

## APPENDIX B

ITEM	APPLICATION NO.	2014/0765
	WARD:	Llansamlet Area 1

**Location:** Land at Heron Way, Swansea Enterprise Park, Swansea

**Proposal:** Construction of retail unit (Class A1) (amendment to planning permission 2013/1616 granted for the construction of four retail units (Class A3) with associated works)

**Applicant:** Actoris Commercial Limited

### **BACKGROUND INFORMATION**

#### **POLICIES**

<b>Policy</b>	<b>Policy Description</b>
Policy AS2	Accessibility - Criteria for assessing design and layout of new development. (City & County of Swansea Unitary Development Plan 2008)
Policy AS6	Provision of car parking in accordance with adopted standards. (City & County of Swansea Unitary Development Plan 2008)
Policy EV1	New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).
Policy EV2	The siting of new development shall give preference to the use of previously developed land and have regard to the physical character and topography of the site and its surroundings. (City & County of Swansea Unitary Development Plan 2008).
Policy EV3	Proposals for new development and alterations to and change of use of existing buildings will be required to meet defined standards of access. (City & County of Swansea Unitary Development Plan 2008)
Policy EV36	New development, where considered appropriate, within flood risk areas will only be permitted where developers can demonstrate to the satisfaction of the Council that its location is justified and the consequences associated with flooding are acceptable. (City & County of Swansea Unitary Development Plan 2008)
Policy EC3	Improvement and enhancement of the established industrial and commercial areas will be encouraged where appropriate through building enhancement, environmental improvement, infrastructure works, development opportunities and targeted business support. (City & County of Swansea Unitary Development Plan 2008)
Policy EC4	All new retail development will be assessed against need and other specific criteria. (City & County of Swansea Unitary Development Plan 2008)

Policy EC7	Within the Enterprise Park, proposals for retail development outside the retail zone will not be permitted. (City & County of Swansea Unitary Development Plan 2008)
Policy EC9	Retail development at out of centre locations will be restricted. (City & County of Swansea Unitary Development Plan 2008)

## **SITE HISTORY**

<b>App No.</b>	<b>Proposal</b>
2013/1616	Construction of four retail units (Class A3) with car parking and associated works Decision: Perm Subj to S106 Agree Decision Date: 06/05/2014

## **RESPONSE TO CONSULTATIONS**

The application was advertised as a departure to the Development Plan. No responses have been received.

### **Highways**

I do not consider that there are any highway safety implications arising from the proposed change of use from A3 to A1 (restricted). Adequate parking and access is indicated through the previously consented scheme.

I recommend that no highway objections are raised to the proposal subject to the conditions relating to planning application 2013/1616 being fully discharged prior to beneficial occupation of any of the units

## **APPRAISAL**

This application is reported to Committee for decision as it is recommended for approval and constitutes a departure to the Development Plan.

Planning permission is sought for the construction of a retail unit (class A1) on land at Heron Way, Swansea Enterprise Park. Planning permission was granted in March 2014 for the construction four food and drink units (class A3), car park and associated works (Ref: 2013/1616). The current planning application relates to one of these approved units which is proposed to be changed from an A3 unit to an A1 unit. It is noted the development has not commenced on site. The original planning permission included a condition to restrict the use of the units to A3 uses only in order to minimise the impact of the development on the vitality, viability and attractiveness of Morriston district centre.

The application has been submitted as one of the intended occupiers and anchor tenants of the original development 'Greggs' bakery has taken the decision that the business can not operate from a Class A3 unit. As such this planning application has been submitted to change one of the units to a restricted A1 bakery.

The application site is a parcel of brownfield land located off Heron Way which forms the sites southern and western boundaries, beyond which lies vacant land to the west and KFC and Burger King drive-thru restaurants to the south. The Premier Inn hotel forms the site's northern boundary while Upper Forest Way forms the site's eastern boundary.

It should be noted that planning permission has also been granted (Ref: 2013/1020) on an area of land adjoining the site for 'Construction of a coffee shop with drive through, car park and ancillary works'. This scheme has not yet been implemented.

## **MAIN ISSUES**

The main issues are considered to be: the principle of the proposed development in this location; consideration of the consequences of flooding associated with the proposed development; the impacts on the character and appearance of the area; the impacts on parking and highway safety.

The following City and County of Swansea Unitary Development Plan 2008 (UDP) policies are relevant to the consideration of this proposal: AS2 (Design and Layout), AS6 (Parking), EV1 (Design), EV2 (Siting and Location), EV3 (Accessibility), EV36 (Development and Flood Risk), EC3 (Established Industrial and Commercial Areas), EC4 (New Retail Development), EC7 (Enterprise Park Retailing), EC9 (Out-of-Centre Retailing). Furthermore the Supplementary Planning Guidance (SPG) entitled 'Swansea Enterprise Park Planning Policies' is also relevant.

In addition Planning Policy Wales provides up to date national policy guidance together with TAN 4 'Retailing in Town Centres' and TAN 23 'Economic Development'.

There are no residential dwellings in close proximity to the site as such it is not considered that the proposal would raise any significant concerns in this respect.

In terms of the character and appearance of the area there is no material difference to the visual appearance of unit 1 granted planning permission under 2013/1616 and the proposed unit under this current planning application. As such it is not considered the proposal would raise any concerns in respect of the impact of the development on the character and appearance of this commercial area.

In respect of flooding issues the previous planning application was accompanied by a flooding consequences assessment and the comments of NRW were taken into consideration when determining the planning application. The consequences of flooding at the site were considered to be acceptable subject to the provision of a flood management plan by condition. There have been no material changes in circumstances which would result in a departure from this viewpoint. The development would therefore accord with UDP Policies EV2 and EV36 subject to the provision of a flood management plan, which can be secured by condition.

### Principle of the proposed development

The UDP proposals map indicates the application site falls outside the retail zone defined in EC7 and outside of any district centre. Furthermore, the SPG indicates that the site is located within Zone D which supports proposals included within Use Classes B1, B2 and B8 of the Use Classes Order 1987.

The retail policies of the UDP are generally aimed at supporting the maintenance and enhancement of the established shopping structure. They aim to prevent the dispersal of major retail investment to locations outside established shopping centres where such development would serve to undermine the appeal and ultimately the success of nearby centres. Policy EC9 states that retail development at out of centre sites will be resisted except for certain exceptional forms, for example small scale shopping facilities required to meet local needs.

Aside from the exceptions stipulated, Policy EC9 does also acknowledge that an out-of-centre retail scheme in excess of local needs provision may be considered appropriate if a clear deficiency in shopping provision exists and there are no sequentially preferable sites available. Policy EC7 relates to proposals within the Enterprise Park and states that proposals for new retail development within the retail zone will be restricted to the sale of bulky goods items that do not pose a threat to the vitality, attractiveness and viability of the City Centre and surrounding town, district and local shopping centres. The Policy also states that proposals for new retail development outside the retail zone would not be permitted. The key criteria against which all significant retail proposals are considered are set out in Policy EC4. As well as the standard tests of need and sequential suitability, the policy emphasises that schemes must not adversely impact on the vitality and viability of established centres; must be compatible with the function, scale and character of the centre near to which it is located; and be sited in a highly accessible location.

National planning policy guidance on retail policy is set out in PPW, Chapter 10. The guidance makes clear that town, district and local centres are the most appropriate locations for retailing, in the interests of sustaining communities, enhancing accessibility and safeguarding the vitality and viability of established shopping centres. The critical factors for determining a planning application for a retail scheme best located in a town centre are identified as: the need for the development; the sequential approach to site selection; the impact on existing centres; accessibility and transport implications; and compatibility with the development plan. In terms of the sequential test, developers are required to demonstrate that all potential town centre locations have been thoroughly assessed before edge of centre sites are considered, requiring a flexibility of approach from both the developer and planning authority. The guidance makes clear that the retailer must be innovative about the format, design and scale of the proposed store, which should be tailored to fit local circumstances. In establishing the need for the development, the retailer is required to demonstrate quantitative need, in precedence of any qualitative need. Fundamentally, the guidance makes clear that the scale, type and location of out-of-centre retail developments should not be such as to be likely to undermine the vitality, attractiveness and viability of those town centres that would otherwise serve the community well.

PPW and TAN 23 also explain, for planning purposes, the Welsh Government defines economic development as development of land and buildings for activities that generate wealth, jobs and incomes. Economic land uses include the traditional employment land uses (offices, research and development, industry and warehousing), as well as uses such as retail, tourism, and public services. The construction and energy sectors are also important to the economy and are sensitive to planning policies.

In addition PPW states that Local Planning Authorities should adopt a positive and constructive approach to applications for economic development. In determining applications for economic land uses authorities should take account of the likely economic benefits of the development based on robust evidence. In assessing these benefits, key factors include:

- the numbers and types of jobs expected to be created or retained on the site;
- whether and how far the development will help redress economic disadvantage or support regeneration priorities, for example by enhancing employment opportunities or upgrading the environment;
- a consideration of the contribution to wider spatial strategies, for example for the growth or regeneration of certain areas.

## Key Issues

Preventing retail development that is likely to have an unacceptable adverse impact on established shopping centres is a key objective of planning policy at both local and national level. Maintaining the health of the City Centre and all district and local shopping centres within Swansea is important to sustain communities, support other essential services, and provide combined shopping facilities. The application site does not lie within any established shopping centre and the abovementioned UDP policies make clear that significant new retail proposals in such locations will only be supported if it can be demonstrated that:

- a) there is an identified need (quantitative/qualitative) for the size of store proposed;
- b) no suitable sequentially preferable sites exist
- c) there would be no detrimental impact on established centres and stores; and
- d) it is a highly accessible site and can realistically be reached by a choice of means of transport

It is the extent to which the application sufficiently addresses matters a - d above together with consideration to the economic benefits that are most critical to the consideration of the principle of the proposal. These key elements are appraised under the headings below:

## Need

New retail proposals not within existing centres must, as a starting point, demonstrate a need for the scale of provision that is proposed. PPW states that where need is a consideration, precedence should be accorded to establishing quantitative need and it is for the LPA to determine and justify the weight to be given to any qualitative assessment.

The A1 retail element would have an internal floor area of 111.5sqm. In terms of quantitative needs, no information has been provided in this respect, however, it is not considered necessary for an A1 retail development of this scale to provide justification in quantitative need terms. In terms of qualitative need, the applicant contends that unlike the southern end of the Enterprise Park, the business and commercial area within which the site lies is not currently served by a small scale bakery facility. The proposed unit is intended to serve the employment area and to provide a complementary facility that would add to the existing offer in this part of the Enterprise Park. The intended occupier 'Greggs' have submitted a letter in support of the proposal which states that the unit will be an addition to Greggs existing portfolio in Swansea and will not affect their units within the Enterprise Park and Morriston, which would suggest that the proposal may meet demand for such facilities within the Enterprise Park catchment.

Overall, no quantitative need has been demonstrated, however, it is accepted that the requirement to demonstrate such need would generally be applicable to larger scale developments. The proposal would add to the choice on offer in this part of the Enterprise Park which would equate to a qualitative need, however, there are already a number of competing food retail outlets in this part of the Enterprise park as such it is considered that limited weight can be given, in terms of establishing a need for the proposed development.

## Alternative Sites (Sequential Test)

The applicant asserts that the intended occupier is represented in Morriston district centre, as such they would not seek to open new premises in this sequentially preferable location. In any event the applicant contends that Morrison district centre is a separate catchment to that proposed for the new premises.

They consider the sequential test to be of academic value only in this situation as it would not encourage investment in Morriston by the intended operator, rather it would result in the development as a whole (as previously approved) not coming forward as without the anchor tenants committing to occupying the proposed A1 unit, the development would not be viable.

Notwithstanding this the applicant has undertaken an analysis of available sites within Morriston district centre focusing on units of approximately 80-130 sqm. Two sites identified at Clase Road and Treharne Road were considered both unsuitable and unavailable. Five units were potentially identified within Morrison including premises on Woodfield Street and Sway Road, but were discounted on the grounds that the units would not address the requirements of the end user, do not benefit from the required planning permission or would be too close to an existing operator.

It is acknowledged that the sequential test has limited value in relation to this proposal which is intended to serve part of the Enterprise Park catchment, however, the test demonstrates that there are no units available within Morriston District centre that would be suitable to the intended operator. In this respect it is considered that the sequential test has been satisfied.

#### Impact upon established shopping centres

It is clear that development plan policies and national guidance require new retail developments to safeguard against any significant adverse impacts to town centre vitality and viability. The proposal is for a modest A1 retail unit within a consented A3 scheme. The proposal is said to cater mainly for Enterprise Park users and the fact that the intended occupier already has a premises in Morriston, yet are looking to invest in a further premises in the Enterprise Park, would endorse this view. Following on from this, it is considered that existing users of the Enterprise Park would be unlikely to make dedicated trips by foot, bike or car across the dual carriage way to Morriston for the retail offer proposed at this unit, particularly when parking in Morriston is at a premium. In addition, it is considered those making a dedicated trip to Morriston to take advantage of its services are likely to make linked trips to take advantage of its food and drink offer rather than make a further trip to the Enterprise Park. It is also an important material consideration that there are a considerable number of food outlets within very close proximity to the application site including a KFC, Burger King, ASDA instore café, Taybarns, the approved drive through coffee shop adjacent to the site and the approved A3 units on the previously approved scheme. The proposal would therefore add to the existing offer that serves the Enterprise Park catchment.

In order to mitigate any potential impacts on Morriston and also the City Centre, the applicant has stated they would be willing to accept a condition that the unit may only be used as a retail bakery and for no other purpose in class A1. A condition to this effect has been used elsewhere by the LPA to restrict the retail element of other similar developments.

Notwithstanding the applicant's contention that the proposal would not have a significant impact on Morriston district centre, £25,000 was offered for improvements to Morriston district centre under the previous planning permission, which was secured through a unilateral undertaking under Section 106 of the Planning Act 1990. Legal advice has confirmed it will be necessary for the applicant to provide a further unilateral undertaking to secure this contribution as the previous unilateral undertaking is not transferable to this application, should planning permission be granted. As such, if approved, it is recommended approval is subject to a further unilateral undertaking in order to secure this financial contribution.

The contribution is noted and would be required to fund future enhancement programmes which will be aimed mainly at improvements to Morriston Conservation Area.

In light of the above, it is considered the imposition of a condition to restrict the A1 use to a retail bakery would prevent an open A1 retail use and would serve to limit the impact of the development on Morriston district centre. The provision of £25,000 would be used to enhance Morriston district centre which would serve to act as mitigation for any detrimental retail impacts arising from the development. In this regard, on balance, it is considered that by virtue of the scale of the proposed unit and the restrictions to its use, which can be secured by condition, the development would be unlikely to result in any significant impacts to the vitality, viability and attractiveness of Morriston district centre and this should be given significant weight in the assessment of the principle of the development.

### Accessibility

The site is located approximately 1.5km from junction 45, linked to the site by the A4067 and A48. Heron Way is lit and in the main has adequate pedestrian access. The proposal includes the extension of the existing footpath on Upper Forest Way / Heron Way which will provide a pedestrian link to the site. National cycle network route 43 runs approx 360m west of the site, this predominantly traffic free route links to other segregated routes between Swansea to the south and Ystradgynlais to the north. The site has access to a half hourly bus service running along Clase Road which is located within the 400m recommended limit as set out in the Institution of Highways and Transportation (IHT) Document Public Transport in Development.

Having regard to the above the site is considered to be highly accessible and would comply with the relevant UDP policies in this respect. The fact the development is accessible by a range of transport modes is considered to carry moderate weight in favour of the proposal.

### Economic and regeneration benefits

The site is currently a derelict brownfield site which is visible from both Heron Way and Upper Forest Way. Clearly there is merit in bringing this land into economic use in terms of job creation and the positive impacts on the visual amenity and this was recognised when planning permission was granted for the original scheme.

The applicant has indicated that the proposed unit would create 9 full time equivalent jobs. Additional indirect employment would be generated through servicing the units. In this respect the development would make an important contribution to employment within the area.

In line with the advice in PPW the potential economic benefits arising from the development is a material planning consideration. However, in the absence of any robust evidence to quantify the economic benefits and in view of the relatively small scale of the proposal, it is considered that limited weight can be given in favour of the proposal in this respect.

### Conclusions and the principle of the development

It is acknowledged that the proposed development is a departure to UDP policies EC7 and EC9 which seek to prevent new non-bulky retail development within the Enterprise Park and new out of centre retailing (except in defined circumstances).

Notwithstanding this, the key question for the Authority is whether any anticipated adverse impacts arising from the development is regarded as being so materially adverse and over-riding that this would outweigh any benefits associated with the proposed development. In the balancing exercise it is considered the lack of demonstrable impact on Morriston district centre, the accessible location of the development and its economic and regeneration benefits would tip the balance in favour of accepting the principle of development on this site. In this respect the proposal is, on balance, considered to be acceptable in retail policy terms.

### **Access and Highway Safety**

The Head of Highways and Transportation has raised no objection to the proposal.

### **Conclusion**

The proposed development would replace an A3 unit on a consented retail parade to an A1 unit. Whilst the provision of new non-bulky retail development within the Enterprise Park is a departure to UDP policies EC7 and EC9 it is not considered that the proposal by virtue of its scale and retail offer proposed would result in any significant impacts to the vitality, viability or attractiveness of Morriston district centre. Accordingly the proposal is, on balance, considered to be an acceptable departure to the above UDP policies. Moreover, the proposal is considered to be satisfactory in terms of: the consequences of flooding; its impacts on the character and appearance of the area; its impacts on residential amenity; and its impacts on access and highways safety. It is not considered that the provisions of the Human Rights Act would raise any further material planning considerations as such the application is recommended for conditional approval.

### **RECOMMENDATION**

**That the application be referred to the DEVELOPMENT MANAGEMENT AND CONTROL COMMITTEE with a recommendation that the application be APPROVED, subject to the following conditions and the applicant entering into a S106 Planning Obligation to provide a contribution of £25,000 to fund regeneration initiatives within Morriston district centre.**

### **RECOMMENDATION**

**APPROVE, subject to the following conditions:**

- 1        The development hereby permitted shall begin not later than five years from the date of this decision.  
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2        The premises shall be used as a retail bakery shop only and for no other purpose (including any other purpose in Class A1) of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).  
Reason: In order to minimise the retail impact of the development on the vitality, viability and attractiveness of Morriston district centre.



- 3 Prior to the commencement of development a flood management plan for the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed and operated in accordance with the approved plan.  
Reason: In order to manage the risks of flooding at the site.
- 4 The development shall not be occupied until a method for its ventilation and fume extraction, if required, has been implemented in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.  
Reason: To minimise noise and nuisance to neighbouring uses.
- 5 Deliveries, waste collections and the unloading of pallets and/or cages shall only take place between  
06.00hrs and 22.00hrs.  
Reason: To minimise noise and disturbance to surrounding occupiers.
- 6 The materials used for the external surfaces of the development shall be in accordance with details submitted to and approved in writing by the Local Planning Authority before the development is commenced.  
Reason: In the interests of visual amenity.
- 7 The development hereby approved shall be constructed in conjunction with the adjoining units (units 2-4), as shown on approved plan SP311 (G) - P106 and shall not be a stand alone structure.  
Reason: To ensure the development is implemented as part of a wider scheme to develop the site and to ensure adequate infrastructure to serve the development is provided.

## **INFORMATIVES**

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: AS2, AS6, EV1, EV2, EV3, EV36, EC3, EC4, EC7 and EC9.

## **PLANS**

SP311(G) - P100 site location plan, P102 site plan, P103 proposed site plan, P106 proposed elevations, P107 proposed elevations, P101 existing site plan, P104 proposed floor plan, P105 proposed roof plan, dated 20th May 2014