

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING & DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **6<sup>TH</sup> NOVEMBER 2013**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **APPEAL BY OM PROJECTS LTD AGAINST THE FAILURE OF FLINTSHIRE COUNTY COUNCIL TO DETERMINE A PLANNING APPLICATION FOR THE ERECTION OF A SINGLE STOREY CONVENIENCE STORE AND ASSOCIATED CAR PARKING FOLLOWING THE DEMOLITION OF THE EXISTING STORAGE BUILDING AT FORMER MORRIS'S GARAGE, WREXHAM ROAD, MOLD, FLINTSHIRE, CH7 1HS.**

**1.00 APPLICATION NUMBER**

1.01 050252

**2.00 APPLICANT**

2.01 OM PROJECTS LTD

**3.00 SITE**

3.01 FORMER MORRIS'S GARAGE, WREXHAM ROAD, MOLD, FLINTSHIRE, CH7 1HS.

**4.00 APPLICATION VALID DATE**

4.01 2<sup>ND</sup> NOVEMBER 2012

**5.00 PURPOSE OF REPORT**

5.01 To inform Members of the Inspectors decision in relation to an appeal into the failure of the Local Planning Authority to determine an application for planning permission for the proposed erection of a single storey convenience store, car parking and demolition of the existing building at the former Morris's garage site, Wrexham Road, Mold. The appeal was held by way of an informal hearing held on the 31<sup>st</sup> July 2013 and was ALLOWED.

## **6.00 REPORT**

### **6.01 The Main Issue**

The Inspector considered there to be a single main issue for examination in the consideration of this appeal. He considered that issue to be the effect of the proposal upon the residential amenity of nearby residents, particularly in relation to noise and disturbance.

### **6.02 Background matters**

The Inspector noted that whilst the appeal had been made upon the basis of non-determination of the application, Council's Planning Committee had actually considered the proposals on 2 separate occasions. He noted that the second consideration arose following consideration by the Council's Licensing Sub-Committee of an application to permit the sale of alcohol. He concurred with the advice of the Head of Planning that control over the sale of alcohol was not a planning matter and considered conditional control to that effect through the planning process would be inappropriate.

6.03 He noted that there was no issue between either the Council or the applicant in relation to the principle of the proposals but that a difference of view existed in respect of the appropriate opening hours of the store. He also noted that this difference was based largely upon concerns that the hours sought by the applicant would give rise to adverse impacts upon the residential amenities of existing nearby residents.

6.04 He had regard to the difference of hours considered acceptable by Members of the Planning and Development Control Committee and those considered acceptable by Members of the Licensing Sub-Committee relating to the sale of alcohol. Whilst he agreed that the decision of the Licensing Sub-Committee was not binding upon the Planning and Development Control Committee, it was nonetheless, a material consideration in the appeal.

### **6.05 Impact upon residential amenity**

The Inspector heard from the local member and residents in respect of concerns relating to anti social behaviour and disturbance arising from late opening hours and associated alcohol sales. Whilst the Inspector acknowledged the concerns, He did not consider there to be any evidence to support this claim. He also considered that insufficient evidence was available to substantiate the stance of the Planning and Development Control Committee in relation to the opening hours it deemed acceptable and furthermore concluded that such hours would indeed render the scheme unviable.

6.06 He concluded that the hours sought by the appellant struck a reasonable balance between store viability and amenity.

6.07 Other Matters

The Inspector noted views expressed that the area did not need further development of this form. However, he noted that it was not the role of the planning system to seek to restrict economic competition between retailers.

6.08 He also had regard to a Unilateral Undertaking submitted by the appellant relating to the costs associated with a Traffic Regulation Order and associated parking restriction road markings. He considered that the Undertaking was necessary to make the proposals acceptable in planning terms and so accepted its submission.

7.00 CONCLUSION

7.01 The Inspector concluded that notwithstanding the representations made, that the proposals were acceptable in principle and would not give rise to unacceptable impacts upon the living conditions of neighbours.

7.02 Consequently, and for the reasons given above, the Inspector considered the appeal should be ALLOWED and the deemed application for permission GRANTED subject to the S.106 Agreement and conditions.

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