

DELEGATED REPORT

Application No:	P/23/0223
Site Address:	Unit 5 Cyfarthfa Retail Park Swansea Road Merthyr Tydfil CF48 1HY
Development:	Proposed subdivision of Unit 5 into two units and associated external alterations
Case Officer:	David Cross
Application Expiry Date:	20th November 2023
Consultation reply date expired:	19th October 2023

APPLICATION SITE

This application relates to Unit 5 located within Cyfarthfa Retail Park. The property was previously occupied by 'Wilko' who have since vacated the unit. The retail unit is bound to the west and east by adjoining stores, with a shared car park to the south and a service yard to the north.

PROPOSED DEVELOPMENT

Full planning permission is sought for the subdivision of the existing retail store into two smaller units. Currently the unit has a gross internal floor area of 1,844.1sqm, which comprises 964.6sqm at ground floor and a first floor mezzanine measuring 879.5sqm. It is proposed that Unit 5a would have a ground floor area of 471.6sqm with a mezzanine measuring 422.9sqm (total area of 894.5sqm). Unit 5b would have ground floor area of 482.8sqm and a mezzanine measuring 411.3sqm (total area of 894.1sqm).

It is noted in the planning statement that some flexibility was initially sought in order to accommodate tenants that may not require a mezzanine, which would mean the units could be limited to just the ground floor area with the smallest unit being 411.3sqm. Following discussions with the applicant regarding concerns over the unit sizes and the effect this may have on the town centre, it has been agreed that the proposal would retain the existing mezzanine as part of the subdivided units.

Planning permission is not normally required for the subdivision of a retail unit unless a condition has been imposed that restricts the use of the building. In this regard, it is acknowledged that under the original permission (P/04/0633) for the retail park condition 6 states:

Unless otherwise permitted by virtue of the current planning application, none of the retail units hereby approved shall be subdivided so that the gross retail floorspace of a single user/unit is less than 1,858sq. metres (20,000 sq. ft).

Reason – To protect the viability and vitality of the Merthyr Tydfil and other town centres within the defined Primary Catchment Area as considered relative to the Retail Impact Assessment which accompanied this application.

In essence this condition prevents any of the retail units within Cyfarthfa Retail Park from being subdivided, by ensuring a minimum unit size is maintained, but gives exception to those units which (under the permission) already fall below the threshold.

Some minor alterations are also proposed the glazing of the front entrance of the stores.

PLANNING HISTORY

Whilst there are a number of planning applications that relate to the retail park as a whole, those listed below are considered to be most relevant to the considerations of this application:

P/04/0633 - Amendment to condition 5 on planning permission P/03/0524 to allow the sale of non-food goods (bulky and non bulky) from units 8, 9A, 9B and 9C and the installation of mezzanine floor space in unit 8.

Permission GRANTED on 29.04.2005

P/03/0524 - Amendment to condition 1 of planning permission P/02/514 relating to the substitution of approved drawings Nos SP1066(05), 202A, 203, 206 and 207 for Unit 9.

Permission GRANTED 28.11.2003

P/02/0514 - Erection of retail park including A1 and A3 units, health and fitness (D2), covered builders yard and garden centre, associated car parking, servicing and access roads.

Permission GRANTED on 10.06.2003

CONSULTATION

Planning Division's
Policy Officer

- Concerns raised in respect of the size of the subdivided units, particularly where the existing mezzanine is not retained. The sequential assessment does not adequately justify the location of the smaller units.

PUBLICITY

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

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

POLICY CONTEXT

National planning policy

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.

Policy 6 – Town Centre First, states: *‘To breathe new life into town centres, the Welsh Government has adopted a ‘Town Centre First’ approach. This puts the health and vibrancy of town centres as the starting point of locational decision-making. It also directs facilities and services to where intended users can easily walk, cycle and/or use public transport to access them.’*

This policy considers town centres are the most accessible parts of our towns and should be the focus of growth and regeneration. Such areas remain a focal point for communities and provide a hub for a variety of uses alongside retail.

Whilst policy 6 applies to development of a significant scale (defined broadly, where a facility will serve a town, city or region-wide catchment), it is also recognised that planning authorities are encouraged to take a similar approach for smaller developments.

Planning Policy Wales, Edition 12th Edition, February 2024:

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 4.3.20 states that new out of town retail developments or extensions to existing out of town development should not be of a scale, type or location likely to undermine the vibrancy, attractiveness and viability of those retail and commercial centres that would otherwise serve the community. It also should also not be allowed if they would be likely to put development plan retail strategy at risk.

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. loss of existing provisions, 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 EcW5 – Town and Local Centre Development
- Policy EcW6 - Out-of-Town Retailing Areas

PLANNING CONSIDERATIONS

The retail use of the building (Unit 5), which includes a mezzanine floor, is well established as part of the out of town Cyfarthfa Retail Park. This application does not seek to increase the amount of retail floorspace already provided, but rather subdivide the unit into two smaller stores. The application would retain the existing mezzanine, which would form part of the subdivided stores. Additionally, it is noted that there would be no change to the retail use of the property or in the range/types of goods that may be sold.

The main consideration of this application is whether the sub-division of Unit 5 would have a harmful impact on the viability and/or vitality of the town centre. Policy EcW3 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. Additionally, section 4.40 of the LDP considers the economic well-being of the town centre, which is identified as a key asset and the lynchpin for regeneration. It acknowledges the benefits of out-of-centre retail, but it also considers that the retail offer should be sufficiently distinct so as to not undermine the vitality and viability of the town centre.

In this instance, given that the retail use of the building has already been established and that the proposal does not seek to increase the amount of retail floor space, it is apparent that the quantitative retail need is not a significant determining issue. It is noted in the

Planning Statement that the subdivision of Unit 5 (for similar reasons put forward in the case of subdividing other units within the retail park) would facilitate the re-letting of the vacant premise to two national multiple non-food retailers. The applicant notes this will in turn help to maintain and enhance the quality of the shopping offer at Cyfarthfa Retail Park and will support its identified role in the LDP in attracting extra spending power in Merthyr Tydfil. It is highlighted in the Planning Statement that the options available to re-let the unit on reasonable terms as a single unit are extremely limited. To emphasise this the Planning Statement set out the constraints of Unit 5 that prevents a number of key retailers from occupying Unit 5, of which the size of the unit is a contributing factor.

As part of the permission for the retail park, there was a clear intention to ensure that the retail units are not subdivided below the threshold of 1,858sqm (Condition 6 of P/04/0633). The reason for this condition was to protect the viability and vitality of the town/local centres. This condition ensures that the units within the retail park are sufficiently distinct in size to that available within the town centre. It is reasonable to surmise that the intention was to prevent the creation of smaller units that may otherwise compete with the retail offer of the town centre. For example, if there are units within the retail park that are of a comparable size to those located within the town centre, this may draw potential retailers to an out of town location, where they might prefer to be located adjacent to national chains. Additionally, the creation of a larger group of small units clustered together can create a high street effect, where consumer choice is greatly increased and may further draw trade away from the town centre.

The existing properties within the town centre vary in their size, which caters for a mixture of uses from offices, leisure, food & drink and retail. Although the vast majority of the units are small (between 26sqm to 600sqm), there remains a small proportion of larger units, which can provide 700sqm or more of retail floorspace. Conversely, the size of the retail units within Cyfarthfa Retail Park are generally larger, typically exceeding 900sqm. However, it is noted that there is a small number of smaller units with a retail floorspace of around 650sqm.

As such, in terms of unit size, a clear distinction can be made with Cyfarthfa Retail Park generally providing larger units that cater for a different shopping experience to that offered within the town centre. This is consistent with the approach where larger units are justified in out of centre locations, as it may not be possible to provide such units within the town centre.

The proposed sub-division of Unit 5 would create two units with a gross internal floor space of approximately 894sqm, which would be similar in size to a number of units within the retail park. The subdivided units would be much larger than the majority of the units within the town centre and would only be comparable to a small percentage of the town centre offer.

A sequential test has been included in the Planning Statement, which considers what comparable units might be present and available within the town centre to accommodate the development. It notes that according to the Goad data, 10 premises were identified in the town centre with a floor space exceeding 471sqm, of which two of the units (located in the St Tydfil Shopping Centre) are vacant and on the market.

A list of units that are currently vacant or being marketed have also been provided in Appendix 1 of the Planning Statement, along with an assessment of their suitability to accommodate the development. The majority of the available units identified would have a

floor space that is considerably smaller than the proposed sub-divided units. Two units within the St Tydfil shopping centre were considered in more detail, which includes the former Wilco store a form Carpet Splendour store.

It is noted within the St Tydfil Shopping Centre there are vacant units which are of a similar size to that being proposed. Unit 10a would have a floor area of 784sqm, albeit split across two floors. Unit 10b would have a floor areas of 1,450sqm across two floors and 8 River Walk would have a floor area of 1,021sqm at an upper floor level. The main reasons that these units have been discounted is due to the limited ability to configure the stores across two floors, limited footfall, prominence and serving arrangements. Whilst some of these concerns are understood and it is acknowledged that the retail offer at Cyfarthfa Retail Park would be more appealing, the reasons given to discount the units available in the town centre are not entirely accepted, given the need for retailers to be flexible in their approach. However, the applicant has highlighted in subsequent communications that there is a degree of uncertainty with the St Tydfil Shopping Centre and whether they are genuinely available, given that they are likely to form part of a redevelopment/transformation of the Shopping Centre in the future. In this respect, the applicant has noted that national multiple retailers often seek tenancies for a period of 5-15 years with a right to renew the lease. This creates a degree of uncertainty around the future redevelopment proposals, which would be a determinative factor at present for any investment in the Shopping Centre.

The proposed units would be of an appropriate size to be consistent with the larger retail units offered within Cyfarthfa Retail Park, whilst remaining sufficiently distinct from the smaller units typically available within the town centre. This in turn supports the need for the units to be situated in an out of town location. Additionally, the proposed subdivision of Unit 5 would only compete with a small percentage of larger units available in the town centre.

It is clear from the sequential test that there are available units within the town centre, primarily within the Shopping Centre, that may be of a similar size that could be occupied. Notwithstanding this, it is acknowledged that there is a degree of uncertainty over the future plans for the shopping centre which may influence the genuine availability of the vacant units in the short to medium term.

Therefore, in this instance it has been sufficiently demonstrated that the proposal would not have a significant impact on the vitality and viability of the town centre, whilst offering some benefit through the re-occupation of Unit 5. It is deemed necessary that a condition should be imposed to prevent any further potential sub-division of the units, which may otherwise have a greater impact on the town centre. Whilst there is no proposed changes to the retail use or the range of goods that might be sold, it would be appropriate to reiterate the conditions attached to previous permissions to limit the use of the units to non-food retail within class A1. Accordingly, the proposal complies with policies EcW3 and EcW6 of the LDP.

It is acknowledged that there are proposed internal alterations to the retail unit, involving the erection of a partition wall to enable its sub-division. These works would not normally require planning permission. There would be minor works to the glazing arrangement to the front entrance of the stores, which would not have an adverse impact on the character or appearance of the surrounding area. 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 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.

For the above reasons the proposed development is acceptable and complies with the relevant LDP policies. 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:

Dwg No. 11428 05 PL P02 A - Proposed Floor Plans, received 25.09.2023

Dwg No. 11428 05 PL E02 - Proposed Elevations, received 25.09.2023

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

3. The retail units hereby approved, as shown on the Proposed Floor Plan (Dwg No. 11428 05 PL P02 A), shall not be used for purposes other than the sale of non-food products/goods and shall not be used for any other purpose including those set out in class A1 of the schedule for the Town and Country Planning (Use Classes) Order 1987 or any Order revoking, amending or re-enacting that order with or without modification.

Reason - To protect the vitality and viability of town/local centres in accordance with Policy EcW3 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

4. The retail units hereby approved, as shown on the Proposed Floor Plan (Dwg No. 11428 05 PL P02 A), shall not be sub-divided so that the gross retail floor space of a single user/unit is less than 894.5sqm in Unit 5a and 894.1sqm in Unit 5b.

Reason - To protect the vitality and viability of town/local centres in accordance with Policy EcW3 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

5. The mezzanine floors as illustrated on the Proposed Floor Plan (Dwg No. 11428 05 PL P02 A) shall be retained and shall not be reduced in size to less than 422.9sqm in Unit 5a and 411.3sqm in Unit 5b.

Reason - To protect the vitality and viability of town/local centres in accordance with Policy EcW3 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

RECOMMENDATION ENDORSED

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Director of Neighbourhood Services

DATE: 8th March 2024