

INTERNAL MEMORANDUM

To: Caroline Pulley - Development Control Case Officer

Reference: P/19/0304

From: Planning Policy and Implementation Section

Ask for: David James

Extension: 7053

Date: 19th December 2019

Summary

No objection raised. The development meets the relevant LDP policies (BW1, BW4 & AS18).

If minded to approve in principle, particular consideration should be given to the impact of the development on the character of the area, the impact on surrounding area and occupiers in terms of noise and disturbance (Policies BW6 & BW7), traffic generation (Policy BW12) and parking provision (Policy TB11).

The development would also be acceptable in principle under Replacement LDP policies SW4 (Settlement Boundaries) and EcW2 (Protected Employment Sites), and policies EcW2 and EcW3 (Retail Hierarchy – supporting retail provision).

If minded to approve in principle, particular consideration should be given to the impact of the development on the character of the area, the impact on surrounding area and occupiers in terms of noise and disturbance (Policies CW1, CW2, SW11 & EnW4), traffic generation and parking provision (Policy SW12).

The Replacement LDP is currently undergoing Examination and is anticipated to be adopted in January 2020. Once adopted, the Replacement LDP will supersede the current Adopted LDP 2006-2011.

Observations in respect of the above proposal

1. Proposed Development

Application for the retrospective change of use of land and siting of hot food / catering trailer with canopy at land adjacent to Unit 1B, Cyfarthfa Industrial Estate, Merthyr Tydfil.

2. Development Plan Framework

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

The adopted Merthyr Tydfil Local Development Plan 2006-2021 (May 2011)

The relevant strategic objectives are:-

- *SO1: To capitalise on Merthyr's strategic position, further developing its role as the main commercial, service and employment centre in the Heads of the Valleys area by focusing development within the main town of Merthyr Tydfil.*
- *SO3: To promote regeneration through the use of suitable and appropriate brownfield land rather than greenfield sites.*
- *SO7: To improve and diversify the economy, safeguarding existing jobs and creating a range of new job opportunities in a sustainable manner.*
- *SO8: To promote social inclusion and ensure equality of opportunity through reducing the need to travel and providing better access by sustainable means to employment opportunities, community facilities and services.*
- *SO10: To ensure good quality design of new development and the creation of safer communities.*
- *SO11: To ensure the continued protection and enhancement of the natural, cultural, built and historic environment.*

The following development plan policies apply:-

- *Policy BW1: Development strategy – Primary Growth Area*
- *Policy BW4: Settlement boundaries/location constraints*
- *Policy BW5: Natural heritage*
- *Policy BW6: Townscape and built heritage*
- *Policy BW7: Sustainable design and place making*
- *Policy BW8: Development and the water environment*
- *Policy BW12: Development proposals and transport*
- *Policy BW17: Securing community infrastructure benefits*
- *Policy AS15: Key contributors to the Valleys Regional Park*
- *Policy AS18: Retail hierarchy*
- *Policy TB11: Access, parking and accessibility of local facilities*

The emerging 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 12 Economic Development: To provide and safeguard appropriate land for economic and skills development.*

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 CW2: Cyfarthfa Heritage Area*
- *Policy EnW4: Environmental Protection*
- *Policy EcW2: Protected Employment Sites*
- *Policy EcW3: Retail Hierarchy – supporting retail provision*

The following supplementary planning guidance is applicable:-

- *SPG2: Planning Obligations*
- *SPG4: Sustainable Design*

National Planning Policy

Planning Policy Wales (Edition 10, December 2018)

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

- Placemaking in Action: Good Design Making Better Places
- Activities in Places: Retail and Commercial Development
- Economic Infrastructure: Economic Development
- Recognising the Special Characteristics of Places

3. Policy Considerations

The adopted Merthyr Tydfil Local Development Plan 2006-2021 (May 2011)

The site forms part of a grassed area, attached to an existing commercial unit within Cyfarthfa Industrial Estate. The site is also located within the Primary Growth Area (Policy BW1) and within the settlement boundary where development will be allowed (LDP Policy BW4) subject to the proposal's compatibility with other plan policies and material considerations which are considered in turn below.

The proposal comprises the retrospective change of use of land and siting of hot food / catering trailer with canopy.

While Cyfarthfa Industrial Estate is not a protected employment site, the MTCBC Employment Land Review, June 2018 (which is considered to be relevant evidence for their application), recommends that the site be protected for employment uses (which it will be allocated as such in the Replacement LDP). As such, it is considered that a similar approach to one that would be taken in regards to a protected employment site is applicable in regards to this development.

The A3 use is located adjacent to an existing unit. The agent for the application has confirmed that the catering unit has been sited at this location to primarily serve the existing business at Cyfarthfa Industrial Estate, and the customers visiting those businesses.

Policies in the adopted and replacement local plans protecting employment sites allow for the provision of non-employment uses which are ancillary or complementary to the primary employment use. Complementary uses are generally small-scale commercial activities unrelated to use class B which provide a service to local employees and businesses, for example, a snack bar, cafe, local shop, day nursery or fitness gym. As such, the mobile catering unit would be considered to be a complementary use.

The provision of complementary uses (of an appropriate nature, scale and number), within existing and new office, industrial and warehousing developments are supported by LDP policy where such facilities provide a service to meet the needs of employees. All such applications would additionally have to comply with all other relevant LDP policies.

LDP Policy BW6 advises that the Council will protect and support the enhancement of the unique built heritage of the County Borough. Development proposals will only be permitted where it can be demonstrated they would preserve or enhance the architectural quality, character and setting of listed buildings, scheduled ancient monuments, conservation areas, registered Historic Parks and Gardens of Special Historic Interest, the townscape character and the local distinctiveness of settlements, and other historic, archaeological and cultural features of acknowledged importance.

Cyfarthfa Industrial Estate, including the land in question, is in close proximity to a number of Listed Buildings (Williamstown), a Historic Park & Garden (Cyfarthfa Park) and the Cyfarthfa Heritage Area Conservation Area. However, the catering unit is located within the Industrial Estate and, while it can be seen from some viewpoints outside the estate, it is viewed against the backdrop of an existing commercial unit. This mitigates the development's impact on the character of the surroundings heritage assets. The Heritage and Conservation Officer should be consulted in this respect.

LDP Policy BW7 requires new development to, among 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 and the public realm to enhance the general street scene and create good quality townscape;
- not result in unacceptable impact on local amenity in terms of visual impact, loss of light or privacy, disturbance and traffic movements;
- sensitively relate to existing settlement patterns and take account of natural heritage and the historic environment on site and in terms of potential impact on neighbouring areas of importance;

It is noted that a previous, similar application (P/13/0329) was refused planning permission for a mobile catering unit at the entrance to Cyfarthfa Industrial Estate, due to its prominent siting and the loss of a landscaped area, resulting in a detrimental impact on the character and visual appearance of the area. The current development is located within the existing industrial/commercial estate, therefore its visual impact is somewhat mitigated. Additionally, while it is acknowledged that the development can be seen from certain viewpoints outside the estate, it is located adjacent to an existing commercial unit, and is viewed against the backdrop of this unit. This backdrop further mitigates the development's visual impact.

LDP Policy BW8 advises that proposals for built development will only be permitted where, among other things:-

- they do not have an adverse effect on the quality and/or quantity of surface waters or groundwater resources, and where opportunities exist, they incorporate measures to improve existing water quality; and
- adequate water and sewerage systems exist, or are reasonably accessible, or are capable of being provided prior to the development becoming operational without placing unacceptable pressure on existing capacity or causing unacceptable environmental harm.

As such, the views of the Engineering and Traffic Group Leader should be sought in this respect.

LDP Policy BW12 advises that development proposals will be expected to demonstrate how they will: help reduce the need to travel; encourage the use of transport other than the private car; avoid increasing traffic to unacceptable levels; and avoid causing or exacerbating highway safety problems. The impact of the catering unit on traffic and highway and pedestrian safety should be taken into consideration. As such, the views of the Engineering and Traffic Group Leader should be sought in this respect.

Policy BW17 considers the requirement for planning obligations. Due to the nature of the proposal (i.e. for employment development and an A3 use below 100 sqm), the Community Infrastructure Levy (CIL) would not be chargeable.

Policy AS15 advises that development proposals that enhance the strategic leisure and tourism potential of areas of land safeguarded for the development of the Cyfarthfa Heritage Park and Parc Taf Bargoed as part of the Valleys Regional Park concept will be favoured subject to satisfying other relevant policies of the LDP. While the development is located within the safeguarded area, it is sited within an existing commercial/industrial estate. As such it is not considered that the development would be contrary to this policy.

Policy AS18 requires that outside local centers proposals for new retail development be subject to an assessment of need and application of the sequential test. Proposals will only be permitted where they avoid causing harm to town or local center vitality and viability.

Supporting paragraph 4.18.4 of Merthyr Tydfil's Local Development Plan 2006-2021 goes on to state that '...it is intended to improve the County Boroughs retail offer, but focus the majority of retail developments within traditional and established shopping centres, which tend to be accessible by more sustainable means and a broader cross section of the community. The established out of centre retail parks will continue to be considered for specific types of stores whose location in traditional shopping centres is not possible or inappropriate. Such stores might include non-food retailers...'

In addition, paragraph 8.2 of TAN 4 advises that retail applications of 2,500 sq. metres or more of gross floorspace, which are proposed on the edge of or outside retail and commercial centres should be supported by a retail impact assessment. However, in terms of smaller retail applications, it states that the requests for retail impact assessments should be proportionate to the potential impacts.

In this instance, the catering unit is so small that it is unlikely, given its size, to have a harmful impact upon the vitality or viability of the town centre or any other centre. Furthermore, given its location, it is unlikely that it would compete with the town centre of Merthyr Tydfil, or the nearest local centres.

Policy TB11 ensures that development incorporates sufficient and appropriate access infrastructure. It refers to the adopted standards set out in CSS Wales – Wales Parking Standards and explains that any proposals resulting in reduced standards must be fully explained and justified. The submitted information does not indicate that the development benefits from dedicated parking. The views of the Engineering and Traffic Group Leader should therefore be sought in this respect.

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

The Merthyr Tydfil County Borough Council Replacement Local Development Plan (2016 - 2031) is currently undergoing Examination with the Inspector's binding report anticipated to be published in December 2019. Adoption would then take place in January 2020. As such, it is likely that this proposal would be considered as planning application following adoption of the Replacement LDP. The proposal has therefore also been considered against the policies contained in the Replacement LDP (as amended by the proposed Matters Arising Changes). It should be noted that further changes could be proposed in the Inspector's report (i.e. Inspector Changes) and that the current Adopted LDP 2006-2021 will remain the statutory development plan for the area until the Replacement LDP has been formally adopted by the Council.

Under the Replacement LDP the site remains located within the Primary Growth Area and settlement boundary where new development can be considered acceptable in principle (LDP Policy SW4) subject to proposals being compatible with the Plan's other policies and all other material considerations.

Policy SW9 considers the requirement for planning obligations. As noted above, due to the nature of the proposal, Community Infrastructure Levy (CIL) would not be chargeable.

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):

1. be appropriate to its local context in terms of scale, height, massing, elevational treatment, materials and detailing, layout, form, mix and density;
2. integrate effectively with adjacent spaces, the public realm and historic environment to enhance the general street scene and create good quality townscape;
3. 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;
4. contribute to the provision of green infrastructure, including open space in accordance with the Council's standards, sustainable drainage systems where appropriate, and ensure that the County Borough's network of green infrastructure is accessible and connected.

It is noted that a previous, similar application (P/13/0329) was refused planning permission for a mobile catering unit at the entrance to Cyfarthfa Industrial Estate, due to its prominent siting and the loss of a landscaped area, resulting in a detrimental impact on the character and visual appearance of the area. The current development is located within the existing industrial/commercial estate, therefore its visual impact is somewhat mitigated. Additionally, while it is acknowledged that the development can be seen from certain viewpoints outside the estate, it is located adjacent to an existing commercial unit, and is viewed against the backdrop of this unit. This backdrop further mitigates the development's visual impact.

LDP 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. Development proposals will be expected to demonstrate how they reduce the need to travel and encourage the use of sustainable transport.

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. Development affecting undesignated historic environment assets including, locally listed buildings or structures, Landscapes of Outstanding Historic Interest in Wales, Urban Character Areas (UCA) and Archaeologically Sensitive Areas should have regard to their special character and archaeological importance.

The site lies within the Cyfarthfa Park and Ironworks UCA and adjoins the Williamstown, Cae Pant Tywll and Morgantown UCA as well as the Merthyr Tydfil Landscape of Special Historic Interest in Wales. It is also located within an Archaeologically Sensitive Area where developers should identify the likely archaeological resource of the site and ensure proposals have regard to features of archaeological importance.

However, the catering unit is located within the Industrial Estate and, while it can be seen from some viewpoints outside the estate, it is viewed against the backdrop of an existing commercial unit. This mitigates the development's impact on the character of the surroundings heritage assets. The views of Council's Conservation officer in this respect should be sought.

Policy CW2 refers to the Cyfarthfa Heritage Area which is identified on the proposals map to support the development of heritage based visitor attraction in order to complement the offer of Cyfarthfa Castle and Park. Due to the nature and location of the development (within the Cyfarthfa Heritage Area and along Cyfarthfa Road which approaches Cyfarthfa Park), the proposal's compatibility with the aim of this policy is questioned.

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.

The catering unit is located within the Industrial Estate and adjacent to an existing commercial unit. As such, and given the small scale of the activity, it is not considered that it would result in increased noise, odour nuisance or light pollution to the surrounding area.

Policy EcW2 advises that, at Pengarnddu, Pant Industrial Estate, Goatmill Road, EFI Industrial Estate, Cyfarthfa Industrial Estate, Triangle Business Park, Merthyr Tydfil Industrial Park, The Willows/ Abercanaid Industrial Estate, and at allocated employment sites, development will 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.

Under the Replacement LDP the site is located within the existing employment site boundary for Cyfarthfa Industrial Estate. Similar issues are raised above in relation to policy AS24.

The development – the retrospective change of use of land and siting of hot food / catering trailer with canopy – does not satisfy the first criteria, above. The second criteria offers the opportunity for ancillary facilities or services that support the primary employment use. It is not considered that an ice cream parlour would be included within this definition.

The third criteria offers the opportunity for acceptable complementary commercial services outside class B uses.

Complementary uses are generally small-scale commercial activities unrelated to use class B which provide a service to local employees and businesses, for example, a snack bar, cafe, local shop, day nursery or fitness gym. The A3 use is located adjacent to an existing unit. The agent for the application has confirmed that the catering unit has been sited at this location to primarily serve the existing business at Cyfarthfa Industrial Estate, and the customers visiting those businesses. As such, the mobile catering unit would be considered to be a complementary use.

The provision of complementary uses (of an appropriate nature, scale and number), within existing and new office, industrial and warehousing developments are supported by LDP policy where such facilities provide a service to meet the needs of employees. All such applications would additionally have to comply with all other relevant LDP policies.

The fourth criteria is not applicable in this instance.

Policy EcW3 also requires that outside local centers proposals for new retail development will be subject to an assessment of need and application of the sequential test. Proposals will then only be permitted where it is demonstrated that they avoid causing harm to town and local center vitality and viability.

Paragraph 8.2 of TAN 4 advises that retail applications of 2,500 sq. metres or more of gross floorspace, which are proposed on the edge of or outside retail and commercial centres should be supported by a retail impact assessment. However, in terms of smaller retail applications, it states that the requests for retail impact assessments should be proportionate to the potential impacts.

In this instance, the catering unit is so small that it is unlikely, given its size, to have a harmful impact upon the vitality or viability of the town centre or any other centre. Furthermore, given its location, it is unlikely that it would compete with the town centre of Merthyr Tydfil, or the nearest local centres.

Conclusion

The development is considered acceptable in principle under Adopted LDP policies BW1 (Development strategy – Primary Growth Area), BW4 (Settlement boundaries/location constraints), and policy AS18 (Retail hierarchy).

The development would also be acceptable in principle under Replacement LDP policies SW4 (Settlement Boundaries) and EcW2 (Protected Employment Sites), and policies EcW2 and EcW3 (Retail Hierarchy – supporting retail provision).