



45/2017/0710

Scale: 1:1250

Printed on: 22/9/2017 at 15:57 PM



© Denbighshire County Council

**WARD :** Rhyl South West

**WARD MEMBER(S):** Councillor Peter Prendergast  
Councillor Pat Jones (c)

**APPLICATION NO:** 45/2017/0710/ PS

**PROPOSAL:** Removal of condition no. 6 of planning permission code no. 45/2001/0562 in relation to the method of control and management of the car park

**LOCATION:** Land at Greenfield Place Rhyl

**APPLICANT:** Mr Hewett

**CONSTRAINTS:** C1 Flood Zone  
Article 4 Direction

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

#### **Scheme of Delegation Part 2**

- Recommendation to grant / approve – Town / Community Council objection

#### **CONSULTATION RESPONSES:**

##### **RHYL TOWN COUNCIL**

"Notwithstanding the statement made within the Application form (Question 6) the Council is unaware that the current parking arrangements have been a problem and nuisance to the property tenants. It is submitted that far from being a deterrent to parking (as suggested by applicant) the element of free parking encourages customers to utilise both the car park and the remaining retail store.

The Council does not recognise the description of the current parking situation as described within the application form.

The Council notes that the car park also services the needs of the persons visiting the adjacent Royal Mail sorting office. The sorting office is accessed from the car park by way of a specific access gate which the Council understands was installed at the time that the current retail units were constructed. If charges are introduced it is likely to lead to difficulties on adjacent roads or improper parking on adjacent sites as sorting office visitors seek to avoid parking charges."

##### **DENBIGHSHIRE COUNTY COUNCIL CONSULTEES – HEAD OF HIGHWAYS AND INFRASTRUCTURE**

Full response is included in section 4.1.1

Taking into account the details of the case, conclude there are not sufficient grounds to object to the application.

#### **RESPONSE TO PUBLICITY:**

Representations received:

In objection:

Graeme Rich, Swallows Nest, Brodoryn Fawr  
Dawn Davies, 50 Beach Road East  
Barry Davies, 50 Beach Road East  
Mr Stephen Vickers, 7 Millbank Road  
Mr Stephen Foxall, 2 Cheltenham Avenue  
Messrs Alex Craig, 3 Lake Avenue, Rhyl  
Ms Stephanie Ball, 10 Tan y Coed, Prestatyn

Ms Shell Williams, 13 Llewelyn Court  
Mr Martin Hughes, Flat, 97 Vale Road  
Mr David Bevan, 3 Trem y Foryd, Kinmel Bay  
James Edge, Rose Villa LL18 5PT  
Stephen Wright, 37 Lake Avenue, Rhyl  
Alison Hughes, Flat, 97 Vale Road  
Keith Jones, 21 Highfield Park, Rhyl  
Nicola Cummings, Ddwylig Isaf, Waen Road, Rhuddlan  
Carol Robson, 28 Elwy Drive, Rhyl  
Robert Paterson, 2 Llys y Gamog, Park Street, Denbigh  
Peter Williams, 11a Merllyn Road  
Eleanor Chatwood, Rhyl  
Alanna Jenkins, 26 St Margarets Drive  
Terrie Jones, 60 Millbank Road, Rhyl  
Lynette Shanks, 32 Plastirion Avenue  
Richard Easton, 33 Lon Hafren, Rhyl  
Jolene Roberts, 12 Beech Avenue, Rhyl  
Mary Heard, 35 Clement Drive, Rhyl  
Paul Sutton, 51 Ffordd Idwal, Prestatyn  
Susan Jones, 21 Lynton Walk, Rhyl  
D Pisani, Prestatyn  
Jennifer Johnston, 66 Ffordd Idwal, Prestatyn  
Caroline Gray, 70 Cwm Road, Dyserth  
Sylvia Bartzsch, 18 Eaton Avenue, Rhyl  
Ann Bartzsch, 4 Hilton Drive, Rhyl  
Gus Wood, 34 Dawson Drive, Prestatyn  
Ashley Price, 28 Vale Park  
Nadine Caffrey, 6 Saronie Court, Prestatyn  
Rhiain Morrille, Freeland, Llanasa Road, Gronant  
Sian Grosvenor, 88 Ffordd Penrhwyfya, Prestatyn  
Jackie Jones, 1 Ffordd Newydd, St Asaph  
Mr Simon Gooderham, Trelogan Ucha, Holywell  
Ms Catherine Thornton, 78 Marsh Road, Rhyl  
Mr Liam Evans, 55 Roe Parc, St. Asaph  
Messrs Sharley Potter, 115 Llandaff Drive  
Ms Catherine Marchbank, 59 Heol Hendre  
Ms Tracey Davies, 2 Barrfield Close  
Ms Ruth Archer, 30 Castlefields, Rhuddlan  
Ms Rebecca Marchbank, 22 Elm Grove  
Ms Evette Easton, 33 Lon Hafren, Rhyl  
Messrs Kim Cunningham, 4 Molineaux Road  
Ms Margaret Lynch, 64 Meliden Road, Prestatyn  
Ms Gail Hughes, 27 St Asaph Road  
Ms Deborah Winning, 15 The Willows  
Ms Tracey Wood, 47 Highfield Park  
Ms Rebecca Spruce, 55 Fforddisa, Prestatyn  
Ms Alison Oliver, 28 Grosvenor Avenue  
Mr Allan Fisher, 57 Rose View, Kinmel Bay  
Ms Clare James, 34 Linden Walk, Prestatyn  
Ms Clare Hughes, 46 Tan yr Eglwys  
Abott Simon, 96 Grange Road  
Ms Sue Roberts, 5 Pen-y-Cefndy

Summary of representations:

Original condition attached for a valid reason and should be retained.

The removal of condition and introduction of parking charges would discourage visitors to the Matalan store and the town centre.

The car park is never at capacity, therefore there is no parking problem.

The introduction of car parking charges will affect parking on adjacent streets.



**EXPIRY DATE OF APPLICATION: 16/10/2017**

**REASONS FOR DELAY IN DECISION:**

- N/A

**PLANNING ASSESSMENT:**

**1. THE PROPOSAL:**

1.1 Summary of proposals

- 1.1.1 The proposal seeks the removal of a planning condition relating to the control and management of the Matalan store car park at Greenfield Place in Rhyl.
- 1.1.2 The planning permission for the development was granted in 2001. Planning condition No. 6 of ref. 45/2001/0562 read:  
*“Details of the method of control and management of the customer car park to facilitate linked trips shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The approved method shall be implemented concurrently with the commencement for trading of either store.  
The reason for the condition was: “In the interests of facilitating linked trips”.*
- 1.1.3 The subsequent submission for the approval of the details required by condition 6, dealt with under application code no. 45/2001/1144, stated that it was the intention that the car park would remain open at all times to all customers and available free of charge to the general public irrespective of whether they shop at the store. It went on to say that “should operation problems arise, as a result of the car park being used for long stay parking, by for example, commuters, our client would clearly need to introduce a management scheme aimed at restricting such parking whilst continuing to provide parking both for the development and linked shopping purposes.”
- 1.1.4 The agent has advised that the variation of the relevant planning condition is sought as the current situation of allowing free all day parking has resulted in vehicles being parked for long periods, often more than a day, and has been a constant problem with nuisance to the property tenants. It is stated that customers are put off parking as well as members of the public visiting the town centre for fear of incurring a fine and as such the owners of the property want to encourage people to park there by offering an easy to understand payment system. The applicant contends that the planning condition has not encouraged linked trips to the town centre as envisaged. Removal of the condition is sought in order to rationalise the parking situation and enable easier use by the public and better management by the town centre owners and tenants.

1.2 Description of site and surroundings

- 1.2.1 Greenfield Place is located to the east of Vale Road Bridge off Vale Road in Rhyl.
- 1.2.2 The existing 193 space car park serves two large retail units; Matalan and another unit formally occupied by the Brantano shoe company.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located within the development boundary of Rhyl.

1.4 Relevant planning history

- 1.4.1 As mentioned above the original retail park was permitted in 2001.
- 1.4.2 An application was received in May 2017 for the “Installation of 2 no. parking ticket machines” at the site. No representations were received on this application, including from the Town Council. The design and detailing of the car parking ticket machines were considered to be the main material planning issues in reaching the decision on

the application, rather than the principle of how they would operate and whether they should be there. The car parking ticket machines were granted planning permission under delegated powers on the 12<sup>th</sup> July.

- 1.4.3 In dealing within the above application Officers became aware of the planning history of the site, and the fact there was a car park management condition on the original 2001 planning permission for Greenfield Place, which had stated that car parking would be free in the interests of facilitating linked trips to the town centre. Consequently, in making the decision on the planning application for the ticket machines the existence of the planning condition No. 6 on the main permission for the site was brought to the attention of the developers. This resulted in the submission of the current application to remove Condition 6.

#### 1.5 Developments/changes since the original submission

- 1.5.1 None.

#### 1.6 Other relevant background information

- 1.6.1 An applicant's right to seek an amendment to an existing permission is set out in Section 73 of the 1990 Planning Act, which allows applications to be made for planning permission without compliance with conditions previously imposed on an extant planning permission. An application to remove a condition is one of three types of application which can be made under Section 73 (the other two being ones seeking to allow 'minor material amendments' to a permission, and to extend the time period for commencement of a development).

- 1.6.2 Welsh Government guidance on the determination of a Section 73 application is given in the 2016 Development Management Manual. Matters specific to these applications is in Section 13.3.12 – 13.3.14, as quoted in full below:

“ 13.3.12 Sections 73(2) and (4) of the 1990 Act restrict the LPA in their determination of section 73 applications. The effect of the provisions is to limit the LPA to considering the question of whether the conditions identified in the section 73 application should apply as originally stated, would be acceptable if modified or it would be acceptable to remove them. The LPA cannot revisit the original permission and reconsider whether it should have been granted in the first place. However as a section 73 application is a planning application in its own right, it is necessary to assess what material changes there may have been in terms of policy since the original permission was granted in order to ensure that all relevant material considerations have been assessed.

13.3.13 The LPA can grant permission unconditionally or subject to different conditions. They can refuse the application if they decide that the original conditions should continue. The original planning permission will continue whatever decision is taken on the section 73 application.

## **2. DETAILS OF PLANNING HISTORY:**

- 2.1 45/2001/0562 Original planning permission for the erection of 2 No. Class A1 non-food retail units (3591 sq.m & 761 sq.m) together with associated car parking, servicing, landscaping and alterations to existing vehicular/pedestrian access. Granted 27/07/2001.

- 2.2 45/2001/1144 Planning Condition 6. Approved 21/11/2001

- 2.3 45/2017/0389 Installation of 2 no. parking ticket machines. Granted 12/07/2017

## **3. RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:

3.1 Government Policy / Guidance  
Planning Policy Wales Edition 9

**4. MAIN PLANNING CONSIDERATIONS:**

A Section 73 application to remove a condition imposed on a planning permission is an application for planning permission, and has to be assessed with regard to the same considerations.

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 9, 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' (PPW section 3.1.3). 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 (PPW section 3.1.4).

Development Management Manual 2016 states that material considerations 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 (DMM section 9.4).

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.

Welsh Government Circular 016/2014 is also a relevant consideration on applications of this nature as it highlights specific tests Local Planning Authorities are obliged to apply in relation to the imposition of planning conditions. The basis is that conditions should only be imposed where they satisfy tests to determine that they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. These remain relevant criteria to be addressed on applications for variation or deletion of conditions.

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

4.1.1 Principle

The principle of the retail development and ancillary car parking was established under the original planning permission granted in 2001 and was accepted as being in keeping with Unitary Development Plan policies which sought to support town centres.

The issue is now whether the proposal to remove the relevant condition 6 is reasonable having regard to the relevant considerations outlined, including the arguments from the applicants over the circumstances now applying to the use of the car park.

There are specific policies in the Local Development Plan relating to highways safety and parking provision, but these are of limited relevance to what is involved in this application.

Chapter 8 of Planning Policy Wales is concerned with transport. It states that in relation to parking provision, local authorities should gear their own charging policies for on-street parking and off-street parking, where it is under their control, to complement their land use policies. It goes on to say this may mean rebalancing their

charging and traffic management regimes so as to encourage short-term parking for retail users and discourage all-day parking by commuters; and that authorities should, where appropriate, seek to encourage appropriate redevelopment or re-use of existing private parking sites to bring the provision down to revised standards, and should refuse planning permission for public and private car parks which do not meet the strategic aims of the development plan and Local Transport Plan.

Rhyl Town Council have objected to the application. They dispute the fact that people are unclear about charges and consider that the availability of parking encourages linked trips (particularly to the adjacent Royal Mail Office). A number of objections have been received to the application raising concerns about the imposition of charges as they would discourage members of public visiting the store, the town centre and it would result in parking on adjacent streets.

The Council's Highways Section have reviewed the application. The Officer responsible for parking provision has advised:

- As Greenfield Place is a privately-operated car park, we do not hold any data concerning its usage and hence have no data concerning the degree to which it has been used for linked trips.
- The 2014 Denbighshire Traffic and Parking Review did, however, note that the nearby Morrison's car park (capacity 341 spaces) regularly reaches 90% occupancy, with 32% of car park users staying for longer than 1 hour, and 10% of car park users staying for longer than 3 hours. Given that the two car parks are a similar walking distance from the town centre, it is reasonable to assume that similar usage patterns have occurred in the Greenfield Place car park.
- It is noted that camera enforcement has recently been introduced in the Morrison's car park. The Morrison's car park has remained free to use but vehicles are now limited to a maximum stay of 3 hours. The restriction is being introduced in response to the significant amount of all day parking that had been occurring.
- Given the above information, we can assume that users of the Greenfield Place car park fall into 4 main groups:
  1. Shoppers only visiting Matalan
  2. Shoppers visiting both Matalan and the Town Centre (linked trips)
  3. Shoppers only visiting the Town Centre (i.e. using the Matalan car park to avoid paying town centre car park charges)
  4. Town centre workers (using the Matalan car park to avoid paying town centre car park charges)
- The introduction of parking charges in Matalan will stop Groups 3 and 4 from using the car park. Usage by Group 2 will depend upon individual factors such as how much parking time is purchased; where in the Town Centre an individual wants to visit etc.
- It is likely that visitors to the nearby Royal Mail Sorting Office currently park in the Matalan car park due to the limited availability of customer parking within the Sorting Office site, so this proposal may result in more Royal Mail customers parking close to the Vale Road access to the Sorting Office. However, it is not the responsibility of Matalan to provide parking for the Royal Mail's site.
- From a Denbighshire Parking Services perspective, there is ample capacity within the Rhyl Town Centre car parks to accommodate any displaced vehicles who wish to use our pay and display car parks either by purchasing individual pay and display tickets or by purchasing an annual parking permit. Those motorists who do not wish to pay for parking are likely to try and find

an alternative free parking location such as a time limited waiting bay or unrestricted street. It is possible that some may choose not to shop in the Town Centre.

- Having fully considered all of the above factors, my conclusion is that there are not sufficient grounds for us as the highway authority to object to this application. Clearly, it is not the role of Matalan to provide free parking for Town Centre workers and shoppers or for customers of the nearby Sorting Office. A significant proportion of these other car park users are likely to be taking up spaces for long periods of time and not even visiting the Matalan store.

As described previously, the application proposes to remove condition No. 6 of the original planning consent which as approved proposed parking to be provided on the Greenfield Place car park free of charge. The reason for this condition was to encourage 'linked trips to the town centre'. The words 'linked trips' are commonly used as a term describing where people parking at one location call at a number of shops or other destinations in a town, etc. during the same visit.

Although a parking fee schedule has not been provided in support of the application, it is understood that a fee is payable for all stays, and a refund is offered where a purchase is made from the Matalan Store. The Agent's justification for the removal of condition relates to existing user trends. They advise that the site is currently used by individuals for longer periods of time which is having a negative impact on the tenants on site. They advise that members of the public are unclear about the parking charges on the site, so avoid using it.

In acknowledging the Town Council's concerns and the comments from individuals, the opinion of the Highway Officer responsible for parking has to be given due consideration, as he is well placed to advise on the issues relevant to the particular application. On the basis of the Highways response, the removal of the condition, which inevitability will result in the imposition of parking charges in this case, does not seem unreasonable.

It is recognised that car park charging and the impact on town centre footfall is a contentious topic, however there are other factors which influence shoppers behaviour such as general accessibility issues and range of services. The original condition on the store, which is over 16 years old, was attached to encourage 'linked-trips' to the town centre. As there is limited evidence to support the claim that 'linked trips' would not occur should the condition be removed, it is the opinion of Officers that it would be unreasonable to resist the variation of condition. In addition, clear guidance has been given by the relevant Highway Officer that the proposal will adhere to the general parking strategy for Rhyl Town Centre having regard to car parks managed by the Council.

## **5. SUMMARY AND CONCLUSIONS:**

5.1 Considering the details of the application and relevant consultation responses, it is the opinion of Officers that the proposal is acceptable and is recommended for approval.

## **RECOMMENDATION: APPROVE REMOVAL OF CONDITION**

**NOTES TO APPLICANT: None.**



