

DB/230084/L0001



24th October 2023

Neath Port Talbot County Borough Council
Planning Department
The Quays
Brunel Way
Baglan Energy Park
Neath
SA11 2GG

Dear Sir/Madam

**On behalf of United UK Real Estate Investment Industrial Holdings Ltd:
Section 73A of the Town and Country Planning Act (1990)
Retrospective change of use of Unit 3 (Zone 3), Kenfig Industrial Estate, SA13 2PE to Class
B8 (storage or distribution)**

On behalf of United UK Real Estate Investment Industrial Holdings Ltd ("the applicant") please find enclosed a retrospective planning application under Section 73A of the Town and County Planning Act (1990) for the above development.

The application is submitted via the Planning Portal (Ref: PP-12539818) and comprises of the following:

- The relevant form duly completed and signed;
- Site Location Plan ref: 230084/P0001; and
- Block Plan ref: 230084/P0001.

The requisite application fee of £460.00 will be settled directly with the Council by the applicant.

Please note that as an application submitted under Section 73A (ie. it is a retrospective application), there is no requirement to undertake a Pre-Application Consultation, as per the Regulations.

The unit and background

The application unit forms part of the wider South Wales Distribution Centre located on Kenfig Industrial Estate. The Industrial Estate extends to approximately 50 hectares and is well located in close proximity to the M4 motorway.

www.mangoplanning.com

Mango Planning & Development Limited
29 Bocam Park, Pencoed, Bridgend. CF35 5LJ
T: 01656 336800 E: contact@mangoplanning.com

South Wales Distribution Centre was created when BorgWarner, an American automotive business began a phased closure of their plant. From available online planning records, it appears that the site benefitted from a mixed Class B2/B8 planning permission. Following the phased closure and subsequent withdrawal from the site it has since been sub-divided to create smaller units to house a variety of employment uses.

Unit 3 is located in the northern corner of the site and extends to 9,008 sq m (GIA) and benefits from an external yard area. Access to the Unit is taken from a shared road that connects to the spine road of the wider employment area to the south.

In 2019, planning permission was secured for the change of use of Unit 3 from Class B8 to Class B2 for use by a battery production company. It is understood that the permission was not implemented.

RocheFreight UK Limited signed an agreement for lease and took occupancy of the unit (September 2023) on the understanding that as the Class B2 permission had not been implemented, the Unit retained its Class B8 use.

At the time the change of use application to B2 was submitted, it is understood that the applicant was of the opinion that a Class B8 use had been established through long use. This was not challenged by the Council at that time. In practical terms, the Unit has been used for Class B8 use for many years, although a documented paper trail has not been in place to confirm it.

In order to remedy the situation, Mango has been liaising with the Council who has suggested that a Certificate of Lawful Use be applied for to confirm the Lawful Use of the Unit as Class B8. Unfortunately, the Unit has been vacant since 2019 and, as such, it is not possible to secure a Certificate for long use where there has been a break in use.

As such, Mango has been instructed to submit a retrospective application under Section 73A to regularise the Class B8 use of the Unit.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 (“PCPA 2004”) requires that when making a determination on a planning application a local planning authority must make that determination in accordance with the development plan, unless material considerations indicate otherwise.

In this case, the Development Plan comprises Future Wales, 2040 and the Neath Port Talbot County Borough Council Local Development Plan (adopted 2016) (“LDP”).

Published on the 28th February 2021, Future Wales comprises the first development plan of its kind within Wales. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.

Future Wales’ spatial strategy is a guiding framework for where large scale change and nationally important developments will be focused over the next 20 years. The strategy blends the existing settlement patterns and the distribution of jobs and homes with a vision of

managing change and future trends for the benefit of everyone in Wales.

The National Plan acknowledged the urgent actions and changes in behaviour that were introduced in response to the COVID-19 pandemic and how they will emerge as permanent features of life. These include using spaces differently, travelling less and spending more time working from home. The National Plan notes that the planning system must respond to these changes and contribute to a sustainable recovery, shaping places around a vision for healthy and resilient places. Planning Policy Wales is the primary source of detail on how the planning system will support reconstruction efforts.

Future Wales divides Wales into four regions. North, Mid Wales, The South-West and The South-East. Page 122 highlights how 'Across South-West Wales there are a range of strategic issues. Many of these issues have national, regional and local dimensions and will be delivered through co-ordinated action at all levels.'

The National Plan identifies 11 outcomes that can be achieved over the next 20 years if the planning system – through Future Wales and other development plans – is focused on the long-term and provides quality development in the right places for the right reasons. These Outcomes are inter-related and inter-dependent, and will improve places and well-being across Wales.

Policy 1 (Where Wales will grow) confirms that the Welsh Government supports sustainable growth in all parts of Wales. South -West Wales is identified as a "Regional Growth Area".

The Local Plan was adopted in 2016 and therefore represents the most recent expression of the Council's strategy for the area for the period up to 2026. The application unit falls within Kenfig Industrial Estate as defined on the proposals map. It is designated as an "Existing Employment Area" under Policy EC2/9.

The Policy confirms that within these designated sites, uses will be restricted in accordance with Policy EC3. Policy EC3 states that the restricted uses are developments that fall within Classes B1, B2 and B8.

National planning policy for Wales is set out in Planning Policy Wales ("PPW") Edition 11 (February 2021) with supporting technical information provided in Technical Advice Notes ("TANs"). TAN 23 provides guidance on economic development.

At the heart of PPW is a presumption in favour of sustainable development. Paragraph 1.18 confirms that legislation secures a presumption in favour of sustainable development in accordance with the development plan unless material considerations indicate otherwise.

Chapter 2 of PPW titled "People and Places" places an emphasis in creating sustainable places and the improvement in the well-being of communities. Employment generation; regeneration; fostering of economic activity and accessibility are relevant factors to placemaking aims.

Chapter 5 of PPW titled "Productive and Enterprising Places" provides specific guidance in relation to employment. It recognises that a Prosperous Wales can be achieved through increased economic activity across all sectors. Further, it acknowledges that there must be a sufficient supply of employment land to meet the needs and requirements of a range of future employment scenarios.

Paragraph 5.4.1 states that: *"The planning system should ensure that the growth of output and employment in Wales as a whole is not constrained by a shortage of land for economic uses"*.

Paragraph 5.4.4 states that: *"Wherever possible, planning authorities should encourage and support developments which generate economic prosperity and regeneration"*.

Planning analysis

Section 38(6) of the Planning and Compulsory Purchase Act 2004 ("PCPA 2004"), requires that when making a determination on a planning application a local planning authority must make that determination in accordance with the development plan, unless material considerations indicate otherwise.

The proposed B8 use is entirely compliant with Policies EC2 and EC3 of the LDP. Moreover, it has brought back into beneficial use a unit which had remained vacant since 2019. Importantly, the use will not have any adverse impact on the overall function of the employment area or neighbouring occupiers.

The proposed B8 use is also compliant with the thrust of Future Wales and PPW in that it will secure inward investment and job creation in the local area and of significance, it will secure a global business in the area, in a time a great economic uncertainty.

On that basis, we are of the opinion that the application proposal satisfies both local and national policy requirements.

Conclusions

The retrospective change of use to Class B8 will secure a well-established global business within the South Wales Distribution Centre, which has created local jobs and brought inward investment at a difficult economic time. As such, in this instance, as a Policy compliant use on an allocated employment area, it is considered that there are material factors which weigh in favour of the proposal.

I trust that the application submission is in order. Once you have had an opportunity to consider the submission, we would welcome an opportunity to meet with you to discuss the proposal. Should you require any further information, please do not hesitate to contact me.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Darren Brown', written in a cursive style.

Darren Brown
Associate

Encs.