

DELEGATED REPORT

Application No: P/21/0318

Site Address: Laymark Yard (Former Unigate Dairies),
Willow Works,
Abercanaid
Merthyr Tydfil

Development: Removal of conditions 4, 5, 6, 7 and 8 of
planning permission P/20/0266

Case Officer: Marlene Ferreira

Site Visit: 28th September 2021

Application Expiry Date: 31st October 2021

Consultation reply date expired: 5th October 2021

APPLICATION SITE

The application site relates to Laymak Yard, a paving manufacturing business (B2 use class) located within part of the former dairy site (Unigate Dairies Ltd). The site is accessed off a private road in Abercanaid, which runs from the north to the south, adjacent to the River Taff.

The site is located near other existing businesses within the former dairy site, including a bus depot (sui generis use) and a self-storage business (B2 use class). There are other industrial businesses (outside of the former dairy site) in the immediate vicinity, within the Abercanaid Industrial Estate.

The application site lies within the settlement boundary – Primary Growth Area and protected employment site, as designated within the Merthyr Tydfil Replacement Local Development Plan (LDP) 2016 - 2031. The site also falls within a C2 Flood Zone.

PROPOSED DEVELOPMENT

This application seeks planning permission to remove conditions 4, 5, 6, 7 and 8 of planning permission P/20/0266, to enable the development to proceed, without land contamination investigation works being carried out. Conditions 4, 5, 6, 7 and 8 state the following:

4. No development shall take place until a Phase 1 Land Contamination investigation has been carried out. The Phase 1 report shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any necessary Phase 2 investigation. The report shall assess potential risks to present and proposed receptors, i.e. humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments. The investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11".

The report shall be prepared by a "competent person" and shall be in accordance with BS10175:2011 Code of Practice for the Investigation of Potentially Contaminated Sites.

Reason - To ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

5. Should the Phase 1 Contamination investigation carried out under condition 4 identify the presence of potentially unacceptable risks, no development shall take place until a Phase 2 site investigation has been carried out.

A protocol for the investigation shall be submitted to and approved by the Local Planning Authority before the commencement of the Phase 2 investigation.

The completed Phase 2 investigation report together with any necessary outline remediation options shall be submitted to and approved by the Local Planning Authority prior to any redevelopment or remediation works being carried out.

The report shall assess potential risks to present and proposed receptors, i.e. humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments. The investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR11"

The report shall be prepared by a "competent person" and shall be in accordance with BS10175:2011 Code of Practice for the Investigation of Potentially Contaminated Sites.

Reason - To ensure the risks from land contamination to future users of land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

6. Should Land Contamination Remediation Works be identified as necessary under condition 5, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing any unacceptable risks to human health, controlled waters, buildings, other property and the natural and historic environment, has been submitted to and approved by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures and details of any necessary long term maintenance and monitoring programme. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 or any subsequent version, in relation to the intended use of the land after remediation.

Reason - To ensure the risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

7. The development shall be carried out in accordance with the approved remediation scheme unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure the risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

8. Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report (or validation report) that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval.

The approved monitoring and maintenance programme shall be implemented.

The verification report shall be prepared by a third party and a "competent person".

Reason - To ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

PLANNING HISTORY

The most recent and relevant planning history for this site is noted below:

P/20/0266 - Construct single storey office building – Approved: 15th April 2021

P/18/0269 – Change of use from former Dairy (B2 use class) to a coach/bus depot (sui generis), the manufacture of paving to include a storage shed, an office and 1 storage container (B2 use class) and a self-storage business comprising of 30 containers (B8 use class) – Approved: 7th December 2018

P/18/0229 - Change of use from vacant (undeveloped land) to B2/B8 use – Approved: 20th September 2018

P/11/0300 – Ground contamination remediation works with associated engineering operations – Approved: 21st December 2011

CONSULTATION

Environmental Health Manager

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 letters of representation have been received as a result of this exercise.

POLICY CONTEXT

National Development Framework

Future Wales: the National Plan 2040 (February 2021)

National Planning Policies

Planning Policy Wales (Edition 11, February 2021)

Technical Advice Notes (TANs):

- Technical Advice Note 15: Development and Flood Risk (2004);
- Technical Advice Note 23: Economic Development (2014);
- Technical Advice Note 12: Design (2016)

Local Planning Policies

Merthyr Tydfil Replacement local Development Plan 2016-2031

Policy SW4 – Settlement Boundaries

Policy SW11 – Sustainable Design and Placemaking

Policy EnW1 – Nature Conservation and Ecosystem Resilience

Policy EnW4 – Environmental Protection

Policy EcW2 – Protecting Employment Sites

PLANNING CONSIDERATIONS

The issues to consider under the assessment of this application relate to whether the proposed removal of the land contamination investigation conditions would be acceptable in respect of the impact upon the natural environment.

The former application, P/20/0266, was recently approved on 15th April 2021 for the construction of a single storey office building to serve an existing business. As the site is an area of land which historically has been subject to processes likely to cause land contamination, the Environmental Health Manager, requested that land contamination investigation conditions formed part of any planning permission. As such, P/20/0266 was approved subject to land contamination conditions, which included remediation works and verification scheme, under conditions 4, 5, 6, 7 and 8 as referred to previously.

Since the approval of this application, the agent confirmed on the 11th May 2021 and in an email (dated 5th May 2021) submitted with this application, that the proposed development would consist of 3 steel containers bolted together. Furthermore, he explained that these works would not require any foundations or other excavation works, as the containers would sit on an existing concrete slab on-site. The Environmental Health Officer has been consulted on this application and has concluded that *'...these conditions can be removed on the basis that there is to be no excavation at the site of the development...'* As such, no objection to the removal of these conditions has been raised and the proposal would therefore not be considered to have an adverse impact upon the natural environment and accord with LDP Policy EnW4.

CONCLUSION

The proposed removal of conditions 4, 5, 6, 7 and 8 of planning permission P/20/0266, for the reasons noted above, would therefore be acceptable in this instance and accord with LDP Policy EnW4.

Finally, 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

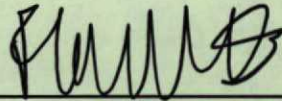
principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Accordingly the following recommendation is made:

RECOMMENDATION: BE APPROVED subject to the following **CONDITIONS:**

None

RECOMMENDATION ENDORSED



Head of Town Planning

DATE:

26/10/21