

DELEGATED REPORT

Application No:	P/23/0061
Site Address:	126 High Street Merthyr Tydfil CF47 8BT
Development:	Change of use of the first and second floors from offices and storage to 5 self-contained flats and storage, together with alterations to the roof and other associated external alterations
Case Officer:	Emma Watkins
Site Visit:	15th March 2023
Application Expiry Date:	28th April 2023
Consultation reply date expired:	21st April 2023

APPLICATION SITE

The application site is an existing three storey commercial unit located on High Street within the Town Centre Conservation Area and within the Primary Shopping Area (PSA), of Merthyr Tydfil. The site is within a mixed-use area in which there are retail, commercial, leisure and residential uses (upper floors). The application site is in a prominent position on the corner of High Street and Market Square.

PROPOSED DEVELOPMENT

The proposed development is a change of use of the first and second floors from offices and storage to 5 self-contained flats and storage, together with alterations to the roof and other associated external alterations. The ground floor commercial units will remain unchanged.

The proposed change of use includes modest alterations to the external fabric of the buildings.

- The existing public facades facing High Street and Market Square will remain unaltered.
- The ground floor level layout will remain as existing except for the introduction of a new rear fire exit door to serve the corner unit 126a. This will enable the existing rear fire exit door to be dedicated to the upper floor of this unit.
- The ground to first floor staircases will remain unaltered.
- At first floor level, a new internal staircase will serve the second floor level
- The first floor will be converted into 1no. 3-bedroom and 1no. 1-bedroom flats with a communal secure storage area.

- The second-floor level will be converted into 3no. 1-bedroom flats and to facilitate this, the steep roof slope on the northern (non-visible) side of number 126a side return wing will be altered by raising the eaves level to improve headroom for the accommodation.
- Insertion of 2no. windows at second floor on west (rear) elevation
- The existing ridge height will remain unaltered.

PLANNING HISTORY

There is no relevant planning history. Previous applications relate to minor alterations and advertisement consent.

CONSULTATION

The following bodies were consulted, and their responses are presented below:

Head of Engineering and Highways	No objection
Planning Division's Ecologist	No objection subject to enhancements
Environmental Health Manager	No response
Dwr Cymru Welsh Water	No objection subject to conditions
Natural Resources Wales	No objection subject to advice

PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to the neighbouring properties and three site notices were displayed within the vicinity of the site.

No letters of objection were received.

POLICY CONTEXT

National Development Framework

Future Wales: The National Plan 2040 (February 2021) sets out a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.

National Planning Policies

Planning Policy Wales (Edition 11, February 2021) must be taken into considerations. Relevant sections are identified below:

- Paragraphs 3.3 – 3.18 refer to good design and better places.
- Creating sustainable development through reducing the reliance on car journeys and maximising opportunities for peoples to make more sustainable and healthy

travel choice is emphasised throughout PPW. Paragraph 3.12 highlights that *“Good design is about avoiding the creation of car-based developments. It contributes to minimising the need to travel and reliance on the car, whilst maximising opportunities for people to make sustainable and healthy travel choices for their daily journeys. Achieving these objectives requires the selection of sites which can be made easily accessible by sustainable modes as well as incorporating appropriate, safe and sustainable links (including active travel networks) within and between developments using legal agreements where appropriate”*. Paragraph 4.1.1 reiterates this noting *“The planning system should enable people to access jobs and services through shorter, more efficient and sustainable journeys, by walking, cycling and public transport. By influencing the location, scale, density, mix of uses and design of new development, the planning system can improve choice in transport and secure accessibility in a way which supports sustainable development, increases physical activity, improves health and helps to tackle the causes of climate change and airborne pollution”*. Similarly, Paragraph 4.1.37 notes that *“Planning authorities must direct development to locations most accessible by public transport. They should ensure that development sites which are well served by public transport are used for travel intensive uses, such as housing, jobs, shopping, leisure and services”*. In respect to car parking paragraph 4.1.50 notes *“Parking provision should be informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport”*.

- Section 4.3 relates to retail and commercial development and paragraph 4.3.3 highlights that planning authorities should:
 - *“promote viable urban and rural retail and commercial centres as the most sustainable locations to live, work, shop, socialise and conduct business;*
 - *sustain and enhance retail and commercial centres’ vibrancy, viability and attractiveness; and*
 - *improve access to, and within, retail and commercial centres by all modes of transport, prioritising walking, cycling and public transport”*.
- An emphasis is placed on creating viable and vibrant centres with paragraph 4.3.33 explaining that *“Vibrant and viable centres are distinguished by a diversity of activity and uses which should contribute towards a centre’s well-being and success, whilst also reducing the need to travel”*. Paragraph 4.3.34 expands on this further and notes that *“In addition to general diversity of uses, mixed use developments, which combine retailing with entertainment, restaurants and, where appropriate, residential in a comprehensive and planned way should also be encouraged where appropriate to promote lively centres during both the day and the evening”*. The introduction of residential use into centres is specifically referred to in paragraph 4.3.37 noting that *“Within a retail and commercial centre boundary change of use to residential may also be acceptable and help contribute to the viability and vibrancy of a centre. However, night-time noise considerations may be a limiting factor in some areas and residential use is unlikely to be suitable on the ground floor within primary areas or other places of concentrated A1 uses because it may fragment the shopping frontage and impact on the vibrancy and viability of a centre”*.

- Paragraphs 6.1.14 – 6.1.17 relate to conservation areas. Paragraph 6.1.14 notes that *“There should be a general presumption in favour of the preservation or enhancement of the character or appearance of conservation areas or their settings. Positive management of conservation areas is necessary if their character or appearance are to be preserved or enhanced and their heritage value is to be fully realised”*. With paragraph 6.1.15 clarifying that *“There is a strong presumption against the granting of planning permission for developments, including advertisements, which damage the character or appearance of a conservation area or its setting to an unacceptable level”*.
- Paragraphs 6.6.22 – 6.6.29 refer to development and flood risk.

The following Technical Advice Notes are also relevant:

- TAN 4: Retail and Commercial Development (November 2016).
- TAN 12: Design (March 2016).
- TAN 15: Development and Flood Risk (July 2004).
- TAN 24: Historic Environment (May 2017).

Local Planning Policies

The following policies of the Merthyr Tydfil County Borough Council Replacement Local Development Plan 2016-2031 are relevant to the determination of this application:

- SW1: Provision of New Homes
- SW2: Provision of Affordable Housing
- SW3: Sustainably Distributing New Homes
- SW4: Settlement boundaries
- SW9: Planning Obligations
- SW11: Sustainable design and Placemaking
- SW12: Improving the Transport Network
- CW1: Historic Environment
- EnW1: Nature Conservation and Ecosystem Resilience
- EnW4: Environmental Protection
- EcW3: Retail Hierarchy – Supporting Retailing Provision
- EcW5: Town and Local Centre Development

In addition, the application will be determined having regard to the advice contained within the following Supplementary Planning Guidance (SPG) Notes:

- Note 1, Affordable Housing.
- Note 2, Planning Obligations.
- Note 4, Sustainable Design.
- Note 5, Nature and Development.

PLANNING CONSIDERATIONS

Principle

The application site is a commercial unit located on High Street within the Town Centre Conservation Area and within the Primary Shopping Area (PSA), of Merthyr Tydfil Town Centre.

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

Policy SW1 states that 2250 additional homes are required to sustainably grow our population. The proposal comprises five new residential units, which would represent a contribution to the 2250 units that are required during the plan period. Furthermore, Policy SW3 states that new homes will be concentrated within the main settlement of Merthyr Tydfil, within which the application site is located. As such, the proposal complies with policies SW1 and SW3.

The proposal is for a change of use of the first and second floors of the building to residential use with the ground floor unaffected. The change of use to the upper floors will not impact the town centres vitality, attractiveness or viability. As such, the proposal would be in accordance with the requirements of Policy EcW5.

Character and visual amenity

The application site is located within the Town Centre conservation area, the Urban Character Area 1 (Town Centre: High Street and Pontmorlais) and the Merthyr Tydfil Landscape of Outstanding Historic Interest. As such the design and visual impact of the development is an important consideration, with Policy CW1 highlighting that proposals will only be permitted where they would preserve or enhance designated historic environment assets.

The external changes to the building are relatively minor with much of the external appearance and public façade of the building remaining unchanged. The minor changes proposed are of a suitable design and scale. As such the proposals are considered to preserve the character and appearance of the conservation area and visual amenity of the building and area in general.

Having regard to the above considerations, the proposal would accord with Policies SW11 and CW1 of the LDP.

Residential amenity

The application site is located within the town centre an area characterised by a mixture of commercial, leisure and residential uses. It is noted that in the immediate vicinity of the site there are uses which would create a degree of noise and disturbance and that some of these uses operate later into the evening and night. However, it is not considered that this proposal would significantly add to the level of noise and disturbance that already exists and any future residents of the flats would occupy them in full knowledge of the potential for noise and disturbance from town centre uses. The proposal is therefore found to accord with Policies SW11 and EnW4 of the LDP.

The proposed change of use to the upper floors, with only minor external alterations does not raise any significant concerns regarding amenity. In this regard and considering the

lack of objections, the proposal is acceptable in terms of impact on amenity and accords with Policy SW11 of the LDP.

Parking and highway safety

It is noted that the application site does not benefit from any off-street parking provision and as such there would be no designated parking area available for the occupants of the proposed flats. However, the application site is in the town centre which is well served by public car parks and public transport links.

Given the site's location (in a pedestrianised part of the town centre with direct access to shops and services) it is not considered that the lack of parking would impact on highway safety and in fact should encourage the use of other more sustainable modes of transport to the private car. It is also noted that no objections have been received from the Head of Engineering and Highways. The proposal therefore complies with Policies SW11 and SW12 of the LDP and PPW.

Flood risk

The application site is located within a C2 Flood Zone of the Development Advice Map (DAM) and the FMfP identifies the application site to be at risk of flooding and falling within Flood Zone 2 & 3 Rivers. It is acknowledged that this proposal is for residential units which are classed as highly vulnerable development.

Notwithstanding this, Natural Resources Wales (NRW) has noted that the proposed residential element relates only to the upper floors of the property and as such would be elevated above the flood risk with no change in vulnerability use at ground floor level. As such NRW have no objection to the application in relation to flood risk subject to the developer being made aware of the potential flood risks and advise to install flood-proofing measures as part of the development.

In addition, the proposal would help to improve the vitality and viability of the town centre by bringing the first floor of the building into full beneficial use. The proposal is therefore found to be acceptable in this respect.

Ecology

The application has been supported by a Preliminary Roost Assessment (March 2023) and subsequent Bat and Nesting Bird Survey Report (July 2023). The follow up survey work found that no bats emerged from the building during the dusk emergence survey and found no evidence of past or current nesting birds.

The Planning Division's Ecologist has considered this report and is satisfied that the proposal is acceptable in terms of its impact on ecology, providing the recommendations and enhancements detailed within it, are adhered to including precautionary measures to avoid and minimise potential impacts of bats and nesting birds during works and bat roosting provision. This could be dealt with by means of a condition.

Planning Obligations

Policy SW9 relates to Planning Obligations and having regard to development viability, planning obligations will be sought for a financial contribution towards the provision of

affordable housing on sites of between 5 and 9 homes. However, in this instance no planning obligations for the provision of affordable housing or any other contributions have been sought as this would likely render the development financially unviable.

Conclusion

The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act") has been taken into consideration when determining this application. In reaching the following recommendation, the ways of working set out at section 5 of the WBFG Act have been considered and thus the proposal is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Accordingly, the following recommendation is made:

RECOMMENDATION: BE APPROVED subject to the following **CONDITIONS:**

1. The development shall begin not later than five years from the date of this decision.

Reason - To comply with Section 91 of the Town and Country Planning Act 1990.

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

- Site Location Plan (Drawing no. 1000)
- Proposed Ground Floor & First Floor Plan (Drawing no. 1004)
- Proposed Second Floor & Roof Plan (Drawing no. 1005)
- Existing and Proposed Sections (Drawing no. 1007)
- Design and Access Statement (Stanwell Architects 13/3/2023)
- Flood Consequence Assessment (Austin Partnership March 2023)

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

3. The development shall be carried out strictly in accordance with the 'Bat and Nesting Bird Survey Report Rev 03' (Acer Ecology 28 July 2023), except at page 17, para 6.3.1 where the stated bat box is not suitable for hibernating bats. The Schwelgler 1WQ (or equivalent) shall be installed on the west rear elevation to provide compensatory alternative roosting habitats during the construction period.

Reason - To protect the natural environment in accordance with Policies EnW1 and EnW2 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

4. No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

Reason To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

INFORMATIVES

1. This planning permission does not provide consent to undertake works that require a European Protected Species (EPS) licence. All bats and their roosts are protected under UK and European legislation. It is an offence to deliberately kill, injure, capture or disturb a bat or to recklessly damage or destroy their breeding sites or resting places.

If works are planned on a building/tree in which bats are found to be roosting, Natural Resources Wales (NRW) must be contacted. on 0300 065 3000 or at <https://naturalresources.wales/permits-and-permissions/species-licensing/apply-for-a-protected-species-licence/bat-licences/?lang=en>.

If work has already commenced and bats are found, or if any evidence that bats are using the site as a roost is found, work should cease and NRW should be contacted immediately.

Under these circumstances, an EPS licence is likely to be required to undertake the works within the law.

2. All birds, their nests and eggs are protected by law under the Wildlife and Countryside Act 1981 (as amended) while they are breeding.

If works to any trees, hedgerows and/or other nesting bird habitat (including buildings with suitable features) are to be undertaken, they will take place outside of the bird nesting season. If the works must be undertaken during the nesting season (generally from 1st March until 31st August, although birds are known to nest outside of these dates in suitable conditions), a breeding bird survey will be required and must be carried out by a suitably qualified ecologist. Any active nests identified will be protected until the young have fledged.

Where a Schedule 1 species (as defined in the Wildlife and Countryside Act - <https://www.legislation.gov.uk/ukpga/1981/69/schedule/1> is involved, compensation for impacts, e.g., loss of nesting sites, will be devised and implemented.

3. In accordance with Planning Policy Wales (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements.

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e., a drain which extends beyond the connecting property boundary) or via a new sewer (i.e., serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The planning permission hereby granted does not extend any rights to carry out any works permissions required by the Water industries Act 1991. Any alterations to existing premises resulting in the creation of additional premises or merging of existing premises must also be constructed so that each is separately connected to the Company's water main and can be separately metered. Please contact our new connections team on 0800 917 2652 for further information on water and sewerage connections.

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

4. Refer to consultation letters from DCWW (19/03/2023) and NRW (30/5/2023) for further advice to developers.
5. Refer to MTCBC Ecologist Internal Memorandum 4 (02/08/23) for further guidance on standards for lighting (external and internal).

RECOMMENDATION ENDORSED



Director of Neighbourhood Services

PP

DATE: 14.08.2023