

SECTION A – MATTERS FOR DECISION

Planning Applications Recommended For Approval

<u>APPLICATION NO:</u> P2017/0516	<u>DATE:</u> 05/06/2017
PROPOSAL:	Erection of Food Store (Use Class A1 - Retail) together with parking, servicing, access, landscaping and associated works.
LOCATION:	Land At, Christchurch Road, Baglan Bay, SA12 7BZ
APPLICANT:	Simon Anderson - Bejam Group Ltd
TYPE:	Full Plans
WARD:	Aberavon

SITE AND CONTEXT

The application site has an area of some 0.58 hectares and stands at the junction of Christchurch Road and Aberavon Road, being an 'L' shaped parcel of land with a maximum depth of 105 metres and maximum width of 85 metres. The site comprises rough ground, clear of any significant vegetation, and bounded to the north and east by existing highway.

Surrounding the site are a number of commercial and retail uses, including a large Morrisons supermarket to the north, the Copper Penny Public House/ restaurant to the west with several further retail units (including a Lidl store) beyond. The south of the site is partially bounded by vacant land and a row of industrial buildings and within settlement limits as defined by Policy SC1 of the adopted Neath Port Talbot Local Development Plan.

DESCRIPTION OF DEVELOPMENT

The application seeks permission to construct a single storey food store (Class A1 Retail) together with service area, parking, landscaping and associated works. It is intended that the proposed retail unit will be occupied by Iceland's 'Food Warehouse' format which sells chilled, frozen, fresh and pre-packaged grocery goods, along with alcoholic drinks.

The site which is bounded on the north-west by Christchurch Road and on the south east by Aberavon Road is currently vacant. The building would have a frontage to Christchurch Road with site access from the service road off Christchurch Road, which serves the car park of the adjacent public house and vacant land.

The store is rectangular in shape and measures 58 metres in depth and 23 metres in width with a footprint of 1347 square metres together with 80 square metres of external amenity space. The net sales area of the unit will be 1,051 sq. m.

The building is designed with a pitched roof behind a low parapet and will have a height of 8.2m. The customer entrance is located on the north west elevation and will have full width glazing returns one bay into the south west elevation. The main entrance elevation has a canopy projecting 1800mm from the building, which also returns one bay along the south- west elevation. This will be finished in the same colour as the shop front frames. A signage frame is positioned above the canopy, in the centre of the elevation, up to 300mm above parapet level.

The remainder of the elevations are clad in flat metal cladding panels, laid horizontally. The top fascia panel, is white, and the lower panels are light grey, with contrasting vertical trims in dark grey (RAL 7015).

The food store is orientated to provide car parking on its two main frontages, accessed from the existing service road. The proposal includes the provision of 83 car parking spaces. The goods loading/unloading bay is located to the (rear) south east elevation, accessed off Aberavon Road.

All plans / documents submitted in respect of this application can be viewed on the [Council's online register](#).

PLANNING HISTORY

The application site has the following relevant planning history; -

- **P2007/1334** – Outline planning for the construction of two bulky goods retail units (Class A1) with associated car parking including access and siting – Approved 19/2/2008
- **P2011/0104** – Vary condition 3 of planning permission application P2007/1334 to extend the time in which an application for reserved matters can be made - Approved 6/6/2011 (approved maximum floorspace 4131 sq.m.)



Figure 1: Proposed Site Layout

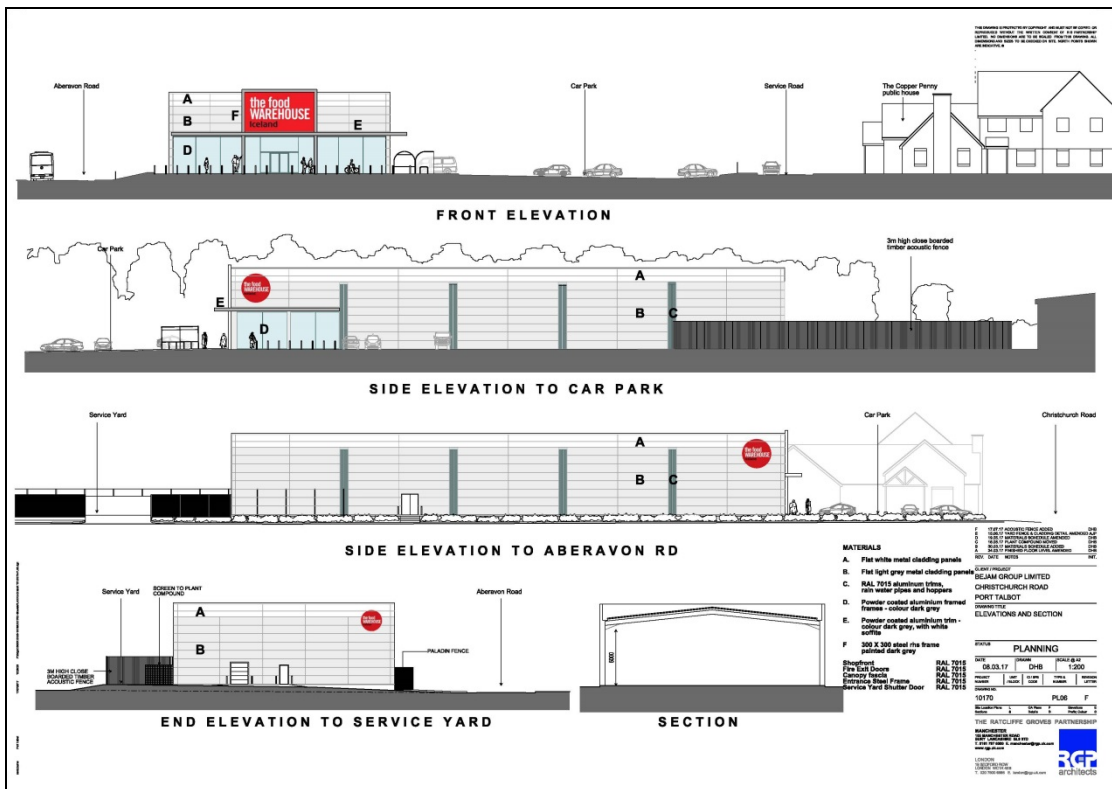


Figure 2: Proposed Elevations

CONSULTATIONS

Natural Resources Wales: No objection, subject to the imposition of a condition.

Welsh Water: No reply, therefore no comments to make.

Contaminated land: No objection subject to the imposition of conditions.

Head of Engineering and Transport (Highways): No objection, subject to the imposition of conditions.

Head of Engineering and Transport (Drainage): No objection, subject to the imposition of conditions.

Biodiversity: No objection

Pollution (Air): No objection

Environmental Health: No objection

REPRESENTATIONS

The neighbouring properties were consulted and site notice displayed on June 7th and July 26th 2017. The application was also advertised in the press on June 10th 2017.

Two letters have been received from Cllr Nigel Thomas Hunt with the issues raised summarised as follows:

- Constituents have not requested more retail development on The Moors;
- Traffic congestion and the part closure of the Rutherglen roundabout due to the volume of traffic was a major concern and would be exacerbated by further retail development;
- May impact on the town centre Iceland store;
- Concerns over the impact out of town developments on town centres such as Llanelli and Bridgend ;
- Status of discussions with the applicant regarding S106 negotiations.
- Confirmation of whether Iceland have pledged a 6 figure sum to the community.

REPORT

Planning Policies

National Guidance

[Planning Policy Wales \(Edition 9 2016\)](#)

[Technical Advice Note \(TAN\) 4: Retail and Commercial Development \(2016\)](#)

[Technical Advice Note \(TAN\) 12: Design \(2016\)](#)

Local Development Plan

The adopted Development Plan comprises the Neath Port Talbot Local Development Plan which was adopted on 27th January 2016, and within which the following Policies are of relevance: -

Strategic Policies

- **Policy SP5** Development in the Coastal Corridor Strategy Area
- **Policy SP12** Retail
- **Policy SP13** Tourism
- **Policy SP15** Biodiversity and Geodiversity
- **Policy SP16** Environmental Protection
- **Policy SP20** Transport Network

Topic based Policies

- **Policy SC1** Settlement limits
- **Policy I1** Infrastructure Requirements
- **Policy OS1** Open Space Provision
- **Policy R3** Out of Centre Retail Proposals
- **Policy EN8** Pollution and Land Stability
- **Policy TR2** Design and Access of New Development
- **Policy BE1** Design
- **Policy RE2** Renewable and Low Carbon Energy in New Development

Supplementary Planning Guidance:

The following SPG is of relevance to this application: -

- [Planning Obligations](#) (October 2016)
- [Parking Standards](#) (October 2016)
- [Pollution](#) (October 2016)
- [Open Space & Greenspace \(July 2017\)](#)
- [Design](#) (July 2017)
- [Renewable and Low Carbon Energy](#) (July 2017)
- [Design](#) (July 2017)

Main Issues

Within the above Policy context, the main issue to consider concerns whether the proposed new store represents an acceptable development having regard to land use and development plan policy, notably its impact upon the vitality, viability and attractiveness of existing retail centres.

Other matters of note include impacts on visual amenity and the character of the area as a whole, ecology, design, land contamination, renewable energy, amenity of residents within adjoining properties and highway and pedestrian safety.

Retail Assessment

For the purposes of the adopted LDP, the application site lies within the defined settlement limits but is not allocated for retail land uses. The previous retail permission on the site expired in June 2016.

The site is also located outside of any designated retail centre and therefore Policy R3 of the Local Development Plan is of direct relevance, requiring that proposals for new retail development within settlement limits but outside of the defined retail centres or retail allocations will only be permitted where the following criteria are met:

1. It is demonstrated that there is a need for the development; and
2. The development cannot be accommodated in a defined retail centre and is located in line with the sequential approach; and

3. The vitality and viability of existing retail centres will not be undermined (taking into account the cumulative effects of other approved developments); and
4. The proposal would not undermine the Council's retail hierarchy or any regeneration schemes that the Council has formally approved.

In addition, PPW 9 is also a material consideration in the determination of this application as Paragraph 10.4.1 requires local planning authorities to take into consideration the following issues for retail development proposals:

- compatibility with the development plan;
- quantitative and qualitative need for the development/ extension, unless the proposal is for a site within a defined centre or one allocated in an up to date development;
- the sequential approach to site selection;
- impact on existing town centres;
- net gains in floor space where redevelopment is involved and whether or not it is like for like in terms of comparison and convenience;
- rate of take up of allocations in any adopted development plan;
- accessibility by a variety of modes of travel;
- improvements to public transport;
- impact on overall travel patterns; and
- best use of land close to any transport hub, in terms of density and mixed use.

An independent review of the submitted Retail Assessment, Addendum and further representations provided by the applicant has been commissioned by the Authority in order to assess the retail impacts of the proposal, including upon Port Talbot Town Centre. It should be noted that TAN 4 requires retail applications of 2,500 square metres or more gross floor space to be supported by a Retail Impact Assessment, and this proposal falls below the threshold.

The report assesses the compliance of the proposal with reference to national and local retail planning policy including the tests of need, sequential and impact tests. In particular an assessment of need for the increase of retail floor space and the consequences upon the town centre in terms of vitality and viability together with an assessment of the proposal against national policy, including Planning Policy Wales 9

(2016), Technical Advice Note 4 (November 2016) and the adopted Local Development Plan.

Need (Policy R3 Criterion 1)

Planning Policy Wales advises (para 10.2.9) that in deciding whether to identify sites for comparison, convenience or other forms of retail uses in development plans or approving planning applications for such uses, local planning authorities should in the first instance consider whether there is a need for additional retail provision. It then further advises that where the current provision appears to be adequate in quantity, the need for further allocations or developments as a result of an identified qualitative need must be fully justified. It is for the local planning authority to determine and justify the weight to be given to any qualitative assessment.

With respect to need for the development, the submitted retail assessment has considered both quantitative and qualitative factors. As noted above, National Policy in PPW indicates that evidence of need should be taken into account and that the consideration of quantitative need should take precedence (although PPW does not make the demonstration of such need a pre-requisite to the grant of planning permission).

The applicant has also provided a critique of the need test, largely reflecting on how the need test has been removed in England because it can, for example, in some instances be counterproductive such that it would stop an edge of centre store being provided due to the scale of out of centre floorspace.

In this regard, the applicants argue that the 'need' test is based on an assessment of how much expenditure is available within an area, how much retail floor space exists and is consented within this area, what the turnover of this floor space would be if the respective stores traded at their national company average turnover level. The presented evidence identifies the available expenditure in 2017 is £85.3million with a benchmark turnover of £83.9 million which equates to an expenditure surplus of £1.4 million available to support new floorspace. This is insufficient to cover the convenience goods turnover of the proposal which is assessed to be £5.3m. This quantitative need falls away when the commitment at Burrows Yard is taken into account resulting in an expenditure deficit of £6.4 million. The applicants have emphasised, however, that almost 50% of the total benchmark turnover is accounted for by out of centre stores (such as Morrisons, Lidl and the Co-op at Margam) which the applicant considers 'are not policy protected', with

such floorspace preventing new edge and out of centre retail floor space. Therefore, the applicant argues that the absence of quantitative need should not result in the refusal of planning permission as it would lead to an increased protection for out of centre stores by reducing competition.

Our consultant notes their 'critique' which concentrates heavily on the alleged protection it offers to out of centre retail stores, but notes that this is only partly correct insofar as the test treats all retail space within a particular catchment equally. Therefore, in the context of, for example, Port Talbot, the out of centre Morrisons and Lidl stores have as much (or as little) protection as the town centre Tesco and Iceland stores. The test seeks to protect all floorspace /stores by ensuring that all space achieved, on a collective basis, reflects its average benchmark turnover – i.e. there is sufficient money to go around and only 'surplus' expenditure is available to support new floorspace). This is the standard method for assessing quantitative capacity which has been used by retail planners in Wales and England for many years.

In this respect, the need test remains part of both local planning policy in Neath Port Talbot and in Planning Policy Wales (Edition 9, November 2016), and Section 38(6) requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. As a consequence, the need test is afforded equal status to the other test referred to in Policy R3.

The Council's consultant remains of the opinion that in the context of Port Talbot, the 2012 Study indicated that the amount of expenditure in existing stores plus commitments was similar to the average turnover of these stores and commitments i.e. there is insufficient quantitative need to accommodate the proposed store. Therefore, with the lack of compliance with this particular test it is necessary to consider the weight which should be afforded to qualitative need.

TAN4 notes that qualitative need is harder to justify and proposals based on this approach should be closely scrutinised to ensure that their development does not have unintended consequences and detrimental impact on existing retail activity within retail and commercial centres. The overall objective of applying the qualitative need approach would be to achieve an appropriate distribution and range of sites for retail stores which meets the needs of all communities, particularly of those in rural or deprived areas where existing provision is inadequate.

In respect of qualitative factors of need, the Council's evidence base document which informed the LDP does not highlight a particular qualitative deficiency in convenience goods floor space in the Port Talbot area, noting that *"a range of main and top-up food shopping facilities are available in both town centre and out of centre locations and there is reasonable choice for both local residents and visitors to the town. We consider that the balance of main and top-up food shopping facilities is an important aspect of provision in Port Talbot, with the town centre Tesco store making an important contribution to choice and competition in the central area."*

The appellants argue that Iceland's 'Food Warehouse' format can be regarded as meeting a specific qualitative need on the basis that it is a comparatively new retail format which will provide a new and improved retail offer in the local area. The Council's consultants note that the principle of increasing choice and competition in relation to retail provision in a particular area should be welcomed as it can potentially benefit local consumers. Nevertheless, while they acknowledge the positive qualitative benefit of the proposal in so far as it would add to choice and competition in the local area, they also confirm that national policy places less weight on qualitative need when compared with quantitative need.

As noted earlier, PPW advises that it is for the local planning authority to determine and justify the weight to be given to any qualitative assessment. In this regard, notwithstanding that the qualitative need benefits may be limited, it is acknowledged that the proposal would offer a different retail format within the area which will deliver a qualitative improvement in the overall range and choice of convenience facilities and will complement the existing retail stores currently operating in close proximity to the site and the wider area, offering benefit to local residents at an accessible location. Accordingly, while this in itself may not be sufficient to ensure the development fully accords with the requirement to demonstrate a 'need' under criterion 1, it should nevertheless form part of the overall planning balance in considering 'other material considerations' having regard to any wider benefits that may outweigh the lack of retail expenditure capacity.

Sequential Test (Policy R3 Criterion 2)

The sequential approach supports the principle that retail and commercial centres are in the most readily accessible location, and promotes combined trips for shopping, business, leisure and services. The approach reinforces the vibrancy, viability and attractiveness of retail and

commercial centres. Adopting a sequential approach requires the application of a test whereby first preference should be for a site allocation or development proposal located in a retail and commercial centre defined in the development plan hierarchy of centres.

The application site falls in an 'out of centre' location, albeit within settlement limits, and the applicants Retail Assessment acknowledges as required by PPW9, TAN4 and Policy R3 of the LDP that out of centre retail proposals need to demonstrate that there are no suitable, available and viable sequentially preferable sites which can accommodate the proposed development. Section 7 of TAN 4 further explains the sequence of preferred locations and notes that:

“Where out of centre sites are concerned preference should be given to brownfield sites which are or will be served by a choice of a means of transport and are close to an established retail and commercial centre”.

Following discussion with Officers, a number of alternative sites were considered as part of the assessment, including Glanafan School, Royal Buildings and Port Talbot Police Station all of which were discounted due to their size even allowing for a reasonable degree of flexibility. The applicant also considered the potential suitability and availability of sites and premises in and around local and district centres in the catchment of the proposal.

The only site identified to be large enough to accommodate the proposal was Burrows Yard (which has a previous retail consent, but is currently the subject of ongoing work in respect of contamination etc.). Nevertheless, whilst on balance that site has a slight sequential advantage over the application site as it is closer to Port Talbot town centre and is served by a choice of means of transport it is acknowledged that this is small – with the application site also having good transport connections and benefitting from co-location with other out of centre stores – such that it would not warrant a refusal of the application on grounds that it would fail the sequential test.

Impact / vitality and viability of existing retail centres (Policy R3 Criterion 2)

Criterion 3 of Policy R3 seeks to ensure that the vitality and viability of existing retail centres will not be undermined taking into account the cumulative effects of other approved retail developments, recently completed developments and plan commitments. Vibrancy is reflected in

how busy and diverse a retail and commercial centre is at different times and in different parts, and in the attractiveness of the facilities and character which draw in trade. Viability, on the other hand, refers to the ability of the centre to attract and retain investment, not only to maintain the fabric, but also to allow for improvement and adaptation to changing needs.

With respect to the impact of the proposal on Port Talbot Town Centre, the Council's consultant advises that a significant part of the applicant's assessment of the impact of the proposal on the vitality and viability of existing retail centres relies on an assessment of the financial effects of the proposed floor space. The base of this assessment would normally be the contents of the 2013 retail study although the applicant has dismissed the robustness of the household survey of local shopping patterns and made a number of manual adjustments to the turnover of the stores and centres across the Port Talbot area.

Whilst he was in general agreement with the applicant's broad pattern of trade diversion, the Authority's retail consultant initially raised two concerns regarding the level of trade diversion/proportional impact on the town centre Iceland Store and the future of that store and the most appropriate way of assessing the scale of financial impact upon the health of existing centres. Indeed, the Council's advisor emphasises their view that the Iceland store makes an important contribution to the centre and its loss would have a material adverse impact upon the health of the centre.

Although impact is not specifically related to 'Iceland' but the retail floorspace, it is nevertheless the case that the potential for the development to result in closure of the existing town centre Iceland store would have potentially significant and harmful impacts on the town centre. The applicant has, however, sought to emphasise that it has never been their intention to close the town centre store and that Port Talbot can support two stores each offering different formats as has been demonstrated in other parts of the country. They have further emphasised that even where the new format stores have been opened, no existing centre stores have closed.

Nevertheless, and as a consequence of concerns over the short term remaining on their town centre store's lease, Officers have engaged with the applicants who have since confirmed that discussions have taken place with the owners of the existing store and agreement has been reached to extend the existing lease to July 2023. Therefore, the

immediate future of the town centre store can be secured, and it is considered that the proposed food warehouse will complement rather than replace the existing town centre store.

Notwithstanding the lease, however, it is considered necessary (and as supported by the council's consultant) to secure the retention of the existing town centre store through a s106 legal agreement with the applicant. This is because lease agreements are not cast in stone from a planning perspective, and therefore a s106 agreement provides a greater degree of control for the Local Planning Authority, which can be given appropriate weight in reaching a positive recommendation on this application. The proposed s106 would, as agreed with the developer, only seek to tie Iceland into a period concurrent with their lease extension (up to June 2023) which, given the intention to commence development shortly after consent is granted (if forthcoming), would equate to a period of approximately 5 years from opening.

The applicant has also confirmed that the previously estimated trade diversion from the town centre represents an over estimate as it was assumed that the new store would trade at the then Iceland 'benchmark' turnover of £6.3 million. This contrasts very sharply with Iceland's expert forecast of £4.6 million (2010 prices) for the new store's turnover. The commitment to extend the existing town centre lease will result in a reduction in trade diversion from the town centre than previously estimated within the submitted Retail Assessment.

Notwithstanding the above, whilst it is accepted that there could be an impact on Port Talbot Town Centre, it is concluded that the scale of the impact would not be to such a degree to unacceptably undermine the vitality and viability of the town centre to warrant a refusal of the application on such grounds.

In addition, consideration has been given to the thrust of National Policy in TAN23 in respect of economic development, and in this regard paragraph 1.2.7 outlines that a sequential test should be used when identifying land for economic uses, or when determining planning applications. Judgement should be applied to the economic use and its applicability to the particular location. First preferences should be given to sites within settlement limits, second preference to edge of settlement sites, and third preference should consider land in the open countryside.

TAN 23 further advises that where a planning authority is considering a planning application ... it should ask three questions in order to help

clarity and balance the economic, social and environmental issues. These are considered in turn below:

Alternatives: if the land is not made available (the site is not allocated, or the application is refused), is it likely that the demand could be met on a site where development would cause less harm, and if so where? This test follows from the principle in PPW, that the planning system should steer development to the most sustainable locations.

Evidence of seeking alternative sites has been discussed earlier in this report, these having been subject of discussions with Officers. In the Council's attempts to steer economic development to the most appropriate and sustainable locations, it is considered that the site is located within settlement and in an accessible location well served by footways and transport infrastructure. In addition to the aforementioned, it should be noted that this site has had the benefit of planning permission for a retail development in the past. Whilst it is acknowledged that the consent related to the sale of comparison goods and has since expired, it demonstrates that the site has in the past been considered to be a sustainable retail location.

Jobs accommodated: how many direct jobs will be based at the site?

This test provides an approximate measure of a development's contribution to the wider economy, and in this regard it is noted that this proposals seeks to expand upon a national retailer's offering within Port Talbot, in a new retail format which would offer wider economic benefits in terms of employment / job creation, with a mix of 25 part and full-time permanent jobs generated. The applicant advises that these will be recruited locally and offer a range of opportunities including retail assistants, deputy manager and store manager.

Special merit: would the development make any special contribution to policy objectives? For example, a major employment site may be a key element of a wider spatial strategy which aligns jobs, development and infrastructure.

With regard to special merit, the proposal would make use of vacant and underused land, along with providing an improved retail choice. While this in itself would not comprise 'special merit', the contribution to wider economic objectives referred to above is noted.

Having regard to the above, subject to the provision of the required legal agreement to retain the town centre Iceland store in its existing format/size, it is considered that proposed development, with its wider economic benefits, would not have a significant detrimental impact upon Port Talbot Town Centre and would comply with test 3 within Policy R3 of the Local Development Plan and Planning Policy Wales 9.

On this basis and subject to the provision of the required legal agreement to retain the town centre Iceland store in its existing format/size, this would ensure that the development would not have a significant detrimental impact upon Port Talbot Town Centre and would comply with test 3 within Policy R3 of the Local Development Plan and Planning Policy Wales 9.

Impact on Retail Hierarchy / Regeneration Schemes (Policy R3 Criterion 4)

Criterion 4 of Policy R3 states that the proposal should not undermine the Council's retail hierarchy or any regeneration schemes that the Council has formally approved. For the reasons given above in terms of impact, and having regard to TAN 23 also, it is considered that there would be no unacceptable effects such that it would comply with this criterion of Policy R3.

Conclusion on Principle of Development

As identified above, the proposal broadly complies with the objectives of Policy R3 of the Local Development Plan, but strictly speaking does not fully meet it because it does not meet the overall requirement of criterion 1 that there must be a demonstrated need for the development (quantitative need being insufficient, and qualitative need being marginal).

Within this context, it is considered appropriate to consider other material considerations and, in this instance, Officers note the national guidance in respect of economic development contained in TAN23, and that this proposal would introduce a major retailer into the area which would create additional local employment opportunities, broadening the economic base in Port Talbot. While this in itself would not 'tip the balance', when considered as a whole particular regard should be given to the conclusions that, with the controls in place to secure the future of the existing town centre Iceland store until at least 2023, the impact on the town centre and other centres in the retail hierarchy would be limited. Moreover, the degree of impact would most likely be felt predominantly by

the nearby retail operators at Baglan, such that this is not considered to be critical to the outcome of this application.

Accordingly, it is concluded that while the proposal would fail to benefit from sufficient quantitative need, and qualitative benefits would – while of note – be limited, the additional economic benefits of the proposal, having regard to limited evidenced impact on the retail centres/ hierarchy and the otherwise broad compliance with Policy R3, are such that there are no objections to the principle of this retail development.

Visual Amenity:

The building utilises a contemporary design and materials including double glazed powder coated aluminium (Dark Grey RAL 7015) windows to the front (north-west) elevation. The remaining elevations would be finished in flat white metal cladding panels with aluminium trims on both the north east and north west elevations.

The design and use of colours and materials will ensure that the building is in keeping with the local area which, consists predominantly of modern large retail and industrial units.

Soft landscaping is indicated on the plans, and a condition requiring full details is considered necessary to ensure the building and car parking will reflect the landscaped characteristics of the remainder of the locality. It will also be encouraged for the parking area itself to incorporate some minor planting to break up the parking area.

No lighting scheme has been included, and again this is considered necessary to be conditioned in the interest of visual and residential amenity.

In terms of visual impact it is therefore considered that the building is appropriate and will have a positive impact upon the character and appearance of the area and in accordance with LDP Policy BE 1.

Residential Amenity:

Whilst the application site is situated within a predominantly industrial and commercial area, the Copper Penny Public House situated to the west does have residential accommodation at first floor. This property has a separation distance of approximately 70 metres from the proposed delivery area.

Policy BE 1 of the LDP is related to design, and criterion (4) stipulates that any development should not have a significant adverse impact upon the amenity of occupiers of adjacent land or the community.

Any development of this scale has the potential to result in impacts in terms of noise upon residential amenity and the Environmental Health Officer (Noise) initially raised concerns regarding unrestricted delivery times and the proposed siting of plant behind metal palisade fencing rather than a more substantial barrier resulting in the potential for noise disturbance at night.

As a consequence the applicant was requested to submit a Noise Impact Assessment which has been assessed by the aforementioned Officer who is now satisfied that the development can be undertaken without causing significant noise disturbance to the residential premises at the Copper Penny public house, subject to the provision and retention of a 3 metre high timber acoustic fence around the rear boundary of the proposed service yard in order to mitigate delivery noise and in the interest of protecting residential amenity.

With respect to opening times, the applicant has requested that opening times are 08.00 – 20.00 Monday – Saturday and 10.00 -16.00 on Sunday and Bank Holidays. The potential impacts of low level noise would not result in a significant loss of residential amenity to the extent that it would warrant refusal of the application on such grounds.

In terms of potential construction noise impacts, given the relationship with nearby residential properties it is recommended that a Construction Method Statement should be required by condition.

Parking and Access Requirements and Impact on Highway Safety

Policy TR2 of the LDP seeks to ensure that development proposals: - do not compromise the safe, effective and efficient use of the highway network or have an adverse impact on highway safety or create unacceptable levels of traffic generation; include appropriate levels of parking, cycling facilities and safe access/ manoeuvring; accessibility and are accompanied by TAs where likely to create significant traffic generation.

The proposed development provides a retail unit, which will both introduce additional traffic into the area, and result in an increased demand on car parking requirements for this site. The applicant has provided a Transport Assessment to support the planning application, which provides detailed trip generation information and evidence to support the car parking levels proposed. The plans also identify 83 no parking spaces, comprising 76 standard spaces, 5 accessible and 2 parent and child.

The Head of Engineering and Transport (Highways) has assessed the development and the detailed Transport Assessment and has raised no objection to the development, subject to a number of conditions. These conditions relate to means of access, surfacing and lighting proposals.

A Construction Method Statement will also need to be submitted prior to any works commencing on site.

Provision and retention of covered cycle parking (identified on the plans) will also be conditioned.

It is therefore concluded that, subject to the above conditions, the development will not lead to any unacceptable impacts on highway and pedestrian safety, and would accord with Policy TR2 of the Local Development Plan.

Contaminated Land

The site has been identified as potentially contaminated land, however a Geotechnical and Geo Environmental Report was submitted in support of the application, which has been assessed by the Contaminated Land Officer (Environmental Health).

Environmental Health are satisfied with the recommendations of the submitted Report that a Phase II Intrusive Geo-Environmental Ground Investigation is required in order to assess the potential risks to human health from the made ground including risk posed by ground gas, and has responded with no objections to this approach but have requested that the standard conditions be imposed with regard to site investigation and remediation. Natural Resources Wales have responded with no objections with respect to controlled waters contamination and have requested standard conditions be imposed in case of unexpected contamination. As such, it is considered that the proposed development would be acceptable in terms of pollution.

Flooding

In respect of flooding issues, the proposed development lies within Zone C1 as defined by the development advice map referred to under TAN 15 Development and Flood Risk (July 2004). NRW advises that while their flood map information confirms the site is at risk of flooding, their latest hydraulic model shows the site to be flood free in the defended scenario in both the 1%+CC and 0.1% fluvial flood.

Accordingly, whilst the application has been accompanied by a detailed Flood Consequences Assessment (FCA) NRW have confirmed that the submission of such in this instance is not required such that there are no objections to the development of the site on flooding grounds.

Drainage:

The Head of Engineering and Transport (Drainage Section) has assessed the submitted proposal, and offers no objection to the overall proposal.

Ecology:

As the Biodiversity Unit and Natural Resources Wales have both assessed the proposal and offer no objections to the proposal subject to the imposition of conditions requiring the submission of a landscaping scheme and soil stripping to protect reptiles. It is therefore considered that the proposal would be acceptable in terms of protected species and ecology in this instance.

Renewable Energy:

Policy RE2 requires the submission of an 'Energy Assessment' for any proposal where developments result in new floor space of 1,000 square metres or more.

Schemes that are shown by the assessment to be viable will be required to be implemented as part of the development. In order to meet the requirements of Policy RE2, the approved SPG sets out the matters required for an Energy Assessment.

The current application has not been accompanied by such an Energy Assessment, and as such condition requiring such an assessment prior to work commencing on the building, and that renewable energy (most likely solar/PV panels) will be incorporated into the building to meet some of the

energy needs for the development will be imposed. This is considered to satisfactorily meet the requirements of Policy RE2.

Waste:

Policy W3 – Waste Management in Development – requires proposals for new build development to demonstrate that provision is made for design, layout, storage and management of the waste generated by the development both during the construction phase and occupation. The applicant has confirmed that the proposal would not generate in excess of 1,000 tonnes of waste per annum and as such there is no requirement for a Waste Management Plan.

Open Space Provision:

Policy OS1 (Open Space Provision) states that in the case of employment or commercial development proposals of over 1,000 sq.m, provision will be sought for associated amenity space. The explanatory text emphasises (at 5.1.57) that this is to allow employees to access outdoor amenity space close to the workplace in the interests of health and well-being.

The submitted scheme provides for an amenity area of 83 sq. m. although no obvious means of accessing this area other than through the car park / cycle area. The provision of the area, however, is considered to meet the Policy requirements, albeit the provision and retention of this area (including provision of appropriate seating, access and any necessary privacy screening) will need to be conditioned.

Other Matters

As identified earlier in this report comments have been received from the Local Ward Member. In response to the issues raised which have not been addressed elsewhere in this report, the following comments are made:

- The issue of community benefit is not a material planning consideration in the determination of this application, however as far as we are aware no such benefit has been offered;
- In terms of S106 negotiations, the applicant has been advised that any positive recommendation would be subject to an agreement to secure the future of the town centre Iceland Store.

CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Neath Port Talbot Local Development Plan (2011-2016) adopted January 2016.

Having regard to the findings of the independent retail impact report, it is considered that while the proposal would fail to benefit from sufficient quantitative need, and qualitative benefits would – while of note – be limited, the additional economic benefits of the proposal, having regard to limited evidenced impact on the retail centres/ hierarchy and the otherwise broad compliance with Policy R3, are such that the proposed development, subject to the required legal agreement, would not unacceptably undermine the vitality and viability of Port Talbot Town Centre or other designated retail centres. It is also concluded that the proposed new retail unit would not have an unacceptable detrimental impact upon visual and residential amenity or upon the character or appearance of the street scene, and there would be no adverse impact upon highway and pedestrian safety. Accordingly, the proposed development is acceptable having regard to Policies R3, BE1, SC1, OS1, EN8 and TR2 of the adopted Neath Port Talbot Local Development Plan, Planning Policy Wales (Edition 9), TAN 4- Retail and Commercial Development (2016) and TAN 23 – Economic Development.

RECOMMENDATION:

Approval subject to a Section 106 Legal Agreement with the following Heads of Terms:

1. That the applicant company commit to the Port Talbot Town Centre Iceland store remaining trading in the same format and size until 1st June 2023.

And to the following conditions:

CONDITIONS

Time Limit 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 the requirements of Section 91 of the Town and Country Planning Act 1990.

Approved Plans

(2) The development hereby approved relates to the following plans and documents;

Ecology Assessment – BSG Ecology

Drainage details- SGI Shepherd Gilmour Consulting Engineers

Flood Consequences Assessment and Drainage Statement - SGI Shepherd Gilmour Consulting Engineers

Phase 1 Geo –Environmental Site Assessment- May 2017

Retail Assessment –dpp Planning May 2017

Retail Assessment Addendum – July 2017

Design and Access Statement – March 2017

Noise Impact Assessment (Revision 2) – Hoare Lea 14/7/17

Location Plan – Drawing 10170 PL01 A

Topography Survey – Drawing 10170 PL02

Proposed Site Plan – Drawing 10170 PL03 Rev J

Floor and Roof Plans – Drawing 10170 PL05 Rev D

Elevations and Section – Drawing 10170 PL06 Rev F

Site Co ordinates – Drawing 10170 PL07

Proposed Motorcycle Parking – Drawing 10170 PL08

Reason: In the interests of clarity

Pre-Commencement Conditions

(3) Prior to the commencement of works on site a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The statement shall provide for:

- a. The parking of vehicles of site operatives and visitors
- b. loading and unloading of plant and materials
- c. storage of plant and materials used in constructing the development
- d. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- e. wheel washing facilities
- f. measures to control the emission of dust and dirt during construction
- g. a scheme for recycling/disposing of waste resulting from demolition and construction works
- h. scheme for the erection of temporary/semi temporary signage warning drivers of the presence of children and speed restrictions.
- i. The frequency and size of vehicles used to transport the waste material arising from the demolition works
- j. The frequency and size of vehicles used to transport the waste material arising from the demolition works.

The approved statement shall be adhered to throughout the demolition period.

Reason

In the interests of highway and pedestrian safety

(4) Prior to the commencement of work on site a scheme to assess the nature and extent of any contamination on the site, and confirmation of whether or not it originates on the site shall be submitted to and agreed in writing with the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons in accordance with the following document:- Land Contamination: A Guide for Developers (WLGA, WAG & EAW, July 2006) and shall be submitted as a written report which shall include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:

- human health,
- ground waters and surface waters
- adjoining land,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred remedial option(s).

Reason

To ensure that information provided for the assessment of the risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems is sufficient to enable a proper assessment.

(5) Prior to the commencement of work on site a remediation scheme to bring the site to a condition suitable for the intended use by removing any unacceptable risks to human health, buildings, other property and the natural and historical environment shall be prepared and submitted to and agreed in writing with the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives, remediation criteria and site management procedures. The measures proposed within the remediation scheme shall be implemented in accordance with an agreed programme of works.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Action Conditions

(6) Prior to their use in the development hereby permitted samples of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason

In the interest of the visual amenity of the area.

(7) Prior to beneficial use of the proposed development commencing, a verification report which demonstrates the effectiveness of the agreed remediation works carried out in accordance with condition 4 shall be submitted to and agreed in writing with the Local Planning Authority.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

(8) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, work on site shall cease immediately and shall be reported in writing to the Local Planning Authority. A Desk Study, Site Investigation, Risk Assessment and where necessary a Remediation Strategy must be undertaken in accordance with the following document:- Land Contamination: A Guide for Developers (WLGA, WAG & EAW, July 2006). This document shall be submitted to and agreed in writing with the Local Planning Authority. Prior to occupation of the development, a verification report which demonstrates the effectiveness of the agreed remediation, shall be submitted to and agreed in writing with the Local Planning Authority.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors.

(9) Prior to beneficial use, the car parking and associated access as detailed on Drawing 10170 PL03 Rev J shall be hard surfaced, marked out, drained and retained as such thereafter.

Reason

In the interest of highway and pedestrian safety.

(10) Prior to any vehicular access being constructed onto Aberavon Road a scheme detailing the proposed access shall be submitted to and approved in writing by the Local Planning Authority this scheme shall include:

- i Construction details
- ii Tactile crossing points
- iii Surface water drainage

These details as approved shall be implemented prior to beneficial use and retained as such thereafter.

Reason

In the interest of highway and pedestrian safety.

(11) Prior to first beneficial use the means of enclosure shown on the proposed site plan Drawing No 10170 PL03 Rev J shall be erected and maintained as such thereafter.

Reason

In the interest of visual and residential amenity.

(12) Prior to development commencing on the construction of the retail store/building hereby approved, an Energy Assessment to determine the feasibility of incorporating renewable and low carbon energy in the proposed development shall be submitted to and approved in writing by the Local Planning Authority. If the scheme, as approved, determines that renewable or low carbon energy measures are viable, these shall be fully implemented on site prior to first use of the development and retained as such thereafter.

Reason

In the interest of sustainability and to comply with the requirements of Policy RE2 of the Neath Port Talbot Local Development Plan.

(13) The means of enclosure/ acoustic screening detailed on Drawing No 10170-PL03 shall be erected prior to the first beneficial use of the building and retained as such thereafter.

Reason

In the interest of visual and residential amenity.

(14) Prior to commencement of construction of the building details of both hard and soft landscape works, which shall contain native species suitable to allow birds to forage and nest, shall be submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details during the first planting season immediately following completion of the development and maintained as such thereafter.

Reason

In the interest of visual amenity.

(15) Prior to first beneficial use of the development hereby permitted an operational lighting scheme shall have been submitted to and approved in writing by the local planning authority. The submitted scheme shall include the following details: locations and specifications of all external lighting to the site and building; the identification of areas to be illuminated and any measures to prevent light spilling on to areas outside the approved site; and hours of external lighting. The scheme shall be implemented in accordance with the approved details prior to first beneficial use of the development here permitted and thereafter retained as approved.

Reason

To ensure the lighting scheme does not have any detrimental effects upon amenity.

(16) Prior to first beneficial use of the development hereby permitted the covered cycle parking identified on Drawing No 10170 PL03 J shall be provided and retained as such thereafter.

Reason

To ensure the promotion of sustainable means of transport.

(17) Prior to the first beneficial use of the building the amenity area as shown on Drawing No 10170 PL03 J shall be provided together with any required seating and privacy screening and retained as such thereafter.

Reason

To ensure provision of outdoor amenity space for employees in accordance with Policy OS1 of the Local Development Plan,

(18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 (or any order revoking and re-enacting that Order with or without modification), no means of enclosure including barrier or bollards shall be erected on the entrance into the service area unless a scheme including full details of the size, position, control mechanism together with a management plan for deliveries has been first submitted to and approved in writing by the local planning authority prior to its installation. Operation of the service yard shall thereafter be in full accordance with any agreed enclosure / management plan.

Reason

In the interests of highway safety to ensure that the access to the service area is kept free from obstruction.

Regulatory Conditions

(19) The retail unit hereby approved shall remain as one unit and not be sub-divided into smaller retail units.

Reason

To ensure the development does not have an adverse effect on the retail function of Port Talbot Town Centre.

(20) The store shall not be open to the public outside the following times 08.00 hours to 20.00 hours Monday to Saturday and 10.00 hours to 16.00 hours on Sundays and Bank Holidays.

Reason

In the interest of amenity.

(21) There shall be no storage of goods and merchandise, packing cases, rubbish, other waste matter or any other item whatsoever except in the screened area identified on Drawing 10170 - PL03 J

Reason

In the interest of visual amenity.

(22) The total net sales shall not exceed 1051 sq metres of which no greater than 10% shall be used for the sale of comparison goods.

Reason

To ensure the development does not have an adverse effect on the retail function of Port Talbot Town Centre.

(23) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason

To prevent pollution of the water environment in the interest of amenity.

(24) Where any grassland and scrub is to be removed vegetation is to be cut to 100mm in height one week prior to soil stripping. The vegetation shall be cut with hand held machinery to reduce the risk of crushing. A further cut to approximately 50mm shall take place after a period of not less than 48 hours. After 48 hours an ecologist shall hand search remaining habitat for the presence of reptiles or amphibians prior to topsoil stripping and root removal.

Reason

In the interests of ecology.