

REPORT OF THE CHIEF PLANNING OFFICER – 4 DECEMBER 2023

APPLICATION NO:
P/2021 /0313

LOCATION:
FORMER EBENESER CHAPEL 2
CHESTER ROAD WREXHAM
LL12 7AD

DATE RECEIVED:
29/03/2021

COMMUNITY:
Acton

DESCRIPTION:
AMRYWIO AMOD 01
CYFANSODDIAD CYNLLUNIO
P/2016/0337 I ESTYNU CYFNOD
AMSER AR GYFER CYFLWYNO
DATBLYGU / VARIATION OF
CONDITION 01 OF PLANNING
PERMISSION P/2016/0337 TO
EXTEND TIME PERIOD FOR
COMMENCEMENT OF
DEVELOPMENT

CASE OFFICER:
MP

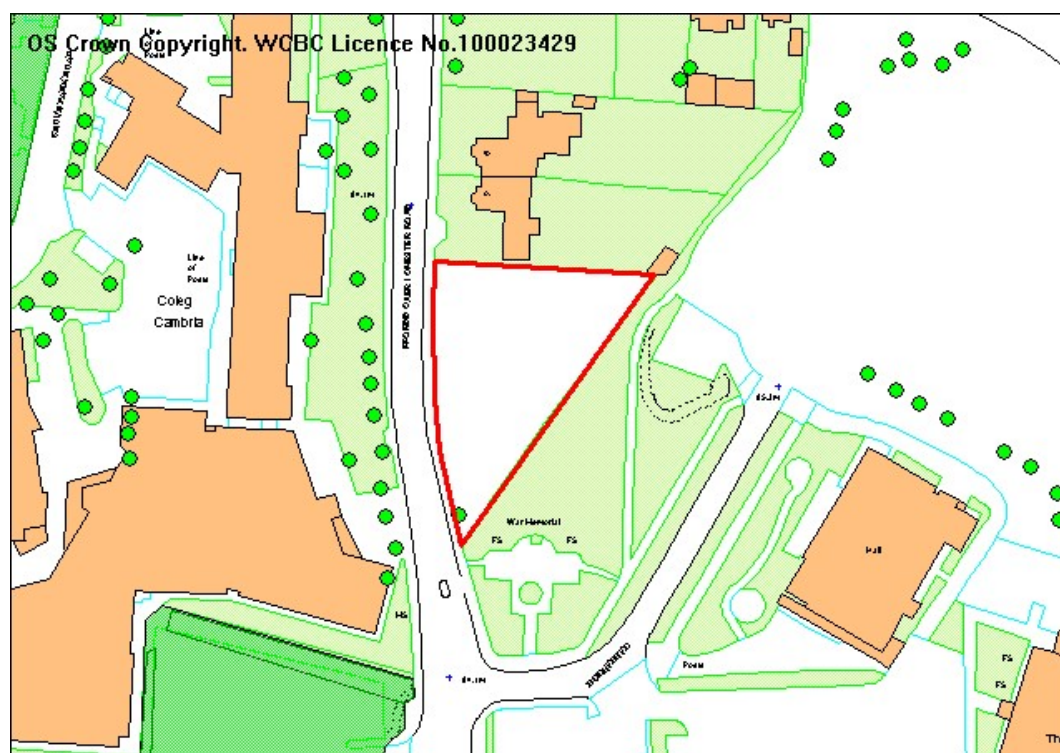
WARD:
Acton and Maesydre

AGENT NAME:
MR JOHN SMALL

APPLICANT(S) NAME:
MR JOHN SMALL

THE SITE

The site is a triangular area of land amounting to 0.16 hectare, on the east side of Chester Street to the north of the War memorial.



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PROPOSAL

As above. The application seeks permission to extend the time for commencement of development.

HISTORY

P/2016/0337 Demolition of former chapel and erection of 23 no. apartments, over four floors, with associated parking, external works and access. Granted 23/3/2017

P/2016/1030 Demolition Notification. Approved 1/12/2016

DEVELOPMENT PLAN

Unitary Development Plan

Within a defined settlement limit. Policies PS1, PS2, GDP1, GDP2, H2, CLF5, EC4, EC6 and T8 apply.

Draft Local Development Plan

Within a defined settlement limit. Policies SP2, SP5, SP13, SP14, SP18, H2, NE1, NE3, NE6 and T1 apply.

CONSULTATIONS

Community Council

Objects to the proposed variation of condition 1. The Community Council has commented that the demolished building has left an eyesore on the main approach into the town centre and works should have commenced within the original time period to ensure the amenity of the area is improved.

Adjacent Community Council (Rhosddu)

Consulted 6/4/2021. No response received.

Local member

Cllr Becca Martin objects and expresses concerns that the developer will not be able to redevelop the site and putting up a new fence isn't going to change the derelict site behind it.

Cllr Corin Jarvis notified 11/10/2023. No comments received.

Adjacent Local Member

Cllr Marc Jones objects and expresses concerns about developer's ability to actually redevelop the site. Cllr Jones has commented that Wrexham has far too many derelict buildings and wasteland as it is, suggesting this is because the Council have been too lenient with developers who find themselves unable to continue the work for whatever reason.

Cllr Jones states that offers to change the fencing is just window dressing.

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Highway Officer

Raises no objection

Public Protection

No comments to make.

Contaminated Land

No comments to make.

Education

Confirms that contributions to schools are no required.

Tree Officer

Consulted 06/04/2021. No response received.

Ecology Officer

Raises no objection.

Natural Resources Wales

Raises no objection.

Welsh Water

Raises no objection and confirms that:

- The WWTWs has the capacity to accommodate the additional wastewater in compliance with revised Permit limits; and
- The sewer network and associated WwTW has the hydraulic capacity for new connections without leading to an increase in the environmental impact of storm overflows.

Site Notice

Expired 07/05/2021

Neighbours

1 nearby owner/occupier notified 14/04/2021. No comments received.

SPECIAL CONSIDERATIONS

Background: Planning permission was granted for the erection of 23 apartments on the site on 23 March 2017. The permission was subject to a condition giving 5 years for development to commence, i.e. before 23 March 2022.

The developers submitted the current application to vary the condition to allow for an additional 5 year period to commence development. This was first reported to Committee on 7th of June 2021. In broad terms, Members were advised that the principle of development remained acceptable and that there had been no other material changes in circumstance to warrant refusal of the application. Members resolved to grant planning permission pending the completion of a Planning Obligation towards off-site open space improvements.

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On 15 December 2021 the Council received a letter from the LDP Inspectors regarding the potential impact of the phosphorous issue in the deliverability of the LDP. In light of this it was necessary to review all applications where the grant of planning permission was dependent upon the completion of a Planning Obligation, including the current application.

Whilst the Obligation for the proposed development has been completed, in light of the phosphorous issue the planning permission was not issued. To do so in advance of the completion of the review of the Five Fords Waste Water Treatment Works Environmental Permit would have potentially had adverse significant effect on the River Dee and Bala Lake SAC due to additional phosphorous discharges into the SAC catchment had the development subsequently taken place.

The Five Fords WWTW Environmental Permit has now been reviewed and Welsh Water have confirmed that:

- The WWTWs has the capacity to accommodate the additional wastewater in compliance with revised Permit limits; and
- The sewer network and associated WWTW has the hydraulic capacity for new connections without leading to an increase in the environmental impact of storm overflows.

The completion of the Five Fords WWTW permit review addresses the reason for deferring the issue of planning permission. In the meantime, the draft LDP has been found to be sound by the Inspectors appointed by the Welsh Minsters to examine it. As such, it must be afforded significant weight in the determination of planning applications. On this basis, it is necessary to consider the application in light of LDP policies before permission can be granted.

Principle of Development: The application site is located within the settlement limits of Wrexham. UDP policy H2 allows for residential development on unannotated land within settlement limits subject to compliance with policy GDP1.

The site also lies within the settlement limit in the draft LDP and is not allocated for any specific use. The principle of development is therefore acceptable if considered in the context of the draft LDP.

In respect of detailed matters of design, residential amenity, highway safety, protection of trees and off-site open space provision, the relevant draft LDP policies are broadly consistent with extant UDP policies. As such, the layout and design of the proposed development and its access and parking arrangements remain acceptable.

Affordable Housing: UDP policy H7 requires affordable housing contributions for developments of 25 or more units so is not applicable to the proposed development.

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The site is within the South Wrexham sub-market area as defined in draft LDP policy H2. This policy applies a 10% requirement for affordable housing to residential developments in this sub-market area.

For developments of 10 or more units, policy H2 sets an expectation for affordable housing to be provided on site in the first instance, with off-site provision or commuted sums being accepted in lieu of on-site provision in exceptional circumstances.

Because the site was not subject to any affordable housing requirements in 2016 or indeed 2021, the development has not designed having regard to the Welsh Development Quality Requirements (WDQR) 2021. The latter applies to all developments where affordable housing is to be secured through Planning Obligation or condition since 1 October 2021.

The issuing of a decision has been delayed considerably due to matters outside of the applicant's control and matters. It was not possible for them to have regard to the requirements of policy H2 or the WDQR standards when the development was originally proposed in 2016 or when permission they applied sought to renew the planning permission in 2021. The very significant delays incurred due the phosphorus issue are considered to constitute exceptional circumstances and therefore a commuted sum payment in lieu of on-site provision is justified in this particular case. This would be secured by a revised Planning Obligation.

Subject to the completion of the Planning Obligation mentioned above, the development would accord with policy H2 of the draft LDP.

Ecology: The site is a previously developed land, having been cleared of the building that previously occupied the site. A mature beech tree at the southern end of the site is the only feature of ecological value. This would be retained. The development therefore accords with the Step-Wise approach set out in Chapter 6 of Planning Policy Wales.

The development would need now also need to deliver a net benefit to biodiversity in line with the requirements of Chapter 6 of Planning Policy Wales 11. This could be secured by a suitably worded condition.

CONCLUSION

Subject to the completion of a Planning Obligation to secure a financial contribution to off-site open space the development accords with the relevant UDP policies. Subject to a Planning Obligation also securing a financial contribution to affordable housing, it also accords with the relevant policies of the draft LDP.

RECOMMENDATION A

That planning permission be granted subject to the following conditions and the completion of a Planning Obligation under Section 106 of the Town and

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Country Planning Act 1990 to secure commuted sum payments towards off-site open space provision and affordable housing, with the Chief Officer Economy and Planning given delegated authority to determine the final form and content of the Obligation.

RECOMMENDATION B

That if the Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 is not completed within six months of the date of the Committee resolution, the Chief Officer for Economy and Planning be given delegated authority to **REFUSE** the application for the following reasons:

1. The development does not make any provision for public open space and therefore does not accord with policy CLF5 of the Wrexham Unitary Development Plan and CF2 of the draft Wrexham Local Development Plan
2. The development does not make any provision for affordable housing and therefore does not accord with policy H2 of the draft Local Development Plan.

RECOMMENDATION: That permission be GRANTED

CONDITION(S)

1. The development hereby permitted shall be commenced before the expiry of five years from the date of this permission.
2. The development shall only be carried out in strict accordance with the details shown on the approved drawing(s) numbered 102 Rev P4, 200 Rev P4, 201 Rev P3, 202 Rev P3, 203 Rev P3, 204 Rev P3, 205 Rev P3, 206 Rev P2, 207 Rev P2, 208 Rev P1, 300 Rev P3, 301 Rev P3 and 302 Rev P1 and contained within the application documentation.
3. Prior to their use on the development details of all external facing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in strict accordance with such details as are approved.
4. The development shall be carried out in strict accordance with the Arboricultural Impact Assessment reference no. Tree Solutions 16/AIA/WXM/184 (including Tree Protection Plan) and the Arboricultural Method Statement reference no. Tree Solutions 16/AIA/WXM/184. No development or other operations shall take place except in strict accordance with the reports as approved.
5. No part of the development shall commence until an investigation, by air-spade or hand digging, has been undertaken to determine whether tree roots are present in the ground within the footprint of the proposed development. The investigation shall be supervised by a qualified arboriculturist and the results of this investigation together with any necessary methods for minimising impact upon trees shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the details as are approved.

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6. No part of the development shall commence until full details for the arboricultural supervision of tree protection measures and any ground works within retained tree(s) Root Protection Areas, as specified by BS5837:2012 or as shown on a Tree Protection Plan have been submitted to and approved in writing by the Local Planning Authority. The supervisory works shall be carried out in strict accordance with the details as approved.
7. Within three months of commencement of development, full details of a hard and soft landscaping scheme together with a five year Maintenance Plan and timescales for implementation of works shall be submitted for the written approval of the Local Planning Authority.
8. The landscaping scheme submitted and approved in connection with condition no. 7 shall be fully implemented in all respects within the agreed timescale and in strict accordance with the approved scheme.
9. The landscaping scheme as carried out in connection with condition no. 8 shall be retained for a minimum of 5 years. Within this timescale, any planting becoming severely damaged or seriously diseased, or is in poor physiological condition and/or are removed without the written permission of the Local Planning Authority shall be replaced with trees or shrubs of similar size and species to those originally required to be planted and within a timescale all to be submitted to and approved in writing by the Local Planning Authority.
10. No land drainage run-off or surface water shall be permitted to discharge or connect to the public sewerage system, either directly or indirectly, and foul and surface water shall be drained separately from the site.
11. Prior to first use of the development hereby approved the vehicular access shall provide visibility splays of 2.4 metres x 43 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the nearside edge of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.
12. No private surface water run off shall be permitted to flow from the development site onto the adjoining highway. An Aco drain or similar shall be provided across the approved access to intercept any such run off prior to first use of the development and thereafter retained.
13. The vehicular parking area as shown on approved drawing numbers 200 Rev P4 shall be fully laid out, surfaced and drained prior to first use of the development. This parking area shall thereafter be permanently retained and kept free of any obstruction, and made available solely for the parking of motor vehicles at all times.
14. Within three months of the date of this permission, a scheme of temporary fencing along the highway frontage of the site shall be implemented in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. The fence shall retained until the commencement of the development hereby permitted.
15. No part of the development shall commence until a plan to provide net benefit for biodiversity (NBB) i.e. a better outcome than if the site was left undeveloped has been submitted to, and approved in writing by, the Local Planning Authority. The measures shall be implemented in full, prior to first

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occupation / use of the development, and thereafter maintained for the lifetime of the development.

REASON(S)

1. To comply with Section 91(3) of the Town and Country Planning Act, 1990.
2. To comply with section 71ZA (2) of the Town and Country Planning Act 1990.
3. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.
4. To protect trees which are of significant amenity value to the area.
5. To determine whether tree roots are present and to minimise harm to the retained trees in the interests of visual amenity in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.
6. To ensure the work is carried out to accepted arboricultural practices for the long term wellbeing of the tree(s) in accordance with Policies GDP1, PS2 and EC4 of the Wrexham Unitary Development Plan.
7. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.
8. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.
9. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.
10. To protect the integrity of the public sewerage system and prevent hydraulic overloading of the public sewerage system. To protect the health and safety of existing residents and to ensure no detriment to the environment in accordance with Policies GDP1 and EC13 of the Wrexham Unitary Development Plan.
11. To ensure that adequate visibility is provided at the proposed point of access to the highway in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
12. In the interests of highway safety in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
13. To provide for the parking of vehicles clear of the highway in accordance with Policies GDP1 and T8 of the Wrexham Unitary Development Plan
14. To ensure a satisfactory standard of appearance of the site in the interests of the visual amenities of the area in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.
15. To ensure the development delivers net benefit to biodiversity in accordance with paragraph 6.4.5 of Planning Policy Wales 11.

NOTE(S) TO APPLICANT

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You are advised that this grant of planning permission was made following the completion of an Agreement under Section 106 of the Town and Country Planning Act. Before undertaking any work under this permission you are advised to obtain full details of the Agreement and ensure that you are able to comply with its terms.

Your attention is drawn to Highway Supplementary Notes - Refer to Statement of Applicant's Rights and General Information on our planning web site at:-

http://www.wrexham.gov.uk/english/planning_portal/publications/info_sheets.htm

Following the commencement of Schedule 3 of the Flood and Water Management Act, the works as proposed are required to obtain approval from the SuDS Approving Body (SAB) prior to commencement of those construction works. Further details of the SAB, the new national standards, the pre-application advice service and the application for approval process can be found on the Wrexham CBC's SAB webpage:

https://www.wrexham.gov.uk/english/planning_portal/sab/sab.htm or by contacting the SAB Team directly at SAB@wrexham.gov.uk

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

All works relating to this development which are audible beyond the site boundary should be carried out only between 7.30 and 18.00 hrs Monday to Friday, and 08.00 to 14.00 hrs on a Saturday, and at no time on a Sunday or a Bank Holiday. Outside these times, any works which are audible beyond the site boundary have the potential to cause unreasonable disturbance to neighbouring premises.

The applicant is advised that the Council has the option to control construction noise by serving a Control of Pollution Act 1974, Section 60, Notice where deemed necessary, and failure to comply with such a Notice can result in prosecution.

The applicant is further advised that any complaints received relating to noise of any type from the development may also be investigated using the Council's Standardised Procedure for Dealing with Noise Nuisance Complaints. This is done under the Statutory Nuisance provisions provided within the Environmental Protection Act 1990, and legal action may be taken where appropriate.

The applicant must adhere to the times given above wherever possible. If however there are urgent or unavoidable circumstances requiring works outside of the specified times, permission to proceed may be sought by contacting Environmental Health and Housing Standards at: heathandhousing@wrexham.gov.uk or 01978 292040. Please use the same

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contact details for any other enquiries regarding construction / demolition site noise.

Burning of waste generated from construction activities is not considered to be an appropriate method of disposal and action may be taken as follows:

- Under the Environmental Protection Act 1990 anyone found disposing of construction site waste by burning is likely to be in breach of their duty of care with regard to waste disposal;
- Under the same Act an abatement notice may be served where smoke is judged to be causing a nuisance to neighbouring properties. Failure to comply with the requirements of the notice can result in prosecution;
- Under the Clean Air Act 1993 it is an offence for a commercial activity to burn anything that gives rise to dark smoke.

To prevent offences under the above named Acts there should be no bonfires on the site, to include the prohibition of the burning of cleared vegetation. The applicant should contact the Council's Planning & Regulatory Department on 01978 292040 for further advice and information.

The Applicant is advised that under the Environmental Protection Act 1990, dust from construction and/or demolition activities can be judged to be causing a statutory nuisance to neighbouring properties. A legal notice can be served requiring that any dust nuisance is abated and failure to comply with the requirements of the notice can result in prosecution. The applicant should contact the Council's Planning & Regulatory Department on 01978 292040 for further advice and information.

A licence must be obtained (as required by section 184 of the Highways Act 1980) from the Highway Authority in order to lower the kerbline and cross the footpath. Further guidance can be obtained from the Highway Authority of Wrexham County Borough Council on telephone 01978 729670.
