

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
17/0797/FULL 15.09.2017	Gallagher Developments Caerphilly Ltd Gallagher House Gallagher Business Park Warwick CV34 6AF	Sub-divide and carry out external alterations to front, side and rear elevations including new front entrances and installation of plant to create two units 18A and 18B within Use Class A1, including the sale of food and drink and other convenience and comparison goods and ancillary cafe from Unit 18B Unit 18 Gallagher Retail Park Parc Pontypandy Caerphilly CF83 3GX

APPLICATION TYPE: Full Application

SITE AND DEVELOPMENT

Location: Unit 18 Gallagher Retail Park, Parc Pontypandy, Caerphilly.

Site description: The sites comprises Unit 18 within the western section of the Gallagher Retail Park at Crossway, Caerphilly. The retail park lies 2km north-east of Caerphilly town centre and contains B&Q, Wickes, Dreams, Currys, Halfords, Carpetright, FW Furniture, What, Tile and Bath Company, Tesco, KFC, McDonalds, Pizza Hut and Aldi, as well as a range of other uses including a gym, public house and hotel.

The retail park is an established retail destination that has been developed in phases, and the westernmost element comprises a self-contained retail park of five units in an L-shape formation fronting a dedicated surface level car park. Unit 18 is currently occupied by What and extends to 2325sq m gross floorspace. This area of the retail park is bounded by the A468 to the north, the estate access road to the east and further to the east, the wider retail park.

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Development: Full planning permission is sought in respect of the sub-division and external alterations (to front, side and rear elevations including creation of a new front entrance and installation of plant) to Unit 18 at Gallagher Retail Park to create two units 18A and 18B within Use Class A1 of the Town and Country Planning (Use Classes) Order, including the sale of food and drink and other convenience and comparison goods and ancillary cafe from Unit 18B.

Two separate planning applications are being submitted for works to Unit 18. These comprise the following: the one subject of this report, and a full application for insertion of a 423sq m mezzanine floor into what will be Unit 18B subject of planning application reference 17/0796/FULL.

The application is supported by a Planning and Retail Assessment prepared by RPS. In the Planning and Retail Assessment it is stated by the applicant that "Gallaghers are negotiating with a high end national multiple food retailer (along the lines of Waitrose and M&S), so it is intended that that both units should allow for open A1 use including food retail within Unit 18B, in order to accommodate the intended high quality foodstore.

"The proposed premium foodstore will replace the current tenant What who are a short term concessionary rent occupier. There may be opportunities to re-accommodate What in other units at the Retail Park and these will be explored with the retailer. The replacement of a short term occupier with a long-term key destination high quality foodstore is considered to be a catalyst to the future chances of securing occupiers in the vacant units at the retail park that have been empty since construction. This is considered to be a significant benefit to the retail park and Caerphilly as a whole as undoubtedly, empty units at the main retail park in the town (supported by an allocation) presently acts as a dissuasive factor to further retail investment in the town."

Dimensions:

The existing and proposed floorspace for each application comprises:

Sub-division/external alterations application

Existing: 2325sq m ground floor + 103sq m first floor + 51sq m lobby = 2479sq m.

Proposed: 1267sq m Unit 18A + 929sq m Unit 18B + 129sq m service corridor & internal walls + 30sq m lobbies = 2355sq m.

Mezzanine application

Existing: 2325sq m ground floor + 103sq m first floor + 51sq m lobby = 2479sq m.

Proposed: 2325sq m ground floor + 526sq m first floor (including new 423sq m mezzanine) + 51sq m lobbies = 2902sq m.

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Materials: Roof- Coping in ultramarine blue to match existing; walls - cladding to match existing; windows - curtain wall glazing in white.

Ancillary development, e.g. parking: 353 existing car parking spaces.

PLANNING HISTORY 2005 TO PRESENT

P/05/1368 - Carry out retail warehousing development with associated car parking and servicing (Phase 3) - Granted 02.11.06.

07/0168/NCC - Vary Conditions (8) and (27) and delete Condition (10) of Planning Permission P/05/1368 -Granted 24.07.07.

07/1230/NCC - Vary Condition 15 of planning permission 07/0168/NCC to amend number of parking spaces to be provided - Granted 28.01.08.

08/1036/ADV -Erect five aluminium tray signs - Granted 31.10.08.

08/1045/ADV - Install six poster frames - Granted 12.11.08.

13/0025/NCC - Vary Condition 04 of planning permission 07/1230/NCC to enable up to 25 per cent of the net sales space within Unit 18 to be used for the sale of other goods not including clothing, footwear or fresh food products - Granted 14.02.13.

POLICY

LOCAL DEVELOPMENT PLAN

Site Allocation: Policy SP5 within the settlement boundary, Policy CM2.2 Retail Warehouse, CM4.10 Commercial Development.

Policies:

SP3 Development in the Southern Connections Corridor (SCC), SP6 (Place making), SP17 Promoting Commercial Development, CW2 (amenity), CW3 (Design considerations-highways), CW15 - General locational constraints, CW16 - Locational constraints - Retailing, CW17 - Locational constraints 17 - Retail warehousing.

Supplementary Planning Guidance - Town Centre Action Plan 2011 - 2016.

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NATIONAL POLICY

Planning Policy Wales, 9th Edition, Chapter 10.

Technical Advice Note 4 (TAN 4) Retail and Commercial Development (2016) provides guidance on the issues relevant to the consideration of this application and the preparation of impact assessments and the operation of the sequential test. It states that all applications for retail development over 2500m² gross floor space should be supported by an impact assessment providing evidence of, inter alia, whether the application has adopted a sequential approach to site selection, and the availability of alternative sites and the likely economic impacts on town and district centres, including any cumulative impact. It adds that such assessments may be required for smaller development, for instance those are likely to have a large impact on a smaller town or district centre.

Technical Advice Note 23 (TAN 23) Economic Development (2014) provides guidance on the economic development issues relevant to the consideration of this application.

ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? Not applicable.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? Not an issue in respect of this planning application.

CONSULTATION

Dwr Cymru - Provide advice to be conveyed to the developer.

Caerphilly Town Council - The Members had no objections to the proposed development but did have concerns about the access arrangements to the Gallagher Retail Park. In particular they felt there are highway safety issues at the roundabout junction of Bedwas Road and Newport Road and felt access to the retail park from this junction should be limited or closed. The primary means of access to the retail park should be from the roundabout on the A468 adjacent to Wickes.

CADW - No adverse comments.

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Strategic & Development Plans - No policy objection is raised to the proposal in this instance as the RIA sufficiently demonstrates that the sequential test has been fully applied; a quantitative need has been demonstrated; and that the impact of the development on Caerphilly Town Centre would be minimal.

Transportation Engineering Manager - No objection.

Head Of Public Protection - No adverse comments but advise that there is insufficient details to comment on food safety, or health and safety issues. The applicant is advised to contact the Council for further advice.

Senior Engineer (Land Drainage) - No adverse comments from a drainage or flood risk perspective.

ADVERTISEMENT

Extent of advertisement: The application has been advertised in the press, on site and eight neighbouring properties have been consulted.

Response:

87 responses in support of the application summarised below.

Summary of observations:

A store like this is just what Caerphilly needs to revitalise its retail offering. It will bring much needed jobs. It will ensure money is spent locally rather than residents having to travel to Cardiff or Merthyr. It will encourage other large retailers to follow suit and consider Caerphilly as a location for their stores. It will offer more choice and will be beneficial to everyone individually and the community at large. It would be a huge asset to Caerphilly. Caerphilly is expanding and more quality stores are needed to encourage visitors. Hopefully it would boost trade in other shops in Caerphilly.

SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?

There are no specific crime and disorder implications material to the determination of this planning application.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

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COMMUNITY INFRASTRUCTURE LEVY

Is this development Community Infrastructure Levy liable? Regulation 6(1) of the CIL Regulations (as amended) detail works that are not treated as development for the purposes of CIL liability, with 6(1c) being works carried out in respect of an existing building for which planning permission is required only because of s55(2A) of the 1990 Act. Accordingly the construction of the new internal mezzanine floor is exempt development for which there is no CIL liability.

In terms of the external alterations/sub-division application, this also does not incur a CIL charge as there is no change of use and no increase in floorspace (in fact the total gross floor area will decrease by 124sq m).

ANALYSIS

Policies: The application has been considered in accordance with local plan policies and national planning guidance. The main issues to consider in the determination of this application are in respect of the proposed A1 use, and whether the development will set a precedent for alternative development on Retail Warehouse Parks.

Policy CW16 -Locational Constraints - Retailing of the LDP states: -

Outside of the defined Principal Town Centres proposals for new retail stores or for additional retail floorspace will only be permitted where:

- The vitality and viability of nearby Principal Town Centres will not be undermined, taking into account the cumulative effects of other approved retail developments, recently completed developments and Plan commitments, and
- The proposal would not undermine the Council's retail strategy, a Town Centre Action Plan or any regeneration plans that the Council has formally approved, or
- The proposal is:
 - i A new retailing unit of 1000m² or less in size, or the change of use of such a size, and
 - ii To serve neighbourhood needs, or is ancillary to another commercial use

The proposal is for the subdivision of an existing retail unit into two separate units, Unit A and Unit B. Both units are over 1000m². The building is currently conditioned to be a retail warehouse with no clothes, fresh food products or footwear. Permission is sought for an open A1 retail use across both the proposed units, with Unit B in particular being occupied for the sale of food and drinks. The Total area of Unit B, including the proposed mezzanine floor is greater than 1000 m², it is therefore contrary to this policy as it is outside a defined Principal Town Centre unless it complies with the tests contained within the policy.

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Whilst the proposal is outside the defined Principal Town Centre it will not necessarily undermine the vitality and viability of Caerphilly Town Centre as its acceptability is evidenced by its retail impact assessment and the development provides a predominantly convenience offer.

Technical Advice Note 4 (TAN 4) provides guidance on the issues relevant to the consideration of this application. TAN 4 provides guidance on the operation of the Sequential Test and the preparation of Retail Impact Assessments. All applications for retail development over 2500m² gross floor space should be supported by a retail impact assessment and evidence that the applicant has adopted the Sequential Approach in site selection and the availability of alternative sites and the likely impacts on town and district centres.

Retail Warehouse Parks have been allocated in the LDP specifically for the sale of bulky goods therefore normally, given that the proposal is contrary to the provisions for which retail parks are intended, an in-principle policy objection would be raised. However, consideration of this proposal needs to be in the context of the evolution of the retail park and the likelihood of the proposal impacting on the town centre.

This proposal involves the subdivision of an existing retail warehouse into 2 units, with an open A1 use class for a premium food retailer and an ancillary A3 use class café. There is already an established A1 Convenience retail use on Gallagher Retail Park in the form of Tesco and more recently Aldi. Further diversification has been permitted on Gallagher Retail Park with the granting of permission and subsequent development of a number of A3 Uses, including McDonalds and KFC. The scale and nature of these uses were considered unlikely to affect the vitality and viability of Caerphilly Town Centre.

Key considerations in the determination of this application include: the Sequential Test; Quantitative Need; and an Impact Assessment based upon the likely trade diversion from Caerphilly Town Centre. These issues are discussed separately as follows:-

Sequential Test

The principal assessment parameters for the sequential test are availability, suitability and viability. The applicant has submitted a retail impact assessment (RIA) to support this application, demonstrating that an assessment has been undertaken of all potential sites within or on the edge of Caerphilly town centre, which might be feasible for consideration as a sequentially preferable site. In considering sequentially preferable sites, the applicant has considered land at Park Lane, Cardiff Road, and Castle Street to Piccadilly. The application of the sequential test to these town centre sites will be discussed below.

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Park Lane: The RIA rules out this site for a number of reasons, firstly that it is not in accordance with the LDP, secondly that the development would detrimentally impact upon the setting of Caerphilly Castle, and finally on grounds of 'suitability' where the site is not considered suitable due to the operational requirements of the retailer, reasons being that the site would be unable to provide adequate car parking in close proximity to the development and that vehicular access would be achieved via a one-way system.

The statement that a retail development in this location 'would not accord' with the LDP is not accepted and is factually incorrect. Similarly, the statement that a development of this nature would detrimentally impact upon the setting of Caerphilly Castle is not accepted as a valid reason for ruling out Park Lane as the development could be sensitively designed to mitigate against this. It is however accepted that this site would not necessarily meet the operational requirements of the retailer and as with the judgement of the Supreme Court in *Tesco Stores Limited (Appellants) v Dundee City Council (Respondents)* (Scotland) [2012] UKSC 13 where at paragraph 38 of the judgment, Lord Hope stated:

"These [sequential test] criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest doing so."

Cardiff Road: The RIA rules this site out on the basis of viability and suitability. Whilst the site could theoretically accommodate the required form of development, the site is in a significant number of different ownerships and would require the clearance of a sizeable proportion of the site to accommodate the development, this would result in significant difficulties and costs associated with assembling the site. Secondly, the site is not considered suitable in operational terms for the retailer. It is accepted that the site clearance and assembly in this location could render the development unviable.

Castle Street to Piccadilly: The RIA concludes that almost the whole site is in active use and so is not available at the present time for an alternative use, the existence of so many active businesses in a variety of ownerships suggests that the site is unlikely to become available at least in the foreseeable future. The site is also considered unsuitable in terms of viability as there would be 'major practical and financial implications arising from site assembly'. The conclusion of the RIA is accepted in this instance due to the scale of development proposed and whilst this site is in a sequentially preferable location, the 'availability' and assembly of this site could render development unviable.

The RIA adequately addresses the sequential test for this application due to the size and nature of development proposed and provides a reasoned justification as to why the three town centre sites are not suitable and rules out any further sequentially preferable sites as part of this process.

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Quantitative Need

Based upon the most recent Shopper Attitude Survey, undertaken in 2014, the primary catchment area for Caerphilly retains 90% of all convenience goods expenditure with a leakage of 10%. Whilst this is a reasonable retention rate, there remains the potential to retain more convenience expenditure within the County Borough. Asda is the most dominant store within this primary catchment area, followed by Morrisons, and Tesco at Gallagher Retail Park. Of these, only Morrisons is located within the Principal Town Centre Boundary.

The assessment of retail need accompanying this application, assumes 100% convenience trading in Unit B. However, whilst Unit B will primarily contain a convenience offer with the greatest proportion of retail floorspace dedicated to the sale of food (convenience goods), there will be an ancillary non-food offer (comparison goods) and whilst the convenience / comparison floorspace split is not specified, the suggested store format indicates that a far smaller fraction is likely to be dedicated to the sale of comparison goods. Given that Unit B is proposed to be 1352m² (including mezzanine), the scale of floorspace dedicated to comparison goods is unlikely to be significant enough to provide a sustained source of competition for stores based in the Town Centre.

On this basis it is considered that a convenience store of this scale (less than 2000sq m) can be justified in Caerphilly in terms of quantitative need.

Retail Impact

In order to determine the likely impact of the proposal on Caerphilly Town Centre it is necessary to consider the likely trade diversion that the proposed development could have. In terms of major Town Centre convenience stores, there are two located within the town, namely, Morrisons and Iceland and a number of independent convenience traders. The format and function of Morrisons and Iceland differs greatly to the format proposed. Morrisons provides a large supermarket of 5060 sq m offering a wide range of goods, whilst Iceland occupies a much smaller store of 490 sq m and offers predominantly frozen food.

The applicant has demonstrated that a premium foodstore is unlikely to generate significant trade diversion from these stores and / or the independent traders within Caerphilly Town Centre as their appeal is to a different market with an emphasis on fresh produce and pre-prepared foods and meals that are targeted at the premium end of the market, i.e. providing a different 'retail offer'. The RIA also demonstrates that the type of product offered and the limited range of goods on sale would be unlikely to divert trade from the town centre convenience retailers as the range of goods on sale would not be wide enough to satisfy a main food shopping trip. The proposed development is most likely to be used as a top-up shopping destination.

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Technical Advice Note 23 (TAN 23) provides guidance on the economic development issues relevant to the consideration of this application.

High Level Planning Objectives are outlined in Paragraph 1.2.1 and 1.2.2 of TAN 23 which state that 'it is essential that the planning system recognises, and gives due weight to the economic benefits associated with new development' and that 'planning for economic land uses should aim to provide the land that the market requires, unless there are good reasons to the contrary.'

Paragraph 1.2.7 states that 'the principle of a sequential test in relation to town centre related uses which have direct relevance to economic land uses' should be applied when determining applications. Importantly it goes on to state: 'However, if developments in sequentially inferior locations deliver additional economic benefits, then these need to be factored into the decision making process and could result in allocations which do not conform to the sequential assessment.'

The proposed development would create 50 full time jobs, this is a material consideration.

Conclusion

On balance, the beneficial occupation of part of the retail park for a prestige Multi National Retailer in this instance could be considered to outweigh the potential adverse impact that may occur as a result of an increase in the number of such uses on Gallagher Retail Warehouse Park.

The proposal for premium retailer is a means of significantly promoting footfall and patronage to the Retail Warehouse Park, making the area more attractive to potential inward investors.

If permitted, this does not set a precedent for alternative forms of development on Retail Warehouse Parks. No policy objection is raised to the proposal in this instance as the RIA sufficiently demonstrates that the sequential test has been fully applied; a quantitative need has been demonstrated; and that the impact of the development on Caerphilly Town Centre would be minimal. However, approval of planning permission may increase the pressure for such uses in this part of the town.

Policy CW2 considers amenity and in this respect it is considered that the proposed changes to the existing building are minimal and will not have an adverse impact upon the existing building or the amenity of adjacent buildings or land. The proposed use is considered compatible with surrounding land uses and would not constrain the development of neighbouring land uses for their identified land use.

Policy CW3 considers highway implications and in this respect this Council's Group Manager (Transportation and Highways) has raised no objection to the development.

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Comments from Consultees: No objections have been to the proposed development.

Comments from public: General support for the application.

Other material considerations: None.

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

RECOMMENDATION that Permission be GRANTED

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 02) The development shall be carried out in accordance with the following approved plans and documents: site location plan reference PL-01; proposed site plan reference PL-03/B; proposed building plan reference PL-05/C; Proposed elevations drawing No.PL-07C.
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.

Advisory Note(s)

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: CW2.

The applicant is advised of the comments of Dwr Cymru/Welsh Water, Head of Public Protection.

