

## SECTION A – MATTERS FOR DECISION

### Planning Applications Recommended For Refusal

<b><u>APPLICATION NO:</u> P2022/0608</b>	<b><u>DATE:</u> 04.11.2022</b>
<b>PROPOSAL:</b>	Change of use of vacant industrial floorspace (use class B2) to provide a first floor gym (use class D2) and ground floor cafe use.
<b>LOCATION:</b>	JCG Building, Milland Road Industrial Estate, Neath SA11 1NJ
<b>APPLICANT:</b>	Ms E McGinley, Hale Construction
<b>TYPE:</b>	Full Plans
<b>WARD:</b>	Neath East

### BACKGROUND

This application is reported to Planning Committee following a call-in request from one of the local Ward Members who states the following:

*'The proposed development will save 30 jobs from people who are currently employed by the gym. Many of whom are residents who live locally.*

*I believe the gym and cafe will have huge benefits for my ward of Neath East given that it will be in a central location, meaning many of the users will arrive by foot rather than driving which will dramatically cut down any carbon footprint that might happen if the gym was situated different location. It will also have economic benefits for the local area.*

*After visiting the proposed site I feel that they are working towards addressing the planning departments concerns such as getting an acoustics expert on board to advise them on best practice and what they can do to reduce noise levels etc.*

*After reading the planning officers report I noticed that they consider the application site to be an attractive and viable option for potential future inwards investment for traditional B1 / B2 / B8 employment uses which I agree with to an extent but after speaking to Hale I discovered that they relocated away from their old factory / offices on the Milland Road industrial estate more than two years ago. These premises have been marketed for lease for B1 / B2 / B8 use for the duration of this period and no occupier has come forward to take any of this space & given the significant investment the Metal Box will need to bring it up to standard given many parts of the factory have crumbling walls etc. I can't see people queueing up to take the unit on and my worry is that if this application is not granted these units will sit empty for many more years to come which would be a great shame when this new gym & cafe has the potential to bring much needed investment & employment into my ward.*

*I also believe it will have huge health benefits for people's wellbeing which in these tough times with the cost of living crisis can only be a good thing for the community as a whole.'*

### SITE AND CONTEXT

The application site forms part of a larger commercial manufacturing site, previously occupied as a single use by Crown Packaging until a recent redevelopment, and is known as the "Metalbox" site. It is located on an existing, well established industrial estate and served by an estate road with a large car parking area at the front and side of the site. The site is currently undergoing various refurbishment works pursuant to the granting of recent planning permissions, as referenced in the planning history below.

The Milland Road Industrial Estate is located at the western edge of Neath and is separated from retail and residential areas to the east by a railway line and the A474. To the north of the application site are further industrial units associated with the industrial estate, with the River Neath to the west and agricultural land to the south. Neath Canal runs along the eastern boundary of the site with the vehicular access into the site crossing over a small bridge off the Milland Road. The application site lies outside the Adopted LDP settlement limit of Neath and is located within a designated Existing Employment Area – Adopted LDP ref. EC2/5 (Melincryddan CMB/Milland Road Industrial Estate Neath).

### DESCRIPTION OF DEVELOPMENT

Full planning permission is sought to change the use of floorspace forming part of a larger manufacturing unit, currently vacant, into a café on the ground floor (115 sqm) and fitness suite/gymnasium on the first floor (702 sqm). The supporting information accompanying the planning application states that the proposal is for the existing Vitality Gym at Castle Retail Park to relocate to the site, with 9 parking spaces to be allocated at the front of the facility and additional parking shared with the applicant's industrial business' main car park to the north-east of the building. The supporting information states that the gym will aim to retain their current client base from their existing location, approximately 250m away from the application site, but also to provide leisure facilities for employees of other businesses on the industrial estate.

### NEGOTIATIONS

None.

### PLANNING HISTORY

The application site has the following relevant planning history: -

- P2022/0396 External alterations to extend the cladding and associated works Approved 21.6.22
- P2022/0395 External alterations to extend the cladding and associated works Approved 16.6.22
- P2020/0729 Details pursuant to the discharge of Condition 4 (External Materials) of P2019/0176 Approved 18.9.20
- P2020/0731 Details pursuant to the discharge of Condition 5 (External Materials) of P2019/5082 Approved 18.9.20

- P2019/5082 Demolition of an existing building and erection of a new biomass boiler house building to house woodchip fed biomass plant (Max 2 MW thermal output), plus chimney and associated works. Approved 3.10.19
- P2019/0176 Removal of existing roof structure and provision of new roof to an increased height. Approved 9.5.19
- P2019/5155 Change of use of existing ancillary factory offices to self-contained speculative office units (Class B1). Plus rebuilding and enclosure of existing external fire escape staircase and alterations to existing entrance steps to provide disabled access lift. Approved 21.08.2019

## CONSULTATIONS

NEATH TOWN COUNCIL: No reply received.

HIGHWAYS: (original plans) Concerns expressed about inadequate parking and the relationship with other businesses and their operational parking and delivery requirements.

(amended plans) A highway objection is recommended on pedestrian safety:

1. Although pedestrian routes and signage has been annotated on the parking layout drawing these car parking spaces are a considerable distance from the entrance. Pedestrians will be expected to walk a considerable distance through a working industrial estate which facilitates large daily incoming and outgoing deliveries.

The pedestrian routes proposed are alongside the designate commercial delivery road and no details have been provided concerning the segregation of this route from the vehicular route. In addition the implementation of a pedestrian route alongside the vehicular route will result in the narrowing of the carriageway which will impede the safe passage of HGVs at this point.

2. Due to the location of the proposed car park away from the entrance to the building, indiscriminate parking will occur at the front of the building due to the unrealistic expectations of patrons to walk from the car park to the facilities. This indiscriminate parking at the site entrance could cause a pedestrian and vehicular safety issue and possible conflict between vehicles.
3. The spaces proposed parallel with the front entrance of the development are below the standard requirements for parallel parking spaces. They should be 6m in length to allow access and egress from these spaces, however on plan they are 4.8m therefore rendering them unusable.

In addition an operational/delivery space would be larger than that of a general car park as the cafe would be taking deliveries from food suppliers

such as Castell Howell etc. in a HGV. It would be better use to have this area as one large delivery/loading bay that is hatched out to prevent regular parking and can safely accommodate the food deliveries and so on

4. My concerns on the existing parking demand has not been addressed, we do not know if there is any scope within this existing car park to accommodate the additional 78 car parking spaces required under this development as the applicant has failed to provide the requested information.

**BUILDING REGULATIONS:** No comments.

**ENVIRONMENTAL HEALTH (NOISE):** We are unable to support this application without further information regarding the noise impact.

**CONTAMINATED LAND:** Due to the nature of the use and nature of development, I have no objections to the above application. Please include LC05 for unexpected contamination in the decision notice.

**ESTATES:** Concerns expressed over the impact this will have on the Council's corporate objectives and associated risk and costs including security, traffic and ability to deliver wider regeneration plans for the site.

**ECONOMIC DEVELOPMENT:** This application is entirely contrary to our objectives in terms of Regeneration & Economic Development within the Council. There is a chronic shortage of industrial space in Neath Port Talbot, and an abundant supply of gyms and A3. The location of this property is on a good industrial estate with easy access to road and rail so does lend itself to being an attractive location for manufacturing type uses.

**FORWARD PLANNING (POLICY):** Policy EC3 states that the applicant would need to demonstrate that there are no adverse impacts on the overall function of the employment area. It could be argued that a café is an ancillary use to support the employment area, however a gym is generally a use that is better suited to a town centre location. Paragraph 5.2.21 of the LDP provides further explanation and states that these commercial services do not include those uses that are best located in a retail centre. If the applicant had not provided evidence to demonstrate that there will not be a detriment to the overall function of the employment area, and if they have been unable to justify why that cannot locate in a town centre location, there is no justification to permit the use. In this regard, you would need to consider TAN4, which sets out the sequential test to site selection that should be applied (section 7) and it should be demonstrated that the site is sequentially the most appropriate location for the leisure use.

You would also need to consider in the context of Policy EC4 as the proposal would result in the loss of an existing employment building. The policy states this would only be permitted where the policy criteria are satisfied. In this case, it would need to be demonstrated that the existing use is no longer viable or appropriate in this location. If the applicant has not provided any detail to satisfy this policy, and the information from economic development states the employment need is needed, the

policy criteria has not been satisfied and the loss of employment land should be resisted.

NATURAL RESOURCES WALES: No objection. Given the proposal will result in less vulnerable development being retained (and in the absence of a flood consequences assessment) we consider the proposals could be acceptable, subject to the developer being made aware of the potential flood risks and advised to install flood-proofing measures as part of the development.

## REPRESENTATIONS

A site notice was displayed on 8 August 2022.

In response, to date 3 no. representations have been received, with the issues raised summarised as follows: -

- As a business based at the Metal Box factory in Neath, the leadership team think this is an excellent proposal for the health and wellbeing of our workforce. When we surveyed our staff, the support and excitement was evident. The poll was sent to 32 members of staff. We received 26 replies all of which were in favour of having extra facilities on the site that our employees and their families would like to use in future.
- I believe that the gym, along with a coffee shop for refreshment, would be a great benefit to the citizens and workers in Neath, providing them not only with a place to greatly improve their health, but also a place to connect and socialize. Even after almost a year, I believe quarantine and social distancing has taken its toll on many people. I have spoken to people, who are still struggling with their mental health, and have struggled with their social life since the pandemic. This gym could be the lifeline they need to start living their lives again, whether it's reconnecting with loved ones over a cup of coffee, or getting back into shape. I believe this is vital, and is what Neath and its people need to keep growing in a positive manner.
- My company leases offices in the council owned section of this building. I am most definitely in favour of the proposed plans. The area in which the building is sited has very little in the way of amenities. I am a regular at my local gym, but I live 20+ miles away from the office so this can often be difficult to manage. The availability of a gym so close to work would open up the opportunity for myself, and I am sure plenty of others, to better manage their time and allow us to exercise with the reassurance that the commute into the office is negligible.

## REPORT

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council

has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

National Planning Policy:

**Future Wales: The National Plan 2040** is the national development framework, setting the direction for development in Wales to 2040. The development plan sets out a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate resilience, developing strong ecosystems and improving the health and wellbeing of our communities.

The following policies are of particular relevance to the assessment of this application:

**Policy 2** – Shaping Urban Growth and Regeneration – Strategic Placemaking

**Policy 6** – Town Centre First

*“Significant new commercial, retail, education, health, leisure and public service facilities must be located within town and city centres. They should have good access by public transport to and from the whole town or city and, where appropriate, the wider region. A sequential approach must be used to inform the identification of the best location for these developments and they should be identified in Strategic and Local Development Plans.”*

**Policy 8** – Flooding

**Policy 9** – Resilient Ecological Networks and Green Infrastructure

**Policy 12** – Regional Connectivity

**Planning Policy Wales (Edition 11, February 2021)** outlines the Welsh Government's commitment to the importance of 'places' and 'place-making', the importance of using previously developed land wherever possible in preference to greenfield sites, and the recognition of the health and wellbeing related benefits by creating a sense of place and improving social cohesion. PPW 11 confirms that the environmental components of places are intrinsically linked to the quality of the built and natural environment and contribute to the health and wellbeing of the people who live, work and play there. It emphasises the importance of creating sustainable communities and reducing reliance on the private car as part of a package of measures to reduce the country's carbon footprint and help tackle the climate emergency.

The following guidance is of particular relevance in the assessment of this planning application:

*4.3.18 The Welsh Government operates a 'town centres first' policy in relation to the location of new retail and commercial centre development. In implementing this policy, planning authorities should adopt a sequential approach to the selection of new sites in their development plan and when determining planning applications for retail and other complementary uses. By adopting a sequential approach first*

*preference should be to locate new development within a retail and commercial centre defined in the development plan hierarchy of centres.*

*4.3.19 If a suitable site or building to meet identified need is not available within a retail and commercial centre or centres, then consideration should be given to edge of centre sites and if no such sites are suitable or available, only then should out-of-centre sites in locations that are accessible by a choice of travel modes, including active travel and public transport, be considered. Developers should demonstrate that all potential retail and commercial centre options, and then edge-of-centre options, have been thoroughly assessed using the sequential approach before out-of-centre sites are considered. The onus of proof that central sites have been thoroughly assessed rests with the developer.*

*4.3.20 Edge-of-centre or out-of-centre sites should be accessible by a choice of public and private modes of travel. New out-of-centre retail developments or extensions to existing out-of-centre developments should not be of a scale, type or location likely to undermine the vibrancy, attractiveness and viability of those retail and commercial centres that would otherwise serve the community, and should not be allowed if they would be likely to put development plan retail strategy at risk. The extent of a sequential test should be agreed by pre-application discussion between the planning authority and the developer.*

*4.3.21 The sequential approach applies to retail and all other uses complementary to retail and commercial centres. Other complementary uses include, for example, financial and professional services (A2), food and drink (A3), offices (B1), hotels (C1), educational and other non-residential establishments (D1), leisure (D2) and certain other uses such as launderettes and theatres.*

*4.3.44 The agent of change principle will be a guiding principle for supporting the evening economy and the development of uses sensitive to the soundscapes experienced in busy commercial centres.*

*5.4.3 Planning authorities should support the provision of sufficient land to meet the needs of the employment market at both a strategic and local level. Development plans should identify employment land requirements, allocate an appropriate mix of sites to meet need and provide a framework for the protection of existing employment sites of strategic and local importance.*

*5.4.4 Wherever possible, planning authorities should encourage and support developments which generate economic prosperity and regeneration. Sites identified for employment use in a development plan should be protected from inappropriate development.*

*5.4.5 Evidence to inform the provision of economic development uses is key, and planning authorities should work together to produce Employment Land Reviews (ELR)<sup>49</sup> which inform this process.*

*5.4.7 Development plans and development management decisions should be based on up-to-date local and sub-regional evidence. It is important that such evidence demonstrates the suitability of the existing employment land supply as well as future provision in relation to the locational and development requirements of business.*

6.7.6 *In proposing new development, planning authorities and developers must...address any implication arising as a result of its association with, or location within.....areas where there are sensitive receptors.*

6.7.7 *To assist decision making it will be important that the most appropriate level of information is provided and it may be necessary for a technical air quality and noise assessment to be undertaken by a suitably qualified and competent person on behalf of the developer.*

PPW11 is supported by a series of more detailed Technical Advice Notes (TANs), of which the following are of relevance: -

- Technical Advice Note 4: Retail and Commercial Development (2016)
- Technical Advice Note 5: Nature Conservation and Planning (2009)
- Technical Advice Note 11: Noise (1997)
- Technical Advice Note 12: Design (2016)
- Technical Advice Note 15: Development and Flood Risk (2004)
- Technical Advice Note 18: Transport (2007)

#### Local Planning Policies

The Local Development Plan for the area comprises the Neath Port Talbot Local Development Plan which was adopted in January 2016, and within which the following policies are of relevance:

#### Strategic Policies

- **Policy SP1**                    Climate Change
- **Policy SP2**                    Health
- **Policy SP3**                    Sustainable Communities
- **Policy SP4**                    Infrastructure
- **Policy SP11**                    Employment Growth
- **Policy SP12**                    Retail
- **Policy SP15**                    Biodiversity and Geodiversity
- **Policy SP16**                    Environmental Protection
- **Policy SP21**                    Built Environment and Historic Heritage

#### Topic Based Policy

- **Policy SC1**                    Settlement limits
- **Policy EC2**                    Existing Employment Areas
- **Policy EC3**                    Employment Area Uses
- **Policy EC4**                    Protection of Existing Employment Uses
- **Policy R3**                    Out of Centre Retail Proposals
- **Policy EN7**                    Important Natural Features
- **Policy EN8**                    Pollution and Land Stability
- **Policy TR2**                    Design and Access of New development
- **Policy BE1**                    Design

## Supplementary Planning Guidance:

The following SPG is of relevance to this application: -

- Design (July 2017)

### Environmental Impact Assessment (EIA) and Appropriate Assessment (AA) Screening

Whilst the wider development site area exceeds the Schedule 2 threshold for development of this nature, as outlined within the Environmental Impact Assessment Regulations, the extent of this particular application site boundary does not. As such the proposal has not been screened in accordance with the requirements of Schedule 3 of the Regulations.

The proposed development is not located within a zone of influence for any Special Area of Conservation (SAC), Candidate Special Area of Conservation (CSAC) or Ramsar sites and as such it is considered that an Appropriate Assessment as set down within the Conservation of Habitats and Species Regulations 2017 is not required in this case.

### Issues

Having regard to the above, the main issues to consider in this application relate to the principle of the development in this location, the impact on the overall function of the employment area, the impact in terms of highway safety, noise and flood risk as well as ecology and material health/wellbeing considerations.

### Principle of Development

The application site lies outside of the designated Settlement Limits of the Adopted NPT LDP (LDP Policy SC1). Policy SC1 identifies 12 criteria whereby development will be permitted outside settlement limits and in all cases requires that they be of an appropriate scale and form. Supporting paragraph 3.0.16 goes on to state that *whether specific development proposals are appropriate or suitable outside settlement limits will be assessed with reference to the relevant topic policies within this Plan and national policy*. Supporting paragraph 3.0.17 states that *'employment use' relates to uses that provide significant employment opportunities as set out in Policy EC3*.

Whilst LDP Policy SC1 criterion 3 recognises that development may be permitted where it constitutes the suitable conversion of an existing building, in this case the application site/building is specifically designated within the Local Development Plan as an employment area under Policy EC2/5.

Policy EC2 states that:

***'In order to protect the employment function of the County Borough's employment areas, uses on the following sites are restricted in accordance with Policy EC3: EC2/5 Melincryddan CMB/Milland Road Industrial Estate, Neath.'***

Policy EC3 states that:

***‘Within allocated and existing employment areas, unless otherwise specified and where appropriate, uses will be restricted as follows:***

- ***Uses within classes B1, B2 and B8;***
- ***Ancillary facilities or services which support and complement the wider role and function of the primary employment use;***
- ***Commercial services unrelated to class B***

***Developments will be required to demonstrate that proposals do not cause any adverse impacts on the overall function of the employment area and neighbouring commercial and residential properties, the proposal can be sustainably justified in this location and is appropriate in scale and form to the role and function of the employment area.’***

In support of this application, the applicant’s agent has referenced the provision of a gym that was allowed at appeal on an industrial estate in Port Talbot, a site which was also subject of Policy EC2 (EC2/10 Llewellyn Quay, Port Talbot) and Policy EC3. In that particular case, the Council refused the change of use of car spraying/repair and vehicle rental premise to a gym. In allowing the appeal, the Inspector assessed whether a gym use could be considered to form a ‘commercial services unrelated to Class B’ and concluded that *“there is little doubt in my mind that, despite not comprising one of the acceptable uses listed in paragraph 5.2.21 of the reasoned justification to Policy EC3, the proposed use represents a ‘commercial service’ for the purposes of that Policy.”*

However there are considered to be material and significant differences between that appeal case and the current proposal.

Firstly, that appeal was decided in September 2020, prior to the publication (in February 2021) of both Future Wales and PPW11, both of which have emphasised the Welsh Government’s commitment to ‘town centre first’ with regard to locating new retail and leisure developments. National planning policy states that significant uses affected by Policy 6, should apply the sequential test to demonstrate that the proposal cannot be accommodated in a town or city centre or a retail/commercial centre identified by the LPA. In this particular case the opposite is being proposed, in that the application is to relocate a gym business away from an existing retail park to the application site. According to Welsh Government’s FAQs (which has been produced to assist interpretation of Future Wales) there is no definition of ‘significant’ in Future Wales and they say that it is for the Local Planning Authority to determine this, based on their knowledge of their local area. The proposal is for a gym and café that is open to members of the general public, i.e. it is not solely for the use of (and not ancillary to) the primary employment use of the site. It is considered that the application is not sustainably justified in this location and contrary to Policy EC3 and national planning policies in this regard.

Secondly, the appeal site in Port Talbot had been struggling to attract inward investment and the Inspector considered that the introduction of a gym for employees on the estate to use in their leisure time could act as a stimulus for further growth, having noted there were a number of vacant units on the estate. At the time of the decision the country was in the midst of the Covid 19 pandemic and

government advice at the time sought to make it as easy as possible for businesses to survive and stimulate economic growth. In contrast, and as evidenced by its planning history, the application site has been commercially successful with both public and private investment into the building/wider site and enjoys a relatively high occupancy rate. The Council's economic development officers have identified the site as being an attractive location for inward investment. They advise that demand for more 'traditional' (i.e. B1/B2/B8) employment floorspace/buildings in the NPT area currently exceeds supply and therefore they would not wish to lose the existing B2 lawful use of the premises as they believe it would be attractive to those types of businesses if it were made available to them to buy or lease on the open market.

### Impact on the function of the Employment Area

Policy EC3 requires developers to demonstrate that the proposals do not cause any adverse impacts on the overall function of the employment area. Having regard to the views expressed by the Council's economic development officers, it is important to note that, for proposals involving the loss of existing employment land or buildings, Policy EC4 requires applicants to demonstrate that employment uses are no longer viable or appropriate in that location.

Policy EC4 states that:

***'Proposals which would result in the loss of existing land or buildings in employment use as defined in Policy Ec3 and/or within the existing employment areas identified in Policy EC2, will only be permitted where the following criteria are satisfied:***

- 1. It is demonstrated that employment uses are no longer viable or appropriate in this location; or***
- 2. Continued use for employment purposes would have unacceptable impacts on the environment, local amenity or adjacent uses; or***
- 3. The existing space can be redeveloped for employment uses that achieve an increased level of employment combined with other appropriate uses'.***

Supporting paragraph 5.2.25 states that *the type of evidence required will vary depending on the use and circumstances but may include details of why the land/premises is no longer in use and evidence to show that reasonable efforts have been made to market it for sale or lease for its existing use.*

No evidence of the site's unsuitability or unviability for employment uses has been submitted by the applicant nor any evidence to show that the premises has been offered for lease or sale on the open market. There is, therefore, no available evidence to challenge the views of the Council's economic development officers in this regard. Furthermore, the proposal is for a form of leisure and retail use which can easily (and should) be accommodated on other, more sustainably located sites within established town and retail centres. In contrast, B2 manufacturing businesses cannot easily locate in any area and rely on the availability of larger sites like this. It has good road and rail connections, and is sited some distance from conflicting land uses that would otherwise adversely impact on the function of the employment area (e.g. indirectly from visiting members of the general public giving rise to complaints and land use conflict over the industrial processes that are undertaken or the size/type of heavy good vehicles being used). The technical issues are considered in subsequent paragraphs of this report.

## Parking and Access Requirements and Impact on Highway Safety

The application is accompanied by a detailed Transport Statement which describes the site's location in terms of main vehicular and pedestrian connectivity. It purports to be well located for access via non-car modes of travel. The site is located adjacent to the canal and towpath and is accessible on foot and by cycle in this regard. However the existing Vitality gym business is located on the other side of the railway line, much closer to existing residential areas, and given the site's location within a predominantly industrial area, beyond existing settlement limits, it is anticipated that the vast majority of users of the facility would arrive by car. This appears to be accepted by the applicant as the application site area includes the existing business' car park area within the red line. The Council's Highways Officer has expressed concern about the distance of the site to this car park and the potential for conflict with other users of the industrial estate, particularly between pedestrians and large commercial vehicles.

The application submission is deficient in terms of its overall parking provision, including for electric vehicles (Future Wales Policy 12 requires a minimum of 10%), disabled parking and cycle parking (in accordance with Adopted Parking Standards). The applicant has been asked to clarify the proposed parking arrangements and amend the application to accord with adopted SPG requirements. An amended site layout plan has been received. This provides the requisite electric vehicle and cycle parking, however it has not satisfied the Highways Officer's concerns over pedestrian safety and overall capacity/conflict with existing industrial uses and associated vehicle movements. Accordingly a highway safety reason for refusal is also recommended.

## Noise

Having regard to the precautionary requirements of TAN 11, the 'agent of change principle' enshrined within PPW11 and the Adopted 'Pollution' SPG, the applicant was asked to provide a noise impact assessment to satisfy Policy EN8 requirements. The proposed use has the potential to conflict with adjoining business occupiers from music, noise and vibration associated with use of the fitness equipment. In response the applicant has indicated that an assessment will be prepared but this has not been received at the time of writing.

## Flood risk / Drainage

The application site is located in an area at risk from flooding (Zone C2 of the Development Advice Maps and Flood Zone 3 in the newer Flood Maps for Planning). Having regard to the precautionary requirements of TAN 15 and enshrined within Future Wales Policy 8, the applicant was asked to provide flood risk mitigation, resilience and evacuation proposals. In response the applicant has indicated that an assessment will be prepared but this has not been received at the time of writing. Concern is expressed about members of the general public using a site that is at risk of flooding, however given the proposal is to replace one less vulnerable use with another then NRW raise no objection to the principle of the development on flooding grounds.

## Section 106 Planning Obligations

In view of the type and form of development proposed in this location, no planning obligations are considered necessary to make the development acceptable in planning terms or required to meet the policy and legislative tests for planning obligations having regard to local circumstances and needs arising from the development.

## Other Material Considerations

In line with the Council's duties under the Environment (Wales) Act 2016 and the requirements of Future Wales Policy 9, there is a requirement to secure enhancements for biodiversity on all new developments. This has not been provided but could be secured by condition had the proposal been considered acceptable in all other respects.

As identified earlier in this report, representations of support have been received in response following the publicity exercise. In response to the main issues raised which have not been addressed elsewhere in this report, the following comments are made.

Policy EC3 recognises that the provision of complementary ancillary uses in an employment area can be of benefit to employees. Therefore it is not unsurprising that a representation from the local workforce is supportive of the provision of a new facility which would likely have a positive impact on their general health and wellbeing. If the existing manufacturing business/company had decided to open a small workout area as part of welfare facilities for the exclusive use of their employees, then that would not necessarily require planning permission in any event. However the difference here is that the proposal is to bring in visiting members of the general public and relocate a leisure use away from an established retail centre into a traditional industrial estate. Policy EC3 specifically excludes uses that are best located in a retail centre and the land use conflicts have been clearly set out in the preceding paragraphs of this report. Therefore it is not considered that the positive health and wellbeing opportunities for employees on the wider industrial estate outweighs the harm caused by such opportunities being located in the wrong place from a land use planning perspective. LDP Policy R3 does allow for changes of use to retail within the Coastal Corridor Strategy Area, but only where the floorspace is 100m<sup>2</sup> or less and has been demonstrated to serve local neighbourhood needs. Neither of these scenarios apply in this particular case, and the proposal is considered contrary to the strategic retail policy objectives of the Local Plan in this regard.

## Recommendation

The decision to refuse 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 Future Wales: The National Plan 2040 and the Neath Port Talbot Local Development Plan (2011–2026) adopted January 2016.

Refusal is recommended for the following reasons;

- 1 It is considered that the proposal represents an inappropriate form of development that would have an unacceptable impact on the overall function of the employment area and undermine the Council's strategic retail and employment objectives. The proposal is not sustainably justified in this location and will result in the loss of viable, attractive employment space of which there is a shortage to meet demand in the Neath Port Talbot area. No evidence has been presented to demonstrate that retention of the existing employment use is no longer viable or appropriate or would otherwise support overriding the 'town centre first' principle of national and local planning policy.

For this reason the proposed development fails to accord with Policies SC1, EC2, EC3, EC4 and SP12 of the Adopted Neath Port Talbot Local Development Plan. It is further considered that the decision fails to comply with Future Wales: The National Plan 2040, specifically Policy 6, and the Council's well-being objectives and sustainable development principles in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

- 2 It is considered that the proposal represents an inappropriate form of development that is incompatible with vehicular movements associated with the existing industrial uses on the site and would have an unacceptable impact on pedestrian safety.

For this reason the proposed development fails to accord with Policies TR2, BE1 and SP20 of the Adopted Neath Port Talbot Local Development Plan. It is further considered that the decision fails to comply with Future Wales: The National Plan 2040, specifically Policy 12, and the Council's well-being objectives and sustainable development principles in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.