

Heading:

REFERENCE NO. 45/2014/0617/AC

23 MARINE DRIVE

RHYL

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Application Site

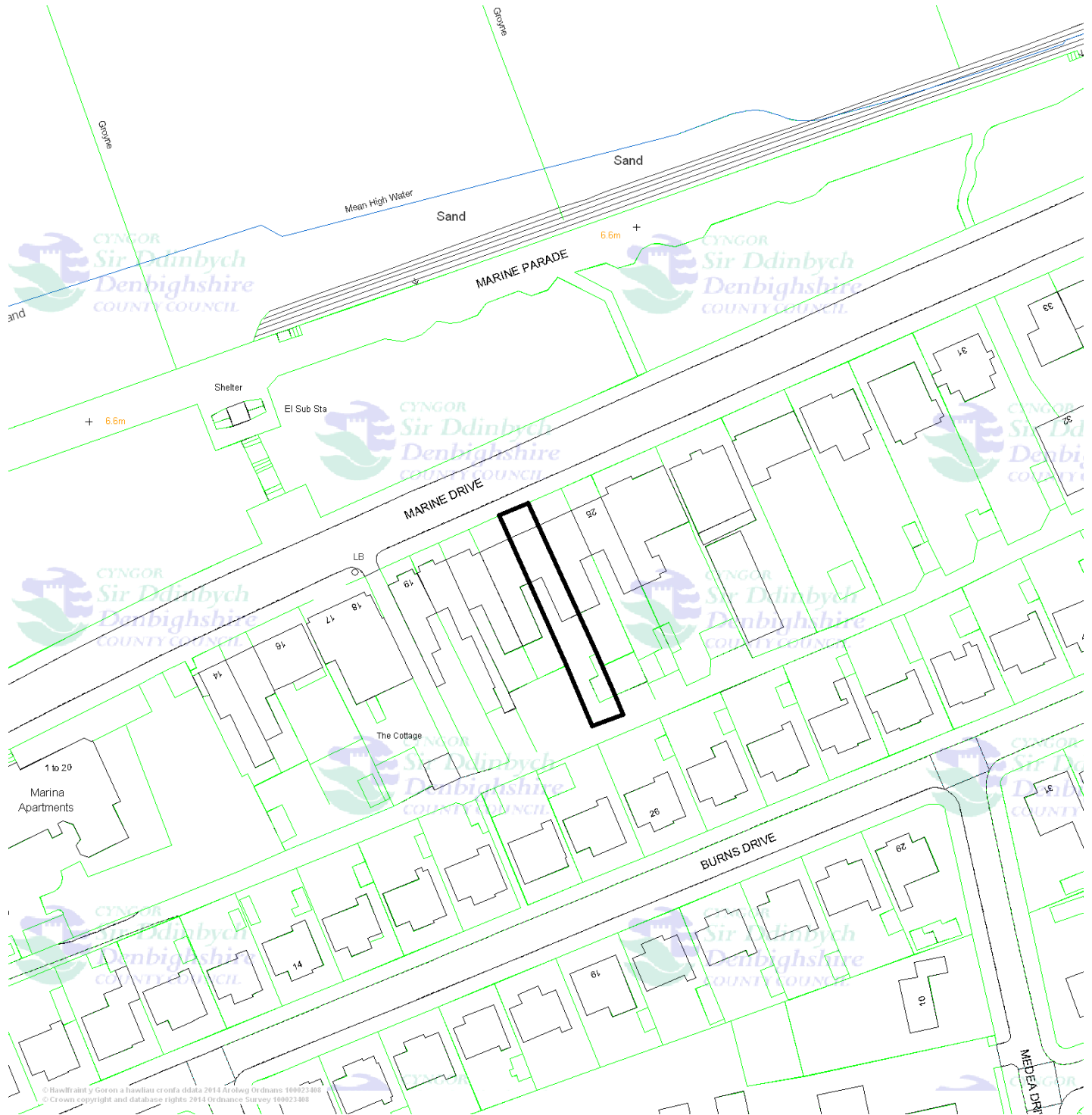


Date 27/8/2014

Scale 1/1250

Centre = 301774 E 382276 N

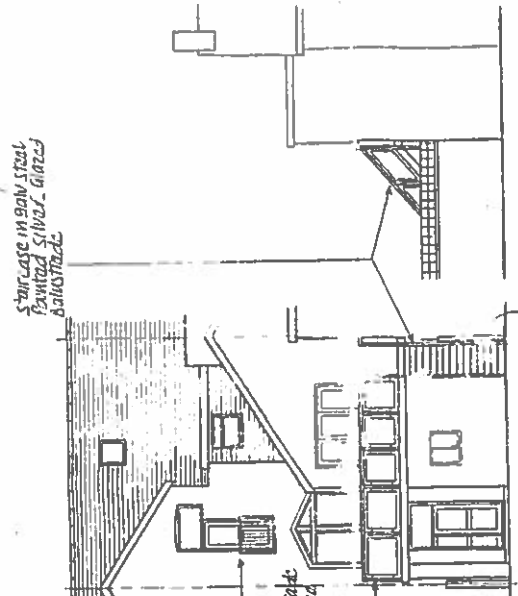
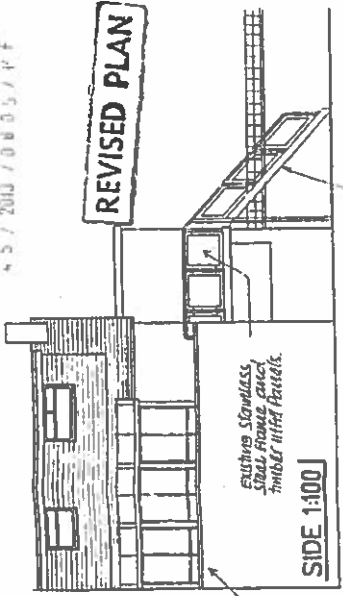
This plan is intended solely to give an indication of the LOCATION of the application site which forms the subject of the accompanying report. It does not form any part of the application documents, and should not be taken as representative of the proposals to be considered, which are available for inspection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



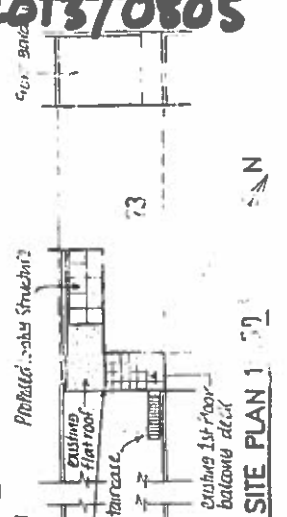
APPROVED PLAN & ELEVATIONS
- NOVEMBER 2013
45/2013/0805

45/2013/0805/RF

REVISED PLAN



Ref. A 1 to 13 amendments - Privacy screen omitted in plan
 Lobby structure with timber
FEB 13
23 MARINE DRIVE RHYL - DG2 - REFUSED



RECEIVED
 07 OCT 2013
 CALDERYNE RECEPTION

Extant frames of Lobby
 Lobbies will be stained /
 painted. Paintwork - clear glazed
 roof and south elevation
 west elevation to be fixed with
 opaque and obscure glazed

azing to west side elevation of
 lobby all to be fixed with opaque
 to obscure glazed to ensure privacy
 both floors.

At out and form new structural
 zoning. Fit new folding doors
 zoning with obscure glazed
 units or stained timber.

Block formative
 balustrade
 stainless steel

kitchen

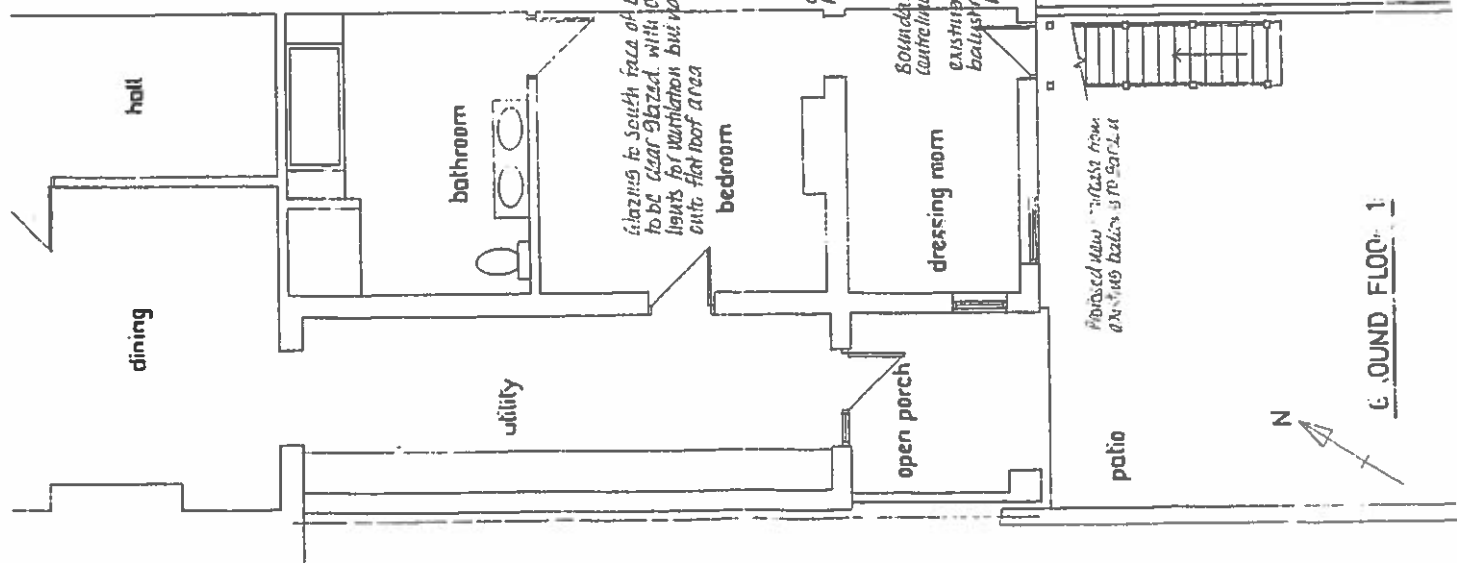
balcony
 (EXISTING)

Existing flat roof
 No access to this
 area.

**LOCATION
 OF SCREEN**

between flat roof area and existing
 balcony fit in high balcony railing
 to provide access onto flat roof area
 barrier to be stained in place to prevent
 access to flat roof area but to have
 faults to be replaced for use in an
 emergency situation and maintenance
 access only

FIRST FLOOR 1:50

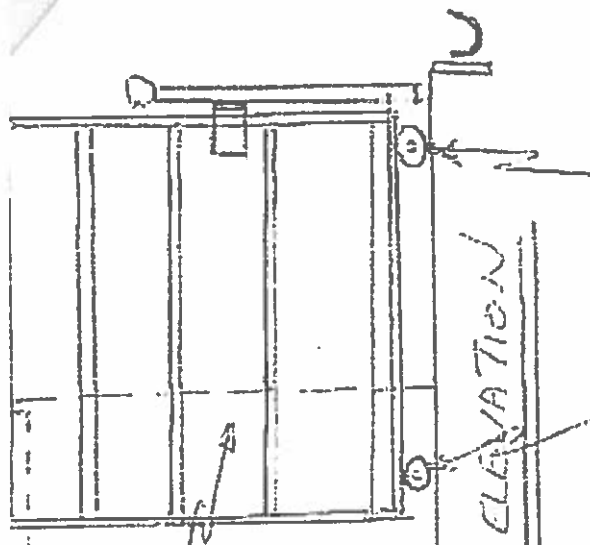


SCREEN DETAIL

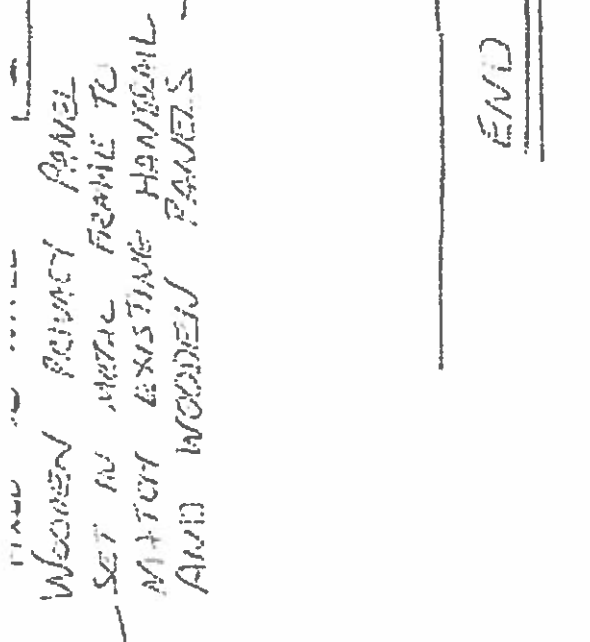
DRG NO: RM2

PRIVACY PANEL DETAIL

SCALE - NTS APRIL 14.

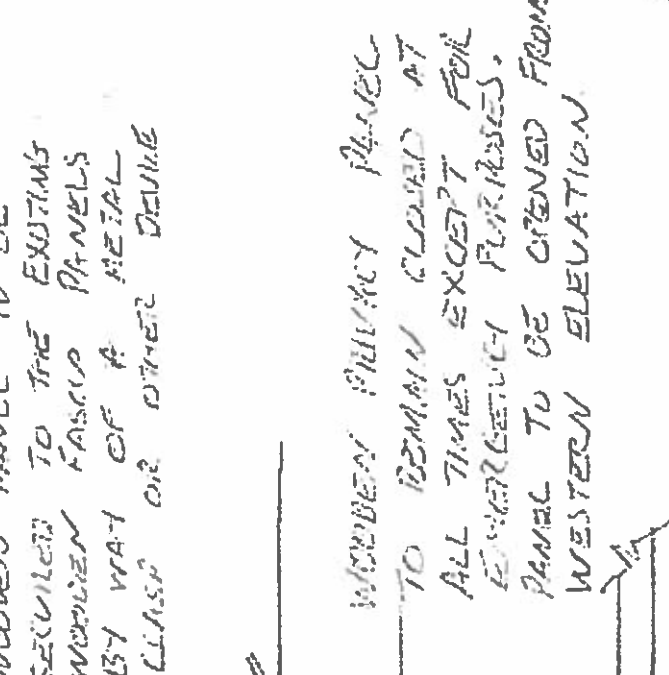


END ELEVATION



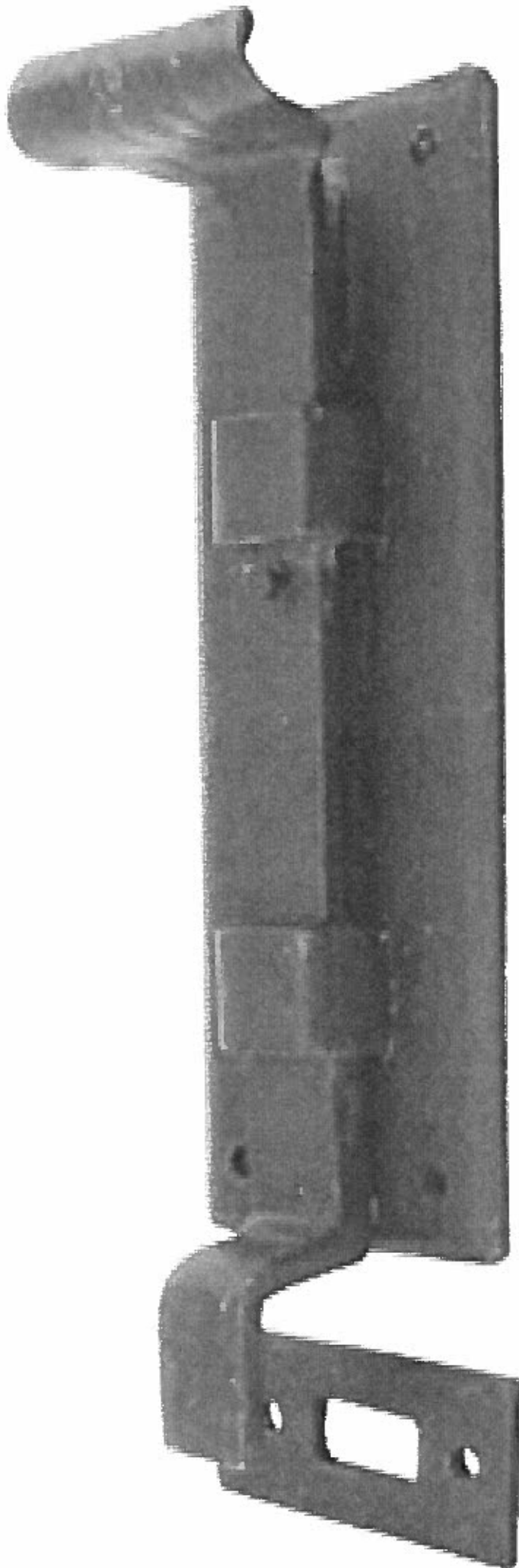
FRONT ELEVATION

WOODEN PANEL TO BE SECURED TO THE EXISTING WOODEN FASCIA PANELS BY WAY OF A METAL CLASP OR OTHER DEVICE



PLAN VIEW

**CRANK BOLT
DETAIL**



ITEM NO: 5

WARD NO: Rhyl East

WARD MEMBER(S): Cllr Barry Mellor
Cllr David Simmons

APPLICATION NO: 45/2014/0617/ AC

PROPOSAL: Details of proposed screen to prevent access from existing balcony to flat roof area submitted in accordance with condition no. 5 of planning permission code no. 45/2013/0805

LOCATION: Shirley 23 Marine Drive Rhyl

APPLICANT: Mr Russell Moffatt

CONSTRAINTS: None

PUBLICITY UNDERTAKEN: Site Notice – No
Press Notice – No
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Referral by Head of Planning / Development Control Manager
- Member request

RESPONSE TO PUBLICITY:

Neighbouring occupiers were consulted on the plans given the background history.

In objection

Mr. S and Mrs J. Soudagar, Ardmore, 24 Marine Drive, Rhyl.

Summary of planning based representations in objection :
Screen would not prevent access to the flat roof area as required by January 2011 permission / should be a permanent structure / Council should enforce previous conditions

EXPIRY DATE OF APPLICATION: 14/07/2014

REASONS FOR DELAY IN DECISION:

- awaiting consideration by Committee

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

1.1.1 The application is one of two on the agenda relating to developments at the rear of this three storey property on Marine Drive in Rhyl.

1.1.2 This report contains details of a screen to be erected on part of a first floor balcony / flat roof area at the rear of the dwelling. This is an approval of condition application

following the grant of planning permission and is brought to Committee at the request of local members having regard to the background history at the site.

1.1.3 The requirement for approval of the screen detailing arises from a condition imposed on a planning permission granted in November 2013 for developments at first floor level at the rear of the property. This included a lobby extension, a staircase down to ground floor level, and a balustrade to limit access to the remainder of the first floor flat roof area. The application was determined at Planning Committee.

1.1.4 The condition in question was No. 5 and is worded as follows:

5. *Notwithstanding the submitted plans, the detailing of the screen to be erected to prevent access from the existing balcony onto the adjacent area of flat roof shall not be as shown, but shall be a 1.5 metre high screen in accordance with such alternative detailing as may be submitted to, and approved by the Local Planning Authority within two months of the date of this permission, and the approved scheme shall be implemented in its entirety no later than 6 months from the commencement of the development permitted by this permission. The approved screen shall be retained at all times thereafter.*

The reason for Condition 5 was :

“In order to ensure the screen is of sufficient height to restrict access to the flat roof area, and in the interests of the privacy/amenity of the occupiers of nearby properties”.

1.1.5 The details of the screen are in the plan at the front of the report. The applicant explains in the covering letter that the screen is to be of wooden sections within a metal frame similar to the existing handrails, and will be supported on wheels to allow the panel to be opened in emergency situations from the lobby side. The plans show the screen would be 1.4 m high and secured with a clasp which can only be released from the lobby side (i.e. not the balcony). Additional clarification has been sought in relation to the clasp detailing, which is in the form of a crank bolt, illustrated in the plans at the front of the report.

1.2 Description of site and surroundings

1.2.1 The subject property is a three-storey mid-terraced house which fronts the beach and promenade in Rhyl on Marine Drive. It is abutted by a house to the east, No.24 Marine Drive, and by flats at No 22 Marine Drive. Properties within the area are used for a variety of residential accommodation including houses and flats, with the rear curtilage of the properties in the block (19 to 26) used for amenity space and also parking, which is accessed via a rear alleyway.

1.2.2 There has been a first floor balcony area at the rear of No. 23 for some years. A planning permission was granted in early 2011 for a single storey flat roof extension at the side of the property. This was conditioned to prevent use of the flat roof area in order to limit the overlooking of the rear of No 22.

1.2.3 The adjacent property at 24 Marine Drive has a swimming pool in the rear garden and has a two-storey flat-roofed rear projection along the side boundary to 23 Marine Drive, with a main window on the rear elevation facing south.

1.2.4 The adjacent property at 22 Marine Drive has a rear yard area which is divided into three areas for use by the ground floor, first floor and second floor flats, with the ground floor unit facing the side blank wall of the single-storey extension added to the rear of 23 Marine Drive. The property at 22 Marine Drive has rear facing bedroom doors and windows and the upper floors also have rear and side facing windows; and there is a rear stairway down from first floor level at the back of Nos. 21 / 22.

1.3 Relevant planning constraints/considerations

1.3.1 There are no designations or allocations in the Local Development Plan of relevance to the application.

1.4 Relevant planning history

1.4.1 The site has an extensive planning history as set out in Section 2 of this report. It includes a number of applications to alter and extend at the rear of the property.

1.4.2 The most recent applications of relevance are one granted in January 2011 for the retention of a single storey flat roofed extension with a flat roof infill, one refused in June 2013 for a conservatory at first floor level on top of the flat roof area, and one granted on November 2013 for a first floor lobby extension, stairway and barrier to prevent access onto the flat roof area.

1.4.3 The relevance of the 2013 permission for the lobby, screen, and staircase is that it effectively 'overrides' the earlier permission in 2011 for the retention of the flat roof extension. For the record, the approved plan in the November 2013 permission contained the following notation in relation to the screen to be provided -

' Between flat roof area and existing balcony fit 1m high balcony railing to prevent access onto flat roof area. Barrier to be secured in place to prevent access to flat roof area but to have facility to be retracted for use in an emergency situation and maintenance access only'.

A copy of the plan approved in November 2013 is included at the front of the report.

In addition to Condition 5 quoted in paragraph 1.1.3 of the report, the November 2013 permission contained the following conditions relating to the detailing of the lobby extension and the use of the flat roof area over the side extension:

"3. *There shall be no external door openings in the lobby structure.*
4. *The roof area annotated in red on the plan attached to this permission shall not be used at any time as a balcony, roof garden or amenity area in connection with the dwelling*".

Members may appreciate from the above that the November 2013 permission contains quite specific controls over the development to preclude the use of the remaining section of the first floor flat roof extension, in conjunction with the requirement for approval of the details of the screen.

1.5 Developments/changes since the original submission

1.5.1 The applicant has submitted an additional drawing to clarify the detailing of the proposed clasp / bolt arrangement on the screen, to demonstrate that it would only be accessible from the flat roof area in an emergency, and not from the balcony side.

1.6 Other relevant background information

1.6.1 The next application on the agenda, Code no. 01/2014/0924 proposes amendments to the scheme granted planning permission in November 2013, but has to be determined on its own merits entirely separate from this application relating to the screen detailing.

2. DETAILS OF PLANNING HISTORY:

2.1 2/RYL/518/78 - Erection of a fire escape for flatlets: Granted 07/11/1978.

2/RYL/0190/90/P - Continuation of use of building as 4 flats and extension to rear:
Withdrawn 03/12/1990.

2/RYL/0176/93/P - Construction of dormer at rear to form new bathroom/bedroom (Flat 2):
Granted 22 June 1993.

45/2007/1511 - Erection of two-storey flat-roofed extension with balconies at rear of premises and provision of new steel staircase: Refused 14/03/2008 on the grounds of the impact on the adjacent occupiers due to the scale, massing, height and siting of the extensions with balconies above which would have a detrimental impact on the amenity and privacy of the adjacent occupiers.

45/2008/0694 - Erection of two-storey extension with balcony at rear of dwelling: Refused 04/09/2008 on the same grounds as the refusal of 45/2007/1511.

45/2008/1356 - Erection of single-storey flat roof extension to rear: Withdrawn 30/04/2009.

45/2009/1003 - Application for a Certificate of Lawfulness for the proposed erection of single storey flat roof extension to side of dwelling: Certificate issued 13/07/2010.

45/2010/1360 - Retention of single-storey flat-roofed extension but with flat roof infill over open porch and handrail over to match existing balcony deck (Retrospective application): Granted 19/01/2011. The permission contained conditions precluding use of the flat roof area nearest No 22 as a balcony, roof garden, or amenity area ; and required approval of the detailing of a screen to prevent access from the balcony area onto the aforementioned flat roof area, and the details of Juliet balconies to prevent access from external doors onto that area.

45/2011/0532 - Details of screen and Juliet balconies to prevent access on to the side extension flat roof submitted in accordance with retrospective planning permission 45/2010/1360: Refused 08/08/2011 on the grounds that the proposed screening would not prevent access to the flat roof and therefore did not remove the possibility of the overlooking of the adjoining property at 22 Marine Drive.

45/2013/0520/PF - Construction of first-floor conservatory extension and privacy screen and construction of external staircase from balcony to garden area: Refused 3 June 2013 for the following reason:

"It is the opinion of the Local Planning Authority that the scale, massing, height and siting of the proposed first-floor conservatory on top of the existing single-storey rear extension, and use of the flat roof area adjacent to the proposed conservatory as a balcony would result in a detrimental impact on the amenity of the adjacent occupiers, by virtue of overlooking, loss of privacy and overbearing impact. As such, the proposal is contrary to Criterion v) of Policy GEN 6 and Criterion iii) of Policy HSG 12 of the adopted Denbighshire Unitary Development Plan, along with the guidance set out in the Council's adopted Supplementary Planning Guidance 1'Extensions to Dwellings'."

45/2013/0805 - Erection of lobby extension at first floor level, staircase from first floor balcony to rear garden, and balustrade to limit access to first floor flat roof area ; and widening of existing doorway from kitchen onto existing balcony: Granted 13 November 2013. Conditions attached precluding the provision of external door openings out onto the flat roof area and the use of the flat roof area as a balcony, roof garden, or amenity area in connection with the dwelling; and requiring approval of the detailing of the balustrade /screen.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

3.1 DENBIGHSHIRE LOCAL DEVELOPMENT PLAN (adopted 4th June 2013)

Policy RD 1 Sustainable development and good standard design

Policy RD 3 Extensions and alterations to existing dwellings

3.2 Supplementary Planning Guidance

SPG 1 Extensions to dwellings

3.3 GOVERNMENT POLICY / GUIDANCE

Planning Policy Wales Edition 7 July 2014
Technical Advice Notes

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 7, 2014 (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 are considered to be:

4.1.1 The acceptability of the detailing of the privacy screen

4.2 In relation to the main planning considerations:

4.2.1 The acceptability of the detailing of the privacy screen

The sole issue to be determined in relation to this approval of condition submission is whether the details of the screen are acceptable having regard to the reason for the imposition of condition 5, i.e. "In order to ensure the screen is of sufficient height to restrict access to the flat roof area, and in the interests of the privacy/amenity of the occupiers of nearby properties". The application is not an opportunity to reopen discussion on the merits of the extension and stairway granted in November 2013, or the backhistory of issues at the site.

Having regard to the above –

- 'In order to ensure the screen is of sufficient height to restrict access to the flat roof area'
The height of the screen to be locked in place across the balcony area is indicated at 1.4 metres on the submitted plan. Officers suggest this should be 1.6 metres in order to provide an effective visual screen. This would be of adequate height to prevent users of the balcony simply climbing over it to access the flat roof area in front of the proposed lobby extension. The inclusion of a clasp arrangement accessible on the flat roof side would help to make the removal of the screen difficult from the balcony side.
- 'in the interests of the privacy / amenity of the occupiers of nearby properties'
The placement of a 1.6m screen across the balcony, with a securing clasp to lock it in place would provide a clear physical barrier limiting the overlooking potential from the existing balcony area of No 23 towards the side / rear of No. 22 Marine Drive, and in preventing access onto the first floor flat roof area immediately adjacent to the rear of No 22, would restrict opportunity for overlooking from that area.

In respecting the comments of the neighbours at No 24, the matter now before the Council is solely the acceptability of the detailing of the screen in terms of Condition 5 of the November 2013 permission. The implementation of the November 2013 permission would effectively override the January 2011 consent, and it would then not be appropriate for the Council to pursue enforcement against non compliance with the terms of that earlier consent. Should the November 2013 permission not be implemented, then the Council would be obliged to investigate the position with regards to compliance with the January 2011 consent, and the case or otherwise for taking

enforcement action. This should not however influence consideration of the acceptability of the details currently in front of the Council in relation to the screen.

It is also relevant to note that Conditions 2 and 3 imposed on the November 2013 permission, quoted in 1.4.3 of the report provide additional controls over the development, preventing the installation of external doors in the lobby extension and use of the flat roof area as a balcony, roof garden, or amenity area in connection with the dwelling. These give the Council clear grounds for enforcing against any breaches.

In relation to the 'mobility' of the screen, it was clear from the plan submitted (and approved) as part of the 2013 application that this was to have a facility for being retracted for use in an emergency situation and for maintenance access.

5. SUMMARY AND CONCLUSIONS:

5.1 Having regard to the background, it is considered that the detailing of the screen is acceptable in terms of restricting access to the flat roof area adjacent to No 22, and limiting the opportunity for overlooking of that property. There are separate conditions on the November 2013 permission restricting the use of the flat roof area which can be enforced in the event of any breaches.

5.2 The recommendation is therefore to approve the detailing submitted.

RECOMMENDATION: APPROVE- subject to the following conditions:-

1. The screen shall be 1.6 metres high when measured from the floor of the balcony, and shall be constructed no later than 6 months from the commencement of the development to which it relates, as granted permission under Code No. 45/2013/ 0805/PF.

The reason for the condition is:-

1. To ensure consistency with the main permission for the lobby extension and stairway, and to ensure the screen is in place in connection with the development.