

INTERNAL MEMORANDUM

To: Kate Glover - Development Control Case Officer

Reference: P/24/0223

From: Planning Policy and Implementation Section

Ask for: David James

Extension: 7053

Date: 5th November 2024

Summary

No objection raised. The development meets the relevant Replacement LDP policies (SW4 - Settlement Boundaries)

However, a condition could be attached, to any permission raised, that ensures that the A3 use is restricted to restaurant/cafe use, to protect the vitality, attractiveness, and viability of Merthyr Tydfil Town Centre (policies EcW3 – Retail Hierarchy & EcW5: Town and Local Centre).

If minded to approve in principle, particular consideration should be given to the impact of the development on the character of the Town Centre Conservation Area, the impact on surrounding area and occupiers in terms of noise and disturbance, traffic generation and parking provision, the impact on biodiversity, and any other relevant risks to public health and safety, such as flooding (Policies SW11, SW12, CW1, EnW1 & EnW4).

The requirements of Policy SW9 should also be noted.

Observations in respect of the above development

1. Proposed Development

An application for the change of use from Retail Shop (A1) to Restaurant (A3 use class), on the ground floor, at 96 High Street, Merthyr Tydfil.

2. Development Plan Framework

The existing development plan framework in Merthyr Tydfil is provided by:-

The Merthyr Tydfil County Borough Council Replacement Local Development Plan (2016 - 2031)

The relevant LDP Objectives are:-

- *LDP Objective 1 Sustainable Population Growth: To encourage a sustainable level and distribution of population growth.*
- *LDP Objective 2 Welsh Language and Culture: To protect and enhance Welsh language and culture.*
- *LDP Objective 4 Regeneration: To promote the suitable reuse of previously developed land and the continued regeneration of local communities.*
- *LDP Objective 6 Sustainable Design: To promote high quality, sustainable and inclusive design and support measures which mitigate the predicted effects of climate change.*
- *LDP Objective 7 Transport: To support an integrated transport system, promote active travel and ensure new developments are accessible by walking, cycling and public transport links.*
- *LDP Objective 9 Heritage and Cultural Assets: To protect, enhance and promote all heritage, historic and cultural assets.*
- *LDP Objective 10 Biodiversity: To improve ecosystem resilience and connectivity which support habitats and species of principle importance.*
- *LDP Objective 14 Town and Local Centres: To develop the town and local centres as accessible, attractive, viable and vibrant places.*

The following development plan policies would apply:-

- *Policy SW4: Settlement Boundaries*
- *Policy SW9: Planning Obligations*
- *Policy SW11: Sustainable Design and Placemaking*
- *Policy SW12: Improving the Transport Network*
- *Policy CW1: Historic Environment*
- *Policy EnW1: Nature Conservation & Ecosystem Resilience*
- *Policy EnW4: Environmental Protection*
- *Policy EcW3 Retail Hierarchy – Supporting Retailing Provision*
- *Policy EcW5 Town and Local Centre Development*

The following supplementary planning guidance is applicable:-

- *Merthyr Tydfil Local Development Plan Supplementary Planning Guidance Note 2: Planning Obligations (March 2012)*
- *Merthyr Tydfil Local Development Plan Supplementary Planning Guidance Note 3: Shopfront Design (May 2013)*
- *Merthyr Tydfil Local Development Plan Supplementary Planning Guidance Note 4: Sustainable Design (July 2013)*

National Planning Policy

Planning Policy Wales (Edition 12, February 2024)

Planning Policy Wales provide guidance on matters relevant to this application, namely:

- Placemaking in Action: Good Design Making Better Places
- Strategic Placemaking: Previously Developed Land
- Activities in a Place: Retail and Commercial Development
- Recognising the Special Characteristics of Places
- Recognising the Environmental Qualities of Places

Future Wales: The National Plan 2040 (February 2021)

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 33 – National Growth Area – Cardiff, Newport and the Valleys

Technical Advice Notes (TANs)

TAN 4: Retail and Commercial Development (November 2016).

TAN 12: Design (March 2016).

TAN 15: Development and Flood Risk (July 2004).

TAN 18: Transport (March 2007)

TAN 24: Historic Environment (May 2017).

3. Policy Considerations

The application site is a commercial unit located within Merthyr Tydfil Town Centre, and within the Town Centre Conservation Area (policies CW1 and EcW5). The site is located within the Primary Growth Area and settlement boundary, where new development can be considered acceptable in principle (Policy SW4) subject to proposals being compatible with the Plan's other policies and all other material considerations.

Policy SW9 relates to planning obligations. Given the nature of the proposal, on-site provision of affordable housing or open space, or a financial contribution towards affordable housing, would not be sought. However, Community Infrastructure Levy (CIL) is chargeable in this part of the County Borough.

Policy SW11 advises that development must contribute to the creation of attractive and sustainable places through high quality, sustainable and inclusive design. Where appropriate, new development will be required to (amongst other things):

- be appropriate to its local context in terms of scale, height, massing, elevational treatment, materials and detailing, layout, form, mix and density;
- integrate effectively with adjacent spaces, the public realm and historic environment to enhance the general street scene and create good quality townscape;
- not result in an unacceptable impact on local amenity, loss of light or privacy, or visual impact, and incorporate a good standard of landscape design;
- allow access for the widest range of people possible, and demonstrate that any traffic movements will not have an unacceptable impact on local amenity or highway safety and satisfy the Council's parking standards.

Considering the nature of the development (the change of use from A1 to A3), and the location of the site (in close proximity to existing residential, commercial and public uses) particular consideration should be given to the above issues. As such, the views of the Council's

Environmental Health department and the Engineering and Traffic Group Leader should be sought where appropriate.

Policy SW12 supports development that encourages a modal shift towards sustainable transport, including the enhancement of pedestrian, cycle, rail and bus facilities, in addition to any necessary road improvements. Developments will be expected to demonstrate how they reduce the need to travel and encourage the use of sustainable transport. The development is located in close proximity to the main bus and train stations, and town centre car parks. As such, the views of the Engineering and Traffic Group Leader should be sought in this respect.

Policy CW1 advises that the integrity of our historic environment assets will be conserved and enhanced. Development proposals will only be permitted where it can be demonstrated they would preserve or enhance the architectural quality, character or the historic or cultural importance of our designated historic environment assets. And that, development affecting undesignated historic environment assets including, Locally Listed Buildings or structures, Landscapes of Outstanding Historic Interest in Wales, Urban Character Areas and Archaeologically Sensitive Areas should have regard to their special character and archaeological importance.

The 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. The impact of the change of use, and any external alterations, on the character of the Conservation Area should be particularly considered. The appropriate Council Officer, and external Heritage body, should be consulted as appropriate.

Policy EnW4 advises that development proposals will be required to demonstrate they will 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.

Where impacts are identified the Council will require applicants to demonstrate that appropriate measures have been incorporated to reduce, or minimise the impact identified to the lowest possible acceptable level. Planning conditions may be imposed or legal obligation entered into, to secure any necessary mitigation and monitoring processes. As such, the views of the Environmental Health department should be sought as appropriate.

The application also lies within Flood Zone C2 as illustrated on the LDP Constraints Map, and DAM Zone 2 and Floodmap Zone 2 on the Natural Resources Wales environmental data maps. Paragraph 6.6.26 of PPW11, which considers development and flood risk, states that reference should be made to TAN 15: Development and Flood Risk and that *“Developments located within flood risk areas remain at risk from flooding even if mitigation measures are applied.”* Paragraph 6.6.29 further states *“the ability of emergency services to respond to flood events should be taken into account when considering if a development is appropriate.”*

Section 5 of TAN 15 considers the vulnerability of different land uses to flooding and identifies three separate development categories: emergency services, highly vulnerable development, which includes all residential premises, and less vulnerable development (Paragraph 5.1, Figure 2). Figure 2 further indicates that in C2 zones, i.e. areas of the floodplain without significant flood defence infrastructure, consideration should not be given to highly vulnerable development. Furthermore, paragraph 6.2 states that *“new development should be directed away from zone Cin zone C the tests outlined in sections 6 and 7 will be applied, recognising, however, that highly vulnerable development and emergency services in zone C2 should not be permitted”*. As such, an FCA may be required, and Natural Resources Wales should be consulted.

Policy EcW3 advises that Merthyr Tydfil Town Centre is the favoured location for retail, leisure, and other complementary development, being situated at the head of a retail hierarchy. Proposals for new and enhanced retail, leisure and other complementary provision in this location will be permitted where they improve the vitality and viability of the centre.

Policy EcW5 advises that development enhancing the vitality and viability of the Town and Local Centres will be supported.

The proposal is for a change of use to an A3 use (restaurant), with the site being located within Merthyr Tydfil Town Centre, but outside the Primary Shopping Area (PSA). As such, this use would be appropriately located within the Town Centre. However, there is a high concentration of takeaways in this area. The granting of permission for an A3 use risks an additional takeaway occupying the application site. This could result in an over-concentration of takeaway uses, along with the likelihood of an additional inactive frontage during the day, and subsequent harm to the vitality, attractiveness, and viability of the Town Centre.

Therefore, an appropriate condition could be attached to any permission granted, limiting the A3 use to a restaurant and/or café, which would ensure a variety of uses, as well as one which is more likely to be open during the day. If such a condition were imposed, it is considered that the proposal would contribute to the vitality and viability of the Town Centre, and would therefore be in accordance with the requirements of Policy EcW3 and EcW5.

It is also noted, for future reference, that an A3 use is permitted to change to an A1 use without the need for a planning application.