

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **23<sup>RD</sup> MARCH 2016**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **CHANGE OF USE TO 16NO. APARTMENTS WITH ASSOCIATED CAR PARKING AT GROUND FLOOR LEVEL AT 1-3 PIERCE STREET, QUEENSFERRY**

**APPLICATION NUMBER:** **054668**

**APPLICANT:** **VIVIO DEVELOPMENTS LTD**

**SITE:** **EXECUTVE HOUSE, 1-3 PIERCE STREET, QUEENSFERRY, FLINTSHIRE**

**APPLICATION VALID DATE:** **15<sup>TH</sup> DECEMBER 2015**

**LOCAL MEMBERS:** **COUNCILLOR D. E. WISINGER**

**TOWN/COMMUNITY COUNCIL:** **QUEENSFERRY COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **SCALE OF THE PROPOSALS AND THE NATURE OF S.106 REQUIREMENTS LIE OUTSIDE THE SCOPE OF POWERS DELEGATED TO THE CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SITE VISIT:** **NO**

**1.00 SUMMARY**

1.01 This application seeks planning permission for the change of use of this existing vacant commercial premises to form 16No. residential apartments. The proposals also include the provision of ground level parking.

**2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-**

2.01 That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation or Unilateral Undertaking, or making advance payment of to secure the following :-

- a. Ensure the payment of a contribution of £11,728 in lieu of on site recreation provision, the sum to be used to enhance the children's play area at Deeside Leisure Centre. The contribution shall be paid upon 50% occupation or sale of the apartments hereby approved.
- b. Ensure the payment of a contribution of £3,000 towards the cost of amending existing Traffic Regulation Order to amended existing street parking bays and provide 'H markings' across the site access. Such sum to be paid prior to the commencement of the development hereby approved.

## 2.02 Conditions

1. 5 year time limit
2. In accordance with approved plans
3. Approval of all external materials prior to first use.
4. Provision of parking facilities prior to first occupation of units.
5. Surplus footways to be reinstated in accord with scheme to be submitted and agreed.
6. Construction traffic management scheme to be agreed. To include facility for wheel wash and measures to keep road free from debris and mud arising from development site.
7. Full Travel Plan to be submitted and agreed within 3 months of the date of permission
8. Scheme for hours of working to be agreed.
9. Windows shown coloured red upon Drawing No. L(91)001 Rev.P4 to be permanently obscure glazed in and permanently non opening in accordance with details to be submitted and agreed prior to the commencement of any development.

2.03 If the Obligation pursuant to Section 106 of the Town & Country Planning Act 1990 is not completed within six months of the date of the committee resolution, the Chief Officer (Planning & Environment) be given delegated authority to REFUSE the application.

## 3.00 **CONSULTATIONS**

3.01 Local Member  
Councillor D. E. Wisinger  
 No response at time of writing.

Queensferry Community Council  
 No response at time of writing.

Highways Manager (DC)  
 No objection subject to the imposition of conditions and the applicant entering into a S.106 agreement in relation to the need for a Traffic Regulation Order.

Pollution Control Officer  
No adverse comments.

Public Open Spaces Manager  
Requests the payment of a sum equivalent to £733 per unit in lieu of on-site play and recreation space. Such sum to be used within the locality to enhance the children's play area at Deeside Leisure Centre.

Capital Projects and Planning Unit (CPPU)  
No contributions are sought towards educational infrastructure as the proposals provide for one bed apartments only, which are excluded within SPG 23.

Natural Resources Wales  
No adverse comments. Following consideration of the submitted Flood Consequences Assessment advises that notes should be imposed upon any grant of planning permission.

Airbus  
No response at time of writing.

#### **4.00 PUBLICITY**

4.01 The application has been publicised by way of a site notice and neighbour notification letters.

4.02 At the time of writing this report, the publicity exercise has resulted in the submission of 1No. letter of objection from third parties in respect of the proposals. This representations raises objections upon the following grounds;

- The proposals will unacceptably overlook existing residential dwellings to the detriment of amenity;
- The proposals result in an overly dense form of development; and
- The proposals do not make adequate provision for car parking.

#### **5.00 SITE HISTORY**

5.01 **4/15398**  
Advertisement hoarding  
Permitted 7.10.1986.

**02/508**  
Erection of telecommunications antennae, microwave dishes and equipment cabin on roof  
Permitted 5.7.2002.

**035570**  
Change of use of part of building to A1 retail  
Permitted 28.8.2003.

**038551**

Change of use of existing building to 19 flats  
Withdrawn 7.10.2005

**039654**

Erection of a six storey flats development providing 36 no. new units  
and basement parking for 53 vehicles  
Refused 13.9.2005. Appeal dismissed 17.1.2006

**052122**

Change of use to 16No. apartments and ground floor parking  
Refused 26.8.2015

**6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

Policy STR1 - New development

Policy STR4 – Housing

Policy GEN1 - General requirements for development

Policy D1 – Design quality, location and layout

Policy D2 – Design

Policy AC13 - Access and traffic impact

Policy AC18 - Parking provision and new development

Policy HSG3 - Housing on unallocated sites

Policy SR5 – Outdoor playing space and new residential  
development.

**7.00 PLANNING APPRAISAL**

7.01 The Site and its Surroundings

The site lies on the southern side of Pierce Street, to the rear of the High Street, which is an area predominantly commercial in nature. Pierce Street has a mix of residential properties together with a doctor's surgery, dental surgery and a public car park in addition to which there is on street parking.

7.02 Buildings in the area are predominantly two storeys with the exception of the application site. This consists of a large brick 4 storey commercial building which building dominates the street scene and, due to its height, is seen from a number of viewpoints in the area.

7.03 The Proposals

The scheme proposes the change of use of this 4 storey vacant commercial premises through the conversion to create 16No. residential apartments. The proposals provides for;

1. the creation of a car parking area at ground floor level to provide 5No. parking spaces;
2. 15No. 1 bed apartments; and
3. 1No. 2 bed apartment

7.04 The Main Issues

The main issues for consideration in the determination of this application are;

1. Impacts upon highway as a consequence of car parking;
2. The risks associated with flooding;
3. Design and amenity considerations; and
4. S.106 requirements in relation to Public Open Space

7.05 The Principle of Development

The site is a brownfield site within the settlement boundary of Queensferry, a Category A settlement within the Flintshire Unitary Development Plan. The site is not allocated for specific development but its location within the settlement boundary affords a presumption in favour of development, subject to the detailed consideration of all material considerations. Policy HSG3 identifies the criteria against which the development of unallocated sites within settlement boundaries for residential purposes will be considered.

7.06 As the proposals represent a form of development which, in policy terms is best located within settlement boundaries and seeks to utilize a presently derelict town centre site for residential development, I consider that the principle of such a development is acceptable in policy terms.

7.07 Highway Impact and Parking

The proposals do not involve the creation of any new vehicular points of access into the building. A new pedestrian access to Pierce Street at ground floor level is created to facilitate access to the internal access stairwell, lift and car parking area. As discussed previously, the proposals provide parking spaces at ground floor level within the building for 5 cars and 16 bicycles.

7.08 Whilst the application of the Authority's maximum car parking standards would suggest that 24No. car parking spaces should be provide, I would remind Members that consideration of this aspect of the proposals, given the location of the site, should take account of the following;

1. The site is located within walking distance of a town centre;
2. The site has excellent access to public transport services in the form of bus stops (80 metres from the site) and a nearby train station at Shotton (less than 1 mile away);
3. There is a public car park available directly adjacent to No. 7 Pierce Street; and
4. On street parking facilities are available on Pierce Street.

- 7.09 The proposal has been assessed by the Highways Manager (DC) who, in taking into account the parking standards requirements and the above mitigating factors, has raised no objection to the scheme subject to the imposition of conditions.
- 7.10 Concerns have been raised in relation to the potential for the proposals to give rise to increased parking pressure in the area, to the detriment of highway safety. I am advised that existing and proposed parking arrangements within the area are considered acceptable to accommodate the proposed development.
- 7.11 I am advised by the Highways Manager (DC) that an existing Traffic Regulation Order (TRO) in respect of on street parking in Pierce Street will be required to be amended as a consequence of the proposals to enable the provision of restrictive 'H' markings across the access of the building and amendments to the extent of on street parking in the same area. The applicant has indicated a willingness to enter into an agreement to provide the sum of £3000 towards the required amendment of the TRO.
- 7.12 Accordingly, I do not consider that the proposals are unacceptable in highway impact terms.
- 7.13 Flood Risk  
The site is located within Zone C1 as defined within TAN15: Development and Flood Risk. Its present lawful planning use as a commercial premises is defined as a less vulnerable use within the flood plain of the River Dee. The proposals would introduce residential occupation to the building which in flood risk terms is defined as a highly vulnerable use.
- 7.14 Accordingly, the applicant has undertaken a Flood Consequence Assessment (FCA) to assess the risk that the proposals would encounter in the event of a flood. The FCA indicates that the defences at the River Dee would be overtopped in a 1 in 200 year flooding event. Natural Resources Wales have accepted in response to consultation that the proposed level of living accommodation (at first floor level and above) places people above the anticipated levels of flood waters.
- 7.15 Whilst in the strict interpretation of TAN15 guidance, people should not be directed to live in areas the subject of such risk, it should be noted that the site is a brownfield site in an area surrounded by residential properties. In accord with advice offered by the Welsh Government to Chief Officer (Jan 2014), the Local Planning Authority should base its determinations of such application upon the basis of the NRW advice and advice from Local Emergency Response Planners (LERP).

- 7.16 It is advocated that the developer should take measures to ensure that residents are aware of the NRW flood warning service and should also produce a flood plan.
- 7.17 Subject to the above matters being imposed as advisory notes upon any subsequent permission and on the understanding that the ground floor will remain vehicle parking only, neither NRW nor LERP raise objection to the proposals.
- 7.18 Design, Appearance & Amenity Considerations  
The scheme does not propose the erection of new buildings on the site, merely the conversion of the existing structure. Concerns have been raised that the scale of the buildings will adversely affect the amenity of nearby residents. However, It must be remembered that the mass of the building is already existing and whilst the building is dominant in the street scene, the proposals seek to mitigate against the potential impacts upon existing adjacent amenity in a number of ways.
- 7.19 There are presently a number of windows within the western elevation of the building which look out onto and over existing adjacent residential dwellings. The proposals seek to enclose these windows by erecting a wall in the western elevation to create the internal access stairwell and lift shaft. This reduces the windows looking out in this direction to a total of 6No. In discussions with the applicant's agent, I have secured agreement that these windows will be permanently obscure glazed and fixed so as to be non-opening. This will ensure that there is no opportunity for overlooking of adjacent dwellings and, together with the enclosing of all other windows in this elevation, actually reduces the impression of overlooking and overbearing impact in this direction.
- 7.20 The internal arrangement of the apartments arranges windows to habitable rooms within the majority of the proposed apartments to look out over the rear service areas of properties upon the high street. Whilst 5 of the units would have windows facing north, it should be noted that this elevation overlooks an existing open space utilised for car parking and therefore there is no adverse overlooking opportunity afforded. The one unit with windows facing south overlooks the rear service yard of commercial premises on Chester Road West.
- 7.21 I have also had regard to the rear amenity areas of the dwellings at No's 5 and 7 Pierce Street and the potential for the building to impact upon the enjoyment of the same by their occupants. However, these areas are hard surfaced and provide off street parking opportunity for the occupants which can be accessed off Pierce Street via the rear alleyways around the premises.
- 7.22 Accordingly, I am satisfied that there is no adverse impact upon the amenities of existing adjacent residents.

7.23 Public Open Space

I am advised by the Public Open Spaces Manager that it is appropriate to apply the requirements of Local Planning Guidance Note 13 : Open Space Requirements in connection with this proposal. Accordingly, I requested to seek a contribution towards the off-site provision of public open space and recreation facilities. The sum sought is £733 per unit. This sum equates to £11,728 which will be required, via legal agreement, to be paid upon 50% sale or occupation of the approved apartments.

7.24 The infrastructure and monetary contributions that can be required from the a planning application through a S.106 agreement have to be assessed under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and Welsh Office Circular 13/97 'Planning Obligations'.

7.25 It is unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following Regulation 122 tests;

1. be necessary to make the development acceptable in planning terms;
2. be directly related to the development; and
3. be fairly and reasonably related in scale and kind to the development.

7.26 While the Authority does not yet have a charging schedule in place, the CIL Regulations puts limitations on the use of planning obligations. These limitations restrict the number of obligations for the funding or provision of an infrastructure project/type of infrastructure. From April 2015 if there have been 5 or more S.106 obligations relating to an infrastructure project/type of infrastructure since 2010 then no further obligations for that infrastructure project/type of infrastructure can be considered in determining an application.

7.27 The consultation has established that the sum requested should be used in connection with a project to upgrade facilities at the nearby Deeside leisure Centre play Area. In accordance with the requirements of the Community Infrastructure Levy Regulations (CIL) 2010, this sum, when pooled would not exceed 5 contributions towards a single project.

7.28 I am satisfied, on the application of the tests set out in S.122 of the CIL Regulations and as detailed above, that such a contribution would satisfy these requirements. I am also satisfied that the sum is sought for a specific identified project and as such, would not be caught by the S.123 prohibition with the CIL Regulations.



## **8.00 CONCLUSION**

- 8.01 Having regard to the proposals and the above consideration of all relevant matters, I consider that these proposals represent a scheme which is acceptable in principle and detail. I recommend that permission be granted subject to approximately worded planning conditions and the suggested legal agreement.
- 8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention, and has had due regard to its public sector equality duty under the Equality Act 2010.

### **LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents  
National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity

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