

FLINTSHIRE COUNTY COUNCIL

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

DATE: **20th MARCH 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **ERECTION OF A SINGLE STOREY CONVENIENCE STORE AND ASSOCIATED CAR PARKING FOLLOWING THE DEMOLITION OF EXISTING STORAGE BUILDING ON LAND AT MORRIS'S GARAGE, WREXHAM ROAD, MOLD, FLINTSHIRE.**

APPLICATION NUMBER: **050252**

APPLICANT: **OM PROJECTS LTD**

SITE: **LAND AT MORRIS'S GARAGE, WREXHAM ROAD, MOLD, FLINTSHIRE.**

APPLICATION VALID DATE: **2ND NOVEMBER 2012**

LOCAL MEMBERS: **COUNCILLOR H. BATEMAN**

TOWN/COMMUNITY COUNCIL: **MOLD TOWN COUNCIL**

REASON FOR COMMITTEE: **THE PROPOSALS REQUIRE A S.106 AGREEMENT IN RELATION TO A TRAFFIC REGULATION ORDER, POWERS FOR WHICH ARE NOT DELEGATED.**

SITE VISIT: **NO**

Members will recall that this application was considered at the Committee held on the 20th February 2013 where it was resolved to grant planning permission subject to conditions. Specifically, members resolved to vary the condition addressing the hours of opening of the proposed store and imposed restrictions as set out below:

0700 hours – 2100 hours Monday to Saturday.
0900 hours – 1600 hours Sundays and Bank Holidays.

This amendment has been considered by the applicant who has requested, in the light of the determination of the Licensing Committee held on the 28th February 2013 in respect of a licence to sell alcohol and the conditions in respect of hours resolved to be imposed, that an amended proposal in terms of the opening hours is considered by Members.

Members should be aware that the Licensing Committee resolved to permit the sale of alcohol from the premises during the following hours:

0700 hours - 2300 hours Monday – Saturday.

0700 hours - 2200 hours Sundays and Bank Holidays.

In view of this, the Applicant considers that the following opening hours are not unreasonable and requests that Committee resolve upon the basis of the same:

0700 hours - 2300 hours Monday to Saturday.

0700 hours - 2200 hours Sundays and Bank Holidays.

Members will be aware that the resolution of the Licensing Committee is not binding upon the decisions of the Planning and Development Control Committee. However, Members should be mindful that their reasoning, in coming to any decision alternative to that suggested above, must be made upon a clear and sound planning basis.

I am advised by the applicant that should Members be minded other than to resolve in accordance with the suggested hours, then the applicant wishes for the determination to be made in accord with the above terms and not a variation upon this suggestion.

My recommendation in the light of this matter remains as set out below with exception of the amended opening hours as detailed above.

1.00 SUMMARY

1.01 This full application seeks permission for the demolition of the existing building upon the site and the redevelopment of that part of the site fronting onto Wrexham Road for the purposes of the erection of a single storey convenience store and associated service and customer parking areas.

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 either a Section 106 Obligation, Unilateral Undertaking or the making of an advance payment to provide the following:-

- The payment of £3500 to provide for the cost of a Traffic Regulation Order and the associated parking restriction lining along Wrexham Road, Brook Street and Conway Street.

1. Time limit
2. In accord with approved plans
3. Details of highway amendment and improvement works prior

- to commencement
4. No other works until access works are completed
 5. Details of site access prior to works commencement
 6. Access completed to base course and internal tangent of entrance radii prior to any other site works
 7. Site served by single access with all other access closed prior to first use of site.
 8. Provision of parking facilities prior to first use.
 9. Submission of Construction Management Plan.
 10. Submission of Operational Traffic Management Plan
 11. Restrictions to delivery times.
 12. Submission of site contamination investigation and associated remediation measures. Implementation of identified and agreed remediation prior to any other site works.
 13. Verification and validation of remediation scheme.
 14. Opening Hours – 0600 hours – 2300 hours Monday – Saturday. 0700 hours – 2200 hours Sundays and bank holidays.
 15. Notwithstanding submitted details, boundary details to be submitted and agreed.
 16. Implementation of landscaping scheme prior to use and maintenance for 5 years thereafter.
 17. Samples of materials to be submitted and agreed.
 18. Noise control measures upon external plant to be agreed prior to installation.

3.00 CONSULTATIONS

3.01 Local Member
Councillor G. H. Bateman
No response at time of writing.

Mold Town Council

Supports the proposal in principle. Requests conditions preventing 24 hour operation and delivery times restricted to be between 7am and 7pm. Also requests the addition of double yellow lines to the junction of Wrexham Road, Brooke Street and part of Conway Street.

Head of Assets and Transportation

No objection subject to the imposition of conditions and the applicant entering into a S.106 agreement (or similar) to secure the funding to provide for the cost of a Traffic Regulation Order and associated parking restriction lining along Wrexham Road, Brook Street and Conway Street.

Head of Public Protection

No objection. Requests the imposition of conditions requiring a site investigation of the site for potential contamination arising from the previous historical contaminative use of the site. Also requests that

condition require the imposition of such remediation measures identified and agreed.

Also, advises that scheme of noise levels and such required mitigation as may be identified in respect of proposed external plant.

Environment Agency Wales

Considers the flood risk to be acceptable upon the basis of the proposals representing a 'like for like' change of use in terms of vulnerability to risk. Requests the imposition of notes requiring the incorporation of flood proofing measures and participation in the flood warning service

4.00 PUBLICITY

4.01 The proposals has been advertised by way of a site notice and neighbour notification letters.

4.02 4 No. letters received. Comments and objections relating to the following matters were raised;

- Opening hours to be restricted
- Delivery times to be restricted
- Potential for proposals to result in antisocial behaviour
- Detrimental impacts upon residential amenity arising from noise
- Adverse impacts upon highway network and pedestrian safety
- Site contamination
- Proliferation of 'supermarkets'

5.00 SITE HISTORY

5.01 **038466**

Demolition of garage and erection of 3 and 4 storey residential development.

Refused 27/2/2006

045341

Change of Use from garage site to self storage container site.

Refused 9/12/2008

045711

Outline application – Erection of 24 apartments.

Approved 23/3/2009.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy STR1 - New Development

Policy STR5 - Commercial Development

- Policy GEN1 - General Requirements for Development
- Policy GEN2 - Development inside Settlement Boundaries
- Policy D1 - Design Quality, Location and Layout
- Policy D3 - Landscaping
- Policy AC13 - Access and Traffic Impact
- Policy AC15 - Traffic Management
- Policy AC18 - Parking Provision and New Development
- Policy S3 - Integrating New Commercial Development
- Policy S4 - Small Scale Shopping Within Settlements

7.00 PLANNING APPRAISAL

7.01 Introduction

The application seeks permission for a new A1 retail building. The building is proposed as a single storey construction and appears modular in its proposed construction. The site layout provides parking and maneuvering space for 20 cars to serve staff and customers. In addition, parking and maneuvering space for delivery vehicles is also provided. Access is proposed via Brook Street.

7.02 Site Description

The site comprises an area of land containing the former vehicle repair garage, its curtilage forecourt and areas of hardstanding and a number of other structures within the curtilage. The site has been used for the siting of shipping containers, facilitating and unauthorised storage use at the site.

7.03 The site itself is flat across its both its axis. The site is bounded to the north by the adjacent highways known as Brook Street and Wrexham Road. There is largely no formal demarcation of this boundary as it served as the access to the forecourt of the garage although at present, security style fencing prevents access to the site along these boundaries. The southerly boundary of the site comprises an established hedge and associated fence to the property known as Garfield. The eastern boundary of the site abutting Conway Street is open along the most northern extreme of the boundary with the more southerly extremes comprising of a combination of corrugated sheet metal screening, an established hedgerow and a stone wall. A combination of wall and some hedges mark the western boundary of the site with the properties on Stryd Henardd.

7.04 The site surroundings are densely developed and are characterised as a mix of residential and education facilities. The residential component of the surroundings comprises 2 storey terraced dwellings on Conway Street, modern semi detached 2 storey dwellings to the west on Stryd Henardd and a 3 storey sheltered housing apartment block on the junction of Brook Street and Wrexham Road to the north. In addition to the detached residence, Garfield, to the south, the site also lies in close proximity to Ysgol Maes Garmon and the Alun School.

7.05 Principle of Development

The principle of proposals of this type is specifically addressed within policies S3 and S4 of the Flintshire Unitary Development Plan. These policies concern themselves with the integration of new commercial development and the location and scale of small shopping proposals within existing settlement boundaries. The proposal is compliant with all of the criterion identified within these policies with the exception of criterion i) of Policy S4, which states that such proposals should be limited to 300 sq metres in floor space. However, this policy does allow for variation up to 500sq metres in certain circumstances.

7.06 Whilst the proposal provides for an outlet of 372sq. metres, it should be borne in mind that the existing premises amounts to 260sq. metres and therefore the proposals actually represent an increased floorspace of only 112 sq. metres. Also, compliant with Policy S3, the proposals will result in a proposal which will integrate much more satisfactorily within the area in visual terms than the site does at present. Given this, I consider the floorspace in excess of the 300sq metres specified with Policy S4 is justified and acceptable in principle.

7.07 Highway Issues

The site is presently served by 2 existing points of vehicular access, one off Conway Street adjacent to its junction with Wrexham Road, and the other off Brook Street, again, just adjacent to its' junction with Wrexham Road although in connection with the current unauthorised activities at the site, only the access via Brook Street is utilised. The proposals seek to close the access onto Conway Street permanently and improve the access off Brook Street to serve the proposed convenience store.

7.08 The proposals have been the subject of consultation with the Head of Transportation and Assets who has advised that the proposal is acceptable subject to the conditions identified in Section 2 of this report and the provisions of the proposed S.106 agreement.

7.09 In consideration of this issue, regard has been had to the nature of the proposed use and the volume of traffic likely to arise from such a use. This has been balanced against the levels of traffic likely were the site to revert to its' approved use as a petrol filling station and vehicle repair garage. It is considered that the level of generated traffic would not amount to a level which would amount to a detrimental impact upon highway safety.

7.10 However, it is appreciated that without appropriate controls at the junctions of Brook Street and Conway Street with Wrexham Road, there is the potential for customers to simply park on these streets, in close proximity to the junctions, thereby causing a highway danger to vehicles wishing to enter or emerge from these junctions and creating potential obstructions to visibility. Therefore it is proposed that the applicant will enter into a S.106 Agreement requiring the payment of

£3500 to provide for the cost of Traffic Regulation Order and associated parking restriction lining at the identified junctions. This scheme would result in double yellow lines being imposed in the areas along Brook Street and Conway Street abutting the site.

7.11 Regard has also been had to the management of operational traffic related to the proposed store. It is considered that given the close proximity of the site to nearby schools, delivery vehicles should not be permitted to arrive at the site at times which relate to the opening and closing times of the school in the interests of minimising the risk of conflicts with other vehicles at peak traffic flow times. Therefore, I propose to condition that delivery vehicles shall not be permitted to arrive between 0815 and 0915 hours and 1445 hours and 1630 hours on Mondays through to Fridays inclusive.

7.12 In addition, it is considered that whilst adequate parking and turning provisions are made at the site for such vehicles, the addition of further vehicles travelling westwards towards Mold Town Centre would be unacceptable. Therefore a condition will be imposed requiring the submission, agreement and adherence to an Operational Traffic Management Plan. Such a plan will identify the means and methods to be employed to ensure that all service vehicles arriving and departing the site do so from and to the east, via Wrexham Road, and do not perform a left turn out of Brook Street towards the town centre. During the development phase of the proposals, a similar plan will be sought by condition for all construction traffic, with similar provisions expected to be incorporated.

7.13 Impacts Upon Amenity - Residential

Concerns have been raised in respect of the potential impacts upon existing residential amenity arising from this proposal. This concerns relate to the following issues;

1. Delivery vehicle times;
2. Noise from external plant; and
3. Opening hours and serving of alcohol.

7.14 Whilst the conditions proposed in respect of the control of delivery vehicles delivery times arising from highway safety considerations will assist in the management of impacts, I consider that this requirement will require further amendment in order to minimise adverse impacts upon existing residential amenity. To this end, I propose to prohibit vehicles from delivering before 0700 hours and after 0800 hours.

7.15 In recognisance of the potential for there to be adverse amenity impact arising from the noise of external plant and machinery such as air conditioning and refrigeration units, I am minded to impose the condition requested by the Head of Public Protection in respect of this matter which requires that if silencing is identified to be necessary, it will be required to be installed prior to operation.

7.16 Concerns have also been raised in respect of opening hours and, more particularly, in respect of the hours within which alcohol will be permitted to be sold. I do not consider the proposed opening hours to be excessive or such that would adversely affect amenity in itself. I appreciate the view expressed in respect of the potential for alcohol sales to give rise to antisocial behaviour or congregation of youths in the area. However, I am of the view that controls of the sale of alcohol are best addressed through the licensing regime and do not consider that attempting to restrict such sales through planning legislation would satisfy the criteria for the use of conditions as set out in Circular 35/95 – Use of Planning Conditions. This circular sets out the tests for a condition to satisfy in order for it to be considered enforceable. Of relevance is the need for a condition to be relevant to planning. The sale of alcohol, or attempts to control the same, is not a planning matter. I do not therefore propose to impose any condition to this effect.

7.18 Impacts Upon Amenity – Visual

The site is presently a collection of buildings and structures, with no overall discernable function apparent. The site has various vehicles and shipping containers located within its' boundaries in varying states of use. In addition, the site boundaries, the interface of the site with its' surroundings are varied and extremely unsightly given the predominantly residential character of the area. These vary from corrugated sheeting and security steel mesh fencing to the remnants of historical stone walls. It is clear that the development of the site as proposed will serve to enhance the visual appearance of the site overall, and its interrelationship with its surroundings in visual terms in particular. Landscaping and new boundary treatments are proposed but nonetheless, I require the precise details to be submitted and agreed and I propose to condition the same.

7.19 I am satisfied that these proposals will serve only to enhance the visual quality of the site.

7.20 Land Contamination

The proposals have been considered by the Head of Public Protection and, given the historical potentially contaminative use of the site as a garage and petrol filling station, both a Phase 1 and Phase 2 land contamination survey would be required to be undertaken upon the site prior to the commencement of the development. These reports should establish the extent of any contamination arising from the previous use and will identify the methods and means of decommissioning of any subterranean fuel tanks within the site.

7.21 It is therefore proposed that any permission granted should be the subject of a condition requiring the above stated investigations, together with details of any required remediation works and the provision of appropriate validation and verification reports in

accordance with the approved remediation strategy.

7.22 Other Matters

The site is located entirely within a C2 flood zone. The proposals have been considered by EAW who have advised that whilst TAN15: Development and Flood Risk (July 2004) seeks to direct development away from such zones, they are mindful of the lawful planning use of the site as a vehicle garage and repair premises in their consideration of the proposals.

7.23 A view has been taken that the risks arising from the proposals are of a similar to that presented by the existing use and therefore the potential risks posed in the event of a flood are considered no greater. Therefore, no objection is raised subject to any permission granted being the subject of additional notes in respect of flood proofing and the EAW flood warning system. I propose to add such notes.

8.00 CONCLUSION

8.01 I am satisfied, having had regard to the provisions of the applicable policies and all other material considerations, that this proposal would accord with the provisions of the same and would, through the suggested agreement and conditions, represent an appropriate and acceptable form of development in this location.

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.

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