

DELEGATED REPORT

Application No:	P/24/0174
Site Address:	Unit 5 Cyfarthfa Retail Park Swansea Road Merthyr Tydfil CF48 1HY
Development:	Variation of conditions 2, 3, 4, 5 of planning permission P/23/0223 to reduce the size of the mezzanine within Unit 5b
Case Officer:	David Cross
Site Visit:	1st August 2024
Application Expiry Date:	12th September 2024
Consultation reply date expired:	22nd August 2024

APPLICATION SITE

This application relates to Unit 5a & 5b located within the established Cyfarthfa Retail Park, which is bound to the west and east by adjoining stores, with a shared car park to the south and a service yard to the north.

The property was previously occupied by 'Wilko' who have since vacated the unit and a planning application was later approved (P/23/0223) to sub-divide the property into two separate units (5a & 5b). A condition was imposed at the time, which sought to maintain the distinct size of the units and ensure the mezzanine floors were retained.

PROPOSED DEVELOPMENT

This application seeks permission to vary the conditions 2, 3, 4 and 5 imposed on the P/23/0223 planning permission to enable a reduction in the size of the mezzanine within Unit 5b which could then be occupied by a new retailer (Sketchers). Additionally, this application seeks permission for alterations to the shop front, which involves the removal of the existing columns and signage display and the installation of a new glazed frontage that extends across the majority of the elevation.

Condition 2 sets out the list of approved plans:

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

Dwg No. 11428 05 PL P02 A - Proposed Floor Plans, received 25.09.2023

Dwg No. 11428 05 PL E02 - Proposed Elevations, received 25.09.2023

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

Condition 3 in effect removes the permitted development rights and draws reference to the approved plans:

The retail units hereby approved, as shown on the Proposed Floor Plan (Dwg No. 11428 05 PL P02 A), shall not be used for purposes other than the sale of non-food products/goods and shall not be used for any other purpose including those set out in class A1 of the schedule for the Town and Country Planning (Use Classes) Order 1987 or any Order revoking, amending or re-enacting that order with or without modification.

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

Condition 4 prevents any future subdivision of the units:

The retail units hereby approved, as shown on the Proposed Floor Plan (Dwg No. 11428 05 PL P02 A), shall not be sub-divided so that the gross retail floor space of a single user/unit is less than 894.5sqm in Unit 5a and 894.1sqm in Unit 5b.

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

Condition 5 prevents a reduction in the size of the mezzanines:

The mezzanine floors as illustrated on the Proposed Floor Plan (Dwg No. 11428 05 PL P02 A) shall be retained and shall not be reduced in size to less than 422.9sqm in Unit 5a and 411.3sqm in Unit 5b.

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

Under the P/23/0223 permission, Unit 5b has a ground floor area of 482.8sqm and a mezzanine area of 411.3sqm. The unit in total has a floor area of 894.1sqm. It is proposed to reduce the size of the mezzanine floor by 158.4sqm, which would equate to a remaining mezzanine area of 252.9sqm.

Additionally, there would be a minor reduction of 12.1sqm ground floor area of both Unit 5a and 5b, which reflects the changes to the shop fronts involving the removal of a lobby area. As such the overall floor space in Unit 5a would be reduced from 894.5sqm to 882.3sqm and Unit 5b would have an overall floor space of 723.6sqm.

PLANNING HISTORY

Whilst there are a number of planning applications that relate to the retail park as a whole, those listed below are considered most relevant to the considerations of this application:

- P/23/0223 - Proposed subdivision of Unit 5 into two units and associated external Alterations.
Permission GRANTED on 12.03.2024
- P/04/0633 - Amendment to condition 5 on planning permission P/03/0524 to allow the sale of non-food goods (bulky and non bulky) from units 8, 9A, 9B and 9C and the installation of mezzanine floor space in unit 8.
Permission GRANTED on 29.04.2005
- P/03/0524 - Amendment to condition 1 of planning permission P/02/514 relating to the substitution of approved drawings Nos SP1066(05), 202A, 203, 206 and 207 for Unit 9.
Permission GRANTED 28.11.2003
- P/02/0514 - Erection of retail park including A1 and A3 units, health and fitness (D2), covered builders yard and garden centre, associated car parking, servicing and access roads.
Permission GRANTED on 10.06.2003

CONSULTATION

Planning Policy Officer - No objection

PUBLICITY

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

No representations were received as a result of this publicity exercise.

POLICY CONTEXT

National planning policy

Future Wales – The National Plan 2040: 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.

Policy 6 – Town Centre First, states: *‘To breathe new life into town centres, the Welsh Government has adopted a ‘Town Centre First’ approach. This puts the health and vibrancy of town centres as the starting point of locational decision-making. It also directs facilities and services to where intended users can easily walk, cycle and/or use public transport to access them.’*

This policy considers town centres are the most accessible parts of our towns and should be the focus of growth and regeneration. Such areas remain a focal point for communities and provide a hub for a variety of uses alongside retail.

Whilst policy 6 applies to development of a significant scale (defined broadly, where a facility will serve a town, city or region-wide catchment), it is also recognised that planning authorities are encouraged to take a similar approach for smaller developments.

Planning Policy Wales, Edition 12th Edition, February 2024:

Section 4.3.3 acknowledges that in order to ensure maximum contribution to the well-being goals the planning system must promote viable urban and rural retail and commercial centres. It must sustain and enhance the vibrancy, viability and attractiveness of retail and commercial centres. It must also improve access to and within the retail and commercial centres by all modes of transport.

Section 4.3.8 notes that where a need for additional retail has been identified, planning authorities should consider the most appropriate form, scale and location of this provision to best meet the need.

Section 4.3.14 sets out the requirement to consider the need for additional retail provision, having regard to the quantitative and qualitative need for both comparison and convenience goods.

Sections 4.3.18 – 4.3.23 emphasise a town centre first to the sequential approach for the location of new retail development, before consideration is given to edge of centre and then out of town sites.

Section 4.3.20 states that new out of town retail developments or extensions to existing out of town development should not be of a scale, type or location likely to undermine the vibrancy, attractiveness and viability of those retail and commercial centres that would otherwise serve the community. It also should also not be allowed if they would be likely to put development plan retail strategy at risk.

Section 4.3.25 notes that retail developments outside of designated retail and commercial centres can impact on the viability and vibrancy of a centre. Such impacts, whether individually or cumulatively may include changes in turnover, trading ability, consumer choice, traffic and travel patterns, footfall, as well as affect centre regeneration strategies.

Sections 4.3.26 – 4.3.29 consider the potential retail implications a new retail development may have on designated retail centres, which may impact on their viability and vibrancy. Where appropriate retail impact assessments may be required and the use of conditions may be necessary to limit any changes over time i.e. loss of existing provisions, changes to the range of goods or the sub-division of units etc.

Technical Advice Note (TAN) 4, Retail and Commercial Development, November 2016:

Further guidance on retail proposals is set out in the TAN, including the tests of retail need, the sequential approach to site selection, retail impact assessments and the use of conditions.

Local planning policy

Merthyr Tydfil Replacement Local Development Plan (LDP) 2016-2031:

- Policy SW4 - Settlement Boundaries
- Policy SW11 - Sustainable Design and Placemaking
- Policy EcW3 - Retail Hierarchy – Supporting Retailing Provision
- Policy EcW4 - Retail Allocation
- Policy EcW5 – Town and Local Centre Development
- Policy EcW6 - Out-of-Town Retailing Areas

PLANNING CONSIDERATIONS

The retail use of Unit 5a and 5b, which includes mezzanine floors, is well established as part of the out of town Cyfarthfa Retail Park. This application does not seek to increase the amount of retail floorspace already provided, but instead reduce the size of the mezzanine within Unit 5b. It is noted that the alterations to the shopfront would result in a small loss of reception floor space. Additionally, it is noted that there would be no change to the retail use of the property or in the range/types of goods that may be sold.

The main consideration of this application is whether the reduction in the size of the mezzanine in Unit 5b would have a harmful impact on the viability and/or vitality of the town centre. Policy EcW3 of the LDP, which seeks to protect the interests of the town centre as the favoured location for retail development, is of particular relevance. 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 the sequential test. Proposals will then only be permitted where they avoid causing harm to town/local centre vitality and viability. Additionally, section 4.40 of the LDP considers the economic well-being of the town centre, which is identified as a key asset and the lynchpin for regeneration. It acknowledges the benefits of out-of-centre retail, but it also considers that the retail offer should be sufficiently distinct so as to not undermine the vitality and viability of the town centre.

In this instance, given that the retail use of the building has already been established and that the proposal does not seek to increase the amount of retail floor space, it is apparent that the quantitative retail need is not a significant determining issue. It is noted in the Planning Statement that the reduction in the size of the mezzanine in Unit 5b would facilitate the re-letting of the vacant premise to Sketchers being a national multiple retailer that is not currently represented in the local area and would assist in attracting extra spending in Merthyr Tydfil.

As part of the original permission for the retail park, there was a clear intention to ensure that the retail units remain a distinct (larger) size to that offered in the town centre, which included conditions to prevent the subdivision of units below the threshold of 1,858sqm (Condition 6 of P/04/0633). The reason for this condition was to protect the viability and vitality of the town/local centres. It is reasonable to surmise that the intention was to prevent the creation of smaller units that may otherwise compete with the retail offer of the town centre. For example, if there are units within the retail park that are of a comparable size to those located within the town centre, this may draw potential retailers to an out of town location, where they might prefer to be located adjacent to national chains. Additionally, the creation of a larger group of small units clustered together can create a high street effect, where consumer choice is greatly increased and may further draw trade away from the town centre.

The applicant has challenged the reason for the conditions imposed on the original retail park as not necessarily being imposed to prevent smaller units but instead to require

subsequent applications to be submitted so that the potential impacts can be assessed. The position is nonetheless maintained that the condition in its effect prevented the retail units from being subdivided and therefore being reduced in their size. The policy position at that time would have been to direct retail development to the town centre or local centres except where it could be reasonably justified otherwise. It would stand to reason that part of the necessity for the condition would be to enable any change in the size of the units to be assessed and to consider the effects this may have on the town centre.

Additionally, the applicant notes that under the P/04/0633 permission for the retail park a few of the units were smaller in size. Whilst this may be the case and was accepted at that time, there is an increasing trend to now subdivide the larger stores or reduce the size of mezzanines to create smaller units, which is evident across a number of units within the retail park. This gives rise to a greater concern of the potential impact this may have on the town centre.

The existing properties within the town centre vary in their size, which caters for a mixture of uses from offices, leisure, food & drink and retail. Although the vast majority of the units are small (between 26sqm to 600sqm), there remains a small proportion of larger units, which can provide 700sqm or more of retail floorspace. Conversely, the size of the retail units within Cyfarthfa Retail Park are generally larger, typically exceeding 900sqm. However, it is noted that there is a small number of smaller units with a retail floorspace of around 650sqm.

As such, in terms of unit size, a clear distinction can be made with Cyfarthfa Retail Park generally providing larger units that cater for a different shopping experience to that offered within the town centre. This is consistent with the approach where larger units are justified in out of centre locations, as it may not be possible to provide such units within the town centre.

The proposed reduction in the size of the mezzanine (including the removal of the front lobby) in Unit 5b would result in the unit having a gross internal floor space of approximately 723.6sqm, which would be generally smaller than the majority of the units within the retail park. However, Unit 5b would remain larger than the majority of the units offered within the town centre and would only be comparable to a relatively small percentage of the town centre offer.

A sequential test has been included in the Planning Statement, which reviews the various retail units within the town centre that are vacant as of July 2024. Whilst the majority of the 23 units identified are considerably smaller than Unit 5b, 3 of the units located within the St Tydfil Shopping Centre, being Unit 10a (784sqm) and 10b (1,450sqm) Graham Way and 8 River Walk (1,021sqm), are of a size that could accommodate Sketchers.

Unit 10a Graham Way has been discounted as being too small despite being larger than the floor space within Unit 5b. The fact that the floor space is split across two floors also appears to cause issue with being able to provide a suitable configuration, albeit, Unit 5b incorporates a first floor (mezzanine) level.

Although Unit 10b Graham Way is a much larger unit across two levels and could accommodate Sketchers entirely on the ground floor, this would still be larger than Unit 5b. Concerns are raised in respect of the lack of nearby national retailers, low footfall, shopfront prominence and service arrangement, but these points are not expanded on. It

is also noted in the assessment that Unit 10b cannot be subdivided but it is not clear why this is a criteria in this instance.

The upper floor of 8 Riverside Walk also has a floor space that could accommodate Sketchers, but this unit is larger than Unit 5b. Concerns have been raised in relation to its proximity to national retailers, low footfall, shopfront prominence and efficient service arrangements. Again points are raised in respect of subdivision which is not a consideration of this application.

Whilst some of these concerns are understood and it is acknowledged that the retail offer at Cyfarthfa Retail Park would be more appealing, the reasons given to discount the units available in the town centre are not entirely accepted, given the need for retailers to be flexible in their approach. The applicant has indicated that the need for surface level parking does not form a criteria in the sequential assessment which demonstrates a flexible approach has been taken. In terms of the size of the units, this does not demonstrate a degree of flexibility in terms of the format or scale.

Notwithstanding the above, the applicant has highlighted that there is a degree of uncertainty about the St Tydfil Shopping Centre and whether the units identified are genuinely available, given that it is likely to form part of a redevelopment/transformation of the Shopping Centre in the future. In this respect, the applicant has noted that national multiple retailers often seek tenancies for a period of 5-15 years with a right to renew the lease. This creates a degree of uncertainty around the future redevelopment proposals, which would be a determinative factor at present for any investment in the Shopping Centre.

The proposal to reduce the size of Unit 5b would in this instance be acceptable given that it is reasonably similar to some of the other units within Cyfarthfa Retail Park, whilst remaining sufficiently distinct from the smaller units typically available within the town centre. It is clear from the sequential test that there are available units within the town centre, primarily within the Shopping Centre, that may be of a similar size that could be occupied by Sketchers. Notwithstanding this, it is acknowledged that there is a degree of uncertainty over the future plans for the shopping centre which may influence the genuine availability of the vacant units in the short to medium term.

Therefore, in this instance it has been sufficiently demonstrated that the proposal would not have a significant impact on the vitality and viability of the town centre, whilst offering some benefit through the re-occupation of Unit 5b. It is deemed necessary that a condition should be imposed to prevent any further potential sub-division of the units 5a and 5b, which may otherwise have a greater impact on the town centre. Whilst there is no proposed changes to the retail use or the range of goods that might be sold, it would be appropriate to reiterate the conditions attached to previous permissions to limit the use of the units to non-food retail within class A1. As such the need for conditions 2, 3, 4 and 5 remain relevant and should be amended to reflect the change in the plans and floor areas. Accordingly, the proposal complies with policies EcW3 and EcW6 of the LDP.

It is acknowledged that the proposal involves works to the shopfront of Unit 5a and 5b to modernise its appearance by introducing a large glazed frontage that would be of a similar design to other recently modernised shopfronts within the wider retail park. The proposed new shopfront would not have an adverse impact on the character or appearance of the site or surrounding area. Therefore, the proposal complies with Policy Sw11 of the LDP.

CONCLUSIONS

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.

For the above reasons the proposed development is acceptable and complies with the relevant LDP policies. 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:

Dwg No. 11428 05 PL E02 Rev A - Proposed Elevations

Dwg No. 11428 05 PL P02 Rev F - Proposed Floor Plans

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

3. The retail units hereby approved, as shown on the Proposed Floor Plan (Dwg No. 11428 05 PL P02 F), shall not be used for purposes other than the sale of non-food products/goods and shall not be used for any other purpose including those set out in class A1 of the schedule for the Town and Country Planning (Use Classes) Order 1987 or any Order revoking, amending or re-enacting that order with or without modification.

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

4. The retail units hereby approved, as shown on the Proposed Floor Plan (Dwg No. 11428 05 PL P02 F), shall not be sub-divided so that the gross retail floor space of a single user/unit is less than 882.3sqm in Unit 5a and 723.6sqm in Unit 5b.

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

5. The mezzanine floors as illustrated on the Proposed Floor Plan (Dwg No. 11428 05 PL P02 F) shall be retained and shall not be reduced in size to less than 422.9sqm in Unit 5a and 252.9sqm in Unit 5b.

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

RECOMMENDATION ENDORSED

p.p. 

Director of Neighbourhood Services

DATE: 4th November 2024