

DELEGATED REPORT

Application No:	P/20/0054
Site Address:	Trago Mills Swansea Road Merthyr Tydfil
Development:	Change of use of land within the car park to accommodate 2 No. sales pitches
Case Officer:	David Cross
Site Visit:	9th March 2020
Application Expiry Date:	17th April 2020
Consultation reply date expired:	24th March 2020

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 proposed that the sales pitches would be utilised 5 days a week (Wednesday to Sunday) during normal working hours (9am to 4pm). It is set out in the submitted documents that both of the businesses operate from mobile vehicles/stalls that require an outdoor environment where they interact with passing customers. It is acknowledged that both of these businesses have already been operating from the site and that this application seeks to regularise matters and to enable the sales pitches to be used all year around.

This application is essentially a resubmission of a previous proposal (P/19/0173) that was refused on the grounds of its potential retail impact on the town centre. Although that application is now the subject of an appeal (APP/U6925/A/20/3246448), additional information has now been submitted in an attempt to overcome the previous concerns.

It is acknowledged that the original 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 sales*
- *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 sales*
- *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/19/0173 - Change of use of the land within the carpark to accommodate 2 No. sales pitches.

REFUSED permission on 20.09.2019 for the following reason:

1. *The proposal, by virtue of its out of town 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 2016-2021.*

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.

No representation were received as a result of this publicity exercise.

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 Replacement Local Development Plan (LDP) 2016-2031:

- Policy SW4 - Settlement Boundaries
- Policy SW11 - Sustainable Design and Placemaking
- Policy EcW3 - Retail Hierarchy – Supporting Retailing Provision
- Policy EcW4 - Retail Allocation
- Policy EcW6 - Out-of-Town Retailing Areas

PLANNING CONSIDERATIONS

The application site lies within the settlement boundary, where the majority of new development is generally supported in principle by policy SW4 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 EcW3 of the LDP essentially defines the retail hierarchy with the town centre being the favoured location for retail, leisure and other complimentary development. It also identifies the local centres. Outside of these areas, proposals will 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. In this respect, it should be noted that 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 in order to protect the viability and vitality of the town/local centres.

The supporting text to Policy EcW3 also notes that outside a centre, the need must be satisfactorily justified and a retail impact assessment would be required for all applications of 2,500sqm or more gross floorspace. Given the scale of the development, it is acknowledged that a retail impact assessment has not been undertaken.

Whilst the supporting documents include some consideration of the potential retail impact of the development, 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 EcW3 of the LDP.

It is argued by the applicant that the trading format for the butcher and fruit & veg stalls on the sales pitches is unique in that they operate for temporary periods from multiple locations across the UK, where they may attend various markets. This means being based at a fixed unit is not suitable. It is agreed that the mobile nature of these businesses is well suited for this arrangement. However, this is at odds with the present situation where the stalls currently operate from the sales pitches at Trago Mills five days a week during normal working hours. Indeed, the planning application does not seek to use the sales pitches for a temporary or limited period, but rather on a more permanent basis. Furthermore, markets are likely to take place in town centre locations or at organised events, where it is purposefully encouraged to stimulate the economy and contribute to the vitality and viability of those areas. In this respect an open market already takes place in the Merthyr Tydfil town centre on Tuesdays and Saturdays.

The applicant considers the sales pitches to be ancillary to the Trago outlet and are therefore not destinations in themselves. On this basis, the applicant deems it unnecessary for a sequential approach to be undertaken. In the absence of a sequential test, it is noted in the submitted Health Check Report that there are 50 vacant retail units within the town centre. The Council also monitors the number of vacant units, the unit sizes and the range of services provided within the town centre. This was last undertaken in January 2019. It was noted at that time 40 units were vacant, of which 16 of these had a floorspace of under 100sqm. This suggests that there are likely to be small retail units

available in the town centre that could appropriately accommodate a local butchers and/or a fruit & veg store.

The supporting statements from the mobile butchers and fruit & veg stall is that customers are aware of their businesses and travel from far and wide to purchase their goods. Whilst anecdotal, this suggests that their businesses do attract some trade to the site and that it is not entirely incidental. Although, it is expected that the vast majority of their trade would likely be from linked trips i.e. people visiting Trago Mills. The sales pitches are not considered to provide an ancillary service to the Trago store (i.e. a facility to improve customer experience or comfort) but rather they provide additional retail units alongside the franchise units, which increases the range of convenience goods offered at the site. The applicant notes that the sales pitches comprise an area of 24sqm of combined convenience sales floor space. However, it is noted that each of the sales pitches, as illustrated on the submitted site plan, measures 4m by 12m (48sqm), which provides a potential area of 96sqm combined. These pitches would sit alongside the existing franchise units, which each have a similar floor area of approx. 45sqm (5m by 9m).

Policy EcW4 of the LDP notes that in order to support the Hoover Strategic Regeneration Area, land is allocated to provide 400sqm for local retail provision. In the supporting text, the policy identifies a need for 6,281sqm of gross retail floorspace over the period of the plan, of which 409sqm is identified for convenience goods.

An allocation of 400sqm has been made within the Hoover Strategic Regeneration Area in order to meet future resident's basic local retailing needs. This would contribute towards the development of a new community that is focused around the Pentrebach metro station 'hub'. This would likely comprise mainly of convenience retailing, which may be met through a single supermarket or by a group of smaller stores. In the above context, it is clear that the quantitative need for additional convenience goods floorspace across the County Borough is particularly limited.

Policy EcW6 of the LDP requires retail development on new sites or existing retail areas in out-of-town locations to demonstrate that there is an additional need for the proposal, which cannot be provided within an existing town or local retail centre. Additionally, the proposal should not, either individually or cumulatively with other existing and consented developments, have an unacceptable impact on trade, turnover, vitality and viability of the town or local centres. The supporting text to this policy notes that this is a requirement for all proposals that create additional retail floorspace, with the aim to preserve and enhance the vitality, viability and attractiveness of existing town and local centres as well as promoting sustainable communities and sustainable travel patterns.

The applicant has noted that due to the proposal not comprising buildings but temporary retail space, the development does not provide any store trading space, but rather it falls within the category of Special Forms of Trading (SFT), which is akin to internet sales, mail order and vending. As such, the applicant considers the convenience goods capacity, or the requirement to consider the need for additional convenience goods floorspace, is not relevant as this only takes into account in-store spending.

The applicant also draws reference to the Experian Retail Planner Briefing Note 16 (December 2018), which forecasts a rising national trend in non-store retailing under the term SFT, with a particular focus on internet sales, but does include stalls, markets and other non-store sales. However, it does not specifically represent a growing trend in Merthyr Tydfil. Notwithstanding this, the core principle of directing new retail development

(including stalls and markets) towards the town centre and local centres remains relevant. In this respect, the town centre already provides an indoor market within the St Tydfil Shopping Centre and an outdoor market takes place along the High Street twice a week.

It is accepted that the sales pitches are of a size that they would not be expected to significantly impact on the anticipated trading turnover of the town centre. However, the development would nonetheless be at odds with the core principles as set out in Planning Policy Wales (PPW), which identify retail centres as hubs of social and economic activity and as a focal point for a diverse range of services that support the need of the local community. It also promotes retail centres as the most sustainable locations to live, work, shop, socialise and conduct business. The planning system should also sustain and enhance retail centre vibrancy, viability and attractiveness. This emphasises the Welsh Governments objective to take a 'town centre first' approach, which is reinforced by the adoption of the sequential approach.

It is this 'hub' of services that contributes collectively to the overall viability, vitality and attractiveness of the town centre. The diversion of small retail businesses to out of town locations can therefore have a negative effect to the town centre first principle. The creation/provision of additional small retail units/sales pitches at Trago Mills would both individually and in combination with the existing small franchise units undermine the viability and vitality of the town centre. The sales pitches/stalls would be of a comparable size to other similar types of local businesses within the town centre. The location of the sales pitches, adjacent to a major retail store with a high footfall and their group value with the other small franchise units, creates a distinct competitive advantage that undermines the viability of other similar small businesses in the town centre or other local centres. The provision of a group of small retail uses also creates a high-street effect that reinforces the benefits gained from passing trade and linked trips that would have a greater impact on the viability and vitality of the town centre. For example, there may no longer be a need to go into the town centre for certain goods or services, which reduces the passing trade and potential for linked trips that may be a benefit to other stores. 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 obviate the driving principles to improve existing centres, it would also have the undesirable potential of encouraging a proliferation of small 'popup' businesses across the County Borough in less sustainable locations that undermine the retail hierarchy.

Retail units in out of town locations are typically supported in cases where they offer a range of bulky goods or require large open plan/warehouse style units that simply cannot be provided in the town centre or other local centres. In this instance, the sales pitches/stalls are of a size that is comparable to a large proportion of the units situated in the town centre. In this case, a reasonable justification has not been provided to support a particular need for an out of town location.

The appellant has indicated that the town centre has a below average level of convenience stores in terms of numbers and that when assessed against standard indicators, it is not particularly strong. This would suggest that there is capacity for small convenience stores in the town centre, which would be desirable, being the most readily accessible location. This would help promote combined trips for shopping, business, leisure and services and would further enhance the viability and vitality of the town centre.

Furthermore, considerable investment has already taken place to help improve the town centre. This includes significant investment in 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 policies EcW3 and EcW6 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 SW11 of the LDP.

CONCLUSIONS

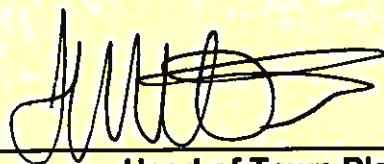
The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act") has been taken into consideration when determining this application. 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 its out of town centre location, would undermine and cause unacceptable harm to the viability and vitality of the town centre, contrary to policies EcW3 and EcW6 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 policies EcW3 and EcW6 of the Merthyr Tydfil Replacement Local Development Plan 2016 - 2031.

RECOMMENDATION ENDORSED



Head of Town Planning

DATE:

9/4/20