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45/2015/0468

Scale: 1:1250

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4.50m
cefnidy road

ffordd derwen

c5.43m

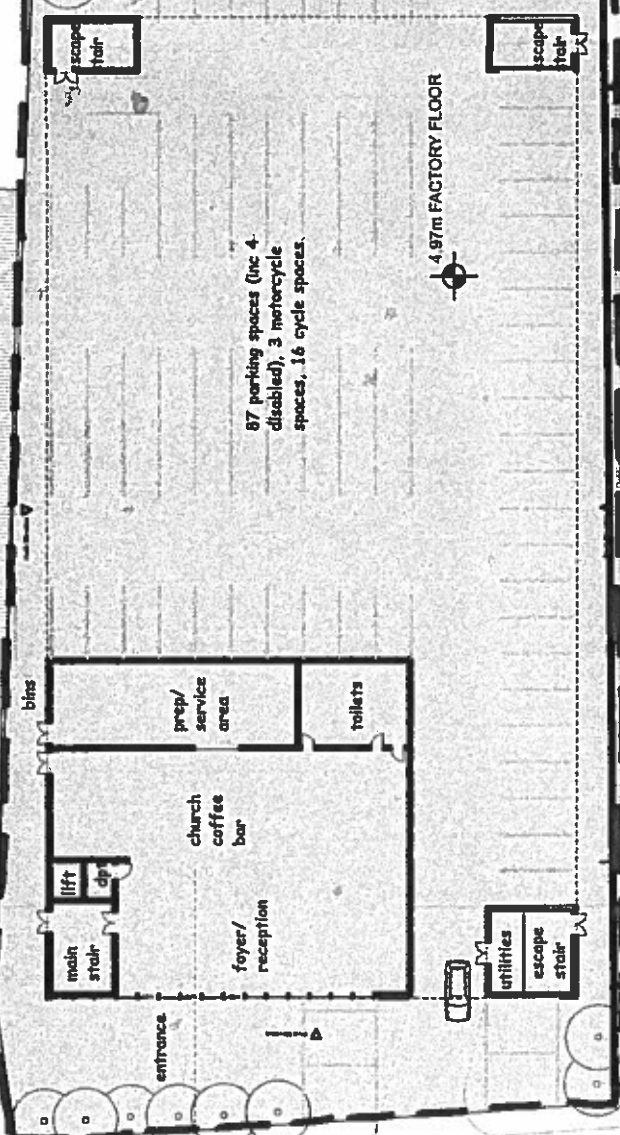
↑
ACCESS

LAYOUT
PLAN

6.55m TOP OF FLOOD DEFENCE WALL

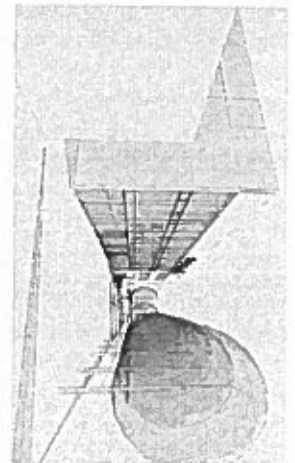
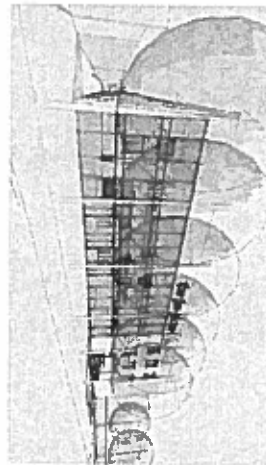
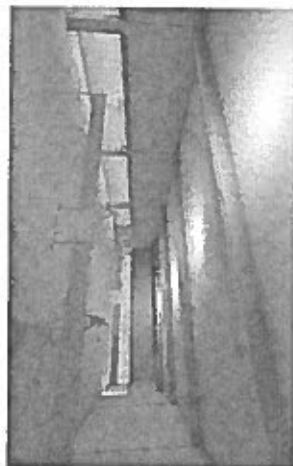
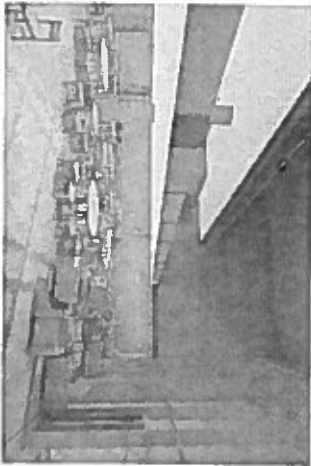
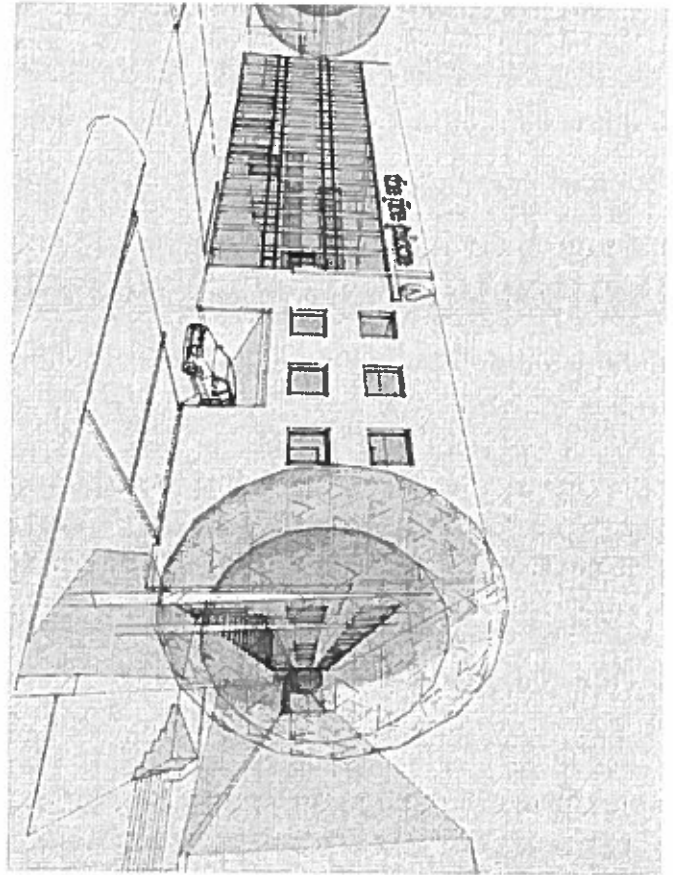
4.97m FACTORY FLOOR

87 parking spaces (inc 4 disabled), 3 motorcycle spaces, 16 cycle spaces.



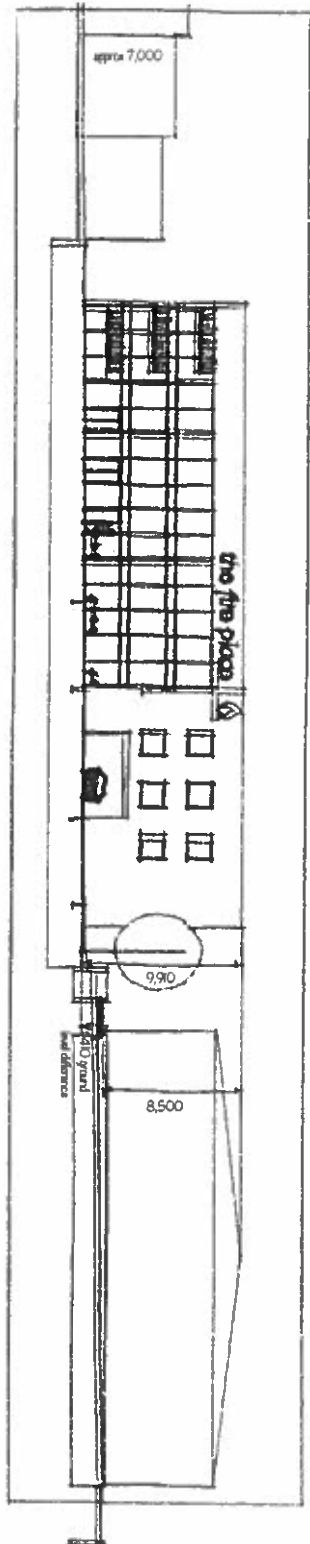
SKETCHES

sanctuary

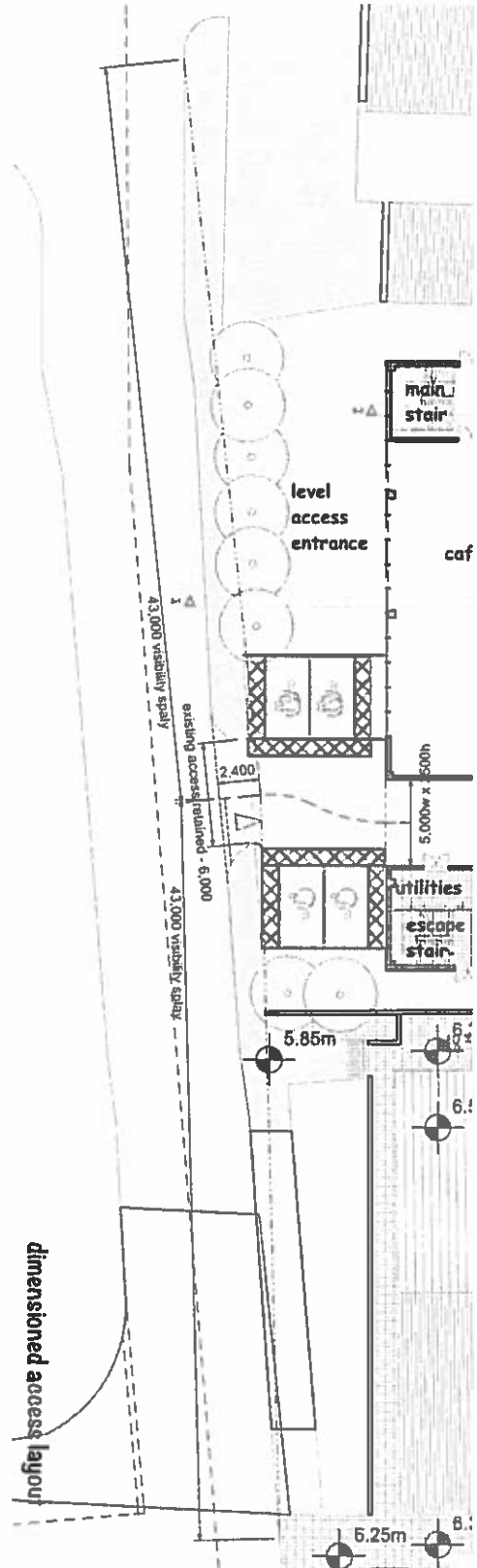


coffee bar sports hall

ILLUSTRATIONS



sketch elevation

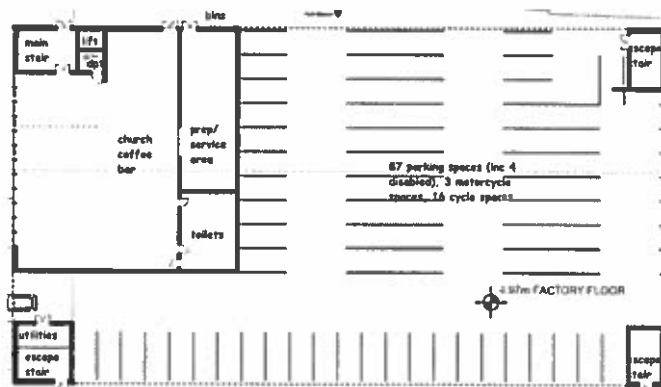
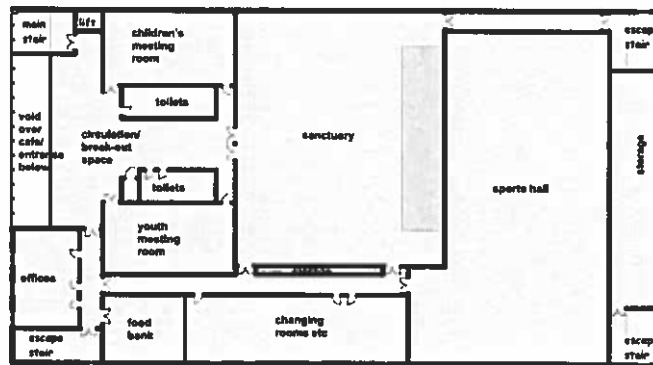
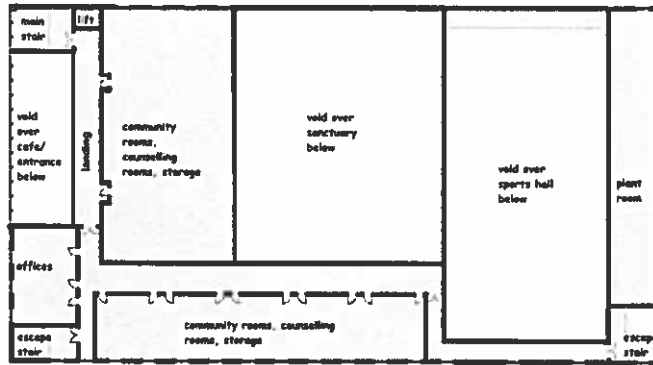


dimensioned access layout

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ILLUSTRATIVE FLOOR PLAN



WARD : Rhyl South West

WARD MEMBERS: Cllr Pat Jones (c)
Cllr Pete Prendergast (c)

APPLICATION NO: 45/2015/0468/PO

PROPOSAL: Development of 0.29ha of land by the demolition of redundant factory unit and construction of a church and community centre (outline application including access)

LOCATION: Former Thorpe Engineering and Design Site Ffordd Derwen Rhyl

APPLICANT: Rev Mike Bettaney Wellspring Christian Centre

CONSTRAINTS: C1 Flood Zone (revision)
EA Floodmap Zone 3
EA Floodmap Zone 2

PUBLICITY UNDERTAKEN: Site Notice – Yes
Press Notice – Yes
Neighbour letters - Yes

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

- Recommendation to refuse – 201 name petition in favour received.

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL –
“No objection.”

WELSH WATER –
No objections .Standard comments relating to water discharge and sewerage.

NATURAL RESOURCES WALES –
Raised initial objections to the proposal as the submission was made without a Flood Consequences Assessment (FCA). However, once an FCA was produced Natural Resources Wales provided further comments :
“the developer proposes to locate car parking, a reception area, coffee bar and toilets at ground floor level. All other (“highly vulnerable”) facilities will be located at first floor level and above. The first and second floors would be used as an emergency “refuge” in the event of sudden and extreme flooding in this community. Whilst your Authority should note that there are numerous Planning Inspector Reports that clearly state that the provision of emergency refuges within developments should not be used as a means of justifying new development in flood risk areas, we accept that the provision of first and second floors would provide some flood risk “betterment” when compared with the existing site/conditions. Having reviewed the contents of the limited FCA, it is our view that the contents of the FCA are generally commensurate to the scale and nature of development and we have no overall flood risk objections to the proposals.”

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES
HIGHWAY OFFICER –
No objection subject to a condition relating to parking and turning provision.

PLANNING POLICY OFFICER –

Objects to the proposal which is considered contrary to Policy PSE3 of the Local Development Plan as it fails to comply with the second criteria requiring the continuous marketing of the site for not less than one year.

RESPONSE TO PUBLICITY:

A petition containing 201 names has been lodged in support of the development. This refers to the demolition of both the unsightly and steel buildings on the site, and the construction of a purpose built church complex to serve the needs of Rhyl, which is supported by the Town Council and local politicians.

A representation from the adjacent commercial occupier (Kwikweld) confirms that interest was expressed in renting the application site to allow for expansion but that no contract was forthcoming, and suggests that this provides evidence of the demand for the site to continue in traditional employment use.

EXPIRY DATE OF APPLICATION: 22/07/2015

REASONS FOR DELAY IN DECISION (where applicable): Extensive discussions with the agent.

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The scheme seeks consent to demolish the existing vacant buildings at the site and to construct a new building to be utilised as a church and community centre, with associated car parking. The existing access into the site would be used without any alterations.
- 1.1.2 The application is submitted in outline form seeking approval only of the access, with the matters of appearance, landscaping, layout and scale all reserved for future approval.
- 1.1.3 The indicative layout and appearance plans submitted are produced at the front of the report and show the main building to the front (west) of the site with the car parking to the rear all provided on the ground floor, with the development then having two upper floors over the top of the majority of the site area. The plans indicate a sports hall on the first floor along with a sanctuary and toilets etc, with the second floor containing two voids over the sports hall and sanctuary with community rooms, storage, etc.
- 1.1.4 The scale and appearance of the building to the road is indicated as having a flat roof up to a height of 9.9 metres to be in line with the adjacent Howdens building to the south and taller than the industrial building to the north, which is indicated as being approximately 7 metres in height.
- 1.1.5 The layout shows parking for 87 cars which includes 4 disabled bays along with 3 motorbike spaces and cycle parking for 16 bikes.
- 1.1.6 The application form suggests that the existing buildings at the site have an area of 836 sqm, which will be replaced with the new building containing 3400 sqm. It is further stated that employment for 11 full-time jobs and 13 part-time jobs will be created, the equivalent of 18 full-time positions. The hours of use are not stated.
- 1.1.7 The scheme is accompanied by a Design and Access Statement which suggests that:
 - The proposal is for a major new church and community facility development which will be of significant benefit to Rhyl as a whole, but in particular to the western area of Rhyl where some of the most serious social problems are experienced.
 - Despite concerted attempts to look at all suitable alternative opportunities, there are no alternative sites available now, or in the foreseeable future, where this development might be located.

- Although the site is the subject of a policy protection in favour of employment uses, the policy is, nevertheless, capable of being outweighed by other material considerations; in this case the desirability of establishing the proposed church and community facility is a factor which would outweigh any policy objection.
- However, notwithstanding the above, it is clear that the proposal will itself generate significant paid employment and, therefore, far from offending the policy, the proposal is entirely consistent with its objectives.

1.2 Description of site and surroundings

- 1.2.1 At present, the site is occupied by two Class B1 units which have housed the former 'Thorpe Engineering & Design' business. The building located to the front of the site is an older building, of brick construction and is physically attached to the unit sited on the corner of Ffordd Derwen with Cefndy Road.
- 1.2.2 The site fronts Ffordd Derwen and is abutted by existing employment units to the north and south and across the road to the west, with a residential development under construction on land to the rear (east). The perimeter of the site is formed by fencing and mesh at a height of around 2 metres.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located within the development boundary of Rhyl in an area designated as an Employment Area under Policy PSE 2 of the Local Development Plan.
- 1.3.2 The land is within a Flood Zone C1, as indicated on current Development Advice Maps.

1.4 Relevant planning history

- 1.4.1 The site has an extensive history of extensions and alterations to the buildings in employment use at the site.
- 1.4.2 Members may recall dealing with a similar application to that currently proposed, under ref 45/2013/0566 in July 2013. Permission was refused as it was not considered the submission demonstrated that there were no other suitable sites available for the proposed use or that a continuous marketing process of 1 year had been undertaken to demonstrate that the site or premises was no longer capable of providing an acceptable standard of accommodation for employment purposes. In relation to the planning policy tests, it was considered that the loss of the site or premises would prejudice the ability of the area to meet a range of local employment needs.

1.5 Developments/changes since the original submission

- 1.5.1 Discussions with the agent have been ongoing since submission of the current application, in particular in respect of the lack of marketing of the property. The agent has sought to address this matter by suggesting that the scheme will create a total of 24 jobs comprised of 13 full-time positions and 11 part-time posts. In addition, a Flood Consequences Assessment was submitted in August 2015.

1.6 Other relevant background information

- 1.6.1 None.

2. DETAILS OF RELEVANT PLANNING HISTORY:

- 2.1 45/2013/0566/PO - Development of 0.29ha of land by the demolition of redundant factory unit and construction of a church and community centre to include church coffee shop, sports hall, day centre for the elderly and children's youth facility (outline application including access and layout):

Refused at Planning Committee.

Refusal dated 24 July 2013 - Reason:

"It is the opinion of the Local Planning Authority that the proposal is in direct conflict with Policies PSE 2 and PSE 3 of the Denbighshire Local Development Plan. It is not considered the submission demonstrates that there are no other suitable sites available for the proposed use or that a continuous marketing process of 1 year has been undertaken to demonstrate that the site or premises is no longer capable of providing an acceptable standard of accommodation for employment purposes. Having regard to the policy, therefore, it is considered that the loss of the site or premises would prejudice the ability of the area to meet a range of local employment needs."

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:
Denbighshire Local Development Plan (adopted 4th June 2013)
Policy RD1 – Sustainable development and good standard design
Policy PSE 2 – Land for Employment Uses
Policy PSE 3 – Protection of Employment Land and buildings
Policy ASA3 – Parking standards

3.1 Supplementary Planning Guidance SPG 21 – Parking

3.2 Government Policy / Guidance Planning Policy Wales Edition 8, January 2016 Technical Advice Note 15 – Development and Flood Risk (2004) Technical Advice Note 23 - Economic Development (2014)

4 MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 8, January 2016 (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 Visual amenity
- 4.1.3 Residential amenity
- 4.1.4 Highways (including access and parking)
- 4.1.5 Flood risk

4.2 In relation to the main planning considerations:

- 4.2.1 Principle
At Welsh Government level, there is general advice in TAN 23 paragraph 1.1.6 that the traditional land use classes B1 to B8 must continue to be planned for in a sustainable way as these form the basis for development plan policies. Paragraph 4.6.8 of TAN 23 stresses the need for local planning authorities to avoid releasing land for other uses where there is strong evidence of likely future demand for B1 to B8 uses, and that in some areas older lower-cost employment areas may be required especially for small and new firms who cannot afford newer and more prestigious accommodation. The same paragraph of TAN 23 concludes that the loss of such areas may cause harm to local economies and should be avoided.

Policy PSE 2 of the Local Development Plan supports development of existing employment sites on the proposals maps, by way of uses within Class B1 (Business Use), B2 (General Industrial and Waste Management facilities) and B8 (Warehousing and Distribution). This is a more detailed policy complementing the 'in principle' support for retention and promotion of a mix of employment generating uses in Policy PSE 1 relating to the North Wales Coast Strategic Regeneration Area.

The proposal is for a Class D use as described in the Use Classes Order, and, therefore is not supported by Policy PSE 2. Whilst it is noted the development may provide for a number of jobs in the locality due to the running and maintenance of the Church and Community Centre, the proposed use of land cannot be considered as a defined employment land use.

Policy PSE 3 of the Local Development Plan looks to protect employment land or buildings from development which would result in their loss, which will only be supported provided that:

- i) there are no other suitable sites available for this development; and
- ii) a continuous marketing process of 1 year, alongside all practical attempts possible to retain the employment use, has demonstrated that the site or premises is no longer capable of providing an acceptable standard of accommodation for employment purposes; and
- iii) the loss of the site or premises would not prejudice the ability of an area to meet a range of local employment needs or the proposal involves the satisfactory relocation of a non-conforming use from an unsuitable site.

An assessment of the three criteria of Policy PSE 3 follows:

- i) *There are no other suitable sites available for this development*

The Design and Access Statement contains an appendix that provides information on the search for alternative sites and provides information on land agents/surveyors involved in the search. It lists eight possible locations in the vicinity of the application sites, and outlines reasons why these are unsuitable. The information provided indicates there are no other suitable sites available for this development, although Officers assessment is that the submitted report is not particularly comprehensive.

- ii) *a continuous marketing process of 1 year, alongside all practical attempts possible to retain the employment use, has demonstrated that the site or premises is no longer capable of providing an acceptable standard of accommodation for employment purposes*

There is no information contained in the application regarding any marketing exercise carried out to demonstrate whether the site is no longer capable of use for employment purposes. This seems an essential requirement to comply with the policy and is relevant to policy criteria iii) below to show that the loss of the site would not prejudice the ability of the area to meet a range of local employment needs. The Development Plan Officer objects to the application on the basis of conflict with this policy.

- iii) *the loss of the site or premises would not prejudice the ability of an area to meet a range of local employment needs or the proposal involves the satisfactory relocation of a non-conforming use from an unsuitable site.*

It is explained in the Design and Access Statement that the Wellspring Church requires a new location because they would like to considerably expand the service they provide for the community at the moment. It is argued that the current site is not suitable because the Wellspring Church wishes to expand its community offer. In respecting the motives, Officers suggest this is a different matter from relocating a non-conforming use.

As referred to earlier in this report, a response from an adjacent land owner has also been submitted indicating an interest was expressed in leasing the site to allow for their expansion. This adds further credence to the demand for the continued use of the land for traditional B1 to B8 use classes.

It is therefore concluded that the proposal fails to comply with LDP Policy PSE 3 as a robust marketing exercise has not been undertaken for at least one year to show that the site is not capable of remaining in employment use, and insufficient information has been provided to demonstrate that the loss of employment land and buildings is justified in line with LDP Policy PSE 2. The development is also contrary to the advice of TAN 23 in regard to the release of land in established employment areas for non-B class uses.

4.2.2 Visual amenity

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 (iv) requires that development does not unacceptably affect prominent public views into, out of, or across any settlement or area of open countryside; test (v) 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 final appearance of the proposed development would be subject to consideration at reserved matters stage. Given that the area is primarily in employment use, other than the new residential development to the rear, it is not considered that there is any basis for opposing the application based on visual amenity at outline stage.

4.2.3 Residential amenity

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 touch on the potential for impact on residential amenity; test (vi) sets the requirement to assess the impact of development on the amenities of local residents, other land and property users, or characteristics of the locality, in terms of increased activity, disturbance, noise, dust, fumes, litter, drainage, light pollution, etc.

The site abuts employment uses to the north and south, and has further such uses across the road to the west. However the land is adjacent to a residential development to the east and due consideration needs to be given to potential impacts on residents.

It is relevant in this context that the designation for the land on which the site stands is for employment use and therefore new commercial development would be appropriate in principle, which could involve large-scale buildings and employment generating uses. It is not considered that the use proposed would be likely to give rise to a level of noise and disturbance over and above that which could arise from such an employment use. A refusal based on impact on residential amenity could not therefore be justified.

4.2.4 Highways (including access and parking)

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 manoeuvring 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 Highway Officers raise no objection to the application subject to imposition of conditions. It is not considered that the scheme as proposed would be harmful to highway safety as the development would be served by the existing access point, and the development appears to provide a satisfactory number of parking spaces. Full details would be subject to closer scrutiny at a reserved matters stage where the exact site layout and floor space information would need to be provided.

4.2.5 Flood risk

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 site is located within a C1 flood zone, with the existing industrial use being in the low vulnerability category and the proposed use being considered a ‘highly vulnerable’ use. Natural Resources Wales have revised their comments following the submission of the Flood Consequences Assessment, advising that the contents of the FCA are generally commensurate to the scale and nature of development and they have no overall flood risk objections to the proposals, although it is relevant to note they consider the provision of emergency refuges within developments should not be used as a means of justifying new development in flood risk areas, albeit that they accept that the provision of first and second floors would provide some flood risk “betterment” when compared with the existing site/conditions.

Technical Advice Note 15 provides detailed advice to Local Planning Authorities on the assessment of flood risk in relation to new development. It sets out specific planning considerations to be given to proposals in C1 flood zones, and in relation to applications involving ‘highly vulnerable’ development (e.g. a public building) states that new development should only be permitted if it is determined by the Local Planning Authority to be justified in the location. The relevant section (6.2) states that development can only be justified if it can be demonstrated that :

*i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; **or,***

ii Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;

and,

iii It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,

iv The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

Having regard to the tests in paragraph 6.2 of TAN15, Officers would question whether the development proposed is ‘justified’ in relation to the wording of (i) or (ii), and whilst it involves previously developed land (test (iii)), and the consequences of flooding have been considered (test (iv)), NRW express doubts over the provision of emergency refuges within developments as a means of justifying new development in flood risk areas. Overall it is concluded that the proposals do not demonstrate that the justification tests of TAN 15 are met.

5 SUMMARY AND CONCLUSIONS:

5.1 Whilst respecting the desire of the applicants to improve and expand the service to the local community, Officers conclusion remains as in July 2013 when the previous application was refused by the Committee, that the proposals are clearly contrary to current planning policy as they fail to address the issue of the loss of employment land. Additionally, having regard to the comments of Natural resources Wales and the advice in TAN15, it is considered that the proposals do not meet the justification tests for development in a C1 flood zone.

RECOMMENDATION: REFUSE- for the following reasons:-

The reasons are:-

1. It is the opinion of the Local Planning Authority that the proposal is in conflict with Policies PSE 2 and PSE 3 of the Denbighshire Local Development Plan and the advice in Technical Advice Note 23 'Economic Development'. It is not considered the submission shows that a continuous marketing process of one year has been undertaken to demonstrate that the site or premises is no longer capable of providing an acceptable standard of accommodation for employment purposes, and having regard to the policy, it is considered that the loss of the site or premises to the proposed use would prejudice the ability of the area to meet a range of local employment needs.
2. It is the opinion of the Local Planning Authority that the proposal does not meet the justification tests set out in Section 6.2 of Technical Advice Note 15 - Development and Flood Risk (2004) in relation to highly vulnerable development in a C1 flood zone, and that it would be inappropriate to permit development which could give rise to unacceptable risks in a flood event.

NOTES TO APPLICANT:

None