

PLANNING & DEVELOPMENT COMMITTEE

19 October 2023

REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT

PURPOSE OF THE REPORT

Members are asked to determine the planning application outlined below:

APPLICATION NO: 23/0871/13 (GH)
APPLICANT: Demipower 2017 Ltd
DEVELOPMENT: Outline planning application for a proposed complementary food and drink outlet up to 140sq metres (all matters reserved apart from means of access). Revised site location plan received 13th September 2023 (to remove developable area from the coal high risk zone).
LOCATION: KENTUCKY FRIED CHICKEN RESTAURANT, CYMMER ROAD, DINAS, PORTH, CF39 9BL
DATE REGISTERED: 13/09/2023
ELECTORAL DIVISION: Porth

RECOMMENDATION: GRANT SUBJECT TO THE CONDITIONS BELOW:

REASONS: The development would be located within a small retail park where it would complement existing land uses, be positioned such that its wider visual impact would be minimal and could be accessed without causing harm to highway safety.

Furthermore, being both within the settlement boundary and close to Porth town centre, the location is considered to be a sustainable one and would make efficient use of an already developed site.

REASON APPLICATION REPORTED TO COMMITTEE

The proposal is not covered by determination powers delegated to the Director of Prosperity & Development

APPLICATION DETAILS

Outline planning consent is sought for the construction of a building to accommodate a new single storey restaurant, without drive-thru facilities, within the car park of the existing KFC premises at Cymmer Road, Dinas.

Although the application is made in outline, except for the means of access to the site, the submitted details identify the location of the proposed unit in the north-western corner of the existing car park. Indicative scale parameters have also been provided, showing a building with the following dimensions:

- Width - 16.43m
- Depth - 8.86m
- Height - 5.2m

Furthermore, a site layout plan demonstrates how the development would be related to the existing KFC restaurant and drive-thru, including how vehicular and pedestrian access would be managed and the site serviced by deliveries.

At this stage details of proposed customer hours have not been provided.

In addition to the plans and elevation drawings accompanying the application, the following supporting documents have been submitted:

- Ground Conditions Assessment Report
- Delivering and Servicing Plan
- Design and Access Statement
- Planning Statement
- Transport Statement
- Preliminary Ecological Appraisal

SITE APPRAISAL

The application site comprises land within the curtilage of a Kentucky Fried Chicken restaurant and drive-thru, located off the A4058 Cymmer Road, Dinas.

The land currently forms part of the car park of the aforementioned premises, has a flat tarmacked surface and is laid out for parking. The site is accessed via a junction from the A4058 which is shared with Farm Foods and other retail outlets to the east.

The land to the west of the site is occupied by a Lidl supermarket and car park, whilst the closest residential properties, at Cae Mawr Gardens, are around 100m away to the south.

To the north the site boundary is adjacent to the tree and scrub lined banks of the Rhondda River, which are designated as a SINC.

PLANNING HISTORY

The most recent or relevant applications on record associated with this site are:

09/1188/01: Advertisement consent - multiple signage for restaurant. Decision: 17/12/2009, Grant.

09/0453/10: Development of site to provide a convenience store with 777 sq mtr gross floorspace and a KFC Drive Thru' restaurant with 179 sq mtr gross floorspace, with associated car parking and landscaping. Decision: 06/07/2009, Grant.

PUBLICITY

The application has been advertised by direct notification to three neighbouring properties and notices were displayed on site.

No letters of objection or representation have been received.

CONSULTATION

Highways and Transportation

No objection or recommendation for conditions.

Flood Risk Management

Notes that the development will require separate SAB approval for a Sustainable Drainage Scheme. A condition is also recommended in respect of surface water management. However, since the majority of the site area is already hardstanding, it is considered that such a condition would not be necessary.

Public Health and Protection

Conditions are recommended relating to demolition, hours of operation, noise, dust, waste and a site investigation for contamination. However, with the exception of the latter and a condition for details of kitchen flue extraction, it is considered that the former matters fall within the scope of existing public health powers.

Natural Resources Wales

Given the site's potential for historic contamination and proximity to watercourses, NRW advises that any planning permission should be subject to conditions relating to a contaminated land investigation.

Dwr Cymru Welsh Water

No objection, subject to a condition for a grease trap and an informative note.

National Grid

A new connection or service alteration will require a separate application to National Grid.

Countryside Section – Ecologist

A condition will be required to secure biodiversity mitigation and enhancement measures as per those set out within the submitted PEA.

The Coal Authority

A Coal Mining Risk Assessment would not be required.

No other consultation responses have been received within the statutory period.

POLICY CONTEXT

Rhondda Cynon Taf Local Development Plan

Members will be aware that the current LDP's lifespan was 2011 to 2021 and that it is in the process of being reviewed. The Planning (Wales) Act 2015 introduced provisions specifying the period to which a plan has effect and providing that it shall cease to be the LDP at the end of the specified period. These provisions were commenced on 4th January 2016 but do not have retrospective effect. Therefore, the provisions do not apply to LDPs adopted prior to this date and plans adopted before 4th January 2016 will remain the LDP for determining planning applications until replaced by a further LDP. This was clarified in guidance published by the Minister on 24th September 2020. Subsequently, Members are advised that the existing Plan remains the development plan for consideration when determining this planning application.

The application site lies within the settlement boundary for Porth.

Policy CS1 - The policy emphasis in the Northern Strategy Area (SSA) is on building strong sustainable communities and encourages a strong, diverse economy.

Policy AW2 - The policy provides for development in sustainable locations which are within the settlement boundary; would not unacceptably conflict with surrounding uses; and have good accessibility by a range of sustainable transport option.

Policy AW5 – The policy identifies the appropriate amenity and accessibility criteria for new development proposals. It expressly states that the scale, form and design of the development should have no unacceptable effect on the character and appearance of the site and the surrounding area. There should also be no significant impact upon the amenities of neighbouring occupiers and should, where appropriate, retain existing features of natural environmental value. In addition, the development would require safe access to the highway network and provide parking in accordance with the Council's SPG.

Policy AW6 - The policy supports development proposals that are of a high standard of design that reinforce attractive qualities and local distinctiveness. Furthermore, proposals must be designed to protect and enhance landscape and biodiversity by providing measures for mitigation and enhancement, where appropriate.

Policy AW8 - Seeks to protect and enhance the natural environment from inappropriate development.

Policy AW10 - Development proposals must overcome any harm to public health, the environment or local amenity as a result of flooding, contamination, pollution, noise, land instability or any other identifiable public health risk.

Supplementary Planning Guidance

- Design and Place-making
- Access, Circulation and Parking Requirements
- Nature Conservation

National Guidance

In the determination of planning applications regard should also be given to the requirements of national planning policy which are not duplicated in the Local Development Plan, particularly where national planning policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales Edition 11 (PPW) was issued on 24th February 2021 in conjunction with Future Wales: The National Plan 2040 (FW2040). PPW incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out Welsh Government's (WG) policy on planning issues relevant to the determination of all planning applications. FW2040 sets out the National Development Framework for Wales (NDF), WG's current position on planning policy at regional and national level.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is also consistent with the Well-being of Future Generations (Wales) Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable development and building healthier communities and better environments.

It is also considered the proposed development is compliant with the NDF, with the following policies being relevant to the development proposed:

- Policy 1 – Where Wales will grow – Employment / Housing / Infrastructure

SE Wales Policies

- Policy 33 – National Growth Areas Cardiff Newport & the Valleys – SDP/LDP/large schemes.

Other relevant national policy guidance consulted:

PPW Technical Advice Note 5: Nature Conservation and Planning;

PPW Technical Advice Note 11: Noise;

PPW Technical Advice Note 12: Design;

PPW Technical Advice Note 18: Transport;

Manual for Streets

REASONS 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:

Principle of the proposed development

The application relates to the construction of a new food and drink outlet (Use Class A3) within the curtilage of the existing KFC restaurant at Porth.

It is noted that the site is part of a larger business area, which comprises various retail uses and a vehicle repair business.

The proposed development would not likely conflict with any of those existing uses, so being located within the settlement boundary and in a sustainable location, the requirements of the relevant criteria of LDP Policies CS1 and AW2 would appear to be met.

Consequently, the development is considered to be acceptable in principle, subject to the matters set out further below.

Impact on the character and appearance of the area

As an outline application with all matters reserved except for access, it appears that a building of the floorspace indicated could be easily accommodated within the site.

In addition, being located to the rear of the existing KFC restaurant and drive-through it would be unlikely to have any wider visual impact beyond the boundaries of the site.

Nonetheless, since matters of appearance, landscaping and scale have been reserved, a full assessment of these issues will be subject to consideration as part of a future reserved matters application and there are no objections at this point.

Impact on neighbouring occupiers

The development would be some distance from the closest dwellings to the site, which are located at least 75m away to the north and 84m to the south-west; therefore, a new building would not cause a direct amenity issues for any residents.

Likewise, in terms of the other occupants of the retail area, the nearest of which comprise the KFC restaurant, Lidl supermarket and Farmfoods store, the proposed food and drink outlet would not be considered to affect the carrying out of their businesses.

Coal Mining Legacy

Originally the Coal Authority objected to the proposed development on the basis that a small area of the site fell within the Development High Risk Area and a Coal Mining Risk Assessment had not been submitted.

Furthermore, although the Applicant's Agent had confirmed that no built development would take place in the high risk area and indicative plans had been provided, the Coal Authority recognised that the application was in outline form with layout a reserved matter, so the siting of the new building could not be considered definitive.

However, as the description of development notes, a revised site location plan was provided with the boundary re-drawn to take out the developable area. The Coal Authority confirmed that if the red line was amended in this way, so that the high risk area did not encroach into it, a Coal Mining Risk Assessment would not be required and the Coal Authority would not need to be reconsulted.

Ecology

The Council's Ecologist has reviewed the Middlemarch July 2023 Preliminary Ecological Assessment and although it has not identified the Rhondda River as a SINC, considers it to be an appropriate assessment.

The PEA identifies that the development will be situated on the existing hardstanding and improved grassland with no direct impacts on the woodland or Rhondda river although it has identified the possibility of indirect impacts. It has also identified potential impacts on terrestrial mammals, foraging/commuting bats, and birds through disturbance and small loss of low value foraging habitat.

The recommendations within Section 7 of the PEA include the need for a Construction Ecological Management Plan to minimise adverse effects on biodiversity, and a Landscape and Ecology Management Plan to detail establishment and management of the onsite compensation and enhancement measures. Accordingly, a condition has been recommended to secure that detail.

Access and highway safety

Access

The vehicular access to the site will be maintained from the existing private shared access via the A4058/Cymmer Road which is considered acceptable.

The Applicant proposed a new pedestrian crossing within the site, from the existing KFC to the new building, to enable safe pedestrian access.

Deliveries

The application also states that deliveries will take place outside of peak times which is considered acceptable and swept path analysis has provided which demonstrates that the largest anticipated delivery vehicle would be able to safely access and egress the site in a forward gear.

Public Transport

The nearest public transport link to the proposed is via bus, for which the stops is located approximately 150m west of the site. The bus services operating from these stops are as shown below:

Route Number	Frequency (no. buses per hour)			Route
	Mon - Fri	Saturday	Sunday	
130	2	2	1	Pontypridd - Llanwynn - Porth - Tonyppandy - Rhondda - Tynenydd
173	1	1	0	Porth - Pentygraig - Tonyppandy - Blaen Cychach - Cychach Vale

Porth railway station is located approximately 950 metres southeast from the application site, equivalent to an average 13-minute walk or 4-minute cycle. The station is situated on the Rhondda line, which under normal circumstances provides half-hourly services north-west towards Treherbert and south-east towards Cardiff.

The Rhondda line is currently undergoing an eight month refurbishment, bringing significant upgrades to the line in order to provide more reliable services from February 2024. Replacement bus services are currently operating every 30 minutes which stop at every station, whilst extra buses operate during peak periods to reduce journey times and increase capacity.

It is anticipated that, when fully operational, rail services will return to operate half-hourly between Treherbert and Cardiff.

Personal Injury Collisions (PIC Analysis)

To enable a review of the road safety record on the highway network in the vicinity of the application site, the applicant has obtained Personal Injury Collision (PIC) data from 'Crashmap' over the latest 5-year period available, 1st January 2017 to 31st December 2021.

Analysis has been undertaken to determine if there are any trends in the type or location of collisions on the local highway network within the vicinity of the application site. Two collisions have been identified within the vicinity of the site access, both of which were classified as slight and no trend or patterns have been identified.

Parking

The existing private shared car park provides 48 parking spaces. The proposed unit will remove 7 parking spaces reducing the number of spaces provided to 41.

The Council's SPG for Access, Circulation and Parking Requirements identifies that the existing KFC restaurant has a parking requirement of 15 spaces with 48 spaces provided within the car park. The proposed development would have a parking requirement of 1 commercial vehicle space and a non-operational requirement of 1 space per 60m² - a total of 3 spaces.

Therefore, the KFC building and proposed new unit would have a total parking requirement of 18 spaces with 41 provided, thus the existing car park provision would be more than adequate.

Cycle Parking

The applicant proposes 1 Sheffield stand (equivalent to two spaces) for customer and staff use which promotes sustainable modes of transport and therefore, is considered acceptable.

Conclusion

No highway objections are raised or conditions recommended.

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 not CIL liable under the CIL Regulations 2010 (as amended).

Conclusion

It is considered the proposed food and drink outlet would not have a significant impact on the character and appearance of the site and surrounding area. In addition, its operation would not cause harm to the amenity of the surrounding closest properties or to highway safety.

In the absence of any representations to the contrary, the application is therefore considered to comply with Policies CS1, AW2, AW5, AW6, AW8 and AW10 of the Local Development Plan.

RECOMMENDATION: GRANT SUBJECT TO THE CONDITIONS BELOW:

1.
 - (a) Approval of the details of the layout, scale and appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter referred to as "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
 - (b) Plans and particulars of the reserved matters referred to in (a) above relating to the layout, scale and appearance of any building to be erected, the means of access to the site and the landscaping of the site shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.
 - (c) Applications for the approval of reserved matters shall be made before the expiration of three years from the date of this permission.
 - (d) The development hereby permitted shall be begun before whichever is the latter of either (i) the expiration of 5 years from the date of this permission or (ii) the expiration of 2 years of the final approval of the reserved matters or in the case of approval on different dates the final approval of the last such matter to be approved.

Reason: To comply with Sections 92 and 93 of the Town and Country Planning Act 1990.

2.
 - i) No development shall take place until a scheme to deal with contamination has been submitted to and approved in writing by the Local Planning Authority. The scheme, all aspects of which must be carried out by, or under the direction of, a suitably qualified competent person in accordance with BS10175, shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing:

(a) 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.

(b) 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 completed satisfying the requirements of paragraph (a) above.

(c) A written method statement for the remediation of contamination affecting the site shall be agreed in writing with the Local Planning Authority prior to commencement and all requirements shall be implemented and completed to the satisfaction of the Local Planning Authority. No deviation shall be made from this scheme without the express written agreement of the Local Planning Authority.

ii) The development hereby permitted shall not be occupied and/or operated until the measures approved in the scheme (i) 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. Any validation report shall be carried out by, or under the direction of, a suitably qualified competent person.

iii) If during development works any contamination should be 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 and approved in writing by the Local Planning Authority prior to the work recommencing. Any revised contamination proposals shall be carried out by, or under the direction of, a suitably qualified competent person.

Reason: In the interest of health and safety and environmental amenity in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

3. No development shall take place until details of a scheme for the delivery of the biodiversity mitigation and enhancement measures, as set out in Section 7 of the Preliminary Ecological Appraisal (Middlemarch Environmental Ltd, ref. RT-MME-160426, dated July 2023) have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a Construction Ecological Management Plan and Landscape and Ecology Management Plan. Development shall be carried out in accordance with the approved details.

Reason: In the interest of biodiversity and the protection of the natural environment in accordance with PPW 11 and Policies AW6 and AW10 of the Rhondda Cynon Taf local Development Plan.

4. Details of a grease trap, to prevent grease entering the public sewerage system, shall be submitted to and approved in writing by the Local Planning Authority. The trap shall be installed in accordance with the approved details prior to beneficial use and maintained in good order thereafter.

Reason: To protect the integrity of the public sewage system and ensure the free flow of sewage in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.

5. Details of a kitchen extraction system, including equipment to control the emission of fumes and odour from the premises, shall be submitted to and approved in writing by the Local Planning Authority. The system shall be installed in accordance with the approved details prior to beneficial use and maintained in good order thereafter.

Reason: In the interests of public health and amenity in accordance with Policy AW10 of the Rhondda Cynon Taf Local Development Plan.