

INTERNAL MEMORANDUM

To: Caroline Pulley - Development Control Case Officer

Reference: P/19/0295

From: Planning Policy and Implementation Section

Ask for: David James

Extension: 7053

Date: 6th December 2019

Summary

Objection raised due to the introduction of an 'A3' use which is not ancillary or complementary to the surrounding 'B' uses, nor is it an acceptable commercial service unrelated to class 'B' uses. As such, the proposal could be considered contrary to policy AS24 (Employment site protection) of the Adopted LDP. Additionally, a sequential test would need to be submitted to justify the new retail use outside an existing retail centre, in accordance with policy AS18. Similarly, the proposal could be considered contrary to policy, EcW2 (Protected Employment Sites) of the Replacement LDP which is currently undergoing Examination and is anticipated to be adopted in January 2020. Additionally, a sequential test would need to be submitted to justify the new retail use outside an existing retail centre, in accordance with policy EcW3. Once adopted, the Replacement LDP will supersede the current Adopted LDP 2006-2011.

Observations in respect of the above development

1. Proposed Development

Application for the retrospective change of use from "B" use class to an ice cream parlour "A3" use class at Units 10 & 11 Harlan Business Park, Goat Mill Road, Dowlais, 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 AS24: Employment Site Protection*
- *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 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 12 Economic Development: To provide and safeguard appropriate land for economic and skills development.*
- *LDP Objective 14 Town and Local Centres: To develop the town and local centres as accessible, attractive, viable and vibrant places.*

The following development plan policies would apply:-

- *Policy SW4: Settlement Boundaries*
- *Policy SW9: Planning Obligations*
- *Policy SW10: Protecting and Improving Open Spaces*
- *Policy SW11: Sustainable Design and Placemaking*
- *Policy SW12: Improving the Transport Network*
- *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
- Strategic Placemaking: Previously Developed Land
- Activities in Places: Retail and Commercial Development
- Economic Infrastructure: Economic Development

3. Policy Considerations

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

The application site is an industrial unit (formerly a pair of units) at Harlan Business Park, Goat Mill Road, Dowlais. 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 development's compatibility with other plan policies and material considerations which are considered in turn below.

Goatmill Road is a protected business/employment site (Policy AS24), where development will be permitted if:

- it is within use classes B1, B2 or B8; or
- it provides an ancillary facility or service to the primary employment use, or
- it is an acceptable commercial service unrelated to class B uses.

Development proposals for uses other than those stipulated and that would result in the loss of employment land/premises at the above sites will only be permitted where it can be demonstrated that the existing use is inappropriate or the land/premises are surplus to the requirements of the employment market.

The development – the retrospective change of use from "B" use class to an ice cream parlour "A3" use class – does not satisfy the first criteria, above. The second criteria offers the opportunity for ancillary complementary uses unrelated to class B uses. These are those uses that support the primary employment use of an existing B class unit on site, or 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 third criteria offers the opportunity for non-B Class uses to be located within protected employment sites, however, these are not favoured on employment sites. The intended customer base for these uses is further afield than the occupiers of the business / industrial park units often creating a conflict of interest or other problems such as traffic congestion and parking issues. Such proposals will be assessed against relevant LDP policies and on their own merit. It is not considered that an ice cream parlour would be an acceptable non-employment use, given its relatively specialized product range and that its intended customer base is

further afield than the immediate commercial/industrial area. Additionally, and notwithstanding this, no evidence has been provided to explain why the site is surplus to the requirements of the employment market (marketing literature etc.), nor that the existing use of the site is inappropriate. As such, the development would not comply with Policy AS24.

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;
- not result in unacceptable impact on local amenity in terms of visual impact, loss of light or privacy, disturbance and traffic movements;

Considering the nature of the development (change of use to A3) and the location of the site (in close proximity to existing industrial and commercial uses) particular consideration should be given to the mix of land uses impact of the development on surrounding occupiers in terms of loss of privacy, disturbance and traffic movements. As such, the views of the Environmental Health department should be sought in this respect.

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 change of use 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 development, the Community Infrastructure Levy (CIL) would not be chargeable.

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. The required evidence and justification for the A3 use will therefore need to be provided.

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 indicates that the development benefits

from dedicated parking. The views of the Engineering and Traffic Group Leader should be sought in this respect, to ensure the provision is adequate.

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 development would be reported to Planning Committee following adoption of the Replacement LDP. The development 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 development, 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. 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;

Similar concerns are raised above in relation to policy BW7 regarding the nature of the development (change of use to A3) and the location of the site (in close proximity to existing industrial and commercial uses) particular consideration should be given to the mix of land uses impact of the development on surrounding occupiers in terms of loss of privacy, disturbance and traffic movements. As such, the views of the Council's Environmental Health department should be sought where appropriate.

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

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 development locates an A3 use (involving the purchase and consumption of food) within an area of commercial and industrial uses. Given the close proximity of such uses, the A3 use may suffer negative impact from these. Policy Enw4 seeks to protect against negative environmental impacts and, as such, the Environmental Health department should be consulted

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 Goatmill Road. Similar concerns are raised above in relation to policy AS24. The development – the retrospective change of use from "B" use class to an ice cream parlour "A3" use class – does not satisfy the first criteria, above. The second criteria offers the opportunity for ancillary facilities or services that support the primary employment use. The third criteria offers the opportunity for acceptable complementary commercial services outside class B uses. It is not considered that an ice cream parlour would be included within these definitions.

Development proposals at existing or allocated sites for uses other than those specified that result in the loss of employment land or premises will only be permitted where it can be demonstrated that the proposal would not lead to an unacceptable change in the nature of the employment site. This requires that alternative uses do not undermine or have an unacceptable effect on the employment sites characteristics in terms of its role and function. Such uses have an intended customer base is further afield than the users of the existing employment site. Alternative uses will also need to satisfy other relevant policies of the Plan and ensure there are no unacceptable conflicts with existing users. It is not considered that an ice cream parlour would be an acceptable non-employment use, given its relatively specialized product range and that its intended customer base is further afield than the immediate commercial/industrial area.

Additionally, and notwithstanding this, no evidence has been provided to explain why the site is surplus to the requirements of the employment market (marketing literature etc.), nor that

the existing use of the site is inappropriate. As such, the development would not comply with Policy EcW2.

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

In addition to the above policies, the MTCBC Employment Land Review, June 2018, was undertaken to support the Replacement LDP, but is also relevant evidence for the Adopted LDP.

The Review identified that the local industrial market is active, with properties of 201-500 sqm and 1,001-5,000 sqm regularly transacted for mixed freehold and leasehold occupancy. Strong shortages of all types of premises are recorded. New build light industrial units have been delivered speculatively at Merthyr Tydfil Industrial Park, evidence of the strength of local demand. 25,074 sqm of industrial space is currently vacant and on the market. Marketed supply is mostly found at Merthyr Tydfil Industrial Park, with few options elsewhere. Overall, the County Borough's Employment Areas are 92.1 percent occupied. This is considered low in average supply terms and points to a lack of availability and choice. The Review also identifies that Goatmill Road had a 0% vacancy rate (the Planning Department's Annual Monitoring Report 2018/19 recorded a 2% vacancy rate), which suggests that the units here are in demand & should therefore be protected for employment uses. As such, in the absence of justification for this retail use, the employment use should be protected.

Conclusion

A policy objection is raised as the development is not considered acceptable under Adopted LDP policy AS24 (Employment site protection) and would need further justification as required by policy AS18 (Retail hierarchy) and national policy.

The development would also not be acceptable in principle under Replacement LDP policy EcW2 (Protected Employment Sites) and would need further justification as required by policy EcW3 (Retail hierarchy - supporting retail provision) and national policy.