



## **PLANNING & DEVELOPMENT COMMITTEE**

**21 MARCH 2019**

### **REPORT OF THE SERVICE DIRECTOR, PLANNING**

#### **PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 18/1376/10  
(EL)  
**APPLICANT:** M and E Bin Hire  
**DEVELOPMENT:** Reconstruction of Industrial Units following fire damage  
**LOCATION:** LAND OFF PENTREBACH ROAD, PONTYPRIDD,  
CF37 4BW  
**DATE REGISTERED:** 13/12/2018  
**ELECTORAL DIVISION:** Treforest

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**RECOMMENDATION: APPROVED SUBJECT TO CONDITIONS:**

#### **REASONS**

The proposal is in keeping with policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan and National Policy in that, the use of the site for commercial uses under Classes B1/B8 and B2 has been established by earlier consents and the building is acceptable in terms of scale, design; impact on residential amenity, highway safety and ecology.

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#### **REASON APPLICATION REPORTED TO COMMITTEE**

Three or more letters of objection have been received.

#### **APPLICATION DETAILS**

Full planning permission is sought for the construction of a new industrial building on a parcel of land off Pentrebach Road, Pontypridd. The application has been submitted following the loss of the previous units on site, as a result of significant fire damage.

The building would appear rectangular in plan, measuring 12.5 metres in depth and 49.0 metres in length. It would have a shallow ridge roof construction extending to

7.6 metres at its highest point and 6.0 metres at its eaves. The building would be a modular frame construction, with both roof and elevations would be clad in colour coated aluminium profile panels. The building would be divided into 5 separate units (Units A-E) Units A, B and C would be Class B2 use with units D and E being B1/B8 uses. The division of uses within the proposed units has been laid out so as to correspond with the lawful use established by earlier planning permissions and the certificate of lawfulness approved at the site.

The proposed building would be located close to the south western boundary of the site, with space available to the front of the unit to provide access and car parking. Vehicular access to the site would be gained via the internal access road, which serves neighbouring industrial developments and connects with Pentrebach Road to the far north west.

## **SITE APPRAISAL**

The application site consist of a parcel of land that extends to approximately 3400m<sup>2</sup>. The site is located at the south eastern end of a small industrial area located off Pentrebach Road, Glyntaf. The south west and north eastern boundaries of the site are defined by the quarry face, a number of mature trees, which are covered by preservation orders (TPO Number W1) also define the boundaries of the site. It is noted that an industrial unit previously occupied the site in question, the land to the south east of the building was also used in connection with the business that operated from the unit. The site is currently vacant with the former building having been removed following significant fire damage. Vehicular access to the site would be gained via the internal access road, which serves neighbouring industrial developments and connects with Pentrebach Road to the far north west. Neighbouring uses include a builder's merchants and M&E Bin Hire. To the south east is St. Mary's Close and to the north east is Graig Yr Helfa Road, both of which are residential streets, which occupy elevated positions above the application site.

## **PLANNING HISTORY**

Relevant planning history is outlined below:

10/0752	Unit E & Land Adjoining Unit F, Glyntaff Sidings, Pentrebach Road, Pontypridd	Application for a Lawful Development Certificate for an existing use as vehicle repair and vehicle storage (Class B2).	Granted 30/12/14
97/2840	Glyntaff Sidings, Pentrebach Road, Pontypridd	Change of use to include Class B2 (General Industrial) in respect of consent number 56/96/0116 industrial units	Granted with conditions 20/02/98
96/116	Glyntaff Sidings, Pentrebach Road, Pontypridd	Construction of small industrial units with service yard and associated car parking.	Granted with conditions 29/03/96

95/485	Glyntaff Sidings, Pentrebach Road, Pontypridd	Construction of small industrial units with service yard and associated car parking.	Refused 17/11/95
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## **PUBLICITY**

The application was advertised by direct neighbour notifications and site notices. Nine letters of representation have been received in response to the publicity these are summarised as follows:

- Objections are raised on the grounds that the use is inappropriate in a residential area.
- Objections are raised on the grounds that the operation of the previous units caused disturbance to residents by way of noise, and the burning of materials on site both occurring late into the evenings and at weekends.
- One letter refers to the Human Rights Act: Article 8 which provides that everyone has the right to respect for his/her private and family life. It is stated that over a period of 20 years residents of Glyntaf have objected to applications at the site on the grounds of noise, burning of waste and air pollution.
- It is noted that on 13th June there was a major incident at the site and residents were evacuated from their homes. The fire caused black smoke and many explosions.
- Reference is made to both the Rhondda Cynon Taf Local Development Plan and the Environment Strategy for Wales. It refers specifically to the "Welsh Government wish to see the Welsh environment thriving and contributing to the economic and social well-being and health of all of the people of Wales."
- The letter also refers to the Regional Waste Plan (2008) 1st Review and its aims, including the need to 'minimise adverse impacts on the environment and human health'.
- The letter also refers to a Rhondda Cynon Taf Community Strategy (2010 – 2020) 'Live. Grow. Aspire. Achieve' and its objectives, including "to Deliver a better quality of life by ensuring our communities are vibrant, healthy and safe, provide access to a range of cultural, commercial and leisure activities and protect our natural heritage."
- The letter identifies a number of policies from the Rhondda Cynon Taf Local Development Plan, including AW8 which refers to protection and enhancement of the natural environment and AW10 which refers to environmental protection and public health
- It is claimed that over the preceding 20 year period, the Council has not imposed conditions, monitored or controlled the impact of the site's operation upon people's health and well-being.
- Reference is made to the fact that in 2010 a certificate of lawfulness for the use of part of the site as Class B2 was approved despite objections by residents.
- It is stated that land adjacent to the development has been damaged. It commented that parts of this land are covered by tree preservation orders and the land has ecological value. It is claimed the site's ecological value was

recognised in an appeal decision dating to 1994 for residential development on the former railway cutting.

- Concern is expressed that after the fire the slurry of water mixed with residual oil, paints, solvents, petrol plus metal and other contaminants were scraped up with mechanical diggers, placed into dumper trucks and deposited onto the floor area of the protected woodland site. Although the material has since been removed concern is expressed that this has resulted in the loss of approximately 50% of the ground layer.
- Questions are raised whether the applicant had the relevant permit to remove the waste from the site.
- Reference is made to The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 and it is suggested that an Environmental Impact Assessment to identify the environmental and social risks should be carried out.
- Reference is made to the guidance set out in Technical Advice Note 5: Nature Conservation and Planning.
- Reference is made to The Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009.
- Two further letters from residents on St. Marys Close specifically outline personal family circumstances and explain that their decision to move to the property (in 2018) was prompted by the wish to have use of a large garden and its proximity to wildlife.
- They refer to having experienced many instances where burning from fires at the site occurred. They note the health concerns that this presents, particularly to vulnerable individuals and those with ill-health.
- They outline the fear that was experienced as a result of the fire in June. They note that whilst the unit was lost to the fire, many trees along St. Mary's Close were also affected. They comment that these events have affected the family's emotional and mental well-being.
- They express concern that the noise generated from the site is often at an unacceptable level and can occur at unsociable hours, into the night and at weekends and bank holidays.
- They express concern that if permission is approved for the re-construction of the units then the same situation could occur again, potentially placing residents at risk.
- It is suggested that the use would be better placed on a purpose built industrial estate.

## **CONSULTATION**

Highways and Transportation - no objections raised.

Land Reclamation & Drainage – no objections raised, conditions suggested.

Public Health & Protection – no objections raised, conditions suggested.

Welsh Government Highways – no objections raised.

Natural Resources Wales - no objections raised, informative notes recommended.

Countryside, Landscape & Ecology – no objections raised.

Dwr Cymru/Welsh Water – no objections raised conditions suggested.

Wales & West Utilities – no objections raised. Wales & West Utilities has assets in the area, which may be affected during construction works. The applicant must contact Wales & West Utilities to discuss their requirements.

Western Power Distribution – no objections raised, informative notes recommended

South Wales Fire & Rescue – no objections raised, informative note recommended.

## **POLICY CONTEXT**

### **Rhondda Cynon Taf Local Development Plan**

Indicates that the site is inside settlement limits and is unallocated.

**Policy AW2** promotes development in sustainable locations.

**Policy AW5** sets out criteria for new development in relation to amenity and accessibility.

**Policy AW6** sets out the criteria for new development in terms of design and place-making.

**Policy AW8** sets out the criteria for protection and enhancement of the natural environment.

**Policy AW10** sets out the criteria for environmental protection and public health.

**Policy SSA13** sets out the criteria for development within settlement boundaries in the Southern Strategy Area.

## **National Guidance**

The Welsh Government published Planning Policy Wales 10 on 5th December 2018, and the document aims to incorporate the objectives of the Well-being of Future generations Act into Town & Country Planning.

It is considered that this proposal meets the seven wellbeing of future generation's goals and is consistent with the relevant key principles and requirements for each of the Chapters those being:

Chapter 2 People and Places: Achieving Well-being Through Placemaking,

Chapter 3 Strategic and Spatial Choices (including good design)

Chapter 4 Active and Social Places (including Transport)

Chapter 5 Productive and Enterprising Places (including the economy, energy, minerals and use of material resources)

Chapter 6 Distinctive and Natural Places (including historic environment and landscapes)

## **REASON FOR REACHING THE RECOMMENDATION.**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to

be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

## **Main Issues**

The application site lies within settlement limits and in an area with a history of commercial activity. The proposal seeks to develop a new industrial building on a parcel of land that is currently vacant, but was previously occupied by a unit comparable to the proposal. As such, the key considerations in the determination of the planning application are the compatibility of the proposed building and uses with the established area, along with the potential impact upon the amenity of neighbouring occupiers. The impact of the proposals upon both the character of the area, highway safety and ecology are further considerations.

## **Principle and amenity impacts**

The application site is a parcel of land that forms part of a wider area that is in use for commercial/ industrial purposes. The wider site, which is accessed off Pentrebach Road, houses commercial uses including M&E Bin Hire and a Builder's Merchants. The application site lies at the south western extent of this area and is located within settlement limits.

A review of the history of the site has revealed a number of planning applications relating to previous industrial uses at the site. The most relevant of these relate to a 1996 permission for the construction of a development of small industrial units with service yard and associated car parking and a subsequent application in 1997 to change the use of one of the units in question to Class B2. Furthermore, in 2014 a certificate of lawfulness was approved, which related to the use of a further unit for Class B2 activities. As such, there is clearly a well-documented history of industrial uses under Classes B1/B8 and Class B2 operating from the site.

The current application has been submitted following the loss of the previous building due to fire damage. The scheme seeks to construct a replacement building in the same location and with broadly the same footprint of that which previously occupied the site. As noted above, prior to the loss of the building a combination of Class B2 and Class B1/B8 were consented to operate from the site. The current scheme seeks to replicate the same division of land uses that were previously in place (having been established by earlier planning applications and the certificate of lawful use). As such, approximately two thirds of the building would offer Class B2 floor space, while the remaining one third would offer Class B1/B8 floor space.

It is noted that as a result of publicity of the application a number of representations have been received from residents living in the vicinity of the application site. The content of their letters is outlined in full in the preceding publicity section of the report, however the fundamental concerns expressed relate to the potential for the operation of industrial/commercial businesses trading from the site to cause disturbance and adversely affect the amenities of the occupiers of nearby dwellings.

It is understood that residents previously experienced disturbance from the operation of one of the businesses that traded from the site. Their letters state that disturbance took the form of noise, as the business often operated until late into the evening/night and also from odour as it is claimed that fires were frequently lit at the site. Residents are fearful that if the building is rebuilt, then the same problems will arise again. Whilst the above-mentioned concerns are acknowledged and the impacts upon amenity resulting from previous operations are acknowledged, it is noted that such problems are likely to have arisen as a result of mismanagement of the unit by a previous individual tenant operator. Furthermore, having reviewed the 1996 and 1997 applications, it appears that these consents did not place any formal controls on the hours of operation of the businesses trading from the site.

Whilst it is accepted that the current application seeks to restore a building from which uses under Classes B1/B8 and B2 would operate, it is considered that the potential impacts arising from its operation could be limited by restricting the hours of business. The applicant has indicated a willingness to accept a condition which would control the hours during which future businesses could trade. The condition in question would permit future occupiers to trade only between the hours of 8.00am – 7.00pm. This would reduce the potential for disturbance to neighbouring occupiers by restricting trade late into the night and during unsociable hours.

Whilst it would not be possible to impose planning conditions which restrict issues such as noise and the lighting of fires at the site, it is important to note that nuisance resulting from such activities, should they arise, could be controlled under Public Health & Protection legislation.

It is acknowledged that residential properties are situated to the north and south east of the application site, with the closest being located approximately 30 metres from the proposed building. However, both the dwellings on St. Mary's Close and Graig yr Helfa Road occupy positions that are significantly elevated above the application site, meaning that any direct views of the site from these properties are obscured. Furthermore, vehicular access to the site is gained from an existing access point 160 metres to the north west of the site, so it is not considered that the development would give rise to disturbance from traffic movements associated with the proposals.

Therefore, whilst it is acknowledged that a number of residential properties are located in the vicinity of the application site, this must be balanced against the fact that the land to the north west remains in use for commercial purposes, and the planning history of the site clearly reveals a history of commercial activity on the land. Furthermore, it is noted that the need for the current application has arisen only because the previous buildings on the site were lost through fire damage.

Therefore, on balance, with the use of conditions, which would limit the operation of the businesses to daytime trade and restrict activities during unsociable hours it is not considered that the impacts resulting from the proposals would result in an adverse impact upon neighbouring amenity that would be so great as to warrant the refusal of the application.

## **Character and Appearance**

As set out above, the proposed building would be sited on broadly the same footprint as the previous property. The building would be sited with its rear elevation adjacent to the south western boundary of the site, and its primary elevations overlooking an open space to the front of the proposed industrial units. The building would be uncomplicated in its design, with a shallow ridge roof design and elevations finished in profile cladding panels. Each of the five units within the main building would be served by commercial roller shutter doors and secondary pedestrian doors. As noted above, the area to the north west is commercial in character, with existing businesses, including a builder's merchants operating from large industrial building with adjacent storage yard. It is considered that the proposed building would be comparable in terms of its scale and appearance to that of the adjacent commercial properties.

Whilst the site lies close to Pentrebach Road and a number of residential properties are located on St. Mary's Close and Graig yr Helfa Road, as a result of the topography of the site the proposed development would not be readily visible from either of these vantage points. As such, overall, it is not considered that the resulting development would appear either harmful to or out of keeping with the character of its setting.

## **Highway Safety**

In order to aid in the assessment of the development upon highway safety, consultation has been undertaken with the Council's Transportation Section. Their response comments that the proposal represents the construction of replacement industrial units, located on the same footprint as those that previously occupied the site but were lost due to fire damage.

It is noted that the means of access to the site would remain unaltered, utilising an existing access that serves the neighbouring developments and connects with Pentrebach Road. It is also noted that a large area of land is available to the front of the proposed units, which would allow sufficient space for the parking and turning of vehicles associated with the development. As such, it is not considered that the proposal would result in any adverse impacts upon highway safety in the vicinity of the site, and their response concludes by raising no objections to the scheme.

## **Ecology**

In the letters of representation received following the publicity of the planning application, a number of residents expressed concern with regard to the potential impacts of the previous and proposed developments upon both ecology and protected trees in the vicinity of the application site. As such, the Council's Ecologist has visited and reviewed the application site. Their observations note that as the replacement building will be located on the same footprint as the previous, the proposal will only affect previously disturbed ground which is completely clear of vegetation. As such, it is not considered that there would be an ecological impact that would warrant the need for an ecological survey.



It is noted that the perimeter of the application is covered by a tree preservation order, and a number of trees have grown on the quarry sides. It is understood that some of these trees were badly affected by the fire at the site and as consequence have had to be removed, for reasons of health and safety. However, it is noted that these works were undertaken with the consent of the Council's Tree Officer. Their observations also confirm that the construction of the proposed building would not require the removal of any of the remaining protected trees. Nevertheless, should Members be minded to approve planning permission, a construction management plan condition could be used to ensure that appropriate protection measures are in place to ensure that no further trees are affected during construction.

### **Contamination**

It is noted that in representations, some residents have expressed concern that material, arising from the demolition of the former industrial units was been deposited on land adjacent to the site and that this could present issues in terms of potential contamination. As such, consultation has been undertaken with Natural Resources Wales. It is important to first note that the material in question has now been removed from site; nevertheless, NRW have confirmed that the matter will be investigated, although this will take place outside of the planning system, and the complainant (who also raised the matter directly with NRW) will be notified of the outcome of the investigation.

In relation to the proposed reconstruction, their observations comment that as a building with broadly the same footprint as that which previously occupied the site, the proposals are unlikely to involve major groundworks. Nevertheless, they note that as the site has experienced fire damage, there may be residual contamination present. Similarly, this matter has also been identified by the Council's Public Health & Protection Section. As such, whilst neither consultee raise an objection to the planning application, should members be minded to approve planning permission, the use a condition is suggested which would require the applicant to submit a contaminated land risk assessment prior to commencement of the development.

Finally, given the circumstances surrounding the loss of the previous building, consultation has been undertaken with the Fire Service as part of the planning application. Having assessed the proposals, their response concludes by raising no objection to the application; however, they recommend that matters relating to fire safety be brought to the applicant's attention. As such, should Members be minded to approve planning permission, it is suggested that an informative note be attached to the consent which draws the applicant's attention to the need to ensure the provision of both adequate water supplies on the site for firefighting purposes; and access for emergency firefighting appliances.

### **Community Infrastructure Levy (CIL) Liability**

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is liable for a charge under the CIL Regulations 2010 (as amended) however, the CIL rate for this type of development as set out in the Charging Schedule is £nil and therefore no CIL is payable.

## **Conclusion**

The proposal represents the construction of a replacement building on the broadly the same footprint as the previous, with the same configuration of uses. Whilst it is acknowledged that some residential properties are located in vicinity of the site, it is considered that any impacts resulting from the operation of the units could be adequately managed via controls under public health and protection legislation and conditions, which limit the hours of operation of the business. Furthermore, the application proposal is considered acceptable in terms of its impact upon the character and appearance of the area, highway safety and ecology and therefore accords with the requirements of the Local Development Plan. Therefore, the proposal is recommended for approval, subject to the conditions specified below.

## **RECOMMENDATION: GRANT SUBJECT TO THE BELOW CONDITIONS:**

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the approved plan(s) no(s)

- Location Plan scale 1:500
- Project no. IR18194 Drawing no.005 P2 – Finishes Layout
- Project no. IR18194 Drawing no.006 P2 – Finishes Elevations
- Project no. IR18194 Drawing no.SK100 Site Plan & Site Location Plan

and documents received by the Local Planning Authority on 14/12/18 and 28/01/19 unless otherwise to be approved and superseded by details required by any other condition attached to this consent.

Reason: To ensure compliance with the approved plans and documents and to clearly define the scope of the permission.

3. No development shall take place until drainage arrangements have been submitted to and approved in writing by the Local Planning Authority. The building shall not be brought into beneficial use until the drainage works have been completed in accordance with the approved plans.

Reason: To ensure adequate disposal of foul and surface water drainage in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

4. The development hereby permitted shall not begin until a scheme to deal with contamination has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures unless otherwise agreed in writing by the Local Planning Authority:

1. A desk-top study to identify and evaluate all potential sources and impacts of contamination relevant to the site. The desk top study should contain a conceptual site model.
2. A site investigation shall be carried out to fully and effectively characterise the nature and extent of any contamination and its implications. The site investigation shall not be commenced until a desk-top study has been agreed in writing with the Local Planning Authority.
3. A written method statement for the remediation of contamination affecting the site.

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

5. No dwelling, hereby permitted, shall not be occupied until the measures approved in the scheme referred to in Condition 4 have been implemented and a suitable validation report of the proposed scheme has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

6. If during development works any contamination is encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then work shall cease and revised contamination proposals shall be submitted to the Local Planning Authority. The development shall not re-commence until the additional proposals have been agreed in writing by the Local Planning Authority.

Reason: In the interest of health and safety and environmental amenity and so as to accord with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

7. The industrial units hereby approved shall not operate other than between the hours of:

Monday – Sundays: 08.00am to 7.00pm

Reason: To ensure that the noise emitted from this development is not a

source of nuisance to occupants of nearby residential properties in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

8. Before any work is commenced on site, measures for the protection of adjacent trees, protected by Tree Preservation Order W1, during construction shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall remain in place during the course of the construction period.

Reason: To protect the existing trees on the site during the course of building work in the interests of amenity in accordance with Policies AW5 and AW6 of the Rhondda Cynon Taf Local Development Plan.

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