

Agenda Item 4

DATE WRITTEN	10th January 2023
REPORT AUTHOR	Judith Jones
CASE OFFICER	Caroline Pulley
COMMITTEE	Planning and Regulatory
COMMITTEE DATE	18th January 2023

Application No.
P/22/0074

Date
31st August 2022

Determining Authority
MTCBC

Proposed Development

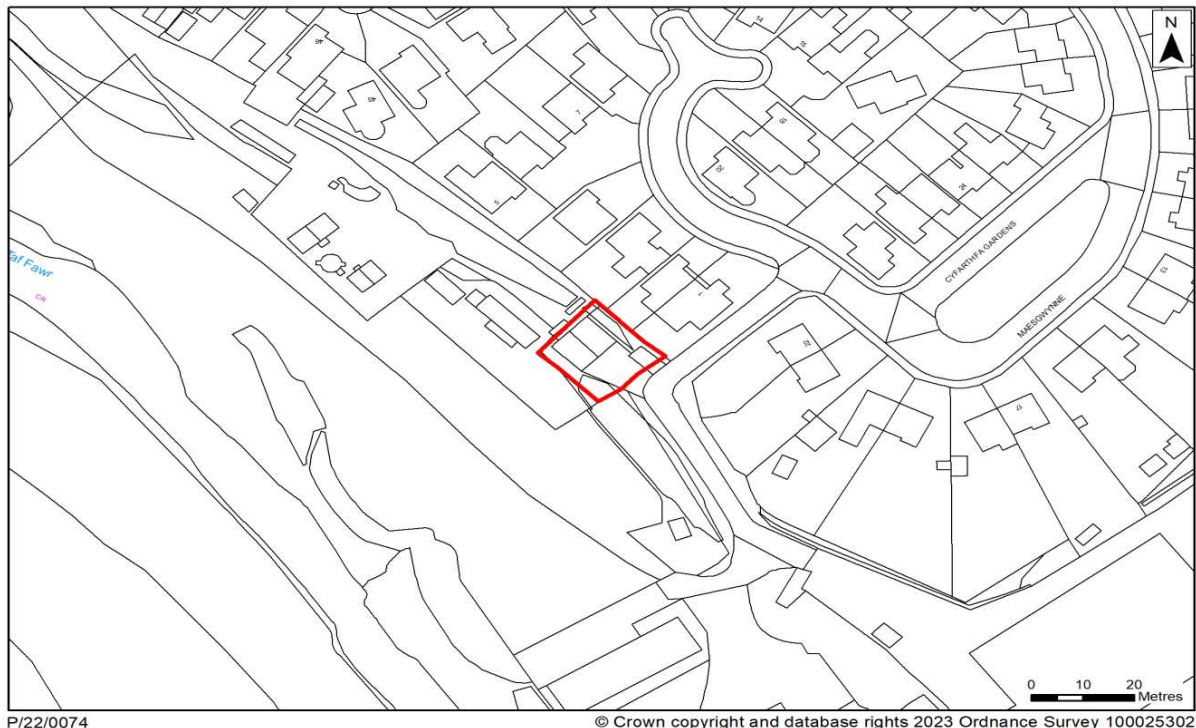
Location

Name & Address of Applicant/Agent

Raise height of existing auto body shop building (use class B2) to provide a warehouse (use class B8) with an associated office at first floor (use class B1). Proposal to include cladding to existing building.

T M Few & Son
Maesgwynne Industrial Estate
Cefn Coed
Merthyr Tydfil
CF48 2SD

Mr. Robert Price
c/o Robert Coles
Studio 4B
4 Castle Parade
Usk
NP15 1AA



Councillor Mytton has requested this application be reported to committee in order to consider the impact of the proposed development on the amenities and privacy of the adjacent properties and its impact on highway safety (in terms of increased traffic and congestion).

APPLICATION SITE

The application site comprises a commercial building located to the rear of 1, 2 and 3 Cyfarthfa Gardens in Cefn Coed which was previously used as a vehicle paint spraying workshop. It is accessed off a tarmac road which runs directly between two houses known as 1 Cyfarthfa Gardens and 22 Maesgwynne. The road continues in a south-easterly direction (past the application site) and serves two other units in Maesgwynne Industrial Estate, as well as a playing field.

The application building is positioned roughly within the centre of the site and is set back from the road by a hardstanding area. It is located in close proximity to the residential properties located in Cyfarthfa Gardens and Maesgwynne. The nearest properties are located to the north-east (1, 2 and 3 Cyfarthfa Gardens) and are at a higher level than the application site. Their rear boundaries are enclosed by a retaining wall and fencing and are offset from the side wall of the existing building by approximately 4m.

The site lies within the settlement boundary as designated within the Merthyr Tydfil Replacement Local Development plan 2016-2031.

PROPOSED DEVELOPMENT

This application originally sought planning permission to demolish the existing building on the site to allow a pair of two-storey, semi-detached buildings to be constructed for the use as two warehouses on the ground floor with offices above. This scheme has subsequently been amended to include the retention of the existing building on the site. The new proposal seeks to alter and raise the height of the existing auto body shop building (use class B2) to provide a warehouse (use class B8) on the ground floor with an associated office above (use class B1). As part of the development, the outside walls of the existing building would be clad with external insulation. The scheme would provide six off-road parking spaces on the hardstanding to the front of the site.

The existing building measures 11.1m wide and 9.35m in depth. It is set back from the edge of the highway by a minimum of 7.5m and has a mono-pitch roof which slopes from north-east to south-west (side to side) from a height of 4.2m. From the front elevation, the building would be raised to 5.6m in height from ground level, representing an increase of height of 1.35m (when compared to the highest point of the existing roof). The ground floor elevations of the building would be covered with smooth render and the upper floors would be completed with grey profiled cladding. Its flat roof would be covered in grey ply membrane and would feature two rooflights over the proposed office space. The existing roller shutter doors, located in the front elevation of the building, would be replaced with new roller shutter doors. Above these doors there would be three vertical shaped windows serving the proposed office. The rear elevation would contain a single first floor window and the south-western side elevation would contain a ground floor window and two first floor windows above. No windows are proposed within in the north-eastern side elevation of the building (facing 1, 2 and 3 Cyfarthfa Gardens).

PLANNING HISTORY

The history relating to the site is as follows:

P/20/0093 - Renewal of outline planning permission P/17/0169 (residential development in lieu of existing vehicle spraying business) – Outline permission granted on 18.06.2020

P/17/0169 - Renewal of Outline Planning Permission P/14/0142 (Residential Development in lieu of existing vehicle spraying business) – Outline permission granted on 10.07.2017

P/14/0142 - Renewal of outline planning permission P/11/0197 (residential development in lieu of existing vehicle spraying business) – Outline permission granted 29.07.2014

P/11/0197 - Renewal of outline planning permission P/08/0319 (Residential development in lieu of existing vehicle spraying business) – Outline permission granted on 21.09.2011

P/08/0319 - Renewal of planning permission P/05/0398 (Residential development in lieu of existing vehicle spraying business) – Outline permission granted 29.09.2008

P/05/0398 - Residential development (in lieu of existing vehicle spraying business) – Outline permission granted 30.09.2005

CONSULTATION

Head of Engineering and Highways:	No objection.
Planning Policy Officer:	No objection.
Ecologist:	No objection.
Environmental Health Manager:	No objection.
Welsh Water:	No objection.

PUBLICITY

In accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to the adjoining properties and a site notice was displayed within the vicinity of the site.

As a result of the first consultation exercise undertaken, 14 letters of objection were received. The main concerns are summarised below:

- The impact on the amenities of neighbouring properties in terms of loss of light, overshadowing, loss of privacy, noise and disturbance and overbearing impact.
- Loss of a view.
- The proposed buildings would not be appropriate to the local context in terms of scale, height and massing.
- The impact of solar panels reflecting into a neighbouring house.
- The proposed buildings would be overpowering and obtrusive as a result of their large size and excessive height.
- Concerns regarding the ecological impact of the proposed development.
- Highway safety concerns, including the impact of the proposed use on traffic and pressure for parking in the area.

- Concern that the proposed change of use would lead to an increase in the volume of heavy lorries through the estate which poses safety concerns for residents and children living in the area.
- Noise and air pollution.
- Queries regarding the proposed operating hours.
- The need to change the use of the site is questioned. It is noted that the existing building is currently used as a garage which proves there is a market for its former use and therefore, no reason to alter the use on the site.

Following the submission of a revised scheme (for the conversion and alteration of the existing building), a second publicity exercise was undertaken. 29 letters (3 of which were submitted by the same person) were received re-iterating the previous concerns raised to the application and highlighting the following concerns:

- Due to the proximity of the development to 2 Cyfarthfa Gardens, the increase to the height of the building would result in overshadowing and a loss of daylight and sunlight.
- 2 Cyfarthfa Gardens would be overlooked by a window looking directly to the garden and conservatory.
- The elevation of the building appears to be increased by a third of its current size which would have a detrimental impact on 2 Cyfarthfa Gardens and the occupiers' quality of life.
- The building would be obtrusive as a result of its size, height and location.
- The observations of MTCBC's Engineering Department does not take into account the change of use of the site. It is noted by the owners of 2 Cyfarthfa Gardens that the building was previously used as a one-person car paint spraying business and in their opinion, this greatly contrasts with the proposed development of warehouses and offices which would necessitate more vehicles and on a more frequent basis with regard to a business of distribution and storage.
- The new drawings do not show detailed information in relation to the houses which are in proximity to the development and in particular, 1, 2 and 3 Cyfarthfa Gardens.
- The owners of 1 Cyfarthfa Gardens noted that they are pleased to see the renewed plans have reconsidered the height of the structure from the original plans submitted with the application, and that the footprint has been reduced to its current size. They also noted that the revised scheme has a reduced impact on privacy, although they were still uncomfortable with a window facing directly towards their house. They highlight that whilst the proposed outline appears much lower than the original pitched roof, the full height and scale of the building is still unclear. A request was made for the height of the building to be clearly stated so to confirm the overall impact on the neighbouring properties. They also highlighted that additional information was required so that they could assess how the front first floor windows would impact on their privacy.
- Concern that the existing infrastructure is not appropriate to cope with increased demand and is already pressured by a historic industrial unit and a new route to a primary school.
- The intentions of the warehouse with no constraints on hours of use, business propositions and potential traffic flow is a concern.

- It is pointed out that the building is already being currently used as a garage, being rented to independent mechanics which proves there is a market for its former use. Therefore, there is no reason to alter its use on the site.
- Potential impact on air quality.
- Ecological impact of the development, including a loss of flora/fauna and wildlife in the habitats in the neighbouring reserve area. It is also noted that the developer has not submitted a full tree survey.

POLICY CONTEXT

National Policy

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

Planning Policy Wales (PPW) Edition 11 (February 2021) sets out the land use policies of the Welsh Government. The most relevant sections are:

Sections 3.3 – 3.16 sets out the principles of good design in new development proposals, which should take into account its relationship to its surrounding context.

Section 3.55 highlights that previously developed land wherever possible should be used in preference to greenfield sites where it is suitable for development.

Sections 6.4.21 – 6.4.23 note that local authorities should seek to maintain and enhance biodiversity and build resilient ecological networks to ensure that any adverse environmental effects can first be avoided, mitigated or compensated. Regard should also be given to any potential impacts on protected species that may result in disturbance or harm to the species or its habitat.

The policies in PPW are supported by Technical Advice Notes (TANs). The most relevant TAN to this application is as follows:-

TAN 5 – Nature conservation and planning sets out the role of the planning system in protecting and enhancing biodiversity and geological conservation.

TAN 12 - Design advises that the Assembly Government is strongly committed to achieving the delivery of good design in the built and natural environment, which is fit for purpose and delivers environmental sustainability, economic development, and social inclusion at every scale throughout Wales.

TAN 18 – Transport describes how to integrate land use and transport planning. It explains how transport impacts should be assessed and mitigated.

TAN 11- Noise provides advice on how the planning system can be used to minimise the adverse impact of noise without placing unreasonable restrictions on development or adding unduly to the costs and administrative burdens of business.

Local Policy

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

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 EnW1 – Nature Conservation and Ecosystem Resilience
Policy EnW2 – Internationally and Nationally Protected Sites and Species
Policy EnW3 – Regionally Important Geological Sites, Sites of Importance for Nature Conservation, Local Nature Reserves and Priority Habitats and Species
Policy EnW4 – Environmental Protection
Policy EnW5 – Landscape Protection
Policy EcW2 – Protecting Employment Sites

- Supplementary Planning Guidance

Supplementary Planning Guidance Note 2: Planning Obligations (March 2012)
Supplementary Planning Guidance Note 4: Sustainable Design (July 2013)
Supplementary Planning Guidance Note 5: Nature and Development (May 2015)

PLANNING CONSIDERATIONS

The application site lies within the settlement boundary where the majority of new development is encouraged and generally supported by Policy SW4 of the LDP. In terms of the proposed use and the concerns raised by residents, the existing building falls within a B2 use class (General Industrial). The Town and Country Planning (General Permitted Development Order) 1995 (as amended) allows for the change of use from B2 to B8 (Storage and Distribution) and B1 (Business and Offices) uses (without the need for planning permission i.e. it is permitted development) where the floor area does not exceed 500m². As such, the change of use of the existing building to a warehouse (which falls under a B8 use class) does not require planning permission. It should also be noted that there is no restriction on the type of B1/B2 use that could currently operate from the site. Furthermore, there are no restrictions on the operating times of such uses/businesses. While it is acknowledged that the proposal does seek to provide additional office space above the existing building, the hours of operation for both the proposed warehouse and the office could be controlled by a suitably worded condition attached to any planning permission (see recommended condition 4). This would introduce reasonable and additional controls which would limit any noise and disturbance to neighbouring properties (to more sociable hours). Therefore, given the existing and permitted use of the site, it is considered that the proposed use of the building/site would not lead to an unacceptable level of noise and disturbance to neighbouring properties and therefore complies with Policy EnW4 of the LDP.

In terms of the impact of the proposed alterations to the existing building on the amenities and privacy of neighbouring properties, a detailed layout plan now accompanies the application. This shows that the side wall of the application building is offset from the rear

boundary of the adjacent properties by 4m. Whilst it is acknowledged that the proposed increase to the height of the building (i.e. an increase in height of 1.35m) would have some impact on the adjoining properties, it is not considered that the additional mass, bulk and height arising from this development would be to a degree which would be overbearing or cause a harmful loss of light or overshadowing. It should be noted that significant amendments to the height and position of the building have occurred during the course of considering the application (i.e. the height of the building was originally 8.6m high and its original siting was 1.8m away from the boundary with the neighbouring properties). Furthermore, it should be noted that outline planning permission has been granted on this site with a layout which encompasses a pair of semi-detached houses which would range between 8m and 9.5m in height. In terms of the potential overlooking impact arising from the introduction of a second floor, a first floor window which was originally proposed into the elevation which would face numbers 1 and 2 Cyfarthfa Gardens has been removed. Taking into account the positioning of the building in relation to neighbouring properties, the first floor windows proposed within the front and rear elevation of the building would also not give rise to a level of overlooking which would be significantly harmful to those living nearby. As such, in terms of the impact of the scheme on residential amenity, the proposal accords with Policy SW11 of the LDP.

In terms of off-street parking and traffic movements, the Head of Engineering and Highways has not raised any objection to the proposed development. As highlighted above, the existing use/permitted uses of the building/site have the potential to result in traffic movements (including the size of vehicles) similar, if not greater, to those which could arise as a result of this proposal. It should also be noted that recommended conditions 4 and 8 would also help reduce any harmful traffic movements. The six off-road parking spaces proposed for this development are compliant with the parking standards (CSS Wales Parking Standards 2008) which for small industry (less than 235sqm) requires 1 operational space and 2 non-operational spaces. On this basis, the development would not have a detrimental impact on highway safety or the free flow of traffic in the area and thus complies with the requirements of Policy SW11 of the LDP.

In terms of ecology and the concerns raised by residents, the application is supported by an Ecological Technical Note which confirms that a suitably qualified person has visited the site to ensure that the condition of the existing building has not changed since a Preliminary Roost Assessment (PRA) was undertaken as part of the previously permitted development for housing on this site (application reference P/20/0093). The footprint of the existing building would remain unchanged by this development and the applicant's agent has confirmed that no external lighting is proposed and that no modification or removal of ecological habitat on or adjacent to the site would be undertaken. Taking this into account, the Council's Ecologist has not raised any objection to the proposed works subject to a number of on-site enhancement measures being controlled by way of a condition. These measures include the siting of an integrated bat box on the north-western elevation and an integrated bird box to the north-eastern elevation of the building. As such, the proposal complies with policy EnW1 of the LDP.

Given the above, and following significant amendments to the original proposal, the proposal is acceptable as it would not have an adverse impact on residential amenity or highway safety.

Finally, 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:

Proposed Site Plan Drawing no. PL 01 Rev G received on 27.10.2022

Existing garage Drawing no. PL 02 Rev A received on 27.10.2022

1:500 Block Plan received on 09.08.2022

TM Few, Merthyr Tydfil. Technical Note. BE Ecological Ltd. Dated 19.10.2022

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

3. Prior to the commencement of the development hereby approved, details/samples of the materials to be used in the construction of the external surfaces of the building shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason - To ensure that the external appearance of the proposed development will be in keeping with the character of the area and adjoining buildings in the interests of visual amenity and to accord with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

4. The use(s) shall not be carried out outside the hours of 08:00 to 19:00 Monday to Friday, 09:00 to 14:00 on Saturdays and not at all on Sundays.

Reason - To ensure that the noise emitted/activities are not a source of nuisance to occupants of nearby properties in accordance with Policies SW11 and EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

5. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

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.

6. **No development shall take place** until details, including structural calculations and facing materials, of any retaining wall which exceeds 1 metre in height have been submitted to and approved in writing by the Local Planning Authority. The walls shall be completed in accordance with the approved details before the development hereby approved is brought into beneficial use.

Reason - In the interest of safety and visual amenity in accordance with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

7. Before the building hereby permitted is brought into use, the parking spaces shall be provided in accordance with Drawing no. PL 01 Rev G and be kept available thereafter for the parking of motor vehicles.

Reason - To ensure that vehicles are parked off the highway in the interests of highway safety and to accord with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan

8. The office use hereby approved shall not be occupied at any time other than for purposes ancillary to the warehouse use on the ground floor.

Reason - To avoid the creation of a separate unit of office accommodation in the interests of highway safety and residential amenity in accordance with Policies SW11 and EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

9. No materials, products, equipment or machinery shall be stored outside the building.

Reason - In the interest of visual amenity in accordance with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

10. Demolition or construction works shall not take place outside the hours of 08:00 to 18:00 Mondays to Fridays and 09:00 to 13:00 on Saturdays and at no time on Sundays or Public Holidays.

Reason - To ensure that the noise emitted/activities are not a source of nuisance to occupants of nearby properties in accordance with Policies SW11 and EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

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. No surface water from the driveway/vehicular hardstanding should be allowed to discharged onto the adjacent highways.
4. The developer is advised to contact Merthyr Tydfil County Borough Council's Highway Division regarding any retaining works or other works affecting the highway BEFORE construction works commence. This approval is independent of any planning approval
5. The proposed development site is crossed by a public sewer. The position shall be accurately located and marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewer. For further information, please contact Welsh Water Developer Services on 0800 917 2652 or via email at developer.services@dwrcymru.com

The planning permission hereby granted does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary 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 Welsh Water's 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 Welsh Water in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water directly. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

6. The applicants/developers attention is drawn to the comments of the Authority's Environmental Health Section regarding the potential problem to neighbouring properties arising from the creation of dust during the construction process. To avoid unexpected and unnecessary enforcement action, the applicants/developers are advised to contact the Environmental Health Section prior to the commencement of development to agree an appropriate method of dust suppression.

The developer must ensure that all waste arising from the site is disposed of at a site licensed for its reception. Under no circumstances shall waste be burnt on site.