

Unit 5
Cyfarthfa Retail Park, Merthyr Tydfil

**Planning Permission P/23/0223 - Proposed Subdivision of Unit 5 into 2 units and
Associated External Alterations**

***Proposed Amendments to approved plans to reduce the size of the mezzanine floor
in Unit 5B and amendments to the shopfront design***

Planning Statement

July 2024



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Contents

1. The Proposal 1

2. Relevant Planning History 3

3. Planning Policy Overview 7

4. Assessment 11

5. Conclusions 22

Appendices

1. Sequential Test Assessment – Merthyr Tydfil Town Centre

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1. The Proposal

- 1.1 Corona Vulcan Merthyr Limited, the owner of Cyfarthfa Retail Park, has submitted a planning application under S.73 of the Town and Country Planning Act 1990 to amend the approved plans under planning permission P/23/0223, granted on 12 March 2024, for the proposed subdivision of Unit 5 into two units and associated external alterations.
- 1.2 The proposed amendments relate to the size of the mezzanine floor in proposed Unit 5B and to the design of the shopfront.
- 1.3 As approved, Unit 5B has a 411.3sqm mezzanine floor. It is proposed to reduce the size of the approved mezzanine floor by 158.4sqm so that Unit 5B has a 252.9sqm mezzanine floor.
- 1.4 The revised shopfront design includes removal of the existing entrance feature, lobby and canopy and replacing this with new double height capless glazing. This will deliver a modern retail frontage required by occupiers and is consistent with the style of shopfront implemented at a number of units at the Retail Park including Unit 10 where similar alterations were approved in 2022 under permission P/21/0427.
- 1.5 The minor reduction in ground floorspace in Unit 5A and Unit 5B (minus 12sqm in each unit) reflects that the existing entrance lobbies would not be retained in the revised shopfront design
- 1.6 The approved and proposed floorspace figures are shown in Table 1 below.

Table 1 – Proposed Amendments to Floorspace

	SqM Ground	SqM Mezzanine	SqM Total
Approved Unit 5A	471.6	422.9	894.5
Proposed Unit 5A	459.4	422.9	882.3
Unit 5A Difference Approved/Proposed	-12.2	- 0.0	-12.2
Approved Unit 5B	482.8	411.3	894.1
Proposed Unit 5B	470.7	252.9	723.6
Unit 5B Difference Approved/Proposed	-12.1	-158.4	-170.5

- 1.7 Since planning permission P/23/0223 was granted in March, the Applicant has agreed terms with Skechers, a national multiple footwear retailer not currently represented in Merthyr Tydfil, to occupy Unit 5B. The proposed amendments to Unit 5B are required to meet Skechers' requirements and to secure this letting. The proposed smaller mezzanine in Unit 5B will be used by Skechers for storage and ancillary non sales purposes.
- 1.8 Cyfarthfa Retail Park presents the only viable opportunity for Skechers to locate in Merthyr Tydfil as it offers the opportunity to co-locate with a critical mass of adjacent national multiple retailers that is an essential requirement for this retailer.
- 1.9 The nearest Skechers stores to Merthyr Tydfil are a considerable distance away, i.e. Friars Walk, Newport (20 miles away); and St. David's, Cardiff (20 miles away). There is also a factory outlet Skechers store at McArthur Glen Designer Outlet, Bridgend (17 miles away).
- 1.10 Unit 5 has been vacant since September 2023 when the previous occupier, Wilko, went into administration and closed the store. The Landlord has marketed Unit 5 as a whole and in subdivided form with the existing mezzanine floorspace retained as approved in permission P/23/0223. There has been no viable occupier demand or Unit 5 in its existing or approved configuration.
- 1.11 Occupation by Skechers will bring part of a vacant unit back into use and will generate employment as the retailer will employ around 25 people in the proposed store in a mix of full time and part time positions.
- 1.12 The application, if approved, will allow the Applicant to proceed with the subdivision and shopfront improvements to deliver a unit for Skechers. These improvement works involve a significant investment of around £900,000

2. Relevant Planning History

- 2.1 The first phase of the Cyfarthfa Retail Park development was granted under Planning Permission P/02/0514, dated 10 June 2003, which permitted;

“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.”

- 2.2 A reconfigured layout was approved under planning permission P/03/0524, dated 28 November 2003.

- 2.3 In April 2005 planning permission P/04/0633 was granted for an 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 floorspace in Units 8 and 9A.

- 2.4 It is understood that Planning Permission P/04/0633 is the operative permission that controls the use of Unit 5.

- 2.5 Under Condition 2 of planning permission P/04/0633 Unit 5 can be used for the sale of non-food goods only; and under Condition 5, the mezzanine floor in Unit 5 can be used for retail sales purposes.

- 2.6 Condition 6 in planning permission P/04/0633 states;

“Unless otherwise permitted by virtue of the current planning application, none of the retail units hereby approved shall be subdivided so that the gross retail floorspace of a single user/unit is less than 1,858sq. m (20,000sq. ft.)”

- 2.7 The layout plan (SP1066(05)202D) approved under planning permission P/04/0633 showed a range of retail unit sizes including five units of 929sqm gross ground floor area, a 464sqm unit (Unit 2) and a 278sqm unit (“video hire unit”).

- 2.8 In April 2013 planning permission P/12/0219 was granted for the Phase 2 development involving the demolition of the original B&Q unit (Unit 9) and the erection of 6 retail units (nos. 12 – 17) and the erection of 3 retail units on the former Thorn Electrical site (which B&Q relocated to).

2.9 The originally approved unit sizes for Unit 12 to 17 are shown in Table 2 below.

Table 2 – Units 12 – 17 Original Approved Sizes

Unit	Ground Floor GIA SqM	Mezzanine SqM	Total GIA
12	941	706	1,647
13	930	698	1,628
14	802	602	1,404
15	802	602	1,404
16	607	455	1,062
17	2,370	2,248	4,618

2.10 A number of planning permissions have been granted to amend the configuration and/or design of units 12 – 17, i.e. P/13/0156; P/14/0147; P/15/0001; P/16/0009 and most recently P/18/0008 granted in March 2018. Table 3 shows the currently approved unit sizes in the now renumbered units 12A – 12F.

Table 3 – Units 12A – 12F

Unit	Ground Floor GIA SqM	Mezzanine SqM	Total GIA
12A 12B	1,887	1,681	3,568
12C	929	830	1,759
12D	649	-	649
12E	613	483	1,096
12F	2,225	2,225	4,450

2.11 Under planning permission P/18/0008, Unit 12D was permitted to be occupied as a ground floor unit only (649sqm gross) with the omission of the approved mezzanine.

2.12 In July 2019 planning permission was refused (P/19/0138) for the subdivision of Unit 9 which comprises 930sqm ground floor area and 866sqm mezzanine (1,796sqm total). The proposed subdivision would have created two units – Unit 9A (460sqm ground with optional full cover mezzanine) and Unit 9B (468sqm with optional full cover mezzanine).

2.13 In February 2022, planning permission P/21/0428 was granted allowing the subdivision of Unit 11 (1,415.5sqm ground floor gross internal area) into two units of 699.5 gross internal ground floor area (Units 11A and 11B) with associated external alterations. Units 11A is now occupied by Mountain Warehouse and 11B is now occupied by Superdrug.

2.14 The subdivision of Unit 5 into two units, Unit 5A and unit 5B, was approved on 12 March 2024 under planning permission P/23/0223.

2.15 Drawings submitted with application P/23/0223 showed a 422.9sqm mezzanine in Unit 5A and a 411.3sqm mezzanine in Unit 5B. The Planning Statement submitted with the application stated;

“It is not confirmed at this stage whether the prospective new tenants will require the mezzanine floorspace. Therefore, the Applicant cannot accept a planning condition that requires that the mezzanine floorspace is installed in the subdivided units. It is proposed that a minimum unit size restriction reflects the smallest proposed ground floor area, i.e. that the premises shall not be subdivided into units of less than 471sqm metres gross internal area.”

2.16 In response to concerns raised by the LPA about unit sizes during its consideration of the application, the Applicant offered to accept a minimum unit size restriction of 699sqm whereby Unit 5A would be 471sqm ground/228sqm mezzanine (minimum) and Unit 5B would be 482sqm ground/217sqm mezzanine (minimum).

2.17 The LPA advised that a unit of around 700sqm would be considered acceptable but only if this comprised 700sqm “*retail floorspace*” with an additional storage area.

2.18 Permission P/23/0223 was granted with the following conditions relating to floorspace;

Condition 2 –

“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 4 -

“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 –

“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.”

3. Planning Policy Overview

The Development Plan

- 3.1 Merthyr Tydfil Replacement Local Development Plan 2016 – 2031 (the LDP) paragraph 6.7.26 states that Cyfarthfa Retail Park provides “*an established out-of-centre retail park in close proximity to the Town Centre.*”
- 3.2 Policy EcW3 identifies 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 and being followed by the local centres of Dowlais, Gurnos, Cefn Coed and Brecon Road/Morgantown, Troedyrhiw, Aberfan, Treharris and a new local centre forming part of the ‘Hoover Strategic Regeneration Area’.
- 3.3 The Policy states that outside the identified centres in the retail hierarchy, proposals will be subject to an assessment of need and a strict application of the sequential test.
- 3.4 Policy EcW6 identifies Cyfarthfa Retail Park as an “*out-of-town retailing area*”. This Policy states that proposals for retail development on new sites or existing retail areas in out-of-town locations, including changes of use, extensions, the merger or subdivision of existing units or amendments to existing planning conditions relating to the sale of goods will only be permitted where:
- It can be demonstrated that there is an additional need for the proposal which cannot be provided within an existing town or local retail centre, and
 - The proposal would not either individually or cumulatively with other existing or consented developments have an unacceptable impact on the trade, turnover, vitality and viability of the town or local centres
- 3.5 LDP paragraph 6.7.54 states that retail impact assessment will be required where the proposal is for at least 2,500sqm gross floorspace and that retail impact assessments that are proportionate to the potential impacts may also be required for smaller retailing proposals.
- 3.6 LDP paragraph 6.7.56 acknowledges that some types of retail store, “*such as*” those selling bulky goods and requiring large showrooms, may not be able to find suitable

sites or buildings within the County Borough's existing retail centres. Where this is the case the Local Plan states that in the first instance such stores should be located on existing out-of-centre sites close to existing centres such as Cyfarthfa Retail Park.

- 3.7 The LDP highlights the important role that Cyfarthfa Retail Park performs in improving economic wellbeing through retaining and attracting expenditure in Merthyr which provides potential spin off benefits that the town centre can capitalise upon. Paragraph 4.40 states;

“The Town Centre, particularly, is seen as a key asset and will continue to form the lynchpin for regeneration. The strategy reflects the need to continue town centre regeneration and will aim to capitalise on the extra spending power attracted to Merthyr Tydfil through out-of-centre developments such as the Cyfarthfa Retail Park and Trago. Fundamental to the success of this approach is ensuring that the retail offer in each of these locations is kept sufficiently distinct so as not to undermine the vitality and viability of the town centre. Furthermore, it provides support for the tourism sector and for the retailing role of the town and local centres.”

Planning Policy Wales

- 3.8 Planning Policy Wales (PPW)¹ (paragraph 4.3.15) identifies that need may be quantitative or qualitative, with the former taking precedence particularly as a basis for development plan allocations.
- 3.9 PPW (paragraph 4.3.16) states that qualitative assessment should cover both positive and negative aspects. It identifies factors where qualitative assessment may become an important consideration. Notably, having regard to the important role attributed to Cyfarthfa Retail Park in the LDP (paragraph 4.40), PPW identifies that an important qualitative consideration in the assessment of an application is where it;

“supports the objectives and retail strategy of an adopted development plan”

- 3.10 PPW (paragraph 4.3.17) states that it will be for the planning authority to determine and justify the weight to be given to any qualitative assessment. Regeneration and

¹ Edition 12, February 2024

additional employment benefits are not considered in PPW to be qualitative need factors in retail policy terms, but PPW acknowledges that they may be material considerations if the regeneration and job creating benefits can be evidenced.

- 3.11 PPW paragraph 4.3.18 states that under the 'town centres first' policy planning authorities should adopt a sequential approach to the selection of new sites in their development plan and when determining planning applications for retail and other complementary uses.
- 3.12 If a suitable site or building to meet identified need is not available within a retail and commercial centre or centres, then consideration should be given to edge of centre sites and if no such sites are suitable or available, only then should out-of-centre sites in locations that are accessible by a choice of travel modes, including active travel and public transport, be considered (PPW paragraph 4.3.19).
- 3.13 PPW paragraph 4.3.20 advises that the extent of a sequential test should be agreed by pre-application discussion between the planning authority and the developer.²
- 3.14 PPW paragraph 4.3.26 states that all retail planning applications or retail site allocations of 2,500sqm or more gross floorspace that are proposed on the edge of or outside designated retail and commercial centres should, once a need has been established, be supported by a retail impact assessment.
- 3.15 For smaller retail planning applications or site allocations, planning authorities will need to determine whether an assessment is necessary, for example when a smaller proposal may have a significant impact on a centre. Requests for retail impact assessments by planning authorities on smaller developments should be proportionate to potential impacts (PPW paragraph 4.3.27).
- 3.16 PPW paragraph 4.3.25 states that retail developments outside designated retail and commercial centres, and which are not located on an allocated site, can impact on the viability and vibrancy of a centre. Impacts resulting from such development, whether individual or cumulative, may include changes in turnover and trading ability, consumer choice, traffic and travel patterns, footfall, as well as affect centre

² See paragraph 4.5 below.

regeneration strategies and existing or proposed retail sites allocated in the development plan. The purpose of the retail impact assessment is to consider these issues and determine if these developments are likely to have detrimental consequences.

4. Assessment

Need

Unit 5 already exists. Permission has already been granted for subdivision into Unit 5A and Unit 5B. The current application involves a reduction in floorspace, and no change of use is proposed. In these circumstances quantitative need is not a significant determining issue. This was also accepted in the determination of application P/23/0223.

- 4.1 In terms of qualitative need, and having regard to LDF paragraph 4.40 and PPW paragraph 4.3.17, the Delegated Report on application P/23/0223 noted that the proposed subdivision of Unit 5 would facilitate the re-letting of the premises to two national multiple non food retailers which would help to maintain and enhance the quality of the shopping offer at Cyfarthfa Retail Park and support its identified role in the LDP in attracting extra spending power to Merthyr Tydfil that the town centre may potentially capitalise upon. These factors are also material considerations in favour of the proposed amended plans for subdivision of Unit 5.
- 4.2 When application P/23/0223 was submitted in September 2023 it was stated in the application that the proposed subdivision of Unit 5 would significantly improve the potential to secure new occupiers for this existing unit albeit, at that time, there were no confirmed operators with specific floorspace requirements.
- 4.3 The situation has now changed in that Unit 5B is under offer to Skechers and the amended plans for this unit (470.7sqm ground floor/252.9sqm mezzanine) are proposed in order to meet the confirmed business model requirements of this retailer.
- 4.4 The qualitative need for the current application to be approved is strengthened by the fact that it will directly secure a new occupier for Unit 5B (Skechers), bringing part of vacant Unit 5 back into active use.

Sequential Test

- 4.5 The extent of the sequential test undertaken is consistent with the approach adopted and accepted in the assessment of application P/23/0223 and other previous applications including application P/21/0428. Merthyr Tydfil Town Centre is the

relevant centre to be assessed and the Local Centres identified under LDP Policy EcW3 have not been included. This reflects the local shopping function of the Local Centres and that the LDP identifies Cyfarthfa Retail Park as a preferred location for meeting needs that cannot be accommodated in the Town Centre for the reasons referred to in LDP paragraph 4.40.

- 4.6 An assessment of the suitability and availability of premises that are currently being marketed in the Town Centre is set out at Appendix 1.
- 4.7 The assessment has adopted the requirement for developers and retailers to be “*flexible and innovative about the format, design and scale of proposed development*” as referred to in TAN4 (paragraph 7.5), which has to be interpreted with reference to the *Dundee* judgment.
- 4.8 The assessment at Appendix 1 demonstrates that there are no available opportunities in the Town Centre that are suitable to accommodate the application proposal adopting reasonable flexibility.
- 4.9 In terms of suitability, the assessment in Appendix 1 adopts reasonable flexibility having regard to the need that the application proposal will meet, which is to accommodate national multiple non food retailers in units of broadly (but not exactly) the size proposed.
- 4.10 The flexible approach that has been adopted is also evidenced by the fact that while adjacent surface level car parking is an important characteristic of the suitability of the application site to accommodate national multiple retailers, the assessment does not include adjacent surface level car parking as a criterion that determines the suitability of potential town centre units. This approach to car parking arrangements is specifically identified as an indicator of flexibility in the sequential approach in TAN4 (paragraph 7.5).³
- 4.11 The Supreme Court judgment in *Tesco Stores Limited v Dundee City Council* [2012] UKSC 13, which is legally binding in Wales, established [a] that if a site is not suitable for the commercial requirements of the developer in question then it is not a suitable

³ Technical Advice Note 4 – November 2016 – Retail and Commercial Development

site for the purposes of the sequential approach; and [b] that in terms of the size of the alternative site, provided that the Applicant has demonstrated flexibility with regards to format and scale, the question is whether the alternative site is suitable for the proposed development, not whether the proposed development could be altered or reduced so that it can be made to fit the alternative site.

- 4.12 It is clear from the *Dundee* judgment that disaggregation goes beyond reasonable flexibility in the sequential approach as this would require the proposed development to be “*altered or reduced so that it can be made to fit the alternative site*”. It is not necessary, therefore, to consider if Unit 5B can be accommodated separately within the Town Centre
- 4.13 As shown in Appendix 1, the majority of units being marketed are considerably smaller than the proposed sub-divided units. In fact, most are far too small to accommodate Unit 5B alone, even if this was a relevant consideration.
- 4.14 It remains the case, as was the position in September 2023 when the sequential test was undertaken for application P/23/0223, that the only units large enough to accommodate the (now slightly smaller) proposed units adopting reasonable flexibility are Unit 10a/10b, Graham Way, St Tydfil Shopping Centre (former Wilko store); and 8 River Walk, St Tydfil Shopping Centre (former Carpet Splendour).
- 4.15 As set out in Appendix 1, these units are not suitable for reasons relating to size, configuration, lack of adjacency to other national multiples, insufficient footfall, lack of prominence, and unsuitable servicing arrangements.
- 4.16 Furthermore, given the widely publicised redevelopment proposals for the Council owned St Tydfil Shopping Centre, these units are not available to meet the national multiple retailer requirements that the application site will meet.
- 4.17 These units are likely to form part of the redevelopment/transformation of the Shopping Centre that was consulted on in 2023. National multiple retailers that wish to locate at Cyfarthfa Retail Park, including Skechers, typically make a significant investment in a high quality fit out and as a consequence require leases of 5-15 years

that are protected under the Landlord and Tenant Act 1954, which gives tenants a legal right to renew at lease expiry.

- 4.18 These types of retailers, including Skechers, would not consider investing in the St Tydfil Shopping Centre given the uncertainty around future redevelopment proposals, even if these vacant units were suitable.
- 4.19 This position was accepted in the Delegated Report on application P/23/0223 which stated;

However, the applicant has highlighted in subsequent communications that there is a degree of uncertainty with the St Tydfil Shopping Centre and whether they are genuinely available, given that they are 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.

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. 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.”

- 4.20 There has been no change in circumstances regarding the suitability/availability of these units in the St Tydfil Shopping Centre since application P/23/0223 was approved.
- 4.21 No suitable, more accessible, opportunities have been identified on the edge of the Town Centre that are available to accommodate the application proposal adopting reasonable flexibility.
- 4.22 Application P/23/0223 passed the sequential test and it would be entirely inconsistent, and unjustified, to reach any different conclusion on the current application.
- 4.23 It is, therefore, concluded that the application proposal passes the sequential test.

Retail Impact Assessment

- 1.13 The application does not involve creating additional retail floorspace nor does it involve a change of use. The application in fact involves a reduction in floorspace (reducing the size of the mezzanine floor in Unit 5B by 158.4sqm). As such, it does not trigger the automatic requirement for retail impact assessment under LDP Policy ECW6 and PPW paragraph 4.3.26 which relates to retail development proposals of 2,500sqm or more gross floorspace.
- 4.24 In terms of a proportionate assessment of the application proposal the LPA accepted in the assessment of application P/21/0428 and application P/23/0223 that the consideration of impact essentially relates to the matter raised in LDP paragraph 4.40 which is whether the proposal will change the retail offer at Cyfarthfa Retail Park such that it would not be kept sufficiently distinct from and could, therefore, undermine the vitality and viability of the town centre.
- 4.25 The Delegated Report on application P/23/0223 stated;
- “As part of the permission for the retail park, there was a clear intention to ensure that the retail units are not subdivided 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. This condition ensures that the units within the retail park are sufficiently distinct in size to that available within the town centre. 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.”*
- 4.26 The statement in the Delegated Report requires some clarification.
- 4.27 Firstly, the stated reason for Condition 6 in permission P/04/0633 was the same as for Conditions 2 – 7 in that permission, i.e.

“To protect the viability and vitality of Merthyr Tydfil and other town centres within the defined Primary Catchment Area as considered relative to the Retail Impact Assessment which accompanied the application.”

- 4.28 The reason for the Condition was not, therefore, to *“prevent the creation of smaller units that may otherwise compete with the retail offer of the town centre”* as surmised in the Delegated Report, but merely to restrict the development to the unit sizes presented in the application that had been assessed in the Retail Impact Assessment; and so that if any further subdivision was proposed a further application would be required where the potential impacts could be assessed.
- 4.29 Secondly, with regard to the *“creation of smaller units”*, the layout plan (SP1066(05)202D) approved under planning permission P/04/0633 permitted a range of retail unit sizes including five units of 929sqm gross ground floor area, a 464sqm unit (Unit 2) and a 278sqm unit (“video hire unit”), the latter two units being smaller than the proposed amended size for Unit 5B.
- 4.30 Thirdly, and supporting the position set out in paragraph 4.30 above, subsequent applications have been approved to allow the creation of smaller units at the Retail Park. This includes P/18/0008 (Unit 12D – 649sqm) and P/21/0428 (Unit 11A/Unit 11B – both 699.5sqm) which all involved the creation of units with a smaller GIA than the proposed amended size of Unit 5B.
- 4.31 Notably, on the one occasion where an application for subdivision was refused (application P/19/0138 re Unit 9, refused in 2019), unlike the current application, the proposed unit sizes were smaller than any other units at the Park. Proposed Unit 9A was 460.7sqm and Unit 9B was 468.2sqm, both smaller than the smallest unit at the Park – Unit 2 (471sqm GIA).
- 4.32 Unit 9A and Unit 9B were also over a third smaller than the proposed amended size of Unit 5B
- 4.33 Application P/19/0138 was also entirely speculative rather than reflecting the specific requirements of a national multiple retailer (Skechers) as in the current application.
- 4.34 The Delegated Report on P/23/0223 stated;

“The proposed units would be of an appropriate size to be consistent with the larger retail units offered within Cyfarthfa Retail Park, whilst remaining sufficiently distinct from the smaller units typically available within the town centre. This in turn supports the need for the units to be situated in an out of town location. Additionally, the proposed subdivision of Unit 5 would only compete with a small percentage of larger units available in the town centre.”

- 4.35 TAN4 (paragraph 10.5) states that it may be appropriate to impose conditions to control the number or size of units to prevent the development being subdivided into a large number of outlets (or vice versa), if the effect of such a change would be to *“change significantly the nature of the retail development to one that would not have been given permission.”*
- 4.36 The determining issue in respect of retail impact is, therefore, whether the proposed amended size of Unit 5B, by reducing the size of the mezzanine floor from 411.3sqm to 252.9sqm (a reduction of 158.4sqm) would change significantly the nature of Cyfarthfa Retail Park such that there would be a harmful impact on the trade, turnover, and vitality and viability of the town centre.
- 4.37 It is plainly obvious without any further analysis that such a minor change in the floorspace in Unit 5B, which will be completely imperceptible in reality, will not change significantly the nature of Cyfarthfa Retail Park. Nevertheless, further analysis is presented below to confirm the acceptability of the proposal.

Would the Proposal Change Significantly the Nature of the Development?

1. Goods Sold and Occupier Profile

- 4.38 Cyfarthfa Retail Park has unrestricted non food consent (which the amendments would not change) and also accommodates a foodstore use (M&S), leisure uses (Everlast Fitness gym), and food and drink outlets (McDonald's, Greggs, Subway, KFC, Pizza Hut, Costa Coffee). The Park accommodates national multiple retailers in a range of unit sizes. These established characteristics are important to the benefits that the LDP recognises the Park delivers in terms of *“extra spending power attracted to Merthyr Tydfil”*.

- 4.39 The proposed amended size of Unit 5B will facilitate the letting of this unit to a national multiple retailer, Skechers, that is not currently represented in the Town. Securing this new retailer for the town will retain and attract extra spending in Merthyr Tydfil.
- 4.40 The proposal is consistent with the Retail Park's established role and function in accommodating national multiple retailer requirements that cannot be accommodated in the Town Centre (NB: the proposal satisfies the sequential test) and in attracting extra spending power to Merthyr Tydfil.
- 4.41 The proposed amendments will not, therefore, change the nature of Cyfarthfa Retail Park in terms of types of goods sold or its national multiple occupier profile.

2. Number of Units

- 4.42 There are currently 20 retail units at Cyfarthfa Retail Park / Cyfarthfa Retail Park North (including the retail components in Unit 1 Everlast Fitness/Sports Direct; and excluding the food/drink units). With the approved subdivision of Unit 5 under permission P/23/0223 the number of retail units will increase to 21 units. With the proposed amendment to the size of Unit 5B there still will be 21 retail units.
- 4.43 The proposed amendments will not, therefore, change the nature of Cyfarthfa Retail Park in terms of the number of retail units, which will remain at 21 in total.

3. Range of Unit Sizes

- 4.44 The retail unit sizes at Cyfarthfa Retail Park range from 471sqm GIA (Unit 2 – Tapi) to over 3,716sqm GIA (Unit 3 – Matalan; Unit 1 Cyfarthfa North – B&Q) and also includes Unit 11A – 699sqm GIA; Unit 11B – 699sqm GIA.
- 4.45 As proposed to be amended, Unit 5B will be 723.6sqm. The proposed amended GIA in Unit 5B will fall within the existing range of unit sizes, and will not create smaller units than currently exist at Cyfarthfa Retail Park.
- 4.46 The proposed amendments will not represent - *“the creation of a larger group of small units clustered together”* as referred to in the Delegated Report on application P/23/0223.

4.47 The proposed amendments will not, therefore, change the nature of Cyfarthfa Retail Park in terms of the range of unit sizes.

4. Distinction between Retail Park and Town Centre

4.48 The Town Centre has 279 units. Most of the occupiers (212 units/76%) are non multiples. Only 29 units (10.4%) are occupied by national multiple comparison goods retailers. The Town Centre's offer is much more diverse than the Retail Park's offer, and its vitality and viability is supported by a much wider range of uses.

4.49 This fundamental distinction between the town centre and the Retail Park in terms of diversity of use and types of occupiers will be entirely unaffected by the proposed amendment to the size of Unit 5B.

4.50 Skechers only acquires units in larger city/town centres and at major retail parks where there is sufficient critical mass of other adjacent national multiples. Given the relatively limited national multiple representation in Merthyr Tydfil town centre, the only viable location for Skechers to locate in the town is at Cyfarthfa Retail Park.

4.51 As noted above, the Delegated Report on application P/23/0223 stated that Condition 6 in planning permission P/04/0633 was imposed to protect the viability and vitality of the town centre by ensuring that the units within the retail park are sufficiently distinct in size to that available within the town centre with the intention to prevent the creation of smaller units that may otherwise compete with the retail offer of the town centre.

4.52 The Applicant does not accept that unit size is a significant issue in terms of competition between the retail offer in the Retail Park and the Town Centre, given the distinction between the types of occupiers attracted to these two locations.

Table 4 - Merthyr Tydfil Town Centre Units Sizes (source: GOAD)

Unit Size Range	No. of Units	%
1000sqm +	5	1.8
900sqm – 999sqm	1	0.4
800sqm – 899sqm	0	0.0
700sqm – 799sqm	2	0.7
600sqm – 699sqm	1	0.4
500sqm – 599sqm	2	0.7

400sqm – 499sqm	2	0.7
300sqm – 399sqm	14	5.0
200sqm – 299sqm	34	12.2
100sqm – 199sqm	108	38.7
Less than 100sqm	110	39.4
Total Retail/Service	279	100

- 4.53 Unit 5B, as approved, is 482.8sqm ground floor; 411.3sqm mezzanine; 894.1sqm total.
- 4.54 In terms of comparable ‘smaller’ units in the Town Centre, Table 4 above shows that only 2 units (0.7%) in the town centre are in the 400sqm – 499sqm size range that the approved ground floor area in Unit 5B would fall within; and that 266 Town Centre units (95.3%) are less than 400sqm, i.e. smaller than the approved ground floor area in Unit 5B.
- 4.55 Table 4 also shows that there are 273 Town Centre units (97.8%) are smaller than 899sqm, i.e. smaller than the approved total GIA in Unit 5B.
- 4.56 This level of distinction between the size of Unit 5B and the size of Town Centre units was found to be acceptable to the LPA as evidenced by the approval of application P/23/0223.
- 4.57 Unit 5B, as proposed, would be 470.7sqm ground floor; 252.9sqm mezzanine; 723.6sqm total.
- 4.58 In terms of ground floor areas, the level of distinction between Town Centre units is the same as the approved position. Only 2 units (0.7%) in the Town Centre are in the 400sqm – 499sqm size range that the proposed ground floor area in Unit 5B would fall within; and 266 Town Centre units (95.3%) are less than 400sqm, i.e. smaller than the proposed ground floor area in Units 5B.
- 4.59 In terms of total GIA, Table 4 also shows that there are only 2 Town Centre units (0.7%) in the 700sqm – 799sqm size range that the proposed Unit 5B total GIA would fall within; and that 271 Town Centre units (97.1%) are smaller than 700sqm, i.e. smaller than the proposed total GIA in Unit 5B.

- 4.60 In terms of comparable unit sizes it is evident that the proposed minor amendment to the mezzanine floorspace in Unit 5B would make no material difference to the existing /approved level of distinction between the size of Unit 5B and the size of units in the Town Centre.
- 4.61 It is clear that the proposed amendment would not change significantly the nature of Cyfarthfa Retail Park because the proposed amended unit size for Unit 5B would still be larger than the smaller units at the Park, Unit 2, Unit 11A, Unit 11D and Unit 12D.

Conclusion on Retail Impact

- 4.62 Referring back to TAN4 (paragraph 10.5) the determining issue is whether allowing Unit 5B to be marginally smaller than approved, by reducing the size of the approved mezzanine by 158.4sqm, would change significantly the nature of the retail development such that there would be a harmful impact on trade, turnover, and vitality and viability of the town centre.
- 4.63 There is plainly no evidence to suggest that such a minor change to the approved floorspace in this unit would have a harmful impact on the Town Centre.

5. Conclusions

- 5.1 The LDP identifies that Cyfarthfa Retail Park is important to the strategy for the continued regeneration of Merthyr Tydfil Town Centre which aims to capitalise on the extra spending power that the Retail Park attracts to the town.
- 5.2 The extra spending power that Cyfarthfa Retail Park brings to the town is dependent on the quality and choice of the Park's retail offer. Proposals that seek to facilitate the continued occupation of units at the Retail Park are supportive of the LDP strategy provided that, as the LDP states, the retail offer in the Retail Park is kept sufficiently distinct so as not to undermine the vitality and viability of the Town Centre.
- 5.3 Unit 5 has been vacant since September 2023. In March 2024 planning permission was granted to subdivide Unit 5 into two units, Unit 5A (894.5sqm gross) and Unit 5B (894.1sqm gross).
- 5.4 Permission P/23/0223 contains conditions relating to floorspace including Condition 4 which requires that the units 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; and Condition 5 which requires the mezzanine floors shall be retained and shall not be reduced in size to less than 422.9sqm in Unit 5A and 411.3sqm in Unit 5B.
- 5.5 The reason these conditions were imposed is – *“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.”*
- 5.6 Since planning permission P/23/0223 was granted, the Applicant has agreed terms with Skechers, a national multiple footwear retailer not currently represented in Merthyr Tydfil, to occupy Unit 5B.
- 5.7 Skechers business model requires a slightly smaller mezzanine floor than currently approved in Unit 5B, i.e. 252.9sqm.
- 5.8 The revised shopfront design includes removal of the existing entrance feature, lobby and canopy and replacing this with new double height capless glazing. This will provide a more modern design required by tenants and is consistent with the type of

modern shopfront implemented at other units at the Park. The revised shopfront design involves the removal of the existing entrance lobbies which results in a minor reduction in ground floor area. This is a de minimis change.

5.9 The approved and proposed amended floorspace figures are;

	SqM Ground	SqM Mezzanine	SqM Total
Approved Unit 5A	471.6	422.9	894.5
Proposed Unit 5A	459.4	246.8	706.2
Approved Unit 5B	482.8	411.3	894.1
Proposed Unit 5B	470.7	252.9	723.6

5.10 The proposed amendment to permission P/23/0223 to allow Unit 5B to have a slightly smaller mezzanine floor (158.4sqm smaller) raises three retail policy considerations – need, the sequential test, and the retail impact test.

5.11 In terms of need, quantitative need is not a significant determining issue as was accepted in the determination of application P/23/0223. The qualitative need for the subdivision of Unit 5 that was accepted in the approval of application P/23/0223 in order to secure occupiers for this vacant floorspace is strengthened by the fact that the amended proposal will directly secure a new occupier for Unit 5B (Skechers).

5.12 An up to date sequential test assessment has been undertaken which has shown that there are no units within the relevant town centre, Merthyr Tydfil Town Centre, that are suitable and available to accommodate the revised proposal adopting reasonable flexibility. In the assessment of application P/23/0223 the LPA has clearly recognised that the vacant units in the St Tydfil Centre are not genuinely available in the short to medium term due to the uncertainty over the future plans for the shopping centre.

5.13 On retail impact, the determining issue is whether the slightly smaller mezzanine floor in Unit 5B would significantly change the nature of Cyfarthfa Retail Park such that it would have an unacceptable impact on the trade, turnover, vitality and viability of Merthyr Tydfil Town Centre.

4.64 It is clear that such a minor change in the floorspace in Unit 5B, which will be completely imperceptible in reality, will not change significantly the nature of Cyfarthfa Retail Park.

- 5.14 The assessment herein has shown that the proposal will not change the nature of Cyfarthfa Retail Park in terms of types of goods sold, national multiple occupier profile, number of units, or range of unit sizes.
- 5.15 There are 273 Town Centre units (97.8%) that are smaller than 899sqm, i.e. smaller than the approved total GIA in Unit 5B. There are 271 Town Centre units (97.1%) are smaller than 700sqm, i.e. smaller than the proposed total GIA in Unit 5B. In terms of comparable unit sizes it is evident that the proposed amendment to the mezzanine floorspace in Unit 5B would make no material difference to the existing /approved level of distinction between Unit 5B and the size of units in the Town Centre.
- 5.16 The proposed amended unit sizes for Unit 5B would still be larger than the smaller units at the Park, Unit 2, Unit 11A, Unit 11B and Unit 12D.
- 5.17 The proposal would not have an unacceptable impact on the trade, turnover, vitality and viability of Merthyr Tydfil Town Centre.
- 5.18 Cyfarthfa Retail Park presents the only viable opportunity for Skechers to locate in Merthyr Tydfil as it offers the opportunity to co-locate with a critical mass of adjacent national multiple retailers that is an essential requirement for this retailer.
- 5.19 The nearest Skechers stores to Merthyr Tydfil are a considerable distance away, i.e. Friars Walk, Newport (20 miles away); and St. David's, Cardiff (20 miles away). There is also a factory outlet Skechers store at McArthur Glen Designer Outlet, Bridgend (17 miles away).
- 5.20 Allowing the minor reduction in the size of the mezzanine floor in Unit 5B (by 158.4sqm) will secure this new national multiple retailer for the town which will attract extra spending power to Merthyr Tydfil in conformity with the role identified for Cyfarthfa Retail Park in the LDP (paragraph 4.40).
- 5.21 Allowing the mezzanine floor in Unit 5B to be slightly smaller than currently approved (a reduction in floorspace that will be imperceptible in reality) will also result in new jobs being created for local people as Skechers will employ around 25 people in the proposed store in a mix of full time and part time positions.

- 5.22 Approval of this very minor change in the mezzanine floor in Unit 5B will also allow the Applicant to proceed with the subdivision and shopfront improvements that form part of the Skechers letting. These improvement works involve a significant investment of around £900,000.
- 5.23 The proposed minor change to the size of the mezzanine floor in Unit 5B will deliver significant benefits. There is, as would be expected from such a minor change in floorspace, no evidence of harm arising from this proposal.
- 5.24 The proposal is consistent with the LDP and PPW and should be granted planning permission.

APPENDIX 1

Merthyr Tydfil Town Centre – Vacant/Marketed units July 2024

Address	Size	Assessment
Unit 2, Beacons Place	Ground – 103sqm First – 112sqm Total – 215sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
Unit 9, Beacons Place	Ground – 361sqm Total – 361sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
Unit 1A, Graham Way, St Tydfil Shopping Centre	Ground – 26sqm Total – 26sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
Unit 5, Graham Way, St Tydfil Shopping Centre	Ground – 135sqm Total – 135sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
Unit 9a, Graham Way, St Tydfil Shopping Centre (Under Offer)	Ground – 273sqm Total – 273sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
Unit 10, Graham Way, St Tydfil Shopping Centre	Ground – 109sqm Total – 112sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
Unit 10a, Graham Way, St Tydfil Shopping Centre	Ground – 475sqm Basement – 300sqm Total – 784sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Floorspace split over two levels would not provide suitable configuration for two units. Conclusion: not suitable
Unit 10b, Graham Way, St Tydfil Shopping Centre	Ground – 990sqm Basement – 460sqm Total – 1,450sqm	Does not provide required adjacency to national multiple retailers. Insufficient footfall. Shopfront lacks prominence. Unit would not easily subdivide. Servicing arrangements not comparable to efficient ground floor servicing available at application site. Conclusion: not suitable
8 River Walk, St Tydfil Shopping Centre	Upper Floor Level – 1,021sqm Total – 1,021sqm	Does not provide required adjacency to national multiple retailers. Insufficient footfall. Shopfront lacks prominence and is obscured from the main walkway. Unit is narrow which restricts subdivision potential. Walkway in front of unit is narrow and unlikely to be capable of accommodating two entrances. Servicing arrangements not comparable to efficient ground floor servicing available at application site. Conclusion: not suitable
56 – 57 Glebeland Street	Ground – 82sqm	Too small to accommodate the application proposal adopting reasonable flexibility.

	Total – 82sqm	Conclusion: not suitable
30 – 31 Lower High Street	Ground – 71sqm Basement – 37sqm Total – 108sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
47 High Street	Ground – 208sqm First – 140sqm Basement – 70sqm Total – 409sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
60 High Street	Ground – 94sqm Total – 94sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
118 High Street	Ground – 44sqm Total – 44sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
119 High Street	Ground – 177sqm Total – 177sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
12 Market Square (Under Offer)	Ground – 118sqm Total – 118sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
16/18 Market Square (under offer)	Ground – 247sqm Total – 247sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
2A New Market Walk, St Tydfil Shopping Centre	Ground – 310sqm Total – 310sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
2B New Market Walk, St Tydfil Shopping Centre	Ground – 44sqm Total – 44sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
1 – 7 New Market Walk, St Tydfil Shopping Centre	Ground – 370sqm Total – 370sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
10 – 11 New Market Walk	Ground – 237sqm Total – 237sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
7 Victoria Street	Ground – 42sqm Total – 42sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable
8 Victoria Street	Ground – 132sqm Total – 132sqm	Too small to accommodate the application proposal adopting reasonable flexibility. Conclusion: not suitable

Source: LoopNet; Hutchings & Thomas; Cooke & Arkwright; EJ Hales; Calan; Lambert Smith Hampton