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Heading:

45/2013/1452
Glan Aber Trading Estate
Rhyl

4



Application Site

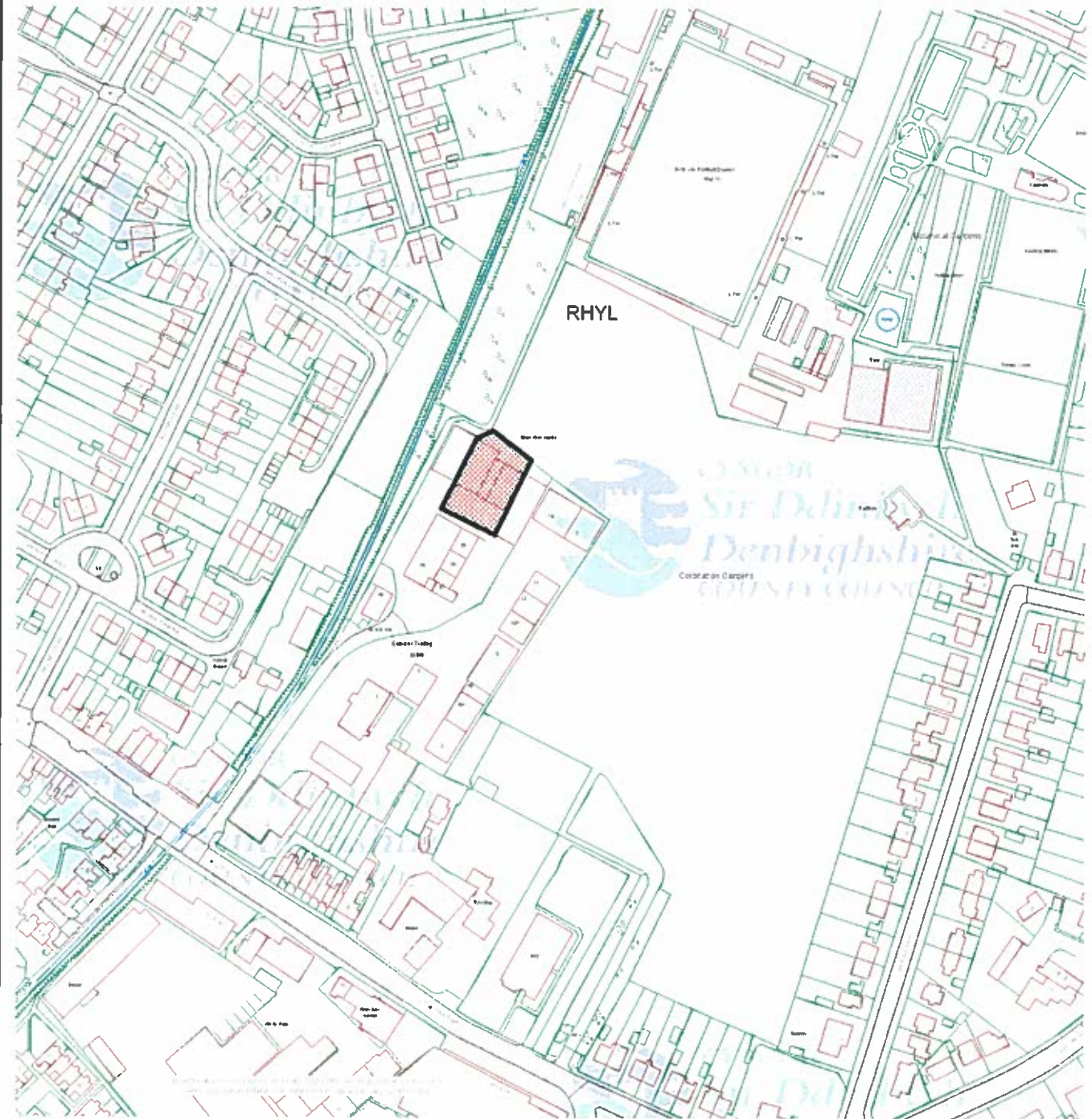


Date 4/3/2014

Scale 1/2500

Centre = 301701 E 381068 N

This plan is intended solely to give an indication of the LOCATION of the application site which forms the subject of the accompanying report. It does not form any part of the application documents, and should not be taken as representative of the proposals to be considered, which are available for inspection prior to the meeting.



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Martha Savage

ITEM NO: 4

WARD NO: Rhyl South West

WARD MEMBER(S): Councillors Pat Jones & Margaret McCarroll

APPLICATION NO: 45/2013/1452/ PS

PROPOSAL: Variation of condition numbers 2, 3 and 5 of planning permission ref 45/2012/0280/PF to permit use of part of unit 3 as office, cladding to front of unit 3, storage of empty skips in front of unit 2 and shipping container to rear of unit 3

LOCATION: Unit 2 and 3 Glan Aber Works Glan Aber Trading Estate, Vale Road Rhyl

APPLICANT: MrDerek PilkingtonP.A.R.S. LTD

CONSTRAINTS: C1 Flood Zone
PROW
Groundwater Vulnerability 1
Groundwater Vulnerability 2

PUBLICITY UNDERTAKEN: Site Notice - NoPress Notice - NoNeighbour letters - Yes

CONSTRAINTS:
Public right of Way
C1 Flood Zone

PUBLICITY UNDERTAKEN:
Site Notice - Yes
Press Notice - No
Neighbour Notification - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE
Scheme of Delegation Part 2
Recommendation to grant/approve – Town / Community Council objection

CONSULTATION RESPONSES:
RHYL TOWN COUNCIL
" Object on the grounds that the conditions attached to the original permission were to protect and safeguard the health and wellbeing of staff, residents, neighbouring businesses and users of the adjacent public footpath/open space".

NATURAL RESOURCES WALES
Request clarification that drainage from the welfare facilities is not discharged to the cesspool/holding tank which is to only receive water from the sealed drainage system from Unit 2.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES
Head of Transport and Infrastructure
No response at time of preparing report

Public Protection Pollution Control Officer

No response at time of preparing report

RESPONSE TO PUBLICITY:

In objection -

Mr Nick Edwards, Beresford Adams Commercial, 7 Grosvenor Street, Chester, CH1 2DD

Summary of planning based objections:

Highways issues

The location of the perimeter fence is causing severe access and egress problems to the occupier of Unit 15.

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Outline of application

1.1.1 The application relates to conditions imposed on a planning permission granted at Committee in November 2012, for the use of a motor body repair centre as a transfer facility for bagged and sealed asbestos waste.

1.1.2 Conditions 2 and 5 on the permission are worded as follows :

“ 2. The site shall be used only for the storage of sealed asbestos and for no other purpose (including any other purpose in Class B of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification).

5. No waste material or skips shall be stored in the open air.

The reasons for the conditions were:

2. In order to protect the amenity of the area and to regulate the use of land. Other waste materials raise environmental and amenity issues that would require consideration afresh and to ensure the development is in accordance with policies GEN 6 and MEW 11 of the UDP.

5. To enable the County Planning Authority to control the use of the site in the interests of the amenity of the locality and human health, and to ensure the development is in accordance with policies GEN 6 and MEW 11 of the UDP.

1.1.2.1 This is a Section 73 Application made under the Town and Country Planning Act (1990) as amended to permit the storage of empty skips in front of Unit 2 and to enable the use of part of Unit 3 as office accommodation. The application is partly retrospective as the office accommodation has been installed within Unit 3 and is currently being used by employees.

1.1.3 There are no changes sought to other conditions of the 2013 permission. The application originally submitted included for a variation to Condition 3 of the main permission, in relation to proposals to site a shipping container to the rear of Unit 3, but this has been omitted from the application.

1.2 Description of site and surroundings

1.2.1 The proposal site is currently used as an asbestos transfer station and this use would not change as a result of this application.

1.2.2 The site is occupied by Unit 2 which is a steel clad building and Unit 3 which is brick built with metal roof.

1.2.3 The site is bound to the north by Coronation Gardens which is an area of open space. The site is also bound to the north west by a Public Right of Way. Glan Aber Trading Estate is dominated by brick and metal clad buildings.

1.3 Relevant planning constraints/considerations

- 1.3.1 The application site is located on the Glan Aber Trading Estate which is located within the Rhyl development boundary on a site allocated for employment uses under policy PSE 2 of the Local Development Plan.
- 1.3.2 Coronation Gardens are designated as Recreation and Open Space under policy BSC11 of the Local Development Plan.

1.4 Relevant planning history

- 1.4.1 Planning permission was granted on the 21st November 2012 for the change of use from a motor body repair centre to permit the transfer of bagged and sealed asbestos waste into skips; installation of a cesspool/holding tank; weighbridge and siting of a portacabin. At the Planning Committee it was agreed that the site would be actively monitored to ensure that the site is run in compliance with its conditions.

1.5 Developments/changes since the original submission

- 1.5.1 Site monitoring visits undertaken by Officers have identified a number of breaches of condition.
- 1.5.2 Condition 2 restricts the use of the site to the storage of sealed asbestos and for no other purpose in Class B of the Town and Country Planning (Use Classes) Order 1987 (as amended). The conversion of Unit 3 to office accommodation, which involved internal building works, is considered to result in a breach of this condition.
- 1.5.3 Condition 5 states that no waste material or skips shall be stored in the open air. There is evidence of the storage of empty skips on the site.

1.6 Other relevant background information

- 1.6.1 The Applicant has been advised by Officers to address unauthorised operations undertaken on site, by way of a Section 73 Application.
- 1.6.2 The Applicant has erected white cladding to the front of Unit 3 which was also noted during the site monitoring visits. The cladding is considered in keeping with the character of the Trading Estate and no further action is considered necessary in this regard.

2 DETAILS OF PLANNING HISTORY:

45/2012/0280 Change of use from motor body repair centre to permit the transfer of bagged and sealed asbestos waste into secure skips; installation of a cesspool/holding tank; weighbridge and siting of a portacabin: Granted 21/11/2012 Planning Committee Decision.

3 RELEVANT PLANNING POLICIES AND GUIDANCE:

The main policies and guidance considered to be of relevance to the application are:

- 3.1 Denbighshire Local Development Plan adopted 4th June 2013
 - RD1: Sustainable development and good standard design
 - PSE 2: Land for employment uses

Supplementary Planning Guidance
SPG 8 Access for all

- 3.2 Welsh Government
 - Planning Policy Wales 2012, Section 3.1.4
 - Technical Advice Note 12: Design

4 MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 5, 2012 (PPW) confirms the requirement that planning applications 'should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise' (Section 3.1.2). PPW advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned., and that these can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Sections 3.1.3 and 3.1.4).

The following paragraphs in Section 4 of the report therefore refer to the policies of the Denbighshire Local Development Plan, and to the material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

- 4.1.1 Principle
- 4.1.2 Highways / transport
- 4.1.3 Sustainability / accessibility issues
- 4.1.4 Visual impact

4.2 In relation to the main planning considerations:

4.2.1 Principle

In relation to Condition 2

Condition 2 restricted the use of the site for the storage of sealed asbestos and for no other purpose. The Applicant has installed office accommodation within Unit 3 which is currently occupied and used in connection with the asbestos removal business. The planning permission originally approved the siting of a portacabin to the front of Unit 3 which provides welfare facilities for workers on the site. The site was not to be used as an office and the welfare facilities were only to be provided for workers delivering asbestos to the site, not by office workers. The office currently accommodates 4 employees and the Applicant. The portacabin is still used as temporary welfare facilities until such time as the portacabin can be replaced with a permanent building.

The office accommodation is used in connection with the Applicant's asbestos removal business. The site is located within an area allocated for employment within the LDP, within which B1, B2 and B8 uses will be supported. The office accommodation is not located within the same building as the storage of waste and any waste that is stored on site is stored within lockable sealed skips. Loading of sealed asbestos takes place within Unit 2 and there should therefore be no conflict between the use of Unit 3 as an office. The location of office accommodation in this location is considered acceptable, in line with policy PSE 2 of the adopted LDP.

In relation to Condition 5

Condition 5 states that no waste material or skips shall be stored in the open air. The Applicant is seeking to vary the condition to allow the storage of empty skips to the front of Unit 2. The purpose of this condition was to ensure waste and skips containing waste or potentially contaminated skips are stored within a building within a sealed drainage system. The Applicant is seeking to store empty skips, which have been decontaminated off-site, to the front of Unit 2 before moving them inside for the storage of sealed asbestos waste. The storage of skips in connection with this type of use is usual and is considered acceptable in principle.

4.2.2 Highways / transport

Local Development Plan Policy RD 1 tests (vii) and (viii) oblige provision of safe and convenient access for a range of users, together with adequate parking, services and maneuvering space; and consideration of the impact of development on the local highway network Policy ASA 3 requires adequate parking spaces for cars and bicycles in connection with development proposals, and outlines considerations to be given to factors relevant to the application of standards. These policies reflect general principles set out in Planning Policy Wales (Section 8) and TAN 18 – Transport, in support of sustainable development.

The use of Unit 3 for office accommodation has already occurred and this element of the proposal is therefore retrospective. Planning permission was granted based upon vehicle movements associated with the movement and transfer of asbestos waste only and not in relation to the occupation of one of the units by employees. The highways movements associated with the office are not considered materially different to that generated by previous uses on the site and whilst there will be a slight increase in terms of people accessing the site this is mitigated by the availability of parking elsewhere on the Trading Estate and the availability of public transport in this location.

In noting the objection in relation to the proposed variation of condition due to the impact the site is currently having on access and egress for the occupier of Unit 15 due to the fencing, respectfully, planning permission has already been granted in respect of the fencing and no change to the fencing is proposed or would result from this application.

Permitting the use of Unit 3 for office accommodation is considered unlikely to result in a material increase in vehicle movements to and from the site.

4.2.3 Sustainability / accessibility issues

Local Development Plan Policy RD1 test (vii) sets out the need to provide safe and convenient access for disabled persons. The requirement to embody the principles of inclusive design in development proposals is set out in Planning Policy Wales (Section 3.4) which outlines accessibility considerations to be given to all development proposals, reflected in TAN 12 Design, TAN 18 Transport, and through the obligation to submit Access Statements as part of most planning applications.

The Applicant has submitted an Access Statement in support of the application. Of particular note are the welfare facilities which are provided separately within the portacabin which is accessed by steps. The Applicant has proposed the provision of a temporary ramp and adjustment of lightweight partitions within the portacabin to enable disabled access. The Applicant advises that in the medium term the intention is to replace the Portacabin with a permanent building.

The Applicant also advises that a mobility parking space can be accommodated within the garage area of Unit 3.

4.2.4 Drainage

Local Development Plan Policy RD 1 test (xi) requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding. Planning Policy Wales Section 13.2 identifies flood risk as a material consideration in planning and along with TAN 15 – Development and Flood Risk, provides a detailed framework within which risks arising from different sources of flooding should be assessed.

The Applicant is not proposing to change the drainage provision within the development, as welfare facilities will continue to be provided within the existing Portacabin. Natural Resources Wales did not object to the application as long as the welfare facilities do not connect to the cesspool/holding tank used to accept water from the sealed drainage system within Unit 2. No change to the drainage system

would be made as a result of this application.

4.2.5 Visual Impact

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use of land / buildings and spaces between buildings, which are matters relevant to the visual impact of development; test (vi) requires that development does not unacceptably affect prominent public views into, out of, or across any settlement or area of open countryside; test (vi) requires the incorporation of existing landscape or other features, takes account of site contours, and changes in levels and prominent skylines; and test (xiii) requires the incorporation of suitable landscaping measures to protect and enhance development in its local context.

The Applicant would store a small number of skips to the front of Unit 2 which faces into the Trading Estate. The skips would not be stacked and would only accept waste once they had been placed into Unit 2. The storage of skips in conjunction with a waste use is usual and is not considered out of character with the uses on the Trading Estate.

The works required to create the office have been internal, within Unit 3, and has therefore not had a visual impact.

Given the small number of skips that would be stored to the front of Unit 2, varying condition 5 to enable the storage of empty skips outside to the front of Unit 2 is considered acceptable.

5 SUMMARY AND CONCLUSIONS:

5.1 The Applicant is seeking to vary conditions attached to planning permission 45/2012/0280 to regularise a breach of conditions 2 and 5. In Officers' opinion, the activities that would be allowed by virtue of variations to conditions 2 and 5 would be in keeping with the character of the Trading Estate and are therefore considered acceptable, in line with policy RD1 of the adopted LDP.

5.2 The Town Council have objected to the proposal on the grounds that the conditions were put in place to protect health and well-being, but with due respect, the storage of empty, clean skips to the front of Unit 2 and the use of Unit 3 as an office is not considered likely to have a detrimental impact on human health and well-being.

6 RECOMMENDATION: GRANT the variation of condition 2 and 5:

1. The development to which this permission relates shall be commenced from the date stated on this decision notice.
2. The site shall be used only for the storage of sealed asbestos and ancillary office accommodation and for no other purpose (including any other purpose in Class B of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification).
3. Notwithstanding the provisions of Part 8 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, replacing or re-enacting that Order, with or without modifications) no fixed plant or machinery, buildings, structures and erections, or private roads shall be erected, extended, installed, or replaced within the site without the prior written approval of the Local Planning Authority.
4. Sealed asbestos waste brought to the site shall not be deposited other than in lockable skips within Unit 2, as shown on approved plan number 2392/2/OCT/11A.
5. No waste material or skips shall be stored in the open air with the exception of empty skips to the front of Unit 2 which shall not be stacked, in accordance with plan number 2392/2/OCT/1C.
6. No plant, equipment, skips or waste material shall be stored in the area to the rear of the Units and along the boundary with Coronation Gardens and the Public Footpath.
7. No more than 3,650 tonnes of asbestos waste per year shall be imported to the site.

8. Immediately following the deposit of each load of waste it shall be checked to ensure that no material which could become airborne is present. Should any such material be found it shall be removed from the waste and suitably disposed of. Should litter blow from the working area it shall be collected at once and disposed of.
9. The storage of any skips on the land shall only be incidental to the use of the site and shall be confined to the areas by approved plan 2392/2/OCT/11A and 2392/2/OCT/1C unless otherwise agreed in writing by the Local Planning Authority.
10. There shall be no discharge of foul or contaminated drainage (including trade effluent) from the site into either groundwater or any surface water, either direct or via soakways.
11. Except in emergency, operations authorised by this permission, including vehicles entering or leaving the site, shall be restricted to 08:00 to 17:00 Monday to Saturday. The Local Planning Authority shall be notified prior to, or as soon as is reasonably possible, of any emergency operations to be undertaken outside the operating hours specified above.
12. Air monitoring shall be undertaken in accordance with an air monitoring programme submitted to, and agreed in writing by, the Local Planning Authority. The air monitoring shall be undertaken by a company accredited by UKAS in air sampling. Air monitoring certificates shall be kept on site and provided to the Local Planning Authority for inspection on request. Should the results of air monitoring exceed the detection limit of 0.01 fibres per millilitre of air work shall cease on site and appropriate measures taken to address any release of fibres. Any breach of the detection limit shall be reported to the Local Planning Authority, including measures taken to address the release of fibres. Following a breach of the detection limit work shall not recommence until it can be demonstrated to the satisfaction of the Local Planning Authority that the detection limit is no longer exceeded.
13. No building materials shall be stored on the right of way.
14. No damage or substantial alteration, either temporary or permanent, shall be caused to the surface of the right of way.
15. Vehicle movements shall be arranged so as not to interfere with the public's use of the way.
16. No additional barriers (e.g. gates) shall be placed across the right of way, of either a temporary or permanent nature.
17. No asbestos shall be stored on site unless the fire prevention measures, as identified on approved plan 2392/OCT/11A are in place and effective.
18. Facilities shall be provided and retained within the site for the loading, unloading, parking and turning of vehicles in accordance with a scheme submitted to and agreed in writing by the Local Planning Authority.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In order to protect the amenity of the area and to regulate the use of land. Other waste materials raise environmental and amenity issues that would require consideration afresh and to ensure the development is in accordance with policy RD1 of the adopted Denbighshire Local Development Plan.
3. There is an exceptional need to secure control over additional plant and machinery, in the interests of the amenity of the area and bearing in mind the degree of discretion otherwise allowed by the General Permitted Development Order and to ensure the development is in accordance with policy RD1 of the adopted Denbighshire Local Development Plan.
4. In order to protect the amenity of the area and to regulate the use of land and to ensure the development is in accordance with policy RD1 of the adopted Denbighshire Local Development Plan.
5. To enable the County Planning Authority to control the use of the site in the interests of the amenity of the locality and human health, and to ensure the development is in accordance with policy RD1 of the adopted Denbighshire Local Development Plan.
6. To protect the amenities of the area and to ensure the development is in accordance with Policy RD1 of the adopted Denbighshire Local Development Plan.
7. In order to protect the amenity of the area and to regulate the use of land. A significant increase in volume of material being imported to the site would raise environmental and amenity issues that would require consideration afresh and to ensure the development is in accordance with policy RD1 of the adopted Denbighshire Local Development Plan.
8. To minimise the impact of litter on the amenities of the area and to ensure the development is in accordance with policy RD1 of the adopted Denbighshire Local Development Plan.

9. To protect the amenity of the area and to regulate the use of land and to ensure the development is in accordance with policy RD1 of the adopted Denbighshire Local Development Plan.
10. To prevent pollution of the water environment and to ensure the development is in accordance with policy RD1 of the adopted Denbighshire Local Development Plan.
11. To protect the amenities of local residents and to ensure the development is in accordance with policy RD1 of the adopted Denbighshire Local Development Plan.
12. To protect human health and to ensure the development is in accordance with policy RD1 of the adopted Denbighshire Local Development Plan.
13. To safeguard the adjacent public right of way and ensure that the development is in accordance with policy RD1 of the adopted Denbighshire Local Development Plan.
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15. To safeguard the adjacent public right of way and ensure that the development is in accordance with policy RD1 of the adopted Denbighshire Local Development Plan.
16. To safeguard the adjacent public right of way and ensure that the development is in accordance with policy RD1 of the adopted Denbighshire Local Development Plan.
17. To protect human health and to ensure the development is in accordance with policy RD1 of the adopted Denbighshire Local Development Plan.
18. To provide for the loading, unloading, parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.

NOTES TO APPLICANT:

None