

INTERNAL MEMORANDUM

To: Rebecca Owens - Development Control Case Officer

Reference: P/22/0271

From: Planning Policy and Implementation Section

Ask for: David James

Extension: 7053

Date: 4th November 2022

Summary

Objection raised. The development does not meet the requirement of the relevant Replacement LDP policy: CW1 - Historic Environment.

Having regard to the Inspector's comments contained in appeal decision APP/U6925/A/16/3162524, and to Section 72, Part 2 of the Planning (Listed Buildings and Conservation Areas) Act 1990, considering to the nature of the proposed use, the proposal would not preserve or enhance the character of the Town Centre Conservation Area, due to the over-concentration of A3 uses.

Additionally, due to the erosion of the diversity of uses in this part of the town centre, the proposal may be detrimental to the vitality and viability of the Town Centre, contrary to policies EcW3 - Retail Hierarchy and EcW5 - Town and Local Centre.

Observations in respect of the above development

1. Proposed Development

Application for the change of use of the ground floor from an A1 use (former hairdressers) to A3 use (takeaway), and the installation of a flue, at 57 Pontmorlais, 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 3 To ensure the sufficient provision of land for the delivery of a range and choice of housing and affordable housing to address local housing needs.*
- *LDP Objective 4 Regeneration: To promote the suitable reuse of previously developed land and the continued 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 14 Town and Local Centres: To develop the town and local centres as accessible, attractive, viable and vibrant places.*

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 EnW4: Environmental Protection*
- *Policy EcW3 Retail Hierarchy – Supporting Retailing Provision*
- *Policy EcW5 Town and Local Centre Development*

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).*

National Planning Policy

Planning Policy Wales (Edition 11, February 2021)

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
- Activities in Places: Living in a Place
- Activities in Places: Retail and Commercial Development
- Recognising the Special Characteristics of Places: The Historic Environment
- Recognising the Environmental Qualities of Places: Water and Flood Risk

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 33 – National Growth Area – Cardiff, Newport and the Valleys

Technical Advice Notes (TANs)

TAN 4: Retail and Commercial Development (November 2016).

TAN 12: Design (March 2016).

TAN 15: Development and Flood Risk (July 2004).

TAN 24: Historic Environment (May 2017).

Planning (Listed Buildings and Conservation Areas) Act (1990)

Part 2, Section 72 states that the.....General duty [of planning authorities] as respects conservation areas in exercise of planning functions.....in the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

3. Policy Considerations

The application site is a commercial unit located within Merthyr Tydfil Town Centre . The site is located within the Primary Growth Area and settlement boundary where new development can be considered acceptable in principle (LDP Policy SW4) subject to proposals being compatible with the Plan's other policies and all other material considerations.

Policy SW9 considers the requirement for planning obligations. Due to the nature of the development, Community Infrastructure Levy (CIL) would not be chargeable.

Policy SW11 advises that development must contribute to the creation of attractive and sustainable places through high quality, sustainable and inclusive design. Where appropriate, new development will be required to (amongst 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;
- 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.

Considering the nature of the development (the change of use to A3 use, and the installation of a flue), and the location of the site (in close proximity to existing residential and commercial uses) particular consideration should be given to the above issues. As such, the views of the Council's Environmental Health department and the Engineering and Traffic Group Leader should be sought where appropriate.

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. Developments 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 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 and Archaeologically Sensitive Areas should have regard to their special character and archaeological importance.

The site lies within the Town Centre Conservation Area, the Town Centre (High Street and Pontmorlais) Urban Character Area (UCA1) and the Merthyr Tydfil Landscape of Outstanding Historic Interest. The impact of the change of use and addition of the flue on the character of the Conservation Area should be particularly considered. As such, the views of the appropriate Council Officer, or Heritage body, should be sought as required.

Having regard to the Inspector's comments, which form part of appeal decision APP/U6925/A/16/3162524, it is noted that the proposal would add another A3 use to an area whose heritage value has been identified as being at threat from an over concentration of such uses. As such, the proposal would not preserve or enhance the character of the Town Centre Conservation Area, and would not be in accordance with Policy CW1.

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. As such, the views of the Environmental Health department should be sought as appropriate.

The application also lies within Flood Zone C2 as illustrated on the LDP Constraints Map, and DAM Zone 2 and Floodmap Zone 2 on the Natural Resources Wales environmental data maps. Paragraph 6.6.26 of PPW11, which considers development and flood risk, states that reference should be made to TAN 15: Development and Flood Risk and that *"Developments located within flood risk areas remain at risk from flooding even if mitigation measures are applied."* Paragraph 6.6.29 further states *"the ability of emergency services to respond to flood events should be taken into account when considering if a development is appropriate."*

Section 5 of TAN 15 considers the vulnerability of different land uses to flooding and identifies three separate development categories: emergency services, highly vulnerable development, which includes all residential premises, and less vulnerable development (Paragraph 5.1,

Figure 2). Figure 2 further indicates that in C2 zones, i.e. areas of the floodplain without significant flood defence infrastructure, consideration should not be given to highly vulnerable development. Furthermore, paragraph 6.2 states that *“new development should be directed away from zone Cin zone C the tests outlined in sections 6 and 7 will be applied, recognising, however, that highly vulnerable development and emergency services in zone C2 should not be permitted”*. As such, Natural Resources Wales should be consulted.

Policy EcW3 advises that Merthyr Tydfil Town Centre is the favoured location for retail, leisure, and other complementary development, being situated at the head of a retail hierarchy. Proposals for new and enhanced retail, leisure and other complementary provision in this location will be permitted where they improve the vitality and viability of the centre.

Policy EcW5 advises that development enhancing the vitality and viability of the Town and Local Centres will be supported.

The proposal is for a change of use to an A3 use (food and drink), with the site being located within Merthyr Tydfil Town Centre, but outside the Primary Shopping Area (PSA). As such, this use would be appropriately located within the town centre. However, (and again having regard to appeal decision APP/U6925/A/16/3162524), this part of the town centre has a noticeable concentration of A3 takeaway uses, but was previously characterised by a diversity of uses, primarily A1. As such, the addition of a further unit containing an A3 use may be detrimental to the vitality and viability of this part of the town centre, as it further erodes the diversity of uses. As such, the proposal may not be in accordance with the requirements of Policy EcW3 and EcW5.

Notwithstanding the above, it is acknowledged that the information submitted with the application states that the business would operate during the day (which differs from the proposal subject of the appeal decision, where only evening/night time operation was proposed). Moreover, it is noted that the property is currently vacant, therefore bringing it back into use (even an A3 use) may contribute to the viability and vitality of the Town Centre. It is also noted that an A3 use is permitted to change to an A1 use without the need for a planning application.