

INTERNAL MEMORANDUM

To: Kate Glover - Development Control Case Officer

Reference: P/24/0087

From: Planning Policy and Implementation Section

Ask for: David James

Extension: 7053

Date: 7th August 2024

Summary

Objection raised. The development does not comply with Policy EcW2.

The proposal is not a B-Class use, nor is it a non-B use ancillary to an existing B use, or a waste management facility. Furthermore, it is not considered to be an acceptable complementary commercial service outside class B, as defined by Policy EcW2.

The proposal therefore results in the loss of employment land. The evidence submitted is not considered to be sufficient to demonstrate that the land or premises are surplus to the requirements of the employment market, or that an existing use is inappropriate (as defined by Policy EcW2), particularly given that the site is still under construction.

Observations in respect of the above proposal

1. Proposed Development

An application for the change of use from use classes B1,B2,B8, to a Veterinary Practice (Sui Generis use), at Unit 1, Paisley Park, Pant Industrial Estate, Merthyr Tydfil.

2. Development Plan Framework

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

The 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 5 Infrastructure: To ensure that community infrastructure and open space supports the 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 10 Biodiversity: To improve ecosystem resilience and connectivity which support habitats and species of principle importance.*
- *LDP Objective 11 Countryside and Landscape: To protect and enhance the character and appearance of the landscape and the countryside.*
- *LDP Objective 12 Economic Development: To provide and safeguard appropriate land for economic and skills development.*
- *LDP Objective 16 Renewable Energy: To promote renewable and low carbon energy.*

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 EnW1: Nature Conservation & Ecosystem Resilience*
- *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 EcW2: Protecting Employment Sites*
- *Policy EcW9: District Heating*

The following supplementary planning guidance is applicable:-

- *Merthyr Tydfil Local Development Plan Supplementary Planning Guidance Note 2: Planning Obligations (March 2012)*
- *Merthyr Tydfil Local Development Plan Supplementary Planning Guidance Note 4: Sustainable Design (July 2013)*
- *Merthyr Tydfil Local Development Plan Supplementary Planning Guidance Note 5: Nature and Development (May 2015)*

National Planning Policy

Planning Policy Wales (Edition 12, February 2024)

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**
- **Economic Infrastructure: Economic Development**
- **Distinctive and Natural Places: Recognising the Special Characteristics of Places**

- Distinctive and Natural Places: Recognising the Environmental Qualities of Places

Future Wales: The National Plan 2040 (February 2021)

Future Wales provides guidance on matters relevant to this application, including, but not limited to:

- Policy 1: Where Wales will grow
- Policy 2: Shaping Urban Growth and Regeneration – Strategic Placemaking
- Policy 16: Heat Networks
- Policy 33 – National Growth Area – Cardiff, Newport and the Valleys

3. Policy Considerations

The site of the proposal is an industrial unit, which is part of a new development of 14 units of various sizes (still under construction at the time of writing). It is located within the Primary Growth Area as defined by the LDP, and within the settlement boundary where development will be allowed subject to the proposals compatibility with other plan policies and material considerations (Policy SW4). The site is also within the Pant Industrial Estate Protected Employment Site (Policy EcW2).

Policy SW9 relates to planning obligations. Given the nature of the proposal, on-site provision of affordable housing or open space, or a financial contribution towards affordable housing, would not be sought. Additionally, Community Infrastructure Levy (CIL) would not be chargeable.

Policy SW11 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, the public realm and historic environment to enhance the general street scene and create good quality townscape;
- 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;
- 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;
- allow access for the widest range of people possible, and demonstrate that any traffic movements will not have an unacceptable impact on local amenity or highway safety and satisfy the Council's parking standards.

Careful consideration should be given to the above issues. The application site is located in close proximity to existing commercial uses. The change of use should not result in an unacceptable impact on local amenity, loss of light or privacy, or visual impact. The site's

parking provision should be checked against the Council's current parking standards, and the views of the Engineering and Traffic Group Leader should be sought in this respect.

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

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. And that, 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 (ASA) should have regard to their special character and archaeological importance.

The site is located within a Landscape of Outstanding Historic Interest in Wales. As such, this and any other relevant historic environment assets should be taken into consideration, and the views of the relevant Officer or external Heritage body sought in this regard, as appropriate.

Policy EnW1 seeks to protect nature conservation and ecosystem resilience. Policy EnW3 states that development proposals likely to have an adverse impact on Regionally Important Geological Sites, Sites of Importance for Nature Conservation, Local Nature Reserves, or Priority Habitats and Species will only be permitted where it can be demonstrated that:

1. The need for the development clearly outweighs the conservation value of the site;
2. Adverse impacts on nature conservation features or geological features can be avoided;
3. Appropriate and proportionate mitigation and compensation measures can be provided; and
4. The development maintains and where possible enhances biodiversity and geodiversity interests.

As such, the views of the Council's Ecologist should be sought.

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. With regard to flood risk, new developments will be expected to avoid unnecessary flood risk and meet the requirements of TAN 15.

The impact of the proposal in terms of any increased noise and light pollution should be carefully considered, and the views of the Engineering and Traffic Group Leader and Public Health Manager should be sought in this respect. The Coal Authority should also be consulted, due to land stability/historic mining in this area.

Policy EcW2 states that at ...Pant Industrial Estate... 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.

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 proposal would not lead to an unacceptable change in the nature of the employment site and where the existing use is inappropriate or the land / premises are surplus to the requirements of the employment market.

The Policy goes on to state that acceptable complementary commercial service outside B-class uses are also permitted under Policy EcW2. These are generally small-scale commercial activities outside of the B-class uses, which provide a service to local employees or users of the existing employment site. These could include for example, small snack bars, cafés, local shops or trade uses, training centres, day nurseries or fitness gyms. As complementary uses should support the users of the industrial estate or business park, the scale and number of similar complementary uses will also be relevant.

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 could include for example, children's soft play, activity centres, fitness/sports centres or retail units, where the 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.

Proposals for alternative uses will also need to demonstrate either that the existing use is inappropriate, in terms of unacceptable impacts on amenity or the environment, or that the land or premises are surplus to the requirements of the employment market. Where existing uses are surplus to the requirements of the employment market viability and marketing evidence should be provided to justify the loss of employment land or premises. The type of evidence required will vary depending on the use and individual circumstances but may include details of why the land or premises is no longer in use and evidence to show that

appropriate and reasonable efforts have been made to market it for sale or lease for its existing use. Information from the agent or applicant regarding demand could take the form of a marketing report or correspondence from a suitably qualified property agent or surveyor. The type of information could include the following:

- Details of existing occupiers, if any;
- If appropriate, the length of time a property or site has been vacant;
- The type of use which the property/site has been marketed for, and what the marketing strategy involved and its duration (typically there should be a minimum of 12 months appropriate marketing);
- The amount of interest in the site during the marketing period – this should detail the number of queries, the type of use sought, and if known, the reason for not pursuing the initial query;
- Whether the relocation of existing occupiers to other suitable accommodation will be facilitated; and,
- Evidence that demonstrates the existing use is inappropriate with regards to any unacceptable adverse impacts on amenity or the environment.

The proposal is for the change of use of a B-Class unit (under construction), to a Veterinary Practice (a sui generis use, although akin to a D use). Therefore, it is not within Use Class B, nor is it a non-B use which is ancillary to an existing B use, or a waste management facility.

Additionally, a veterinary practice is not considered to be an acceptable complementary commercial service outside class B, as defined above. While the vets could provide a service to the users and employees of Pant Industrial Estate, the intended user/customer-base is further afield than the users of the existing employment site.

The proposal would therefore result in the loss of employment land/premises. As such, it would need to be demonstrated that this would not lead to an unacceptable change in the nature of the employment site, or undermine or have an unacceptable effect on the employment sites characteristics in terms of its role and function. It would also need to be demonstrated either that the existing use is inappropriate, in terms of unacceptable impacts on amenity or the environment, or that the land or premises are surplus to the requirements of the employment market.

Information submitted with the planning application indicates that Pant Industrial Estate comprises (as of July 2024), 75% B Class uses. As such, it could be considered that the proposal would not lead to an unacceptable change in the nature of the employment site, or undermine or have an unacceptable effect on the employment sites characteristics in terms of its role and function. However, future proposals for non-B Class uses would need to be considered carefully so that an unacceptable impact does not result, including the remaining 13 units comprising the Paisley Park development.

Notwithstanding this, evidence is also required to demonstrate that the existing use is inappropriate, or that the land/premises are surplus to the requirements of the employment market. However, given that the application site is still under construction (at the time of writing), and has therefore never been occupied, it does not appear that either of these can be demonstrated at this stage. Nevertheless, additional information has been submitted in support of the application, in this regard.

The letting agent for the Paisley Park development has stated that there has been a low level of interest for the industrial properties within the development. They have also confirmed

that the property remains vacant, as do the remaining 13 units within the development (again, it should be noted that the development is still under construction). They state that they have undertaken an extensive marketing campaign for the permitted use of the development for a period of 9 months, which included direct mailshots, commercial agent targeting, website entries (Rightmove, EG Property Link, CoStar) together with regular social media posts on Linked In and X. They state that they have also met with MTCBCs Economic Development Dept, who, despite having initial enquiries for the development, have not been able to convert any of this interest into viewings. The number of enquiries received *“for a diverse range of occupations, has been less than 20 with no other occupier currently progressing to the level and detail”* [sic]. The agent states that the predominate interest has been for the provision of activity which fits with services to the general public, whether that be small start-up businesses or larger established companies.

It should be emphasised that the types of information, listed in Policy EcW2, are potentially appropriate ways of demonstrating that the existing use of a site is inappropriate, or that the land/premises are surplus to the requirements of the employment market. It is therefore not prescriptive. Policy EcW2 states that *“the type of evidence required will vary depending on the use and individual circumstances but may include details of why the land or premises is no longer in use and evidence to show that appropriate and reasonable efforts have been made to market it for sale or lease for its existing use”*, and that *“typically there should be a minimum of 12 months appropriate marketing”*. Therefore, the circumstances of a particular site may require additional/different information, and/or a longer period of appropriate marketing.

The marketing agent has advised that the property/site has been marketed for 9 months, as stated in an email of July 22nd. Therefore, the required minimum of 12 months marketing has not been satisfied, and has been undertaken during a period when the site is still under construction. Consequently, it is not considered that a sufficient period of appropriate marketing has been undertaken, in this instance, to demonstrate that the existing use of the site is inappropriate, or that the land/premises are surplus to the requirements of the employment market.

The applicant has also questioned whether or not Policy EcW2 is in direct conflict with the published objectives of Cardiff Capital Regional Development, specifically: *“A Destination for Services – A focus for high quality public services for the communities of the Borough”*. It is not considered that there is any conflict here, for a variety of reasons. For example, CCR objectives are high-level, strategic and region-wide, while documents such as LDPs contain objectives and policies which are more local and focused, relating to specific areas of land and buildings within County Boroughs. Local documents can be guided directly and indirectly by regional/national etc. documents, and can be seen to clarify and expand on higher level aims and objectives. Additionally, the LDP has been subject to public consultation, and examination by PEDW, and has subsequently been found to be sound, and adopted.

Considering the above, the evidence submitted to justify the loss of employment land, as defined by Policy EcW2, is not sufficient, and therefore the proposal does not comply with Policy EcW2.