

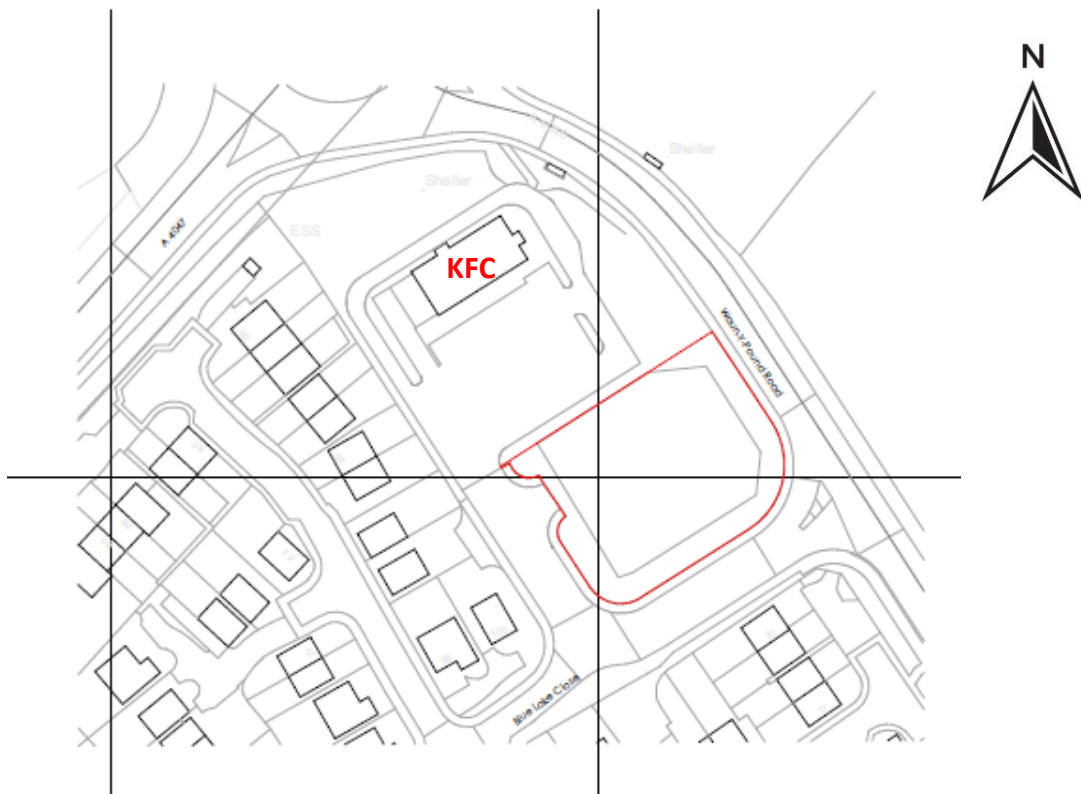
BLAENAU GWENT COUNTY BOROUGH COUNCIL	
Report to	The Chair and Members of Planning, Regulatory and General Licensing
Report Subject	Planning Applications Report
Report Author	Team Manager Development Management
Report Date	29th January 2024
Directorate	Regeneration & Community Services
Date of meeting	8th February 2024

Report Information Summary

1. Purpose of Report	
To present planning applications for consideration and determination by Members of the Planning Committee.	
2. Scope of the Report	
Application No.	Address
C/2023/0232	LAND ADJACENT TO KFC, WAUN-Y-POUND ROAD, EBBW VALE, NP23 6LE
3. Recommendation/s for Consideration	
Please refer to individual reports	

Planning Report

Application No: C/2023/0232	App Type: Full
Applicant: Mr James Marshall Commercial Development Projects Ltd Huddersfield Rd Elland HX5 9BW	Agent: Mr Matthew Gray Montagu Evans LLP 70 St Mary Axe London EC3A 8BE
Site Address: Land adjacent to KFC, Waun-Y-Pound Road, Ebbw Vale, NP23 6LE	
Development: Erection of a drive thru bakery/coffee shop (Class A1/A3 use) and associated development	
Case Officer:	Sophie Godfrey



1.0 Background, Development and Site Context

- 1.1 This application seeks full planning permission for the erection of a drive thru bakery/coffee shop (Use Class A1/A3) and other associated development at land adjacent to KFC, Waun-y-Pound Road, Ebbw Vale. The submitted plans indicate the occupier would be Costa.
- 1.2 This application was presented to January 2024 Planning Committee. However the agent raised concerns regarding the description of development he had provided with the application. The agent on reflection was of the opinion 'drive thru bakery' did not accurately describe the proposed use by Costa. Whilst this concern is not shared by officers (who are content that the description covered the intended works) the application was deferred. It has been agreed that the description be amended to include 'coffee shop'. As the use class would remain unchanged, and the description would remain materially the same (with the insertion) it was not considered necessary for the application to be withdrawn and resubmitted or for statutory consultees to be re-consulted. However, in the interest of clarity and transparency, the application was re-advertised with the amended description and neighbouring properties were re-consulted. The result of this publicity exercise is detailed further in this report.
- 1.3 At present the site consists of an unused parcel of grassland. KFC drive thru is located to the north, Waun-y-Pound Road to the east, and residential development known as Blue Lake to the south and west. The site is broadly rectangle in shape and measures approximately 0.2ha. The topography of the site is a gentle slope from north-west to south-east. The site is within the settlement of Ebbw Vale, with Ebbw Vale Town Centre approximately 1.42km to the south east. The application site is allocated in the adopted Local Development Plan (LDP) under Policy MU1 for mixed use development as part of the Ebbw Vale Northern Corridor.



Figure 1.1 Existing Site

1.4

The proposal would include the erection of a drive thru bakery/coffee shop, with access gained off Waun-y-Pound Road to the east of the site and then via an internal road to the west. The drive thru would wrap around a southerly positioned building within the application site. The main customer/pedestrian entrance would be located to the north of the building, with a drive thru service window would be located to the south of the site.

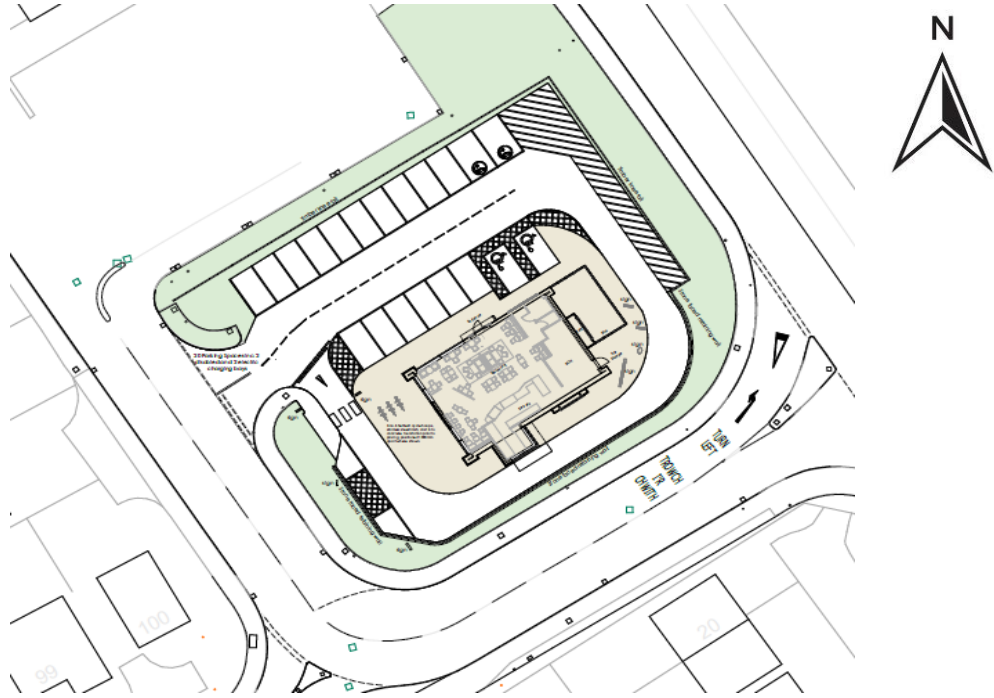


Figure 1.2 Proposed Site Plan

1.5 The building would be typical of a 'Costa' building; finished in red and white thru coloured render with feature vertical red cedar timber cladding. All elevations would include the company logo, with a logo sign to the roof (which will require separate Advertisement Consent).



Figure 1.3 Proposed Elevations

- 1.6 The internal layout would comprise of a back of house/kitchen area, servery and dining area to enable customers to consume food and drink on the property. 20no. parking spaces would be provided to the north of the site, in addition to 3no. bicycle stands. There is a 2m high timber fence proposed to the eastern elevation that will enclose a bin store. A 0.7m high stone faced retaining wall is proposed to the south/south east of the site.
- 1.7 This application is being presented to committee due to the potential impact the proposal may have on businesses in the Ebbw Vale Town Centre. As such, the proposal is considered to be of wider public interest.
- 1.8 It should be noted that there is extant permission on this site for a similar drive thru bakery (Greggs) in use class A1/A3 that was approved at Committee in February 2023.

2.0 Site History

2.1	C/2022/0250	Erection of a drive thru bakery (Class A1/A3 use) and associated development	Approved (09/02/2023)
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3.0 Consultation and Other Relevant Information

3.1 Internal BG Responses

3.2 Service Manager Infrastructure: Highways:

3.3 Highway observations: The submitted planning application complies with the Council's 'Access, Car Parking and Design SPG', and Policy DM 1 (3 a, b, c & d). There are no objections.

3.4 Drainage:
No objections in principle providing it meets all the requirements of the SAB. This development will have to obtain SAB Approval before commencing work on this site.

3.5 Landscape:
No objections.

3.6 Ecology:
No objections.

3.7 Service Manager Public Protection

3.8 The Noise assessment concludes that the noise levels from the site will be of low impact. However, the following conditions should be added:

- Plant Noise – 0dBA Above Background
- Delivery Times
- Fume Extraction
- Floodlighting

3.9 **External Consultation Responses**

3.10 Welsh Water:

No objection subject to standard informatives and condition regarding the installation of an adequate grease trap.

3.11 Western Power:

Identified Assets in the vicinity.

3.12 W&W Utilities:

Identified Assets in the vicinity.

3.13 Coal Authority:

No objection subject to conditions requiring an intrusive site investigation, associated remedial works where necessary and verification that such works have been carried out.

3.14 **Public Consultation:**

- 22 letters to nearby houses
- 2 site notice(s)
- website public register of applications
- ward members by letter
- all members via weekly list of applications received

3.15 Response:

3.16 2 letters have been received from neighbouring properties raising the following concerns:

- Impact on highway safety due to increased traffic movements around the site and into the access road for the housing estate at Blue Lake Close. Traffic is already bad due to KFC and this is before the Persimmon development has finished.
- Vehicles speed on the highway which causes a serious concern for safety, particularly pedestrian safety with this being a popular walking

route. The new drive thru bakery will cause an increase in the number of cars parking on and next to the pavements around the entrance to Blue Lake Close.

- Concerns if the car park will be big enough to accommodate the volume of cars/people the proposal will attract.
- Loss of privacy to residents of Blue Lake Close.
- Negative Impact on value of nearby houses.
- Increase in noise pollution.
- The proposal will encourage unhealthy eating when obesity is already a problem.
- Increase in number of rats in the area.
- There is a significant amount of rubbish, already coming from KFC. The proposal will only make this worse.
- When surrounding residents purchased their homes, they were advised that KFC would be moving; this did not happen.
- Questions as to whether the proposal supports government policy such as “A Healthier Wales” strategy. Another unhealthy drive thru would add to the already serious health crisis in Wales and put even more pressure on our NHS.
- The development directly goes against the Net Zero Wales policy which states that we should strive for a ‘greener, stronger, fairer Wales’. It goes completely against this policy to build a development that will in no way benefit the environment, and will only cause more parking and traffic congestion. When Blue Lake Close was built, it was built with the environment in mind and there are many green areas where trees and plants have been planted. This has done wonders for the environment and there is often wildlife occupying the large green spaces. The noise and pollution of this new drive thru is only going to prove detrimental to wildlife and the environment.

4.0 Planning Policy

- 4.1 Planning Policy accept that the use is a leisure use which is different in operation and usage to a convenience store in the town centre. The use will primarily attract passing vehicles on the highway network.
- 4.2 The Council’s Retail and Leisure Study identifies capacity for additional leisure spend on a year by year basis up to 2.9% on the basis of a growth in expenditure. The study also identifies a shortfall of existing food and drink facilities within the County Borough.

4.3 In February 2023, planning permission was granted on primarily the same site (slight difference in the boundary at the north eastern corner) for the same use A1/A3. Therefore planning policy consider that the principle of development has been established at the site through this permission and there are therefore no planning policy objections in principle. The original application (C/2022/0250) contained an assessment in relation to out of town retail/leisure development and planning policy accepted the findings. Given that nothing substantial has changed since the original planning application, planning policy raise no concerns.

4.4 LDP Policies:

SP1 – Northern Strategy Area – Sustainable Growth and Regeneration

SP3 – The Retail Hierachy and Vitality and Viability of the Town Centre

SB1 – Settlement Boundaries

DM1 – New Development

DM2 – Design and Placemaking

DM3 – Infrastructure Provision

MU1 – Ebbw Vale Northern Corridor

R1 – Retail Allocation

4.5 Supplementary Planning Guidance

Access, Car Parking and Design (March 2014) Supplementary Planning Guidance

4.6 PPW & TANs:

Future Wales 2040

Planning Policy Wales 11: section 4.3 (February 2021)

Technical Advice Note 4: Retail and Commercial Development (November 2016)

4.7 Under the provisions of the 2015 Planning (Wales) Act, any development plan adopted prior to 4 January 2016 will remain the LDP for determining planning applications until replaced by a further LDP. Therefore, the Blaenau Gwent County Borough Council Local Development Plan up to 2021, which was adopted on November 2012, remains the extant statutory development plan for the area beyond the specified 2021 plan period.

5.0 Planning Assessment

5.1 Principle of Development

5.2 The Blaenau Gwent Local Development Plan (LDP) indicates that the proposed site lies within the settlement boundary (Policy SB1) within which

development is generally permitted subject to policies in the Plan and other material considerations. The application site is allocated for mixed use development as part of the MU1 Ebbw Vale Northern Corridor allocation. There are no known constraints as per the Constraints Map.

- 5.3 Strategic Policy SP1 requires proposals within the 'Northern Strategy Area' to deliver sustainable growth and regeneration. This will be achieved by: Supporting the creation of a network of sustainable hubs around the principal hub of Ebbw Vale (criterion a);
- Promoting Ebbw Vale as the principal hub for Blaenau Gwent, where majority of social and economic growth will be accommodated including major retail expansion...(criterion b); and
 - Deliver strategic sustainable regeneration flagship schemes at The Works and Ebbw Vale Northern Corridor (criterion c).
- 5.4 The application site is allocated for mixed use development. Policy MU1 identifies the Ebbw Vale Northern Corridor for the construction of 805 homes, a commercial leisure hub, road side services, employment, a strategic mixed use employment and a network of green links. An indicative concept plan accompanies the policy and identifies the application site as white land i.e. no specific land use has been identified for the site.

Out of Centre Retail Development

- 5.5 Future Wales - the National Plan 2040 was published on the 24th February 2021, and therefore is relevant to this application as it now forms part of the Development Plan. Welsh Government has adopted a town centre first approach and requires that significant new commercial, retail, education, leisure and public service facilities must be located within town centres. They should have good access by public transport to and from the whole town and, where appropriate the wider region. A sequential approach must be used to inform the identification of the best location for these developments.
- 5.6 This is further supported by Planning Policy Wales (PPW) 11 para 4.3.2 which identifies that that retail and commercial centres should be identified in development plans and include established city, town, district, local, village and neighbourhood centres.
- 5.7 The LDP does not contain a development management policy that deals specifically with out of centre retail developments, but instead, relies on the requirements set out in national planning policy. PPW and TAN 4 sets out the tests that need to be applied when determining a retail application:

5.8 Quantitative Need

It is important that communities have access to adequate levels of retail provision. Evidence should demonstrate whether retail provision is adequate or not, by assessing if there is further expenditure capacity in a catchment area (quantitative need) or if there is a lack of retail quality, range of goods or accessibility (qualitative need). PPW is clear that precedence should be given to quantitative need for the proposed development (paragraph 4.3.15).

5.9 As part of the evidence base for the preparation of the replacement LDP (RLDP) the Council commissioned a 'Blaenau Gwent Retail and Leisure Study' (the 'Retail Study' or the 'Study'). The Retail Study was finalised in August 2021 and provides the best available information. Whilst the Study does not form part of the adopted LDP its should be considered as a material planning consideration. The Study concludes that there is no quantitative retail need for additional food (convenience) and non-food (comparison) retail floor space in the Borough during the plan period 2018-2033, even before an allowance is made for committed retail developments.

5.10 However, the proposal is for a mixed use (A1/A3) which incorporates both an A1 use (bakery) and an A3 use (café/coffee shop). An A3 use is defined as being the sale of food and drinks for consumption on the premises. Inherently, cafes have become places to socialise and as such, the study identifies A3 uses as a leisure use.

5.11 Given the nature of the development, it is considered that the proposal would be classified as a leisure use, rather than solely retail.

5.12 The Study identifies capacity for additional leisure spend on a year by year basis up to 2.9% on the basis of a growth in expenditure. The study also identifies a shortfall of existing food and drink facilities within the County Borough. The proposed development will therefore positively contribute to meeting this shortfall. It is therefore considered the applicant has demonstrated the quantitative need of the development.

5.13 Qualitative Need

5.14 Qualitative need identifies if there is a lack of retail quality, range of goods or accessibility.

5.15 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 (Technical Advice Note 4, paragraph 6.6). PPW sets out a number of criteria which should

be considered as part of a qualitative assessment and TAN 4 indicates that a combination of these criteria will need to be met in order to justify new retail development:

- support the objectives and retail strategy of an adopted development plan or the policies in this guidance.
- are highly accessible by walking, cycling or public transport and/or contributes to a substantial reduction in, or alleviation of, car journeys, traffic congestion or over-trading.
- contribute to the co-location of facilities in retail and commercial centres identified in the retail hierarchy; and/or significantly contributes to the vibrancy, attractiveness and viability of such a centre.
- address locally defined deficiencies and alleviates a lack of convenience provision in a disadvantaged area.

5.16 It is not considered that the above points can be applied to the proposed development as the site is in an out of centre location and proposes a drive thru which is therefore car dependent.

5.17 However, TAN 4 recognises that regeneration and additional employment benefits may be a material consideration in making a decision on a planning application such as this. This has been raised as a consideration in the submitted, with confirmation that the development will create around 20 jobs.

5.18 The Sequential Test

5.19 PPW 11 (February 2021) outlines 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. 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.

- 5.20 It is noted that a sequential test was completed for both Ebbw Vale and Tredegar Town Centres and submitted under the previous application (C/2022/0250) and has been included within the Planning Statement submitted for this application. The Test concluded that there were no available sites that would offer the floor space required for the development, therefore there were no suitable, available and viable alternatives to the Site. Planning Policy agreed with the findings in respect of the existing development opportunities in Tredegar Town Centre and Ebbw Vale, and confirm that as nothing substantial has changed since the original planning application, and the proposals are very similar, they agree with that the assessments are still applicable to the current application and have no objections.
- 5.21 Retail Impact Assessment
- 5.22 The national requirement for impact assessments to be undertaken for proposed retail uses as set by PPW is 2,500 sq. m. The proposed leisure use sits at just 6.6% of the threshold. With the previous extant permission at the site, the applicant submitted a Retail Impact Assessment which concluded that any impact from the proposal would be limited to bakeries, predominantly the existing Greggs located in the town centres of Ebbw Vale and Tredegar. The assessment concluded that the proposal would operate in addition to existing stores without a detrimental impact upon the existing stores in Ebbw Vale and Tredegar which would remain open.
- 5.23 Whereas such Assessment has not been provided with this application, the submitted Planning Statement states that the current proposal would not have a materially different impact to the extant permission on the site. I agree that as the main trade of the proposed unit would be passing motorists, the impact on the existing shops is considered to be minimal and coherent with the impact from the extant permission on the site. Planning Policy have confirmed they are satisfied with this conclusion.
- 5.24 Having considered all of the above, Planning Policy have confirmed they have no objection in terms of land use. I concur with this view and consider that the proposal in land use terms is acceptable and compliant with local and national planning policy and will not result in an unacceptable detrimental impact on Ebbw Vale or Tredegar town centres.
- 5.25 Layout, Scale, Design
- In terms of layout and scale, the proposal is considered to be of a suitable scale, with adequate space to allow for planting and landscaping. The building is positioned towards the south/south east of the site, set in from the western boundary away from the residential dwellings at Blue Lake Close which is welcomed.

- 5.26 In terms of design, the proposal is typical of a drive thru restaurant, finished in red and white thru coloured render with feature vertical red cedar timber cladding. All elevations would include the company logo, with signage to the roof (all of which will require separate Advertisement Consent). There is a planting/hedgerow scheme proposed around all boundaries of the site.
- 5.27 There is a retaining wall proposed to the south east and south west boundaries. However as it would be limited in height at 0.7m, finished with a stone face, and as there is landscaping proposed to the front of the wall, it is considered acceptable in terms of visual amenity. There is also a 2m high timber fence proposed to the eastern elevation that would enclose a bin store. Given the presence of the existing KFC drive thru to the north of the site, and as there is landscaping proposed to all boundaries of the site, it is considered the proposal is acceptable in terms of layout, scale and design and would not have a detrimental impact upon the visual amenity of the surrounding area and wider landscape.

Amenity

- 5.28 The nearest residential dwellings would be located approximately 21 metres away to the south and west of the site. It is noted that concerns have been raised regarding the loss of privacy to neighbouring residents, however given the separation distance and as the proposal would be single storey in height, it is not considered that there would be a loss of privacy, loss of light or overbearing impact on any neighbouring residential property.
- 5.29 It is acknowledged that eating establishments have the potential for smells and noise which can impact on neighbouring properties. However, a Noise Impact Assessment has been submitted with the application which concludes that noise from the site will be of a low impact. The Council's Environmental Health Officer has confirmed he has no objections subject to conditions including a condition that restricts noise levels. I am therefore satisfied that the imposition of such conditions will ensure noise levels can be adequately controlled.
- 5.30 The Application Form submitted with this application states the site would operate between the between the hours of 07:00 to 22:00. The Council's Environmental Health Officer has confirmed they have no objections subject to a condition restricting delivery times between the hours of 07:00 to 22:00. In order to protect neighbouring amenity, it is considered a condition should also restrict customer opening times between these hours. Subject to conditions restricting the opening times, the proposal is considered acceptable.

- 5.31 No details have been provided in regards to extraction equipment from the food preparation areas. To ensure there is not a detrimental impact in terms of smell pollution, the Environmental Health Officer has requested a condition requiring details of fume extraction together with a condition for details of a lighting scheme to ensure no light pollution would be experienced by nearby residential properties. These conditions are considered to be necessary to protect amenity of neighbouring properties.
- 5.32 Concerns from residents regarding increased levels of rubbish and rodents in the area are noted. The Council's Environmental Health Section has appropriate powers to deal with noise, pest and odour nuisance complaints. Nevertheless, although the proposed site plan allocates an area for bin storage, no specific details have been provided regarding bins to be used by customers, therefore a condition requiring adequate waste facilities to be provided on site can be imposed.
- 5.33 Air Quality
It is noted concerns have been raised by neighbouring properties in regards to the impact on the environment from increased traffic movements and congestion at the site. An Air Quality Assessment has been submitted in support of the application. The report states that the impact on air quality at existing receptor locations will be negligible and the pollutant concentrations will remain below the appropriate air quality standards. The Council's Environmental Health Officer has reviewed the information and confirms he has no objections in terms of impact on air quality.
- 5.34 Highways
Access to the site would utilise the existing access that is used by the residential development at Blue Lake Close and the existing KFC unit. The drive thru would wrap around the building, with 20no. parking spaces provided to the north of the site, in addition to 3no bicycle stands.
- 5.34 The submitted Transport Assessment has been completed by an independent consultant which has concluded that:
- A swept-path analysis has been undertaken for a 10m rigid vehicle which demonstrates that the required delivery vehicles will be able to safely manoeuvre within the proposed development site.
 - The highway accident data has been reviewed for the most recently available three-year road safety record for the area surrounding the site. The data does not demonstrate any pre-existing patterns or trends of incidents that could be affected by the development proposals.

- The accessibility of the site for non-car modes of travel has been assessed. It is considered that the site is located to allow for some journeys by sustainable modes for both customers and staff.
- The trip generation assessment shows that the proposed drive-thru coffee shop unit would generate a maximum of 81 trips during the peak-hour periods. However, as the proposed development is located to draw a large proportion of trade from passing vehicle traffic on the surrounding highway network, the proposals are likely to generate a relatively low level of 'new' or 'primary' vehicular trips.

5.35 The Council's Highways Manager has confirmed that the planning application complies with the Council's 'Access, Car Parking and Design SPG', and Policy DM 1 (3 a, b, c & d). There are no objections subject to conditions requiring the parking and servicing areas and cycle stands to be fully constructed prior to development becoming operational.

5.36 I appreciate the concerns raised by local residents with regards to the impact on highway and pedestrian safety through increased traffic visiting and parking at and around the application site. However as outlined above, the Council's Highways Manager has confirmed there no objections to the proposal and it is in accordance with the relevant LDP policies and SPG. There is sufficient parking proposed at the site and as the drive thru wraps around the building within the site, it is not considered it would result in increased congestion on the access road and junction leading off Waun-y-Pound Road. The submitted Transport Assessment further states that it is likely a large number of customers would be passing trade so the proposals are likely to generate a relatively low level of 'new' or 'primary' vehicular trips.

5.37 Having taken the above into consideration, subject to conditions suggested by the Highways Manager, I am satisfied that the access, parking and servicing provisions, are acceptable and the development complies with LDP Policy DM 1 (3 a, b, c, d & e).

Drainage

5.38 Since 7th January 2019 any development proposals that have a hard surface area exceeding 100m² require separate SAB approval to deal with surface water drainage. This development exceeds that threshold and accordingly will require approval of Sustainable Drainage Systems (SuDS). The Council's Drainage Manager has confirmed he has no objections in principle to this application providing it meets all the requirements of the SAB. An informative note will be added to ensure the developer is aware of their responsibility to obtain the necessary SAB consents to deal with surface water drainage.

Ground Conditions

- 5.39 The site is located within a development high risk area as defined by the Coal Authority and as such a Coal Mining Risk Assessment has been submitted. The Coal Authority has been consulted on the application and confirmed they have no objections to the proposal subject to conditions requiring the intrusive site investigation and verification report being submitted.

Landscape & Ecology

- 5.40 The applicant has submitted a detailed soft landscape plan and Landscape Design Statement, Specification & Management Plan with the application. The Council's Landscape Officer has confirmed the proposal includes native species hedgerow planting to screen visually unsympathetic elements (car parking, storage areas etc.). The detailed specification for proposed landscaping and aftercare programme is acceptable, and they have no objections.
- 5.41 It is noted that comments have been received in regards to the impact the proposal would have on green spaces and wildlife. In line with WG guidance and for compliance with PPW 11, the Environment (Wales) Act 2016 and LDP policies DM1, SP10 and SP14 each application for planning permission must now propose ecological and biodiversity mitigation and enhancement. The Council's Ecologist was consulted on the application and confirmed whilst in principle they have no objection to the development biodiversity enhancements should be implemented on site to provide net gain. An appropriately worded condition will ensure this is achieved.
- 5.42 In accordance with Chapter 6 of PPW 11 due regard has been given to the fact that the application should be accompanied by a Green Infrastructure Statement, however given the scale of the development proposed it is not considered proportionate to request one in this instance. The proposed landscaping scheme is considered sufficient and has demonstrated that green infrastructure has been given due regard. It is also noted that Green Infrastructure will also be considered as part of any future SAB application.
- 5.43 Other matters:
Other concerns raised such as impact on unhealthy eating, the negative impact on value and saleability of nearby houses and the proposals compliance with other policy/legislation that is outside of the remit of planning applications are not material planning considerations.
- 5.44 In conclusion, whilst the development is out-of-centre it is considered to be a leisure use and would not have a detrimental impact upon the town centres of Ebbw Vale or Tredegar. Inherently, as a drive thru it will attract vehicular traffic.

However, it has been demonstrated that a large proportion of trade will be from passing vehicular traffic on the surrounding highway network rather than 'new' or 'primary' vehicular trips. It is also worth noting that the 'eat in' restaurant element would serve the recently constructed residential developments at both Blue Lake Close and Carn-y-Cefn (old college site), both of which are within walking distance to the site.

- 5.45 On balance it is considered that the erection of a drive thru bakery/coffee shop (Use Class A1/A3) and other associated development is considered to be acceptable in compliance with LDP Policies SP1, SP3, SB1, DM1, DM2, DM3, MU1 and R1 and the adopted SPGs. I therefore recommend approval accordingly.
- 5.46 It should be noted that neighbours were reconsulted/the application was readvertised on 15th January 2024. As such, the 21 day consultation period does not end until 5th February 2024. As such, my recommendation is based on no further representations being received between now and the 5th February 2024. If however further correspondence is received after the time of writing it will be reported verbally to Planning Committee.

6.0 Legislative Obligations

- 6.1 The Council is required to decide planning applications in accord with the Local Development Plan unless material considerations indicate otherwise. The planning function must also be exercised in accordance with the principles of sustainable development as set out in the Well-Being of Future Generations (Wales) Act 2015 to ensure that the development and use of land contributes to improving the economic, social, environmental and cultural well-being of Wales.
- 6.2 The Council also has obligations under other legislation including (but not limited to) the Crime and Disorder Act, Equality Act and Human Rights Act. In presenting this report, I have had regard to relevant legislation and sought to present a balanced and reasoned recommendation.

7.0 Conclusion and Recommendation

- 7.1 Planning permission be **GRANTED** subject to the following condition(s):

1. The development shall begin not later than five years from the date of this decision notice.

Reason: To comply with the requirements of Section 91 of The Town and Country Planning Act 1990.

2. The development shall be completed in full accordance with the following approved plans and documents:

- Location Plan, Drawing No. 00_01, dated 03/2022;
- Proposed Site Plan, Drawing No. 00_01D, recorded received 14/11/2023;
- Proposed Elevations, Drawing No. 02_02 dated June 2023;
- Proposed Site Sections, Drawing No. 04_02, dated June 2023;
- Proposed External Works, Drawing No. 1506/46/05 Rev A, dated 25.07.22;
- Detailed Soft Landscape Proposals, Drawing No. TDA.2901.01, dated September 2023;
- Landscape Design Statement, Specification & Management Plan, by TDA, dated September 2023;
- Air Quality Impact Assessment, by Dragonfly Consulting, Report Number DC4078-AR1v2, dated 02.09.2023;
- Noise Impact Assessment, by Acoustic Consultants Ltd, Reference 9758/SF, dated 26/09/2023;
- Transport Statement 2 by Dynamic Transport Planning, Report Number 3705822-TS, dated September 2023;
- Coal Mining Risk Assessment, by ARP Geotechnical Ltd, reference CDP/27/JRjcl1, dated 26 August 2022;
- Foul and Surface Water Drainage Strategy, by ARP Associates, reference 1506/46r1c, dated October 2023

Reason: To clearly define the scope of this permission.

3. Notwithstanding the details on the approved plans, the surface water drainage proposals are not approved.

Reason: To clearly define the scope of this permission.

4. No development shall commence until;
 - a scheme of intrusive site investigations must be carried out on site to establish the risks posed to the development by past coal mining activity, and;
 - any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance

Reason: Coal mining legacy on the site poses a potential risk to the proposed development. Further investigations are required, along with remedial measures, in order to ensure the safety and stability of the proposed development in accordance with the relevant criteria under LDP Policy DM1.

5. Prior to the development being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: Coal mining legacy on the site poses a potential risk to the proposed development. Further investigations are required, along with remedial measures, in order to ensure the safety and stability of the proposed development in accordance with the relevant criteria under LDP Policy DM1.

6. Any unforeseen ground contamination encountered during development, to include demolition, shall be notified to the Local Planning Authority as soon as is practicable. Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, an appropriate ground investigation and/or remediation strategy shall be submitted to

and approved in writing by the Local Planning Authority, and the approved strategy shall be implemented in full prior to further works on site. Following remediation and prior to the occupation of any building, a Completion/Verification Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed in accordance with the relevant criteria under LDP Policy DM1.

7. The rating level of the noise emitted from (Fixed Plant and equipment (mechanical and electrical)) located at the site shall not exceed the existing background level at any premises used for residential purposes when measured and corrected in accordance with BS 4142: 2019.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected in accordance with the relevant criteria under LDP Policy DM1.

8. Fumes from the food preparation areas shall be mechanically extracted and the extraction system shall be provided with de-greasing and de-odorising filters. Details of the extraction equipment (including scaled schematics, location plans, odour attenuation measures and future maintenance) shall be submitted to and approved in writing by the Local Planning Authority prior to its installation, and the equipment shall be installed in accordance with the approved details prior to the commencement of use for the cooking of food. The equipment shall thereafter be maintained in accordance with the approved details

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected and in the interests of visual amenities in accordance with the relevant criteria under LDP Policy DM1.

9. Should the approved use have a kitchen and / or food preparation area then the use shall not commence until an adequate grease trap has been fitted in accordance with details that have been submitted to and approved in writing by the local planning authority. Thereafter the grease

trap shall be maintained so as to prevent grease entering the public sewerage system.

Reason: To protect the integrity of the public sewage system and ensure the free flow of sewage in accordance with the relevant criteria under LDP Policy DM1.

10. Prior to the installation of the floodlighting scheme, full details shall be submitted to and approved in writing by the Local Planning Authority to provide that:

- Light into neighbouring residential windows generated from the floodlights shall not exceed 10 Ev (lux) (vertical illuminance in lux).
- Each floodlight must be aligned to ensure that the upper limit of the main beam does not exceed 70 degrees from its downward vertical.
- The floodlighting shall be designed and operated to have full horizontal cut-off and such that the Upward Waste Light Ratio does not exceed 5%.
- The submitted scheme shall include an isolux diagram showing the predicted illuminance in the vertical plane (in lux) at critical locations on the boundary of the site and at adjacent properties.

The approved scheme shall be implemented prior to first use of the lighting and be permanently maintained in that state thereafter.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected in accordance with the relevant criteria under LDP Policy DM1.

11. There shall be no arrival, departure, loading or unloading of vehicles between the hours of 22:00 and 07:00 on any day.

Reason: To clearly define the scope of the permission and in the interests of amenity in accordance with the relevant criteria under LDP Policy DM1.

12. The property shall not be open to customers outside the following times: 07:00 to 22:00 Mondays to Sundays inclusive. No customers shall

be allowed to enter or remain on the premises and no orders taken for food served outside the specified hours.

Reason: To clearly define the scope of the permission and in the interests of amenity in accordance with the relevant criteria under LDP Policy DM1.

13. The car parking and servicing areas as indicated on the approved plans shall be fully constructed in accordance with the approved details prior to the facility becoming operational. These areas shall be retained for their designated purpose in perpetuity.

Reason: To ensure the parking needs of the development are adequately met and to safeguard highway interests in accordance with the relevant criteria under LDP Policy DM1.

14. The cycle stands as indicated on the approved plans shall be fully constructed in accordance with the approved details prior to the facility becoming operational. These areas shall be retained for their designated purpose in perpetuity.

Reason: To ensure that the needs to bicycle parking are adequately met at all times in accordance with the relevant criteria under LDP Policy DM1.

15. The use hereby permitted shall not commence until litter bins have been provided in accordance with a scheme that has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of subsequent management of litter and maintenance of bins. Any bins provided shall be retained and managed thereafter.

Reason: In the interests of amenity and waste management in accordance with the relevant criteria under LDP Policy DM1.

16. Prior to the first beneficial use of the development, details of biodiversity and ecological enhancements (to include location, position and specification) to be provided as part of the development or within the wider curtilage of the site shall be submitted to and approved in writing

by the Local Planning Authority. The mitigation shall be installed within six months of the details being approved and shall be maintained as such thereafter.

Reason: In the interests of the ecological and biodiversity value of the site in accordance with the relevant criteria under LDP Policy DM14.

17. All planting, hedgerows, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following occupation of the building, the completion of the development (whichever is the sooner), or any alternative timescale that may be approved in writing by the Local Planning Authority before works commence on site. Any trees, shrubs or plants which within a period of 5 years from implementation of the planting scheme die, are removed or become seriously damaged or diseased, shall be replaced by one of the same species and size in the next available planting season.

Reason: To ensure timely implementation of an appropriate landscaping scheme in accordance with the relevant criteria under LDP Policies DM1 and DM2.

Informatives:

1. The applicant/developer should note that the development hereby approved also requires SuDS approval before work commence. Further guidance can be found at <https://www.blaenau-gwent.gov.uk/en/resident/planning/how-to-apply-for-planning-permission/permission-for-drainage/>

On such basis any surface water drainage details submitted as part of your application have not been considered. Should it be necessary to amend your development to meet the requirements of the SAB (SuDS Approval Body) you should seek further advice from the Local Planning Authority

2. This permission does not include new shop signage. The applicant is required to apply for the signage under a separate Advertisement Consent application unless they can be installed under permitted development rights contained within The Town and Country Planning (Control of Advertisements) Regulations 1992.

3. The applicant's attention is drawn to the informatives outlined in Dwr Cymru / Welsh Waters response. Their response is attached to this permission for their information.
4. All British birds, their nests and eggs (with certain limited exceptions) are protected under Part 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside Rights of Way Act 2000. This makes it an offence to intentionally or recklessly kill, injure or take any wild bird; damage or destroy the nest of any wild bird whilst it is in use or being built; or take or destroy the egg of any wild bird. To avoid any unlawful act, all works that could affect birds should be carried out between the months of September and February (inclusive).
5. Ground Investigations and groundworks -Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property.
6. Shallow coal seams - In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.

8.0 Risk Implications

8.1 None.