterion offers the opportunity for non-B class uses to be located within protected employment sites. This criteria permits small scale commercial activities which fall outside of the B use class to provide a service to local employees or users of the industrial estate. An example of this may be a small cafe or a gymnasium. Again, whilst the ice cream parlour use may attract some workers on the industrial estate, the business would need to rely heavily on attracting customers from further a field to make it viable. As such, it is not considered that an ice cream parlour would fall within this definition. Therefore, the loss of the employment premises will only be acceptable under Policy EcW2 if it can be adequately demonstrated that the proposal would not lead to an unacceptable change in the nature of the employment site and there is no demand for the existing employment use.

While acknowledging that an ice cream parlour use does not relate well to the character and use of the industrial estate, the supporting information provided as part of this application clearly highlights that the premise is also used to store vehicles and stock which relate to the original aspect of the business – namely the mobile sale of ice-cream. The activity arising from this part of this business is akin to a B8 storage and distribution use, which would be considered as an acceptable use at this site, in accordance with Policy EcW2. The development therefore has a mixed use character, which somewhat mitigates the use of part of the site as an ice cream parlour. Furthermore, additional information (marketing literature) has been submitted with the application. This advises that the site was marketed for a period of approximately 2 years with some incentives being offered. There was little interest in the site, with it being inappropriate for the small number of prospective tenants. The comments in response to the previous refused application did highlight the findings of the MTCBC Employment Land Review, June 2018, which concluded that Goatmill Road had a 0% vacancy rate (the Planning Department's Annual Monitoring Report 2018/19 recorded a 2% vacancy rate). However, the submitted marketing evidence would suggest that this is not the case for this particular building. As such, it appears that the site is surplus to the requirements of the employment market. In this respect the Council's Planning Policy Officer has raised no objection to the scheme and the development would comply with Policy EcW2.

Retail Impact

Policy EcW3 of the LDP, seeks to protect the interest of the town centre as the favoured location for retail development. Applications relating to retail development outside of the town centre or other local centres would normally be subject to an assessment of need and a strict application of a sequential test. This is to demonstrate that the proposal by reason its scale and nature could not be accommodated in more appropriate locations in or on the edge of a designated town/local centre. Proposals will only then be permitted where they avoid causing harm to the town/local centre vitality and viability.

An ice cream parlour use would be highly suited to the town centre where customers can combine trips to other shops and have access to a range of sustainable transport modes. Also, as the ice cream parlour does provide a specialist service which is currently not available in the town, it would help to draw trade to the town/local centres, which would be beneficial to the viability and vitality of those centres. The siting of the ice cream parlour outside the town/local centres therefore raises concern that the scheme would undermine the vitality and viability and cause harm to the existing businesses currently located within the designated centres. This was the concern raised during the last application. In justifying the location of the development, the applicant has highlighted that the use cannot be suitably located in the town centre as the part of the business which operates food deliveries requires large storage facilities and good access to receive deliveries from large refrigerated vehicles. This is regrettable. However, it is appreciated that logistically from a business perspective, it would not be practicable to operate the two parts of the business from separate locations. While a sequential test has not been carried out, it is acknowledged that the use is quite modest in scale and having regard to the particular circumstances and needs of the business, it is considered that there is justification for the need for a out of town the location. Nevertheless, a different type of retail use may not be acceptable and having regard to the unique reasons why this ice cream parlour use is considered acceptable in this location, a condition is recommended to control the floor space of the building and the future use of the building to an ice cream parlour only. Subject to these conditions being imposed, the proposal is considered on balance acceptable and is generally considered to be in accordance with the objectives of Policy EcW3 of the LDP.

Design and visual impact

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

Residential amenity

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

Highway and pedestrian safety

A parking layout for the site has been provided indicating the provision of 8 car park spaces to the front of the application building. Whilst there is some concern that the ice-cream parlour use could generate a significant number of short term visits and this could lead to an overspill of parking during peak capacity periods, the level of off-road parking provision being provided with this application is generally in accordance with the Council's

adopted parking guidelines. Also, the Engineering and Traffic Group Leader has considered the scheme and not raised any highway objections to the application. Therefore, the application is considered acceptable from a highway safety perspective.

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**

CONDITIONS:

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

Drawing number 19/11/01 received on 06.05.2020

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

2. The premises/land shall be used as an ice cream parlour and associated storage area and for no other purpose (including any other purpose in class A1 or A3 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification).

Reason - To protect the vitality and viability of the local/town retail centres and to protect the functioning of the employment site in accordance with Policies EcW3 and EcW2 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan

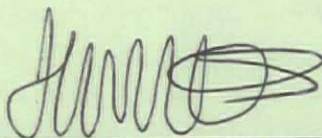
3. Notwithstanding the Town and Country Planning (Use Classes) Order 1987, or any statutory instrument revoking and re-enacting that Order, the storage area/office/canteen/WC in the eastern part of the building (as shown on drawing 19/11/01) shall not be used for the sale or consumption of food and drink.

Reason - To protect the vitality and viability of the designated local/town retail centres in accordance with Policy EcW3 and to protect the protected employment site in accordance with Policy EcW2 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

4. There shall be no additional internal floor space created by the construction of mezzanine floors.

Reason: To protect the vitality and viability of the designated local/town retail centres in accordance with Policy EcW3 and to protect the protected employment site in accordance with Policy EcW2 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

RECOMMENDATION ENDORSED



Head of Town Planning

DATE:

11/6/20