

DELEGATED REPORT

Application No:	P/24/0016
Site Address:	La Bodega 1 Pant Road Dowlais Merthyr Tydfil CF48 3SH
Development:	Demolition of existing rear extension and conversion of existing building into 4 self contained flats
Case Officer:	Rebecca Owens
Site Visit:	31st January 2024
Application Expiry Date:	4th March 2025
Consultation reply date expired:	21st February 2024

APPLICATION SITE

The application relates to an end of terraced property located in the local centre of Dowlais and thus within the settlement boundary. The property is currently vacant but was previously used as a restaurant/wine bar and is in a mixed use area where there are other commercial uses but also a high density of residential properties. Indeed it is bound by dwellings to the south east and south west with a convenience store and highway to the north-western side and a highway to the front (north east). The property is split level with two storeys to the front and three storeys to the rear with the rear garden area at a lower level than the highway to the front of the site.

PROPOSED DEVELOPMENT

Full planning permission is sought for the demolition of an existing rear extension and conversion of the remaining building into 4 self-contained flats. Two of these would be located on the ground floor and two on the first floor with the lower ground floor providing store rooms. There would be no alterations to the front or side elevation. However, the scheme involves the demolition of a rear extension (which has already been undertaken) and the removal of existing windows in the main rear elevation. The proposed rear elevation would contain just two large windows which would serve the shared lobby/corridor areas of the flats.

The plans also include the landscaping of the rear garden area with steps introduced along the existing side access ramp, the creation of a grassed area and a porous asphalt area and the hardstanding providing parking for up to four vehicles.

PLANNING HISTORY

There is no recent planning history which needs to be considered when determining this application. However, it is noted that another application is currently under consideration for this site which proposes a new two storey rear extension to provide a further four self-contained flats (planning reference P/24/0228). This application has not yet been determined.

CONSULTATION

The following bodies were consulted and their responses are presented below:

Planning Policy Officer	No objection
Planning Ecologist	No objection subject to conditions
Head of Engineering and Highways	No objection subject to conditions
Environmental Health Manager	No objection subject to conditions
Dwr Cymru Welsh Water	No objection subject to condition
South Wales Fire and Rescue	No objection

PUBLICITY

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

Two representations were received following this publicity exercise. The main concerns raised within these are outlined below:

- Overlooking to gardens would result in a loss of privacy
- Noise and disturbance from the application site garden
- Security of adjoining gardens in terms of the ability to enter these from the application site.

Local ward councillors have been consulted and they wish the application to be determined under delegated power by the Director of Neighbourhood Services.

POLICY CONTEXT

National Development Framework

Future Wales: the National Plan 2040 (February 2021) 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.

National Planning Policies

Local Planning Policies

The following policies of the Merthyr Tydfil County Borough Council Replacement Local Development Plan 2016-2031 are relevant to the determination of this application:

- SW1: Provision of New Homes
- SW2 Provision of Affordable Housing
- SW3: Sustainably Distributing New Homes
- SW4: Settlement boundaries
- SW9: Planning Obligations
- SW11: Sustainable design and Placemaking
- SW12: Improving the Transport Network
- SW13: Protecting and Improving Local Community Facilities
- CW1: Historic Environment
- EnW1: Nature Conservation and Ecosystem Resilience
- EnW2: Protecting and Improving Local Community Facilities
- EnW4: Environmental Protection
- EcW3: Retail Hierarchy – Supporting Retailing Provision
- EcW5: Town and Local Centre

In addition, the application will be determined having regard to the advice contained within the following Supplementary Planning Guidance (SPG) Notes:

- Note 1, Affordable Housing.
- Note 2, Planning Obligations.
- Note 4, Sustainable Design.
- Note 5, Nature and Development.

PLANNING CONSIDERATIONS

Principle

The site relates to a vacant building which is located within the settlement boundaries. Accordingly, the principle of development would be acceptable subject to its compliance with other planning policies and material planning considerations.

However, the proposal would result in the loss of a community facility (a former pub/restaurant). Policy SW13 of the LDP notes that the Council will protect and support the enhancement of the County Borough's existing community facilities and development proposals that would result in a loss of an existing community facility will only be permitted where:-

- alternative provision of at least equivalent value to the local community can be provided nearby, or
- it can be demonstrated that existing provision is inappropriate or surplus to the needs of the community and is no longer required, or
- it can be demonstrated there is no longer a viable community use for the facility.

It is recognised that the proposal would result in the loss of a community facility. However evidence has been submitted that satisfies the above exceptions. It has been highlighted that the property has been vacant for four years, with the business having been in decline prior to the Covid pandemic. However, this along with price rises (energy, stock etc) and the condition of the building made the business unviable. It has also been noted that there

are other similar uses in the area to meet the need of the local community. As such the proposal is considered to be in accord with this policy.

In addition, the application site is located within the Dowlais Local Centre. Policy EcW5 advises that development enhancing the vitality and viability of the Town and Local Centres will be supported and that within local centres, the change of use of the ground floor to 'non-A' use classes will only be permitted where:-

- It is demonstrated through active and appropriate marketing that the existing use is no longer economically viable; and,
- The proposal would not result in an over concentration of non-A1 uses that would be detrimental to the vitality, attractiveness and viability of the local centre; and,
- The proposal would not result in the creation of a dead window frontage; and,
- The proposal would not have an unacceptable effect on the amenity and viability of neighbouring uses, having regard to the 'agent of change principle'.

The proposal would result in a non-A use class at ground floor but evidence has been submitted by the applicant to demonstrate compliance with the above criteria. As outlined above, the previous restaurant/wine bar use has not been in operation for four years and there are a number of other vacant units available in the area which could accommodate commercial uses looking to locate there. In addition, the proposal would bring a long-term vacant property that is in decline back in beneficial use. This would help to improve the overall attractiveness of the area and contribute in a small way to the vitality and viability of the local centre. As such it has on balance been adequately demonstrated that the use is no longer economically viable and that the development would not contravene this policy.

Design and Visual Amenity

The application site is located in a mixed use area but one which also has a high density of residential properties. The introduction of flats would therefore not be out of character with the area. In addition, the proposal does not involve any external works to the front elevation and as such there would not be any impact on the visual amenities of the front streetscene. Whilst the rear elevation and its proposed fenestration isn't considered to be a desirable arrangement in terms of its appearance, this would not be readily visible and given the poor appearance of the rear streetscene it is not deemed that this would have a sufficiently harmful impact on the character of the area as to warrant the refusal of the application. In addition, no concerns are raised with respect to the landscaping works to the rear of the property. Indeed, it is highlighted that the development would bring a long-term vacant property which is in a decline state of repair back into beneficial use which would in fact improve the overall character and appearance of the area.

Residential Amenity

The application site is located within a local centre but is also in a high density residential area with a number of dwellings adjoining the site. Thus the impact of the proposal on the residential amenities of the neighbouring occupiers has also been considered. As the proposed would not result in any extensions there would not be any overbearing impact or additional loss of light/overshadowing. In addition the only new windows would be located in the main rear elevation and would serve non-habitable room. Accordingly, these would not rise to any unacceptable overlooking or loss of privacy. It is noted that the introduction of four residential units within the property would result in noise and disturbance from the comings and goings of the numerous occupants. However, it is noted that the site is located in a local centre and previously operated as a restaurant wine bar, which would

have generated a greater level of noise and disturbance. On this basis, it is not considered that the proposal would result in a harmful impact in this respect.

It is noted that two representations were received following the publicity exercise. The concerns raised within these are discussed below:

- As outlined above, is not considered that the proposed rear windows would result in a level of overlooking that would be deemed unacceptable. However, it is recognised that there could also be some overlooking to the neighbouring gardens from the rear garden area which may result in loss of privacy. However, it is considered that this can be appropriately dealt with via a condition which requires details of boundary enclosures to be submitted to be approved by the local planning authority and installed prior to the flats being occupied. This would also help to address the concerns regarding security of these garden by making access into to them from the site more difficult.
- It is not considered that four flats would give rise to an unacceptable level of noise and disturbance and indeed not to a level that would be greater than the previous and current authorised use. It is noted that the neighbours concern centres on noise from the application site garden but this would have a residential use akin to the surrounding properties and any unacceptable noise above that which would be expected could be dealt with through other means (for example environmental health legislation)

Parking and Highway Safety

The proposal is for four self-contained flats and would provide four off street parking spaces. As such there is sufficient parking provision to meet the needs of the flats. In addition, it is noted that access to these spaces would be via Glendower Street and would require vehicular reversing manoeuvres, however this has been considered by the Head of Engineering and Highways and is found to be acceptable. It is also noted that the site is located in a sustainable location within a local centre where there are good public transport links that would allow for residents to be less dependent on car use. Accordingly no concerns are raised into either parking or highway safety.

Ecology

The application has been supported by ecological reports, with the building have been also subject to two dusk emergence surveys). The survey works and reports found no evidence of protected species present at the site and has made a number of recommendations. In addition, a Green Infrastructure Statements (GIS) has been submitted in accordance with chapter 6 of Planning Policy Wales (edition 12) which sets out measures for net benefits fir biodiversity and a green infrastructure scheme. This information has been considered by the local planning authority's ecologist and subject to the recommendations being followed and provision of the enhancements the scheme is considered to be acceptable.

Conclusion

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:**

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:

Drawing Title: Proposed Plans, Elevations & Sections, Drawing Number: LA BODEGA FULL 02B, Amended Plan Received 17 October 2024

Drawing Title: Existing & Proposed Plans, Drawing Number: 0016 LA BODEGA FULL 06A, Amended Plan Received 7 December 2025

A Supplementary Ecological Survey Report dated August 2024, produced by Morgan Ecology, received 28 August 2024.

An Ecological Survey Report (Revision 1) dated January 2025 produced by Morgan Ecology, received 7 January 2025.

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

3. The flats hereby approved shall not be occupied until the parking spaces have been laid out within the site in accordance with Drawing No. 0016 LA BODEGA FULL 06A. The parking spaces shall thereafter remain available for the parking of vehicles at all times in perpetuity.

Reason - To ensure that vehicles are parked off the highway in the interests of road safety in accordance with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

4. The flats hereby approved shall not be occupied until details of the required vehicular footway crossover have first been submitted to and approved in writing by the local planning authority. The approved details shall be implemented on site prior to beneficial occupation of the flats.

Reason - To ensure the adequacy of the proposed footway and vehicular crossovers, in the interests of highway safety and the free flow of traffic in accordance with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

5. Surface water run-off from the proposed development shall not discharge onto the public highway or connect to any highway drainage system.

Reason - In the interests of highway safety and to prevent overcapacity of the existing highway drainage system and potential flooding in accordance with Policy EW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

6. No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

Reason - To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment in accordance with Policy EW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

7. **BEFORE** any of the flats hereby approved are occupied, bat and bird boxes shall be installed in accordance with the Ecological Survey Report (Revision 1) and drawing number 02B. The bat and bird boxes box shall be retained in perpetuity thereafter.

Reason - To protect the natural environment in accordance with Policies EnW1 and EnW2 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

8. **Prior to the occupation of the flats hereby approved** a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the flats or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason - To ensure that the new development will be visually attractive in the interests of amenity and to accord with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

9. **Prior to the installation of any external lighting**, a Lighting Scheme shall be submitted to and agreed in writing by the Local Planning. External lighting shall only be installed in accordance with the approved details and maintained as such thereafter.

Reason - To limit the impact on protected species and reduce light pollution in accordance with policies EnW2 and EnW4 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

10. **Prior to the occupation of the flats hereby approved** a plan indicating the positions, height, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed as approved before the flats are occupied.

Reason - To ensure that the new development will be visually attractive and boundaries protected in the interests of amenity in accordance with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

11. **Prior to the construction of any hard surfaced areas or landscaping works**, a Japanese Knotweed strategy shall be submitted to an approved in writing by the local planning authority. Works shall be carried out in strict accordance with the approved strategy.

Reason - To ensure compliance with the Wildlife and Countryside Act 1981.

INFORMATIVES

1. If a drop kerb is required, an application form to obtain permission for this aspect of the development can be obtained from the highways department;

Website : <https://www.merthyr.gov.uk/resident/parking-roads-and-travel/roads-footways-and-pavements/dropped-kerb/>

Email : Highways.CustomerCare@merthyr.gov.uk Tel no : 01685 727470 or 725000

2. This planning permission does not provide consent to undertake works that require a European Protected Species (EPS) licence.

All bats and their roosts are protected under UK and European legislation. It is an offence to deliberately kill, injure, capture or disturb a bat or to recklessly damage or destroy their breeding sites or resting places.

If works are planned on a building/tree in which bats are found to be roosting, Natural Resources Wales (NRW) must be contacted. on 0300 065 3000 or at <https://naturalresources.wales/permits-and-permissions/species-licensing/apply-for-a-protected-species-licence/bat-licences/?lang=en>.

If work has already commenced and bats are found, or if any evidence that bats are using the site as a roost is found, work should cease and NRW should be contacted immediately.

Under these circumstances, an EPS licence is likely to be required to undertake the works within the law.

3. All birds, their nests and eggs are protected by law under the Wildlife and Countryside Act 1981 (as amended) while they are breeding.

If works to any trees, hedgerows and/or other nesting bird habitat (including buildings with suitable features) are to be undertaken, they will take place outside of the bird nesting season. If the works must be undertaken during the nesting season (generally from 1st March until 31st August, although birds are known to nest outside of these dates in suitable conditions), a breeding bird survey will be required and must be carried out by a suitably qualified ecologist. Any active nests identified will be protected until the young have fledged.

Where a Schedule 1 species (as defined in the Wildlife and Countryside Act - <https://www.legislation.gov.uk/ukpga/1981/69/schedule/1> is involved, compensation for impacts, e.g., loss of nesting sites, will be devised and implemented.

4. The development site is crossed by a public sewer. No operational development shall be carried out within 3 metres either side of the centreline of the public sewer. As such contact is strongly advised with Dwr Cymru Welsh Water prior to works commencing on site.
5. The developers attention is drawn to the comments received from Dwr Cymru Welsh Water during the application process which are available to view using the planning search on the MTCBC website.
6. The developers attention is drawn to the comments received from South Wales Fire and Rescue during the application process which are available to view using the planning search on the MTCBC website.

RECOMMENDATION ENDORSED



Director of Neighbourhood Services

DATE: 14.01.2025