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WARD : Rhyl South West

WARD MEMBERS: Councillor Peter Prendergast
Councillor Pat Jones (c)

APPLICATION NO: 45/2017/1029/ PS

PROPOSAL: Variation of condition no. 6 of planning permission code no. 45/2001/0562 to allow a 2 hour free parking period followed by charging

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 – Town Council objection

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL
'Objection

The Council considers that a 2 hour limit would be too short a period to facilitate persons using the car park to access the town centre and would request that the time be amended to 3 hours.

If amended to 3 hours the Town Council do not object.'

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –
- Highway Officer
See report

RESPONSE TO PUBLICITY:

In objection
David Bevan, 3 Trem y Foryd, Kinmel Bay, Rhyl

Summary of objection:

Free parking should be increased to a minimum of three hours and not two, in line with Morrisons car park and would allow people attending (and indeed encourage people to attend) the nearby "Little Theatre" without incurring additional charges.

EXPIRY DATE OF APPLICATION: 19/12/2017

REASONS FOR DELAY IN DECISION:

- N/A

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The proposal seeks the variation of a planning condition relating to the control and management of the car park serving two retail units at Greenfield Place in Rhyl
- 1.1.2 The condition was attached to the original planning permission for the two retail units in 2001. It proposes free parking for 2 hours before charging.
- 1.1.3 The application follows the recent refusal at Planning Committee of an application to delete the condition, in order to allow charging for parking on the site. The relevant history is outlined in section 1.4 of the report.
- 1.1.4 The planning permission for the store development was granted in July 2001, under application ref. 45/2001/0562. Condition No. 6 of the permission was worded as follows:

“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”.

- 1.1.5 The subsequent submission in 2001 for the approval of the details required by condition 6 was dealt with under application code no. 45/2001/1144. This 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.”
- 1.1.6 In relation to the current submission, the applicants have stated the following on the application form:

‘Variation of the condition relating to the control and management of the car park is sought as it currently provides for free parking all day. This has resulted in vehicles being parked for long periods, often more than a day, and has been a constant problem and nuisance to the property tenants. 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.

Variation is sought in order to rationalise the parking situation and enable easier use by the public and better management by the owners and tenants. A free 2 hour period will be offered followed by a charge.’

1.2 Description of site and surroundings

- 1.2.1 Greenfield Place is located to the north east of Vale Road Bridge, immediately south east of the railway line in the centre of Rhyl.
- 1.2.2 The existing 193 space car park serves two large retail units including Matalan and a vacant unit formerly 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 noted, the original retail park was permitted in 2001. Condition 6 of the permission (referred to above) required approval of arrangements for the method of control and management of the car park, the reason being to facilitate ‘linked trips’. The term

'linked trips' is commonly used to describe where people parking at one location call at other shops or destinations in a town centre, etc. during the same visit.

- 1.4.2 Details of the means of control and management of the car park were submitted in late 2001. The proposal was to allow free use of the car park with the caveat that should operational problems arise then different management options would be sought. The proposals were approved in November 2001.
- 1.4.3 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 machines were considered to be the main material planning issues in reaching the decision on the application, rather than the principle / detailing of how they would operate and whether they should be there. In the absence of any local objections, the application was granted under delegated powers in July 2017.
- 1.4.4 In dealing within the May 2017 application, Officers alerted the applicants to the related planning history, and in particular Condition 6 of the 2001 permission and the subsequent approval of the proposal for 'free parking'. This resulted in the submission of the application to remove Condition 6 to allow charging, which was the subject of deliberation by members at Planning Committee in October 2017 (application 45/2017/0710).
- 1.4.5 The applicant's arguments in support of the proposal for charging were that 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; and they did not consider the planning condition has encouraged linked trips to the town centre as envisaged. Removal of the condition was sought in order to rationalise the parking situation and to enable easier use by the public and better management by the town centre owners and tenants.
- 1.4.6 At the October Committee, Members expressed concerns over the proposal to delete the condition in order to allow charging, as it was considered this would discourage footfall and have a detrimental effect on the town centre. In making the decision to refuse the application to permit charging for parking on the site, members suggested that Officers pursued dialogue with the car park operators to explore potential options to tackle condition 6, including the development of a management plan incorporating a free parking period before charges apply. The current application has arisen from this dialogue.

1.5 Developments/changes since the original submission

- 1.5.1 None.

1.6 Other relevant background information

- 1.6.1 Officers can confirm that an appeal has been lodged with the Planning Inspectorate in relation to the Committee's decision in October 2017 to refuse to delete condition 6 from the 2001 permission, to allow charging. The appeal is to be dealt with through the written representations process.
- 1.6.2 In terms of procedure, the Company are acting within their rights to appeal against the Council's refusal of the application relating to charging at the car park, whilst submitting a further application to vary the condition (the application now in front of the Committee). The Council has to deal with the new application on its merits irrespective of the lodging of the appeal and cannot refuse to handle it or to defer making a decision pending the outcome of the appeal.
- 1.6.3 The only other store close to the town centre in this part of the town is the nearby Morrisons supermarket on Marsh Road. This currently permits 3 hours maximum

parking and operates a camera imaging system to record number plates at entry and exit, meaning fines are levied for exceeding the time limit.

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.

Condition 6 was attached to the permission, requiring the Authority's approval of details of the method of control and management of the customer car park to facilitate linked trips. The condition is quoted in full in paragraph 1.1.2 of the report.

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

This submission for the approval of matters specified in Condition 6 indicated 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."

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

2.4 - 45/2017/0710 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. REFUSED against officer recommendation at Planning Committee. Decision dated 11/10/2017.

Reason for refusal:

'It is the opinion of the Local Planning Authority that there is insufficient justification for the removal of Condition 6 as the effect of removal would be to discourage linked trips from this edge of centre location to the town centre with resultant impacts on its viability and vitality. This would be in conflict with Denbighshire Local Development Plan policies PSE 8 and PSE 9 which seek to ensure development enhances the vitality and viability of town centres.'

The refusal is the subject of a current appeal.

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 8 – Development within town centres

3.1 Government Policy / Guidance
Planning Policy Wales Edition 9

4. MAIN PLANNING CONSIDERATIONS:

4.1 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.

4.2 The main land use planning issue in relation to the application is considered to be the local impact of the proposed restrictions on the control and management of the car park.

The principle of the retail development with 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. This is not now for reconsideration.

The wording and reason for imposing Condition 6 of the 2001 permission are clearly central to the current application. It required the Authority's approval of arrangements for the control and management of the customer car park. The wording of the condition and the stated reason for imposing it refer to facilitating 'linked trips'. Approval was given in late 2001 to proposals for free use of the car park, albeit it was made clear by the applicants that this was subject to review of the situation following operation of the car park.

As noted, the application now before the Authority seeks a variation to Condition 6, to permit 2 hours free parking, before charging.

In terms of planning policy and guidance

Local Development Plan policies and supplementary guidance are of limited direct relevance to an application to vary a planning condition relating to the management and control of use of a car park.

There are policies in the Local Development Plan relating to general highways safety considerations and standards of parking provision with developments, but these are not applicable to what is involved here.

Objective 4 of the LDP relates to Retail matters and states 'The Local Development Plan will aim to re-establish Rhyl as one of the sub-region's most attractive shopping centres.'

Policy PSE 8 of the LDP permits proposals for development in town centres subject to meeting tests including where i) they enhance the vitality and viability of the town centre.

Section 10 of Planning Policy Wales relates to Retail and Commercial Development. 10.1 sets out Welsh Government's objectives for retail and commercial centres, which are to:

- *Promote viable urban and rural retail and commercial centres as the most sustainable locations to live, work, shop, socialise and conduct business;
- Sustain and enhance retail and commercial centres' vibrancy, viability and attractiveness; and
- Improve access to, and within, retail and commercial centres by all modes of transport, especially walking, cycling and public transport.

Chapter 8 of Planning Policy Wales provides general guidance on local authority charging policies for on-street parking and off-street parking, where it is under their control, to complement their land use policies. It mentions rebalancing 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.

Consultee responses

Rhyl Town Council consider a 2 hour limit would be too short a period to facilitate persons using the car park to access the town centre and request that the time be amended to 3 hours.

At the time of drafting this report, there was a single individual objection received in relation to the application, also suggesting the free parking period be extended to three hours, in order to encourage use by patrons of the Little Theatre.

A number of points raised by the Highway Officer in relation to the recent application requesting the removal of Condition 6 remain relevant to the current application:

- Camera enforcement has recently been introduced in the Morrison's car park. This 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.
- Users of the Greenfield Place car park are likely to 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)
- 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 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 the Council's 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.
- 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.

Assessment

As described previously, the application proposes to vary condition No. 6 of the original planning consent for the store development which required the Council's approval of the means of the control and management of the car park. It proposes free parking for 2 hours before charging.

In support of the submission, the applicants have referred to operational problems from allowing free parking all day, including vehicles being parked for long periods, often more than a day, which has resulted in nuisance to the property tenants. The variation is sought to rationalise the parking situation, enable easier use by the public and better management by the owners and tenants.

Members voiced concerns at the October meeting at the loss of free parking and over the potential impact on linked trips and footfall in the town centre. In officers' opinion, this revised proposal seeks to achieve a reasonable compromise, and is clearly compliant with the wording and reason for the imposition of the condition in 2001. Officers suggest that two hours free parking in a location such as this immediately adjacent to the town centre offers a reasonable opportunity for those shopping at Matalan to undertake linked shopping trips, and it would not impact unreasonably on footfall.

In all fairness to the applicants in this instance, and as a basic principle, as pointed out by the Highway Officer, it is not the duty of a private store / company to provide unlimited free car parking on privately owned land in a town centre where other businesses and landowners (including the County Council itself) do not offer free parking and impose charges.

The County Council also has to exercise reasonableness in its deliberations in respect of considering the reasons for the applicants seeking to impose some limitation on the use of its private car park. There has clearly been abuse of the 'free parking' offer here, in the form of long term vehicle parking, and the proposal would be a means of remedying this, whilst still offering shoppers two hours free parking.

In terms of the reason for refusal of the recent application to introduce charging, the variation now proposed would allow for linked trips from this edge of centre location to the town centre, and in Officers' opinion it would be difficult to sustain a refusal on the argument that a 2 hour limit on free parking would impact adversely on footfall, the viability and vitality of the town centre.

With respect to the comments of the Rhyl Town Council and the private individual, the application has to be determined as submitted, which is to allow two hours free parking before charging. A refusal could not be justified to allow free parking for 3 hours to benefit patrons of the Little Theatre.

It is not considered a refusal of permission could now be justified on the basis that 2 hours is an inadequate period to allow for linked trips, which remains the reason for the original condition relating to the control and management of the car park.

5. SUMMARY AND CONCLUSIONS:

- 5.1 Considering the details of the proposal and consultation responses, it is the opinion of Officers that the 'compromise' solution now before the Committee is wholly reasonable and that there is no sound planning reason to justify refusing the application.

RECOMMENDATION: APPROVE

Condition 6 reads as follows:

The use of the car park shall be free for users for a period of 2 hours from arrival, after which a charge will be levied.