

REPORT OF THE CHIEF OFFICER ECONOMY AND PLANNING – 9 January 2023

APPLICATION NO:
P/2022 /0673

LOCATION:
38 PENYBRYN WREXHAM
LL13 7HY

DATE RECEIVED:
20/07/2022

COMMUNITY:
Offa

DESCRIPTION:
DYMCHWEL CWT AC ADEILADU
ESTYNIAD AC ARDAL BLANHIGION /
DEMOLITION OF OUTBUILDING AND
ERECTION OF EXTENSION AND
PLANT AREA

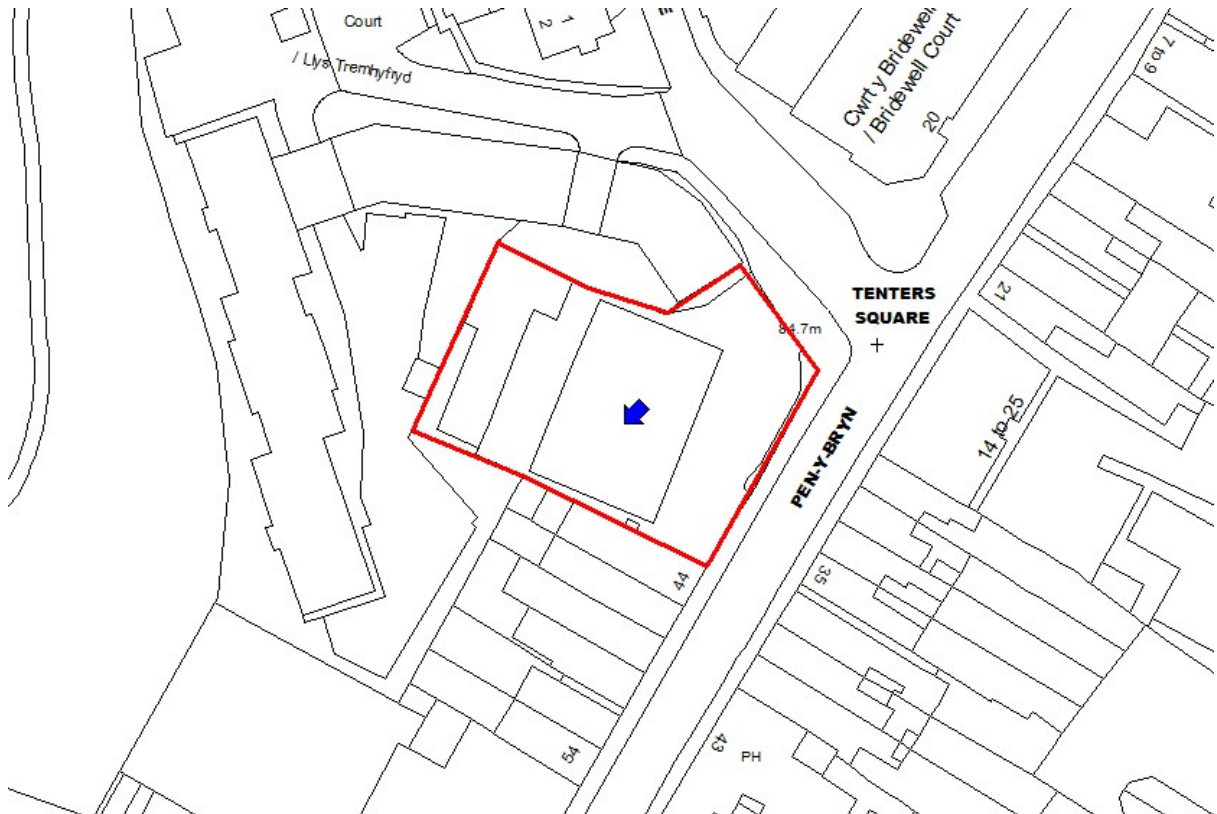
CASE OFFICER:
SH3

WARD:
Offa

AGENT NAME:
EDGEPLAN LTD
STEVE EDGELLER

APPLICANT(S) NAME:
NORTHOLD GROUP

THE SITE



PROPOSAL

The application seeks permission for the erection of an extension to an existing retail premises and the erection of a plant area following the demolition of existing outbuildings. The extension will house a 'back of house' storage area and associated staff facilities.

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The application has been referred to the Planning Committee due to objections raised by the Community Council.

HISTORY

P/2015/0353 Change of use of existing car repair garage to retail unit (Class A1) and external alterations and parking areas. Granted 18.9.2015

P/2016/0937 Amended design (in retrospect) following alterations on site to planning permission P/2015/0353. Granted 12.6.2017

P/2016/1124 Approval of details reserved by conditions 8 and 10 of P/2015/0353: submission of service, delivery and parking management plan and submission of plan showing the extent of the outbuilding. Granted 27.4.2017

P/2020/0549 Variation of condition (hours of opening and deliveries). Granted 7.12.2020.

P/2020/0750 Demolition of outbuilding and erection of new extension and plant area. Withdrawn.

P/2021/0092 Discharge of condition 5 (service delivery and parking management plan) of P/2020/0549. Granted 11.1.2022

DEVELOPMENT PLAN

The site is located within the settlement limit and within the district shopping centre of Pen Y Bryn. UDP policies PS1, GDP1, S5 and T8 are therefore applicable.

CONSULTATIONS

Community Council

Objects on the following grounds:

1. Notes that the amended plans involve a considerable increase in floor area for the "Back of House (BOH)" area and of the plant area from those originally submitted and considers that this would impact on several trees which provide a screen between the Belle Vue Court flats (and the park at the far end) and the backs of the buildings on Penybryn from Tenters Square to Ruthin Road.
2. Notes that the proposed BOH building is almost 60% larger than the original proposal, and the Plant Area is 80% larger. Also notes that there is no vehicular access to the rear of the building and suggests that as a result, deliveries to both buildings could only be through the store or along the very narrow footpath along the Tenters Square elevation of the building which would be unsafe.

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3. Notes that car parking spaces 01 and 02 are partly on land which is part of the apartment development along with two of the proposed cycle spaces. The Community Council considers that moving these spaces away from the apartments would narrow the vehicular access from Tenters Square, and would obstruct the visibility splays required in Condition 3 of the December 7th approval.
4. Considers that the proposal should have operating hours limited in the same manner as the planning permission granted on 7th December 2021 (7am to 10pm)
5. Considers that a Tree survey, and detailed plans showing the extent of demolition already carried out, or still planned for demolition, should be submitted before this application can be determined.
6. Suggests that several of the conditions applied to the various approvals since the original application to convert the previous Halfords Garage in 2015 have never been implemented, and these were restated in the extended hours approval - Application P/2020/0549, approved on the 7th December 2020.
7. Agrees with the principle of demolishing the existing inadequate outbuildings and replacing them with modern extensions. However, considers that development should be within the limited capacity of the site, fully complying with requirements of the conditions attached to the December 7th approval, and not adversely affecting the trees at the rear of the site, or the health and safety of residents in the surrounding residential area.

Local Member

No response received.

Contaminated Land

Have no comments to make.

Welsh Water

Recommend a conditions and advisory notes in relation to SAB and a drainage scheme for the site.

Public Protection Officer

Recommends a condition relating to noise generation from the plant area, and informatives relating to dust management, construction/demolition site noise and burning of waste.

Natural Resources Wales

Advises no objection.

Ecology

No concerns.

Tree Officer

Advises that the arboricultural information provided is well considered and acceptable. Considers that the Impact Assessment and Method Statement in particular, if supervised and adhered to should provide the necessary

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considerations and protective measures to ensure the retention, survival and development of the two valued goat willows.

Explains that the landscaping scheme provided within the report is also acceptable and provides appropriate canopy enhancement and a biodiversity net gain.

Highway Officer

Notes that the original consent for the retail unit (planning ref: P/2015/0353) included the provision of 12 parking spaces ie/ 9 spaces at the front of the premises and 3 staff parking spaces at the rear of the site. At this time, the proposed 12 spaces equated to a shortfall in parking provision (LPGN 16) of 48% compared with maximum standards.

Notes that the proposed extension is intended for back of house / staff facilities only. If it is assumed that this comes under ancillary use with no requirement for additional parking provision, then this would equate to 39 % parking provision / a shortfall in parking provision of 61% compared with maximum standards.

Observes that the development site is in a sustainable location where the majority of customers may well arrive on foot. Notes that there are also a number of on-street parking bays along both Pen Y Bryn and Tenters Square which could potentially be used by customers visiting the retail unit. Advises that these spaces are limited to 30 minutes waiting –Monday to Saturday between 8am – 6pm and are used intermittently throughout the day by existing businesses along this section of Pen y Bryn.

The Highways Officer concludes if the proposed use is classed as ancillary use and given the sustainable location of the site, it would be difficult to sustain an objection on highway grounds.

Site Notice

Expired 16.9.22

Neighbours

Owners/occupiers of nearby properties notified. No representations were received.

SPECIAL CONSIDERATIONS

Principle of development: The site lies in the district shopping centre of Pen Y Bryn. Policy S5 allows for new shopping development within this area provided that it is appropriate in scale in relation to the function of the area, and is of a type which would complement and enhance the existing centre.

The proposal for is an extension to an existing retail unit to provide/replace existing back of house storage and staff facilities to enable the existing retail unit to function more effectively. The proposal would also involve a

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replacement plant area. An existing cold store/link building has already been removed and the remaining part of the existing units would be demolished as part of the development. The applicant has confirmed that the proposed extension would not include a bakery area.

The existing back of house/bakery units cover an area of 134m². The proposed extension would cover an area of 120m² resulting in a reduction of 10%. The extension would match the maximum height of 4m of the previous storage building and the plant area would be contained by acoustic screening 3.4m high.

The proposal would be an appropriate use, being a replacement to an existing storage area at the site and would be appropriate in scale, and is therefore considered to be acceptable in principle.

Scale and design: The proposed development would be similar in height to the storage/bakery buildings that it would replace, but would result in the built development being moved further into the site to adjoin the existing building. When combined with the decrease in the floor area of the storage facility by 10%, this would reduce the visual impact of the development as a whole.

The extension would have a flat roof set lower than the ridge height of the main retail unit. It would also be set in from the side elevation of the existing building, further minimising the overall visual impact of the extension.

The plant area would be open-top and enclosed by 3.5m acoustic fencing. High level fencing already exists around the site, therefore acoustic fencing will not result in a greater visual impact.

Parking and highway safety: The applicant has confirmed that deliveries to the site would continue in accordance with the extant Delivery Management Plan. The Community Council have suggested that deliveries are not taking place in accordance with the Management Plan, but this is a separate enforcement matter. To note, the Council has not received any complaints regarding breaches of the condition.

The Community Council has suggested that two parking spaces and two of the cycle parking spaces would lie partly on land outside of the ownership of the applicant. Whilst land ownership is not, in itself, a material planning consideration, the applicant was made aware of this. The Applicant has contacted the freehold owners of properties on Bellevue Court who have confirmed that they do not own the strip of land. It is believed that the land in question was previously occupied by lighting columns and was omitted from the plans when the former garage was changed to retail in 2015. The applicant has now included an amended location/site plan with the application which incorporates the land in question.

The development would not result in the loss of any parking spaces. The number of parking spaces to the front of the building will remain at 9. Whilst

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the previous planning permission (Ref: P/2015/0353) to convert the building to its existing use proposed 3 parking spaces to the rear, amendments were granted permission in 2017 (Ref: P/2016/0937) which deleted the spaces. Furthermore, the amendments also removed a means of vehicular access to the rear of the building, which had previously been by way of an access driveway through the building.

The development would result in a net reduction in floor area and will be used for purposes ancillary to the development. The site is also in a sustainable location where many customers may arrive on foot. Furthermore, there a number of on-street parking bays along both Pen Y Bryn and Tenters Square which could potentially be used by customers visiting the retail unit. Whilst these are limited to 30 minutes from 8am until 6pm, customers will be aware of this restriction. Customer parking is likely to be short stay given the nature of the use, with spaces regularly becoming available.

Taking the above factors into account, it is considered that on balance the proposal is unlikely to give rise to highway safety or parking problems. As such there is no conflict with policies GDP1(d) or T8.

Residential amenity: The site lies in close proximity to residential properties to the north and north-west. The proposal would move an area of built development away from the western boundary of the site, adjoining the existing retail unit and replacing it with a smaller built area comprising a plant area. The proposed extension would be lower in height than the existing building therefore having minimal impact on nearby residential properties. The proposed plant area would be contained within a compound enclosed by acoustic screening to minimise and noise from the development. The Council's Public Protection Team have requested a condition to ensure that the noise level from the site does not exceed the pre-existing background level at any time to safeguard residential amenity. It is considered that bearing in mind the location of the site and the presence of existing boundary treatments, the proposal would not result in a loss of amenity to nearby residents by virtue of noise or loss of light.

The Community Council have suggested that the opening hours agreed under planning application P/2020/0549 should be imposed on the development currently under consideration. It is considered that this would be reasonable and necessary in order to safeguard residential amenity close to the site.

Trees: There are five trees along the boundaries of the site to the west and south-west; two of which are goat willows which are considered to be of some amenity value. A Tree Survey and Protection Plan have been submitted with the application. The Council's Tree Officer has stated that the Impact Assessment and Method Statement, if implemented, should provide the necessary protective measures to ensure the retention, survival and development of the goat willows.

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A landscaping scheme was also submitted with the application. This is considered to be acceptable and to provide both canopy enhancement and a biodiversity net gain for the site.

The Council's Tree Officer has recommended the imposition of conditions to ensure that the development takes place in accordance with the Tree Reports and with appropriate arboricultural supervision and that the landscaping scheme is implemented within three months of the development first being used.

CONCLUSION

The development proposed would not adversely impact upon the character and appearance of the area and is acceptable in respect of highway safety, parking and residential amenity. It therefore accords with policies PS1, GDP1, S5 and T8 of the Wrexham Unitary 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 and amended drawing(s) numbered or labelled as follows:
 - (PL)001 REV C Date: 11.12.20
 - (PL)002 REV B Date: 17.12.20
 - Bat Tree Assessment and Presence/Absence Survey by United Environmental Services Ltd Date: 18th July 2022
 - Tree Protection Plan Phase 1 TPP1, Drawing Number NWTC.22.11.2 Date: 27/10/22
 - Tree Protection Plan Phase 2 TPP2, Drawing Number NWTC.22.11.3 Date: 27/10/22
 - Arboricultural Impact assessment prepared by Peter Gardner, Ref: NWTC.22.11 Date: 28/11/22
 - Tree Constraints Plan TCP, Drawing Number NWTC.22.11.1 Date: 27/10/22
 - Protection Plan PP, Drawing Number NWTC.22.11.4 Date: 27/10/22 and as contained within the application documentation.
3. The development shall be carried out in strict accordance with the following plans and report(s) submitted and approved as part of this application:
 - 1) Arboricultural Method Statement ref no: Section 7/AIA/NWTC/22/11No development or other operations shall take place except in strict accordance with the report as approved.
4. 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

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writing by the Local Planning Authority. The supervisory works shall be carried out in strict accordance with the details as approved.

5. The landscaping scheme approved as part of this application shall be fully implemented in strict accordance with approved drawing no. NWTC/22/11/4 within three months of the first use of the development with the exception of soft landscaping which shall be carried out in the first planting season (November to March) or seeding season (April to September) following the first use.

6. The rating level of any noise generated by reason of this development shall not exceed the pre-existing background level at any time. The noise levels shall be determined at nearby noise sensitive premises, and measurements and assessment shall be made in accordance with BS4142:2014 Method for rating and assessing industrial and commercial sound.

7. No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the disposal of foul, surface and land water and include an assessment of the potential to dispose of surface and land water by sustainable means. The scheme shall thereafter be implemented in accordance with the approved details prior to the first use of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

8. No use of the development, to include the receipt of deliveries shall be made before 07:00 or after 22:00 hours on any day.

9. No part of the development shall commence until samples of all external facing materials have been 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.

10. The development hereby permitted shall be for uses ancillary to the main retail premises at 38 Pen Y Bryn only and for no other purpose.

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 protect trees which are of significant amenity value to the area in accordance with Policies GDP1, PS2 and EC4 of the Wrexham Unitary Development Plan.

4. 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.

5. 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.

6. To protect the amenities of the occupiers of nearby properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

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7. To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.
8. To protect the amenities of the occupiers of nearby properties in accordance with Policy GDP1 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. In the interests of the amenity of nearby residential properties and in the interests of highways safety, in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

NOTE(S) TO APPLICANT

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 and Regulatory Department on 01978 292040 for further advice and information.

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 the Council's Environmental Health and Housing Standards at: healthandhousing@wrexham.gov.uk or on 01978 292040. Please use the same 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:

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- 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 and Regulatory Department on 01978 292040 for further advice and information.

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
