

DELEGATED REPORT

Application No:	P/19/0173
Site Address:	Trago Mills Development Site Swansea Road Merthyr Tydfil
Development:	Change of use of land within the carpark to accommodate 2 No. sales pitches
Case Officer:	David Cross
Site Visit:	15th July 2019
Application Expiry Date:	29th August 2019
Consultation reply date expired:	1st August 2019

APPLICATION SITE

This application essentially relates to two areas of land, each measuring approximately 12m wide by 4m deep, located to either side of the coach parking area adjacent (south-west) to the main entrance of the Trago Mills store. On all other sides the two parcels of land are bound by car/coach parking bays.

PROPOSED DEVELOPMENT

Planning permission is sought for the change of use of two parcels of land within the car park to be utilised for retail purposes (A1 Use Class), as sales pitches that can accommodate a mobile greengrocer and mobile butchers.

It is set out in the Design & Access Statement that both the greengrocers and butchers do not seek permanent buildings to operate from. In both instances, these businesses require customer interactions where outdoor stalls are more suited. It is noted that both of these business have already been operating at the site and that this application seeks to regularise matters and to enable the sales pitches to be used all year around.

It is acknowledged that the planning permission (P/03/0130), which relates to the Trago Mills store, includes a number of conditions, of which some impose restrictions on the retail elements of the development. In particular condition 2 states:

The retail floorspace hereby approved (excluding warehousing) shall be limited to 13.0935 square metres / 150,000 square feet. Of this floorspace, not more than:-

- 6,105 square metres / 65,700 square feet shall be used for furniture and carpet
- 2,940 square metres / 31,650 square feet shall be used for hardware and DIY sales
- 1,675 square metres / 18,000 square feet shall be used for clothes and footwear

- 3,220 square metres / 34,650 square feet shall be used for the use of other durable goods (including electrical goods).

Additionally, condition 3 states:

This consent does not allow for food retailing, other than the ancillary franchise units specified upon the deposited drawings.

The reason for these two conditions is to define the consent and to limit the various elements of retailing in order to safeguard the vitality and viability of the town centre and local centres.

PLANNING HISTORY

- | | | |
|-----------|---|---|
| P/19/0049 | - | Installation of two rapid electric vehicle charging stations and associated feeder pillar. |
| | | Permission GRANTED on 04.04.2019 |
| P/17/0335 | - | Removal of condition 1 (landscaping) and variation of condition 13 (to extend the service/delivery hours from 7:30 am - 5:30 pm to 7:00 am - 10:00 pm) of planning permission P/10/0014. |
| | | Permission GRANTED on 28.03.2018 |
| P/17/0334 | - | Variation of conditions 5, 14, 17, 19, 28, 29 and 33 of planning permission P/03/0130 relating to: implementation of leisure facilities; access/servicing/car parking/vehicles turning/loading and unloading areas; provision of a bicycle parking area; disabled access; extend service/delivery times from 7:30 am - 5:30 pm to 7:00 am - 10:00 pm for Trago's service/delivery vehicles; submission of landscaping scheme and contamination remediation. |
| | | Permission GRANTED on 28.03.2018 |
| P/17/0333 | - | Variation of condition 17 of planning permission P/00/0268 to enable the comprehensive leisure facilities to be brought into use within 2 years of the retail store being open. |
| | | Permission GRANTED on 28.03.2018 |
| P/16/0288 | - | Non material amendments to planning permission P/10/0014 to include alterations to external finishes, external works and coach parking layout, as well as accommodating plant equipment. |
| | | Permission GRANTED on 08.12.2017 |

P/10/0014 - Erection of extension to previously approved building to house additional storage and retail area, garden centre, loading building and plant house together with minor alterations to roof detail and accessibility improvements.

Permission GRANTED on 02.05.2013

P/03/0130 - Submission of reserved matters pursuant to planning consent P/00/0268(Trago Mills).

Permission GRANTED on 26.06.2003

P/00/0268 - Application to vary condition of outline consent P/94/0206 to allow extension of time period of consent by 2 years (i.e.: to 16th March 2003).

Permission GRANTED on 06.11.2000

P/94/0206 - Shopping Centre and Leisure Park (Outline).

Permission GRANTED on 07.02.1994

CONSULTATION

Engineering and Traffic
Group Leader - No objection

PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012, a site notice was displayed within the vicinity of the site.

As a result of this publicity exercise two letters of objection were received which raised the following concerns:

- The proposal would set an unwanted precedent that may encourage similar van sales pitches, which would take trade away from existing shops and businesses that are already struggling to survive.
- There are a number of vacant premises across the County Borough and especially in the town centre that could be occupied, which would be beneficial to the town, rather than pop-up vans/trailers businesses.

POLICY CONTEXT

The following policies are relevant to the determination of this application:

National planning policy

Planning Policy Wales, Edition 10, December 2018:

Section 4.3.3 acknowledges that in order to ensure maximum contribution to the well-being goals the planning system must promote viable urban and rural retail and

commercial centres. It must sustain and enhance the vibrancy, viability and attractiveness of retail and commercial centres. It must also improve access to and within the retail and commercial centres by all modes of transport.

Section 4.3.8 notes that where a need for additional retail has been identified, planning authorities should consider the most appropriate form, scale and location of this provision to best meet the need.

Section 4.3.14 sets out the requirement to consider the need for additional retail provision, having regard to the quantitative and qualitative need for both comparison and convenience goods.

Sections 4.3.18 – 4.3.23 emphasise a town centre first to the sequential approach for the location of new retail development, before consideration is given to edge of centre and then out of town sites.

Section 4.3.25 notes that retail developments outside of designated retail and commercial centres can impact on the viability and vibrancy of a centre. Such impacts, whether individually or cumulatively may include changes in turnover, trading ability, consumer choice, traffic and travel patterns, footfall, as well as affect centre regeneration strategies.

Sections 4.3.26 – 4.3.29 consider the potential retail implications a new retail development may have on designated retail centres, which may impact on their viability and vibrancy. Where appropriate retail impact assessments may be required and the use of conditions may be necessary to limit any changes over time i.e. changes to the range of goods or the sub-division of units etc.

Technical Advice Note (TAN) 4, Retail and Commercial Development, November 2016:

Further guidance on retail proposals is set out in the TAN, including the tests of retail need, the sequential approach to site selection, retail impact assessments and the use of conditions.

Local planning policy

Merthyr Tydfil Local Development Plan (LDP) 2006-2021:

- Policy BW12 - Development proposals and transport
- Policy AS18 - Retail hierarchy

PLANNING CONSIDERATIONS

The application site lies within the settlement boundary, where the majority of new development is generally supported in principle by policies BW1 and BW4 of the LDP. Given the nature of this proposal, where land within an existing car park is to be used as sales pitches to accommodate mobile stalls, the main considerations of this application relate to the retail implications of the development and highway safety matters.

Retail impact

Policy AS18 of the LDP, which seeks to protect the interests of the town centre as the favoured location for retail development, is of particular relevance. Applications relating to retail development outside of the town centre or other local centres would normally be subject to an assessment of need and a strict application of the sequential test. Proposals will then only be permitted where they avoid causing harm to town/local centre vitality and viability. It should also be noted that Planning Policy Wales (PPW) sets out the requirements to consider the need for additional retail provision and emphasises a town centre first to the sequential approach for new retail developments, before consideration is given to edge of centre and out of town locations.

Whilst some limited consideration has been given to the potential retail impact of the development in the Design and Access Statement (DAS), it is noted that neither an assessment of need, nor an application of the sequential test has been carried out. As such, the proposal fails to meet the requirements of Policy AS18 of the LDP.

The DAS considers that the proposed sales area would amount to approx. 96sqm, which would also include the trader's vehicle. The DAS also notes that the sales pitches would not be an independent destination in its own right, but instead would add to the existing retail offer by Trago and the other occupiers of the independent franchise units.

As part of the original permission (P/03/0130) for the Trago Mills store, conditions (No. 2 and 3) were imposed with a clear intention to restrict the amount of retail floor space and the types of goods sold. The reason for these conditions was to protect the viability and vitality of the town/local centres.

Although a sequential test has not been submitted, it is evident within the town centre that there are a number of vacant retail units, which would be of a suitable size that could accommodate the greengrocer and/or the butchers. However, the applicant has indicated that given the particular nature of the businesses and the way in which they interact with customers, being located within a building would not be suitable.

The proposal would not provide an ancillary service that compliments the existing retail use, where for example it may improve customer experience or comfort. Instead the proposal would increase the range of goods that can be sold at the site. Rather than seeking to accommodate the sale of such goods within the existing store, where it may form a more integral part of the Trago Mills offer, the proposal would instead provide two sales pitches intended to accommodate smaller independent businesses.

The proposed sales pitches within the car park would enable small popup retail businesses/stalls to operate throughout the year, in an out of town location on a permanent basis. Mobile greengrocers/butchers stalls do not typically operate outside a retail store on a regular basis throughout the year. By their very nature they often travel to various locations such as markets places or organised events, which already take place within the town centre.

The provision of the sales pitches adjacent to the Trago Mills store would give a particular advantage for the greengrocer and butchers over other similar businesses, which are already operating within the town centre. Customers visiting Trago Mills would be likely to make linked trips to the popup stalls rather than seeking similar goods/services within the town centre or other local centres. The sales pitches would also benefit from direct links

from the A470, free onsite parking and its location next to a particularly large store, which no doubt attracts a significant footfall of customers. Therefore, the proposal would create greater competition that would undermine the viability/vitality of other similar businesses located within the town centre. In this respect, it is acknowledged that as a result of the publicity exercise, concerns have been raised by a local business of the potential impacts on the town centre. It has been highlighted that there are number of vacant units that could instead be occupied, which would be beneficial to the town centre. Concerns were also raised that the proposal would set an unwanted precedent that may encourage similar sales pitches to be located in out-of-town locations, which would increasingly draw trade away from existing shops and businesses that are already struggling to survive.

It would be all too easy to justify on individual cases, that simply due to the limited floorspace of a sales pitch, that this would have a negligible impact on a town centre. Not only would this undermine the retail hierarchy (as defined by policy AS18 of the LDP), which seeks to improve existing centres, it would also have the potential of encouraging a proliferation of small popup businesses across the County Borough. This would collectively have a greater impact on the viability or vitality of comparable small businesses within the town centre or local centres.

Furthermore, considerable investment has already taken place to help improve the town centre. This includes significant investment in the numerous buildings, public realm improvements, the future relocation of the bus station and the forthcoming electrification/upgrade of the main railway line (Metro Scheme) to improve transport links and bring forward land for future development.

Accordingly, the sales pitches would have an unacceptable impact on existing business that undermines the viability and vitality of the town centre. In this respect, the proposal fails to provide an adequate assessment to justify the out-of-town location of the development. Therefore, the proposal runs contrary to policy AS18 of the LDP.

Highway implications

The proposed development would be located in the main car park serving Trago Mills in an area currently reserved for coaches, adjacent to the main entrance of the store. Whilst the sales pitches would result in the loss of a coach parking bay, the proposal would not have adverse impact on the overall capacity of the car park. There would also remain sufficient parking spaces for up to 9 coaches. In this regard, the Engineering and Traffic Group Leader has not raised any concerns in terms of parking or highway safety matters. Therefore, the proposal complies with policy BW12 of the LDP.

CONCLUSIONS

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, as well as the Welsh Ministers well-being objectives set out in section 8 of the WBFG Act.

For the above reasons, the proposal, by virtue of it's out of town centre location, would undermine and cause unacceptable harm to the viability and vitality of the town centre, contrary to policy AS18 of the Merthyr Tydfil Local Development Plan.

RECOMMENDATION: **BE REFUSED** for the following **REASON:**

1. The proposal, by virtue of its out of town centre location, would undermine and cause unacceptable harm to the viability and vitality of the town centre, contrary to policy AS18 of the Merthyr Tydfil Local Development Plan.

RECOMMENDATION ENDORSED



Head of Town Planning

DATE:

25th September 2019.

FormN2V

Code No. P/19/0173

MERTHYR TYDFIL COUNTY BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (WALES)

ORDER 2012 (as amended)

REFUSAL OF PERMISSION

To: Trago Mills Ltd c/o Studio Winter Chartered Architect The Guildhall Liskard Cornwall PL14 3JE

WHEREAS you submitted an application on the 4th day of July 2019 to develop: Trago Mills Development Site
Swansea Road Merthyr Tydfil short particulars of the application being as follows:-

Name of the Applicant

Trago Mills Ltd
Twowatersfoot
Liskard
Cornwall
PL14 6HY

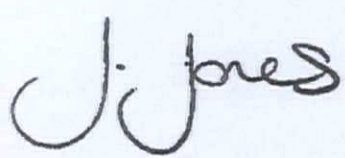
Description of Proposed Development

Change of use of land within the carpark to accommodate 2 No.
sales pitches (Full)

MERTHYR TYDFIL COUNTY BOROUGH COUNCIL as the Local Planning Authority hereby **REFUSE TO PERMIT** the proposed development for the following reasons, namely:

- 1 The proposal, by virtue of its out of town centre location, would undermine and cause unacceptable harm to the viability and vitality of the town centre, contrary to policy AS18 of the Merthyr Tydfil Local Development Plan.

Date: 20th September 2019

Signed:.....

(Head of Town Planning)

**IT IS IMPORTANT THAT YOU READ
THE NOTES ATTACHED TO THIS FORM**

NOTES

- (1) If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, or to grant permission subject to conditions, he/she may appeal to The National Assembly for Wales in accordance with Section 78(i) of the Town and Country Planning Act 1990, within SIX MONTHS of the receipt of this Notice. (Appeals must be made on a form which is obtainable from The Planning Inspectorate, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ). The National Assembly for Wales has the power to allow a longer period for the giving of notice of appeal but will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The National Assembly for Wales is not required to entertain an appeal if it appears to it that permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order.
- (2) If permission to develop land is refused or granted subject to conditions, whether by the Local Planning Authority or by The National Assembly for Wales, and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he/she may serve on the Council in which the land is situated, a purchase notice requiring the Council to purchase his/her interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
- (3) In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by The National Assembly for Wales on appeal or on a reference of the application to it. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.