


© Crown copyright and database rights 2016 Ordnance Survey 100023408.

45/2015/1182/PS

Scale: 1:1250

Printed on: 3/2/2016 at 11:36 AM

Denbighshire Boundary




© Denbighshire County Council

WARD : Rhyl South West

WARD MEMBER(S): Cllr Pat Jones (c)
Cllr Pete Prendergast (c)

APPLICATION NO: 45/2015/1182/ PS

PROPOSAL: Variation of condition 3 imposed on planning permission 45/2013/0828 to allow an increase in the hours of use to:
06:00 - 20.30 Monday to Friday (currently 08:00 - 20:00)
07:00 - 14:00 Saturday (currently 08:00 - 14:00)
08:00 - 14:00 Sundays (as existing)

LOCATION: 29 Vezey Street Rhyl

APPLICANT: MrAdam Jones

CONSTRAINTS: C1 Flood Zone

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

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

- Recommendation to refuse – petition in favour received.

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL –
“Objection.

The Council notes the representations received from the applicant and the high level of supporting documentation from Gym Users. However in the main the Council does not consider these to be relevant to addressing the reason for refusal attached to application No. 45/2015/0521/PS.

The Council note that occupiers of two of the properties from the affected locality have now indicated support for the proposal however the Council is aware that strong opposition remains amongst other Vezey Street residents which in the view of the Town Council has not been addressed by the re-submitted application.

The Council does not raise any objection to the use of the premises as a gym and from a health and wellbeing perspective welcome this use however the Council remain concerned that the proposed amended operating hours are having a negative impact on the amenity of the other residents of Vezey Street.

The Council would also request that if the application is refused enforcement action is taken to ensure compliance with the permitted hours.”

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES
HIGHWAY OFFICER –
No objection.

RESPONSE TO PUBLICITY:
None.

EXPIRY DATE OF APPLICATION: 26/01/2016

REASONS FOR DELAY IN DECISION (where applicable): Committee decision required.

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

1.1.1 The submission seeks to vary Condition 3 of planning consent ref 45/2013/0828 which was granted in August 2013 for the conversion of the former use of the building as a fork lift truck training centre to a gym.

1.1.2 Condition 3 of the consent sought to restrict the hours of use of the property given that it stands adjacent to dwellings in order to prevent any noise and disturbance to nearby residents. The condition and reason read as follows:

“ The hours of use of the centre shall be from 0800 hours to 2000 hours Monday to Friday and from 0800 hours to 1400 hours on Saturdays and Sundays, along with only one-to-one personal training sessions undertaken by appointment only from 0600 hours to 0800 hours Monday to Fridays.”

Reason: In the interests of preventing noise and disturbance being caused to nearby local residents.

1.1.3 The application is identical in every respect to a previous submission ref 45/2015/0521/PS which was refused in July 2015, other than including an extensive petition signed and addressed by members of the gym requesting the extended opening hours applied for.

1.1.4 The change sought to the condition would allow the fitness centre to be used from 0600 hours to 2030 hours Monday to Friday, from 0700 hours to 1400 hours on Saturdays and from 0800 hours to 1400 hours on Sundays. The main change is therefore to bring forward the weekday opening time from 0800 hours to 0600 hours.

1.1.5 The statement submitted by the applicant suggests that the extension of hours applied for is needed to sustain the business and to meet the changing needs and requirements of its clients who wish to maintain a healthy lifestyle.

1.2 Description of site and surroundings

1.2.1 The property stands at the southern end of Vezey Street and is abutted by residential properties to all sides along with the Capel Soar and its hall to the south.

1.2.2 The site contains a main building within its western half with the eastern half of the site used for car parking.

1.2.3 The site is bounded by secure fencing to all sides with the only vehicular and pedestrian access taken off Vezey Street, which is otherwise entirely residential in nature.

1.3 Relevant planning constraints/considerations

1.3.1 The site is within the town's development boundary in an area without any specific designation in the Local Development Plan.

1.4 Relevant planning history

1.4.1 The permission for the gym was granted in August 2013. The case officer report noted that *“In discussions with the applicant, it has been confirmed that the main use of the centre will be from 0800 hours onwards with only personal training sessions offered on a one-to-one basis between 0600 hours and 0800 hours on weekdays as and when required on an appointment only basis.”*

1.4.2 An application to vary the wording of condition 3 imposed on the 2013 planning permission to allow an increase in the hours of use was refused in July 2015 on grounds of the unacceptable noise and disturbance to local residents from earlier and extended opening hours.

1.5 Developments/changes since the original submission

1.5.1 None.

1.6 Other relevant background information

1.6.1 None.

2. DETAILS OF PLANNING HISTORY:

2.1 45/2009/0277 - Change of use of warehouse/distribution centre to form a fork lift truck training centre and associated works: Granted 27/04/2009.

2.2 45/2013/0828 - Change of use of forklift truck training centre (Class D1) to health & fitness centre and training centre (Classes D1 & D2): Granted 13/08/2013.

2.3 45/2015/0521/PS - Variation of condition 3 imposed on planning permission 45/2013/0828 to allow an increase in the hours of use to: 06:00 - 20.30 Monday to Friday (currently 08:00 - 20:00) 07:00 - 14:00 Saturday (currently 08:00 - 14:00) 08:00 - 14:00 Sundays (as existing): Refused 01/07/2015 for the following reason:

"The proposed variation of the hours of use condition is unacceptable due to the noise and disturbance which would be caused to local residents by the earlier and extended opening hours. The proposal is therefore contrary to criteria i) and vi) of Policy RD 1 of the Denbighshire Local Development Plan."

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

3.1 Supplementary Planning Guidance

None.

3.2 Government Policy / Guidance

Planning Policy Wales Edition 8 January 2016
Technical Advice Notes
Circulars

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 Residential amenity

4.2 In relation to the main planning considerations:

4.2.1 Principle

As an existing facility within a town development boundary, it would be reasonable to consider an the proposed extension of hours as potentially appropriate in principle subject to scrutiny of the impact of such additional use on adjacent and nearby local residents.

4.2.2 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 grant of consent in 2013 for the change of use to the fitness centre was issued specifically subject to the restrictions in Condition 3 as it was recognised that the property stands at the end of an otherwise entirely residential street and the building operated by the gym has its side wall attached to the end wall of the nearest house at 27 Vezey Street.

The use as a gym was subject to close control on the hours of use which it would appear from the comments made by the Town Council have not been adhered to and have generated an ongoing source of noise nuisance and disturbance from both traffic and other noise nuisance from users of the gym.

Other than the petition from users of the facility, the submitted scheme contains no evidence to counter concerns over the impact on occupiers of nearby property to justify a different decision from that reached in July 2015, and it is therefore concluded that the proposed variation of the hours of use condition remains unacceptable due to the noise and disturbance which would be caused to local residents by the earlier opening hours.

The proposal is therefore still considered contrary to criteria i) and vi) of Policy RD 1 of the Denbighshire Local Development Plan.

5 **SUMMARY AND CONCLUSIONS:**

5.1 In respecting the support from users of the gym for the variation in opening hours, Officers do not consider there is any new evidence to counter concerns over the impact on occupiers of nearby property and that as circumstances have not changed since the grant of the original permission or the July 2015 refusal for the same proposal to extend the hours, there is no basis to justify a different recommendation.

RECOMMENDATION: REFUSE- for the following reasons:-

The reason is :-

1. The proposed variation of the hours of use condition is unacceptable due to the noise and disturbance which would be caused to local residents by the earlier and extended opening hours. The proposal is therefore contrary to criteria i) and vi) of Policy RD 1 of the Denbighshire Local Development Plan.

NOTES TO APPLICANT:

None