

FLINTSHIRE COUNTY COUNCIL

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

DATE: **16TH NOVEMBER 2016**

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

SUBJECT: **APPEAL BY MR. D. JONES AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE USE OF MOBILE BUILDINGS AS TAXI BUSINESS AT HARLEYS GARAGE, CHESTER STREET, MOLD - ALLOWED**

1.00 APPLICATION NUMBER

1.01 055104

2.00 APPLICANT

2.01 MR. D. JONES

3.00 SITE

3.01 HARLEYS GARAGE,
CHESTER STREET, MOLD

4.00 APPLICATION VALID DATE

4.01 18TH APRIL 2016

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspector's decision in relation into the refusal to grant planning permission for use of mobile buildings as a taxi business at Harleys Garage, Chester Road, Mold. The application was refused by Delegated Powers, with the appeal dealt with by way of written representations and was **ALLOWED**.

6.00 REPORT

6.01 Background

Members may recall that this application was refused by Delegated Powers on 10th June 2016 on the basis that the building is visually

harmful by virtue of its design and location to the character and appearance of the area, and setting of the conservation area.

6.02 Issue

The Inspector considered that the main issue to be the effect of the proposal on the setting of the conservation area and the character and appearance of the area and the materiality of the claimed lawful use and operational development of the site.

6.03 Lawful Use

The site is a commercial garage situated on the south side of Chester Street split on two levels. The upper side adjacent to Chester Street is currently not being actively used and includes a mobile cabin and forecourt area, together with buildings currently used for storage purposes in connection with the garage. The lower side is an operational garage with access onto the Tesco roundabout and road which runs beneath Chester Street bridge leading to public car parking areas. Fronting this lower road and roundabout are a series of small units contained in a single building and these are occupied in part by taxi hire businesses.

6.04 The appellant maintained that the garage use had been established since the 1930s and a car wash facility operated on the site since the 1960s. The appellant asserted that the mobile cabin is immune from enforcement action and cannot be required to be removed from the site. This was collaborated by two aerial photographs in 2009 and 2015 which shows the presence of the mobile cabin in situ for these periods. The appellant also noted that a valeting business operated on the forecourt and utilised the cabin prior to 2008 and this continued until July 2015 as stated on the application.

6.05 The proposal seeks to change the use of the cabin and associated forecourt to a taxi office. The forecourt would be utilised for parking and space is shown for 4 vehicles on the submitted plan. The cabin would be utilised as a control room for taxis, and it seems unlikely given its size, it would be used as an operational taxi office where staff and customers would wait for a taxi to escort them to their destination. The appellant asserted that in the majority of circumstances taxis would not need to visit the appeal site since new bookings and instructions would be given by phone/radio whilst on-call, and therefore in all likelihood taxis would remain operating on the road.

6.06 The Council objected to the development on the basis that the appeal building is visually harmful by virtue of its design and location to the character and appearance of the area and setting of the conservation area. The Council referred to a proposal for retention of the building to be used in connection with the proposed use. However, the appellant's application would be to re-use the current cabin for the intended purpose, and it seemed to the Inspector that the appellant had not sought to retain the appeal building on the site but to establish

a new use, given that the appellant was firm on the belief that the building/cabin is immune from enforcement action.

- 6.07 The conservation area boundary starts beyond the bridge to the west of the site. It includes the ramped pedestrian access leading down to the public car park. This then continues on the north side of the road towards the town centre. On the south side, the conservation area includes the cream painted brick hipped roof building inset from the junction with Tyddyn Street. On the south side the conservation area boundary is some 75 m distance from the appeal site. The forecourt of the Dental Care practice, the junction of Tyddyn Street, and the heavily landscaped pedestrian link down to Tesco together with the substantial landscaping below and alongside the bridge are all features outside the conservation area on the south side of the road. On the north side is a commercial premises selling solar panels which utilises a part stone faced lean-to building linked to a timber, felt and part rendered building behind. This is quite heavily screened from the bridge next to the ramped access point.
- 6.08 Taking the view back from the conservation area, the cabin and garage forecourt are not noticeable, obscured by established landscaping alongside the bridge, which is situated outside of the appeal site. The bridge walls, raised carriageway and pavements and the buildings beyond are the main focus of the view. From the appeal site towards the conservation area the listed stone former Council office is seen beyond the bridge and the gable end of the buildings on the far side of the bus station entrance. Some part of the building selling solar panels is also seen but in the main the appeal site has limited influence and neutral effect on the conservation area because of the intervening bridge walls, pavement and established landscaping.
- 6.09 Therefore the Inspector concluded that the proposal would preserve the setting of the conservation area.
- 6.10 The Council indicated that the appeal site and the immediate area is characterised by its openness and landscaping, being located opposite a public amenity area which is paved and has seating, ornamental trees and sculpture. However, the Inspector considered the site is that of a garage business opposite a small amenity area next to a bridge which is substantially landscaped. The effect on openness and landscaping would not change if the preceding use were to be supplanted by the proposed use since the forecourt could be reused and is currently being used by vehicles being parked there, possibly associated with the garage business. The impact of the proposed use has no discernable visual change on the character and appearance of the area from the preceding valeting use or the established garage use. The Council was critical of the design, location and appearance of the cabin, but the nature of the proposal the Inspector considered seeks to re-use the current building in situ,

and the Council did not provide evidence that it seeks to enforce against the removal of the cabin. The evidence presented on this point that the continued siting of the cabin now forms part of the character and appearance of that area.

- 6.11 Whilst the Inspector provided no conclusive determination on the issue of immunity under a section 78 appeal, based on the available evidence the materiality of the claimed lawful use and operational development of the appeal site provided some moderate weight in favour of the proposal in relation to the effect this development would have on the character and appearance of the area. In summary, there was some credence to the appellant's submission that the reuse of the cabin is the only change involved which is immaterial to the present character and appearance of the area. Had that not been the case then the appellant would have sought the cabin's retention as part of the planning application.

7.00 CONCLUSION

- 7.01 The Inspector concluded that the proposal would not harm the character and appearance of the area since it forms part of the character of that area. Therefore the appeal was **ALLOWED**.

LIST OF BACKGROUND DOCUMENTS

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

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