

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **8TH NOVEMBER 2017**

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

SUBJECT: **FULL APPLICATION – EXTENSION TO PROVIDE STORAGE IN CONNECTION WITH THE EXISTING LAWFUL USE AT MARCHER COURT, SEALAND ROAD, CHESTER**

APPLICATION NUMBER: **056875**

APPLICANT: **MR MANSFIELD**

SITE: **MARCHER COURT, SEALAND ROAD, CHESTER**

APPLICATION VALID DATE: **28th JULY 2017**

LOCAL MEMBERS: **CLLR CHRISTINE JONES**

COMMUNITY COUNCIL: **SEALAND COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **DEPARTURE FROM THE DEVELOPMENT PLAN**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This is a full planning application for the erection of an extension to provide storage in association with the existing lawful use at Marcher Court, Sealand Road, Chester. The site is in the green barrier and open countryside. It is considered that 'very specific circumstances' have been demonstrated to allow this development to be justified in this location.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION,

SUBJECT TO THE FOLLOWING:-

- 2.01
1. Time Commencement
 2. In accordance with then plans
 3. Finished floor levels (FFL) of the internal rooms (office, kitchen, lobby and toilets) should be set at a minimum of 5.83 meters Above Ordnance Datum; the storage area FFL should be set at a minimum of 0.15 metres above adjacent ground levels.
 4. No external storage on the land outlined in red
 5. Prior to commencement, materials to be submitted and agreed.

3.00 CONSULTATIONS

3.01 Local Member
No objection to the proposed development

Sealand Community Council
No Objection

Development Control (Highways)
Access to the site is derived from roads which fall under the jurisdiction of Chester and Cheshire West. Comment should therefore be sought from CACW as the Highway Authority.

Chester and Cheshire West
No objections as the proposal would not lead to an increase in pedestrians needing to cross the road in this location.

Head of Public Protection
No Objection

Natural Resources Wales
No Objection subject to condition and advisory note

Airbus
No Objection

4.00 PUBLICITY

4.01 Site Notice, Press Notice and Neighbour Notification

One letter has been requesting more information on the level of use and traffic generation.

5.00 SITE HISTORY

- 5.01 055014 – Application for a lawful development certificate for a proposed use of land for purposes falling with use class B8 – Certificate Granted 24/10/2016

054560 – Erection of steel portal framed building – Refused 23/12/2015

052521 – Proposed erection of a single storey portal framed building inclusive of all associated external and other required works relating to – Refused 6/11/2014

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan
GEN1 – General Requirements for Development
GEN3 – Development within the Open Countryside
GEN4 – Green Barriers
D1 – Design Quality, Location and Layout
D2 – Design
EM5 – Expansion of Existing Concerns
AC13 – Access and Traffic Impact

7.00 PLANNING APPRAISAL

7.01 Proposal

This is a full planning application for the erection of an extension to provide storage in association with the existing lawful use at Marcher Court, Sealand Road, Chester. The site is in the green barrier and open countryside.

Planning permission is sought for a pitched roof extension of some 360m³ (30 metres deep by 12 metres wide) to provide secure, enclosed and undercover storage and ancillary office/canteen space in connection with the lawful activities on the land. The extension would be sited on an existing hardstanding to the north of the existing buildings used for external storage and presently occupied by a series of containers.

7.02 Existing Lawful Use

An application for a Lawful Development Certificate was sought and granted under reference 055014 on the land identified subject to this application. The Certificate confirmed that the use of all of the land subject to this application for B8 purposes can be carried on without restriction.

The existence of the Lawful Development Certificate creates a fall-back position, which is that the any external storage is not impeded by size, scale, position height or any other limitation. It is considered that

the *ad hoc* nature of existing open and containerised storage on the northern site boundary and general overall appearance of the containers detracts from the character and appearance of the locality.

It is considered that the existing use of the land and the potential future lawful intensification of this use is a material consideration and should be considered as very specific circumstances.

7.03 Planning Policy

The application site is located in the open countryside, outside any recognised settlement boundary in the adopted Flintshire Unitary Development Plan, where there is generally a presumption against new development. The site is also within the green barrier designated under Policy GEN4 of the Flintshire Unitary Development Plan.

Although the UDP Plan period became time-expired at the end of 2015, it will still remain the development plan until the LDP is adopted and will therefore continue to be afforded weight, subject to its policies and proposals remaining in general conformity with guidance in PPW/TAN's.

In terms of the policies in the adopted UDP, policy GEN3 and EM5 sets out those instances where this type of development may take place outside of settlement boundaries. Both GEN3 and EM5 allow for the expansion of existing concerns within the open countryside

Policy GEN4 sets out the designated green barriers in the plan area. This only permits development within these areas for specific circumstances. PPW provides guidance on green wedges or barriers and Policy GEN4 of the UDP is generally in conformity with that advice. There is one slight difference in that the GEN4 does not specifically use the term inappropriate development. Nevertheless the UDP Inspector approved the present wording of GEN4 and when read alongside the guidance in PPW, provides a clear position in respect of green barriers. The proposal therefore does not comply with the Unitary Development Plan and is therefore technically a departure from the Plan

However 4.8.15 of PPW states that inappropriate development can be granted planning permission in exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Barrier.

That said, it is difficult to divorce the impact the site currently has via its lawful use, and in particular relation to the *ad hoc* external containerised storage, on the main purpose of the green barrier which is to safeguard the open countryside from encroachment and maintain its openness.

Given this is an existing employment site with a lawful use within the green barrier, this application offers the opportunity to rationalise the use, particularly in relation to the storage, by replacing the ad hoc and obtrusive type of containerised storage around the site with a single bespoke building on the site. This, in effect, positively changes the context and appearance of the site by removing the container storage which is alien to this setting and replaces it with a building whose design is more in keeping with that expected for this converted farm complex. This degree of betterment combined with the established lawful use, weighs significantly in favour of the proposal and would be less harmful than open storage in this Green Barrier location.

7.04 Design

The proposal is for a pitched roof extension to an existing industrial building set within an old farm complex which has been converted into a number of different business uses. The proposal is on the northern edge of the site which faces toward the green barrier which separates Chester with Sealand. The building has been designed to be in keeping with the existing storage buildings and its rural setting with its use of a simple utilitarian form, pitched roof, gable end facing the road and similar roof heights. The use of materials will be controlled by condition.

7.05 Flood Risk

The site is within Zone C1 as per the Development Advice Maps accompanying TAN15: Development and Flood Risk and therefore Natural Resources Wales (NRW) have been consulted. The site is afforded protection from tidal inundation by the Northern Embankment of the river Dee. The submitted Flood Consequence Assessment (FCA) has considered the future sea/tidal levels and overtopping and breach scenarios for the application site. NRW are satisfied with the results produced for this application. The site is not shown to be at risk from the design (1 in 200 flood) event nor the extreme (1 in 1000 flood) when considering overtopping of the flood defences. When consideration is given to breach scenarios, the site is shown to be flooded to a depth of up to 0.7 metres for the design event and 0.84 metres for the extreme event. Therefore, a condition requiring the finished floor levels (FFL) of the internal rooms (office, kitchen, lobby and toilets) should be set at a minimum of 5.83 meters Above Ordnance Datum; the storage area FFL should be set at a minimum of 0.15 metres above adjacent ground levels.

7.06 Highways.

Access to the site is derived from roads which fall under the jurisdiction of Chester and Cheshire West. Comments have therefore been sought from CACW as the Highway Authority. CACW main concern is avoiding development at this site which would lead to an increase in

pedestrians needing to cross the road in this location but they do not consider that what is proposed will give rise to a noticeable uplift in the need for pedestrians to cross the road and therefore have no objection.

One letter has been requesting more information on the level of use and traffic generation. As the proposal is containing an existing storage use it is anticipated there will be no significant increase in the level of use or nature of traffic generated.

Previous Refusals

Planning permission has been twice previously refused for a similar type of development on the grounds of flood risk and impact on the green barrier. However this application is supported by both a Flood Consequence Assessment which addresses issues of floor risk and to which NRW have no objection. Furthermore, since the refusal of the previous applications it has been demonstrated that there is the existing lawful use of storage on the site. This is formally set out in the lawful development certificate which is a significant material consideration in the planning balance when considering the level and nature of harm in the Green Barrier of the existing lawful use when compared with the development proposed.

8.00 CONCLUSION

It is considered that given the reduction to the impact on the green barrier, by the erection of a purpose built storage building in place of ad hoc external storage, the proposal does not conflict with the overall principles of GEN4. This, along with the submission of an adequate flood risk assessment, has dealt satisfactorily with the previous reasons for refusal and therefore planning permission should be granted.

8.01 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

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.

The Council has had due regard to its public sector equality duty under the Equality Act 2010.

The Council has had due regard to its duty under Section 3 of the

Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

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

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