

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
17/0256/FULL 17.07.2017	TWT Logistics Limited C/O Boyer Mr L Forse Third Floor Park House Greyfriars Road Cardiff CF10 3AF	Erect a warehouse/light industrial building (Use classes B1 and B8) Land Within Curtilage Of XPO Transport Solutions UK Limited Unit A Distribution Way Dyffryn Business Park Ystrad Mynach Hengoed CF82 7TS

APPLICATION TYPE: Full Application

SITE AND DEVELOPMENT

Location: The application site is located on the southern side of Distribution Way on the Duffryn Industrial Estate.

Site description: The application site formerly formed part of the service yard to Unit A on Distribution Way but it has now been separated from that unit by a palisade fence. The site is a largely rectangular area of land that is hard surfaced with concrete. It is currently not in use. The site is surrounded by industrial units of various sizes and is within an established industrial site.

Development: The application seeks full planning consent for the erection of a new detached industrial production facility. It is intended to erect a rectangular steel portal frame building with an apex roof.

Dimensions: The building measures 60m long by 15m wide by 8.162m high.

Materials: Insulated profile sheeting.

Ancillary development, e.g. parking: Nine parking spaces are proposed.

PLANNING HISTORY 2005 TO PRESENT

P/05/0990 - Construct new covered trailer park building. Granted 28.11.2005.

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POLICY

Local Development Plan: Within settlement limits on land allocated for employment purposes.

Policies

Local Development Plan: SP2 (Development Strategy - Development in the Northern Connections Corridor), SP5 (Settlement Boundaries), SP6 (Place Making), SP16 (Managing Employment Growth), CW2 (Amenity), CW3 (Design Considerations: Highways), CW5 (Protection of the Water Environment), CW13 (Use Class Restrictions - Business and Industry), CW15 (General Locational Constraints) and EM2.13 (Employment Sites Protection).

Supplementary Planning Guidance LDP 5 Car Parking Standards sets out parking requirements for all developments.

Supplementary Planning Guidance LDP 6 Building Better Places to Live gives advice on all levels of development.

National Policy: Paragraph 4.9.1 of Planning Policy Wales states:-

“Previously developed (or brownfield) land (see Figure 4.4) should, wherever possible, be used in preference to greenfield sites, particularly those of high agricultural or ecological value. The Welsh Government recognises that not all previously developed land is suitable for development. This may be, for example, because of its location, the presence of protected species or valuable habitats or industrial heritage, or because it is highly contaminated. For sites like these it may be appropriate to secure remediation for nature conservation, amenity value or to reduce risks to human health”.

Paragraph 4.9.2 states:-

“Many previously developed sites in built-up areas may be considered suitable for development because their re-use will promote sustainability objectives. This includes sites:

- in and around existing settlements where there is vacant or under-used land, commercial property or housing;
- in suburban areas close to public transport nodes which might support more intensive use for housing or mixed use;

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- which secure land for urban extensions, and;
- which facilitate the regeneration of existing communities”.

Paragraph 4.11.9 states: -

"The visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. Local planning authorities should reject poor building and contextual designs. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions”.

Paragraph 4.12.3 states:-

“Development proposals should also include features that provide effective adaptation to, and resilience against, the current and predicted future effects of climate change, for example by incorporating green space to provide shading and sustainable drainage systems to reduce run-off and are designed to prevent overheating and to avoid the need for artificial cooling of buildings”.

Paragraph 5.5.2 states:-

“When considering any development proposal (including on land allocated for development in a development plan) local planning authorities should consider environmental impact, so as to avoid, wherever possible, adverse effects on the environment. Where other material considerations outweigh the potential adverse environmental effects, authorities should seek to minimise those effects and should, where possible, retain and, where practicable, enhance features of conservation importance”.

Paragraph 13.4.1 states:-

“Development proposals in areas defined as being of high flood hazard should only be considered where:

- new development can be justified in that location, even though it is likely to be at risk from flooding; and
- the development proposal would not result in the intensification of existing development which may itself be at risk; and
- new development would not increase the potential adverse impacts of a flood event”.

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National Planning Guidance contained in Technical Advice Notes 12 - Design, and 15 - Development and Flood Risk is also of relevance to the determination 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? The site lies within a high risk area but The Coal Authority raises no objection to the development. However an advisory note should be attached to any consent granted advising the developer that the site is within a high risk area.

CONSULTATION

Head Of Public Protection - No objection subject to conditions.

Senior Engineer (Land Drainage) - No objection subject to the submission of a drainage scheme.

Transportation Engineering Manager - No objections subject to conditions.

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

The Coal Authority - No objection.

Natural Resources Wales - Raises objection to the application as the applicant has failed to demonstrate that the risks and consequences of flooding can be managed to an acceptable level in line with Technical Advice Note 15 (TAN 15).

ADVERTISEMENT

Extent of advertisement: The application was advertised by means of a site notice and neighbour letters.

Response: None.

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Summary of observations: None.

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?
None.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

Is this development Community Infrastructure Levy liable? No.

ANALYSIS

Policies: The application has been considered in accordance with national guidance, local plan policy and supplementary planning guidance. The proposal seeks full planning consent for the erection of a warehouse and industrial unit within an established industrial area on land that is protected for such purposes. The site is previously developed and the proposed building is considered to be acceptable in design terms, and adequate parking and servicing can be provided. In that regard it is considered that the proposal complies with Policies CW2, CW3, CW13 and EM2.13 of the Local Development Plan.

The main point to consider in the determination of this application is the site's location within Flood Zone C1 as defined in the Development Advice Maps attached to Technical Advice Note 15 Development and Flood Risk. In that regard it should be noted that Natural Resources Wales have raised an objection to the application as it is considered that the application has failed to demonstrate the risks and consequences of flooding can be managed to an acceptable level. This view is given having considered the following:-

"Based on existing site levels, the FCA (Flood Consequence Assessment) identifies the development site (including the proposed warehouse) is predicted to flood during a 1% (1 in 100 year) plus 25% allowance for climate change fluvial flood event. This does not meet the requirements of A1.14 of TAN15, which states the development should be flood free in such a flood event".

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"The FCA considers raising the finished floor level (FFL) of the proposed warehouse by 400mm, to 91m AOD. Based on a FFL of 91m AOD, the FCA identifies the proposed warehouse is predicted to be flood free during a 1% (1 in 100 year) plus 25% allowance for climate change fluvial flood event. However, the remaining development site (car parking and loading area) is still predicted to flood during a 1% (1 in 100 year) plus 25% allowance for climate change fluvial flood event. This does not meet the requirements of A1.14 of TAN15, which states the development should be flood free in such a flood event. Furthermore, the proposed raising of the FFL is predicted to result in increased flood risk elsewhere. This does not meet the requirements of A1.12 TAN15, which advises a site should only be considered for development if the proposed development does not increase flood risk elsewhere".

Paragraph A1.14 of TAN 15 states:-

"A1.14 In addition to the above general conditions there are particular flooding consequences which may not be considered acceptable for particular types of development. For instance in view of the traumatic impact of flooding on people's personal lives it is not sensible to allow residential development in areas which flood frequently. Natural Resources Wales advice to planning authorities suggests that development should be designed to be flood free during the 1% fluvial flood (i.e that fluvial flood with a 100 to 1 chance of occurring in any year) and the 0.5% tidal/coastal flood (i.e. 200 to 1 chance in any year event). There is therefore a frequency threshold of flooding below which flooding of development should not be allowed".

Paragraph A1.12 of TAN 15 states:-

"A1.12 To satisfy these criteria a site should only be considered for development if the following conditions can be satisfied;

- Flood defences must be shown by the developer to be structurally adequate particularly under extreme overtopping conditions (i.e. that flood with a probability of occurrence of 0.1%),
- The cost of future maintenance for all new/approved flood mitigation measures, including defences must be accepted by the developer and agreed with the Environment Agency,
- The developer must ensure that future occupiers of development are aware of the flooding risks and consequences,

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- Effective flood warnings are provided at the site,
- Escape/evacuation routes are shown by the developer to be operational under all conditions,
- Flood emergency plans and procedures produced by the developer must be in place,
- The development is designed by the developer to allow the occupier the facility for rapid movement of goods/possessions to areas away from the floodwaters,
- Development is designed to minimise structural damage during a flooding event and is flood proofed to enable it to be returned to its prime use quickly in the aftermath of the flood,
- No flooding elsewhere”.

It is considered that this interpretation of the Guidance is overly prescriptive and does not take account of the economic benefits of this proposal. Whilst it is accepted that Section A1.14 of TAN 15 states that developments should be flood free, it should also be noted that should the proposed building be built on a raised floor level 400mm above the existing site level as proposed, then it would be flood free. It is also acknowledged that the service and delivery area part of the application site would not be flood free, but it should also be noted that that area until very recently was used as a service and delivery yard in connection with the adjacent Unit A Distribution Way, and it could be returned to that use without the need for planning consent. The purpose of the TAN is to consider the suitability of development on any site having regard for the risks to people and property. It is considered given that the use of the site for industrial purposes is already established in planning terms, the additional risk to life or property in this instance would be negligible and does not in itself warrant refusal of this application.

Further consideration should also be given to the extent of additional flooding that this development would cause. As stated above the proposed building would be flood free if it was erected at 400mm above existing site levels. It is a given that this would lead to increased flooding elsewhere, but it is considered that the extent of this flooding should determine whether or not the impact is acceptable. The Flood Consequence Assessment submitted with this application suggests that in a 1 in 100 year flood event the areas covered by flood waters would not increase as a result of this development. It does acknowledge that areas that would currently flood would experience an increased depth of flooding as a consequence of this proposal. However, the increase in the depth of the flooding for a 1 in 1000 year event would be 40mm for properties that would already experience flooding to a depth of over 1m. In that regard it is not considered that the increase in flooding to third party property would be so significant as to warrant refusal of this application.

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In respect of the economic argument for the proposal, Paragraph 6.2 of TAN 15 states:-

“6.2 New development should be directed away from zone C and towards suitable land in zone A, otherwise to zone B, where river or coastal flooding will be less of an issue. In zone C the tests outlined in sections 6 and 7 will be applied, recognising, however, that highly vulnerable development and Emergency Services in zone C2 should not be permitted. All other new development should only be permitted within zones C1 and C2 if determined by the planning authority to be justified in that location. Development, including transport infrastructure, will only be justified if it can be demonstrated that:-

- i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or,
- ii Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region; and,
- iii It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,
- iv The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable”.

It is considered that the proposal is less vulnerable development which is acceptable in terms of sections 5, 7 and appendix 1.

Duffryn Industrial Estate is identified as a Primary Industrial Estate in the LDP and is protected for B1, B2 and B8 uses and other ancillary uses to support the primary uses. Given its excellent links to both the A469 and the A472 the estate is a key strategic employment site within the County Borough with low vacancy rates. The application proposes the erection of an additional production facility for a large international employer on the estate and would create 7 jobs and help to safeguard a further 120. Paragraph 7.2.2 of Planning Policy Wales states:-

“Local planning authorities are required to ensure that the economic benefits associated with a proposed development are understood and that these are given equal consideration with social and environmental issues in the decision-making process, and should recognise that there will be occasions when the economic benefits will outweigh social and environmental considerations”.

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It is considered in this instance that the economic benefits of this proposal do outweigh the environmental considerations and as such the proposal is supported by Planning Policy Wales. This is especially relevant and refusal of this application could lead to the sterilisation of the whole industrial estate, and the loss of existing employment having significant economic implications for the County Borough.

Comments from Consultees: The comments of Natural Resources Wales are addressed above. No other objections were received.

Comments from public: No objections received.

Other material considerations: None.

In conclusion it is considered that the proposal is acceptable in planning terms subject to the imposition of suitably worded conditions.

TAN 15 requires that Natural Resources Wales should be informed where the Local Planning Authority is minded to go against its advice and grant consent so that it can make further representations to ensure consequences can be managed acceptably. The recommendation reflects that requirement.

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 the application is DEFERRED to allow Natural Resources Wales to be notified. On receipt of their further comments on the management of consequences, that Permission be GRANTED

This permission is subject to the following condition(s)

- 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.

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- 02) The development shall be carried out in accordance with the following approved plans and documents: 17.8511/100, G (1), G (2) and the Flood Consequences Assessment by JBA Consulting dated July 2017.
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 03) Prior to the commencement of works on site a scheme of land and surface water drainage within the site shall be submitted to and agreed in writing by the Local Planning Authority. All works that form part of the agreed scheme shall be carried out before any part of the development to which it relates is occupied.
REASON: To ensure the development is served by an appropriate means of drainage.
- 04) Before any soils or hardcore that do not fall within the green category set out in Table 2 of the WLGA document 'Requirements for the Chemical Testing of Imported Materials for Various End Uses and Validation of Cover Systems 2013' are brought on to site, a scheme for their importation and testing for contamination shall be submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.
REASON: To prevent contamination of the application site in the interests of public health.
- 05) Notwithstanding the submitted details, the building hereby approved shall be constructed at 400mm above existing site levels.
REASON: In order to ensure that the building remains flood free.
- 06) The development shall not be occupied until the area indicated for the parking of vehicles has been laid out in accordance with the submitted plans and that area shall not thereafter be used for any purpose other than the parking of vehicles.
REASON: In the interests of highway safety.
- 07) Prior to occupation of the building hereby approved, a flood action plan shall be submitted to and agreed in writing with the Local Planning Authority. The occupation of the building shall thereafter be carried out in accordance with the agreed plan.
REASON: To ensure the correct action is taken in the event of an extreme flood.

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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 and CW3.

Please find attached comments from Dwr Cymru/Welsh Water and National Grid.

