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45/2020/0327

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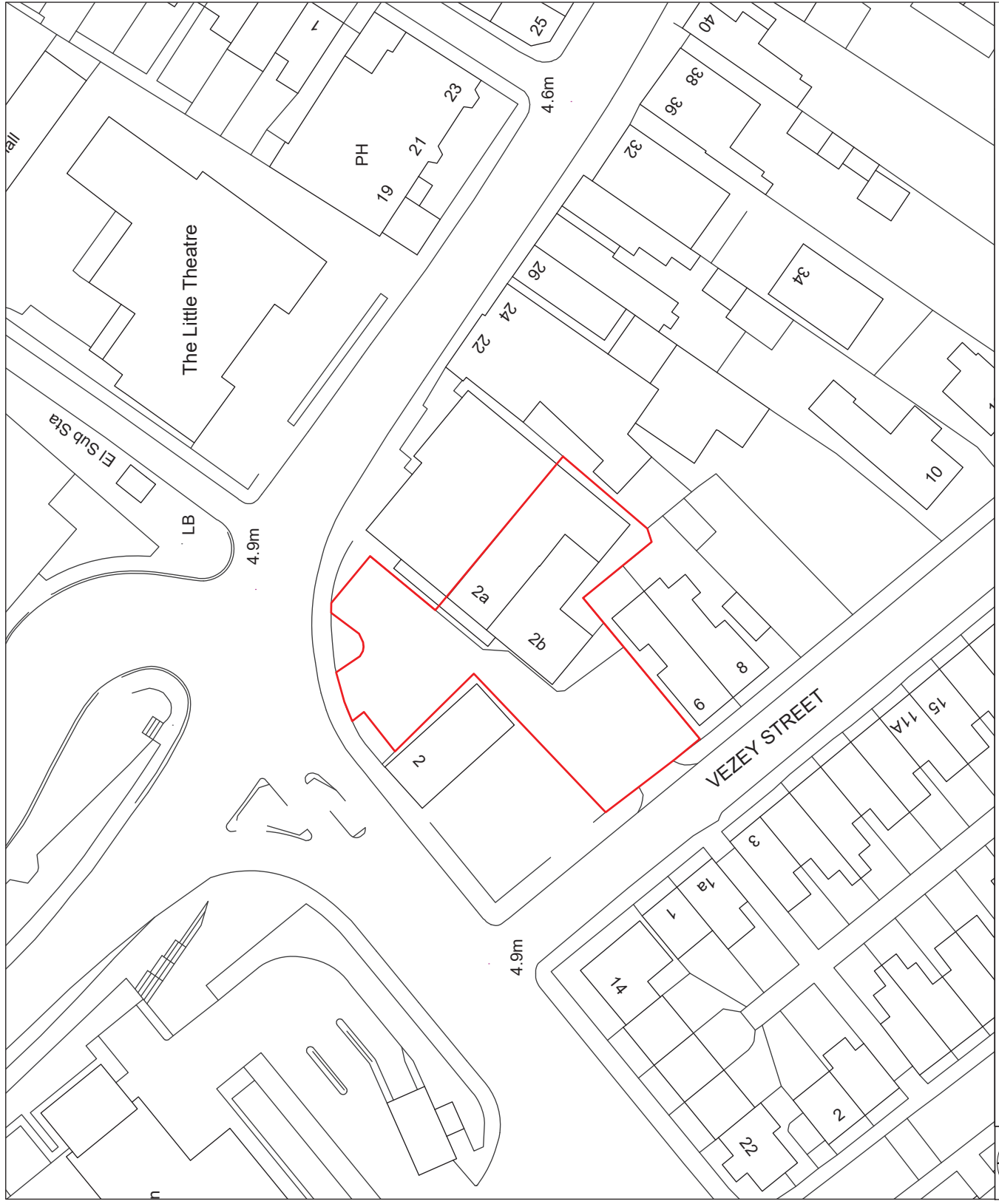
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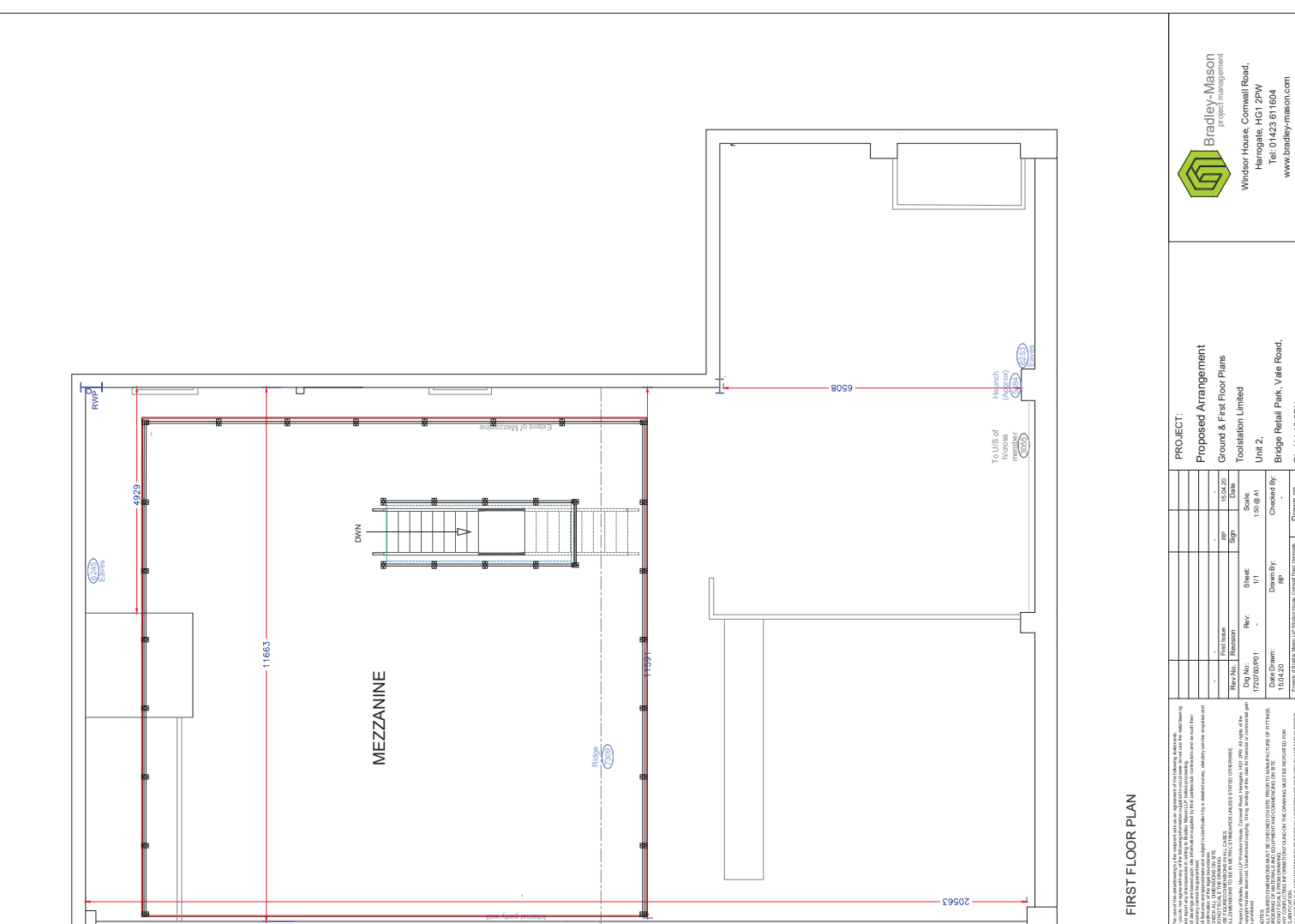
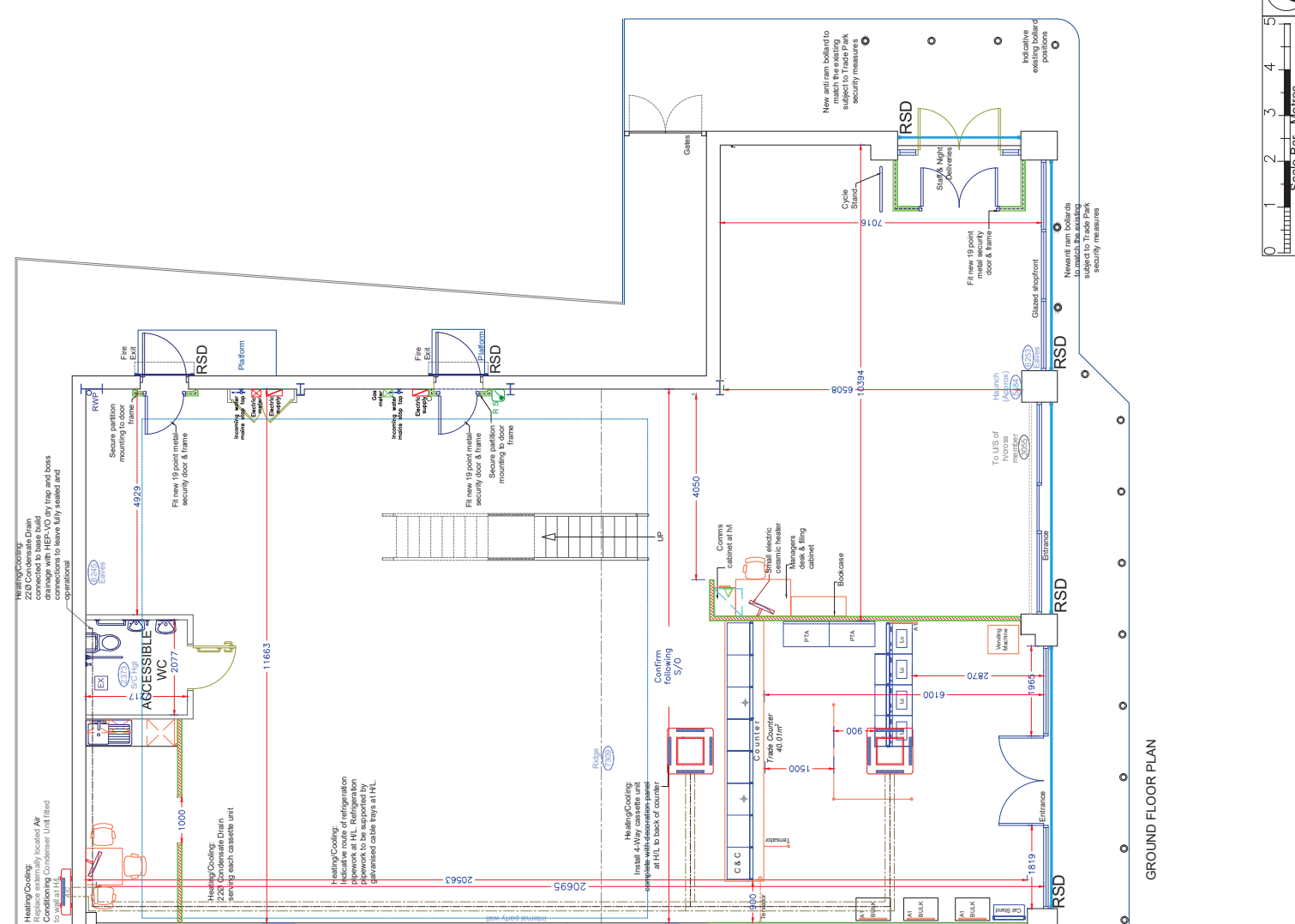
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 Harrogate, HG1 2PW
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PROJECT:	Toolstation Limited				
Site	Unit 2a & 2b,				
Block Plan	Bridge Retail Park, Vale Road,				
	Rhyl LL18 2BU				
Rev No.	Revision	Sheet	Date		
15.04.20	RP	1/1	15.04.20		
1720761/B	Rev:	1/1	Scale:		
				1:500 @ A3	
Date Drawn:	Drawn By:	Checked By:			
18.04.20	RP				
DRAWN ON	AUTOCAD 2006				
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FIRST FLOOR PLAN

GROUND FLOOR PLAN

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 3. ALL DIMENSIONS TO FACE UNLESS SPECIFIED OTHERWISE.
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 10. ALL DIMENSIONS TO FACE UNLESS SPECIFIED OTHERWISE.

Rev. No.	Revision	Sheet	Scale	Checked By
1	15.03.20	03/01	1:50 @ A1	1/1
2	15.03.20	03/01	1:50 @ A1	1/1

PROJECT:
 Proposed Arrangement
 Ground & First Floor Plans
 Toolstation Limited
 Unit 2,
 Bridge Retail Park, Vale Road,
 Ryyl LL18 2BU

Date Drawn:
 15/03/20
 Drawn By:
 1/1
 Checked By:
 1/1
 Scale:
 1:50 @ A1
 Sheet:
 03/01
 Rev:
 1/1
 Rev. No. | Revision
 12/03/2001



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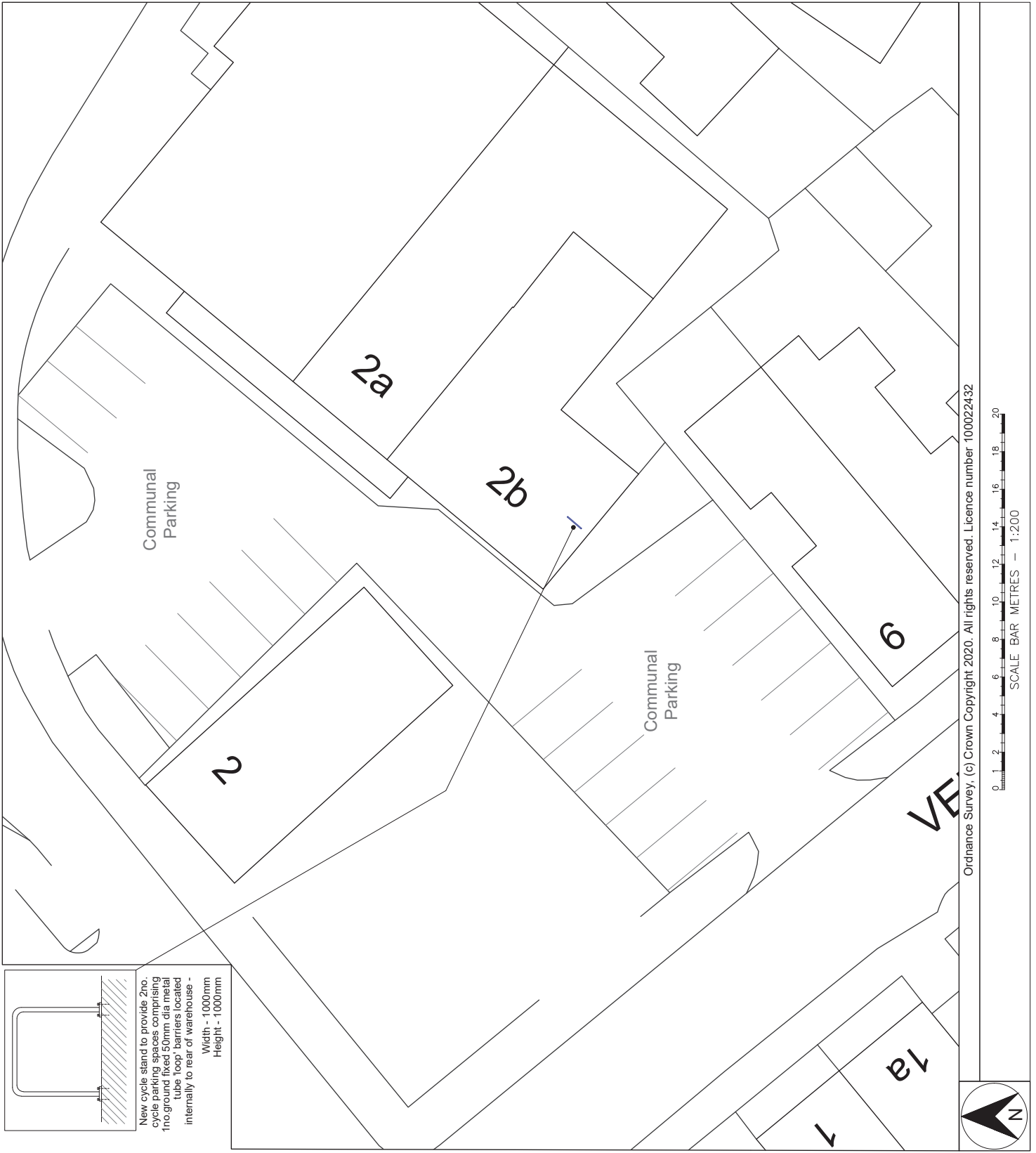
PROJECT:

Site
 Parking Arrangement
 Toolstation Limited
 Unit 2,
 Bridge Retail Park, Vale Road.
 Rhyl LL18 2BU

Rev No.	Revision	Sheet	Date
-	RP	1/1	15.04.20
1	RP	1/1	15.04.20

Dwg No: 1720761/SP
 Scale: 1:200 @ A3

Date Drawn: 15.04.20
 Drawn By: RP
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WARD : Rhyl South West

WARD MEMBER(S): Cllr P. Prendergast (c)
Cllr P. Jones

APPLICATION NO: 45/2020/0327/ PS

PROPOSAL: Variation of condition number 2 of planning permission reference APP/R68301 A/04/1170834 to extend opening hours to 07.00 to 20.00 Monday to Saturday and 09.00 to 17.00 on Sunday

LOCATION: Units 2A & 2B 18/20 Vale Road Rhyl LL18 2BU

APPLICANT: Toolstation Ltd

CONSTRAINTS: C1 Flood Zone
Article 4 Direction

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

REASON(S) APPLICATION REPORTED TO COMMITTEE:

Scheme of Delegation Part 2

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

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL

“Objection

The Town Council are concerned that the variation to extend the opening hours will be detrimental to the residential amenities of neighbouring properties. By its nature the proposed use of the site caters for the building/construction trade who it is likely will seek to visit the site early morning which the Council believe will result in disproportionate disturbance to occupiers of properties in Vezey Street.”

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Highways Officer

No objection

Public Protection Officer

Consider that the opening times proposed by the applicant could adversely impact on the amenity of the neighbouring properties given the proximity of the application site to residential properties.

RE-CONSULTATION RESPONSES

RHYL TOWN COUNCIL

“Objection

The Town Council are concerned that the variation to extend the opening hours will be detrimental to the residential amenities of neighbouring properties. By its nature the proposed use of the site caters for the building/construction trade who it is likely will seek to visit the site early morning which the Council believe will result in disproportionate disturbance to occupiers of properties in Vezey Street”

Public Protection Officer

Public Protection welcome the initiative of the applicant to attempt to regularise the existing conditions regarding hours of operation at Units 2A & 2B and in conjunction with the planning officer for this case have been willing to enter into negotiations with the agent for the applicant in order to achieve a suitable outcome for the applicant and the residents of Vezey Street, whose amenity will potentially be impacted by the operation of these units at the proposed hours. Attempts have been made to gain agreement on amended hours of operation for Sunday and Bank Holiday hours however these have not been favourably received by the applicant's agent.

Public Protection have conceded to the applicants proposed operating hours on Monday – Saturday and Sunday but remain opposed to the proposed hours of operation for Bank Holidays. Public Protection welcome the proposed delivery plan and the proposed signage contained with the Management & Operational plan.

It should also be noted that the granting of planning permission does not preclude the Public Protection department from carrying out a formal investigation should a complaint of noise nuisance be received.

RESPONSE TO PUBLICITY:

None

EXPIRY DATE OF APPLICATION: 2/9/2020

REASONS FOR DELAY IN DECISION: N/A

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 Planning permission is sought for the variation of condition number 2 of planning permission reference APP/R68301 A/04/1170834 to extend opening hours to 07.00 to 20.00 Monday to Saturday and 09.00 to 17.00 on Sunday at Units 2A and 2B at 18/20 Vale Road in Rhyl.
- 1.1.2 'Toolstation' intend to occupy both retail units, which are currently vacant. The application has been submitted to regularise the opening hours across both units, planning permission is not sought for the use as it is not required and falls within a Class A1 retail use.
- 1.1.3 A floor plan has been submitted with the application which shows the main customer access to the building from the existing entrance to Unit 2A (fronting Marsh Road) which is where the trade counter is located. The entrance within the side elevation of Unit 2B and former main entrance to this retail unit, is shown to be a staff and delivery access. The remaining parts of the building are for storage and staff welfare facilities.

1.2 Other relevant information/supporting documents in the application

- 1.2.1 The application is submitted with a covering letter from the applicants agent.

The supporting information states:-

On 4th September 2003 an application (LPA Ref: 45/2003/0678/PF) was granted for the:

"Erection of 2no. Retail units, alterations to existing vehicular accesses and formation of parking and turning areas. The decision notice (LPA Ref: 45/2003/0678/PF) is

enclosed, this development was for the original Unit 1 and 2. Condition 5 of the permission states that:

"The use of the site shall be restricted to uses falling within Class A1 of the Town and Country Planning (Use Classes) Order, 1987 or any provision equivalent to that Class in any statutory instrument revolving and re-enacting that Order with or without permission."

There were no operational hours restrictions within the consent. Following this, an application was refused by the LPA on 24th November 2004 for the: "Change of use and subdivision of Unit 2 to part Class A1 retail and part Class A3 (pizza takeaway)."

However, an appeal (Ref: APP/R68301/A/04/1170834) of this decision was allowed on 6th April 2005, the appeal decision is enclosed. Condition 2 of the appeal decision states that:

"The use as a take-away hereby permitted shall not be open to customers outside the following times: 09.00 hours and 22.00 hours on any day."

This approval created Unit 2a and 2b. The lawful use of Unit 2a was Class A1 and Unit 2b was Class A3 at the time. It is clear that since this consent, Pets First have previously utilised permitted development rights from Class A3 to Class A1 to operate from the unit. We now consider the lawful use of Units 2a and 2b as being Class A1. However, as the previous occupier has utilised permitted development rights, any operational conditions included within the Class A3 permission must be repeated for any subsequent Class A1 use.

Therefore, at the moment Unit 2a has no operating hours restrictions and Unit 2b is restricted as per Condition 2 of the appeal decision.

Toolstation are seeking to occupy both units and operate these as a 'Toolstation Metro' unit, to achieve their required opening hours across both units, we are submitting a variation of Condition 2 application.

The application proposal is to vary the wording of Condition 2 of appeal decision APP/R68301A/04/1170834 to read:

"The use as a retail unit shall not open to customers outside the following times 07:00 to 20:00 hours any day."

The proposed new wording of this condition will provide further clarity on the permitted opening hours of both units. These proposed new operating hours are only 2 additional hours on weekday mornings with 2 less hours in the evening. The proposed opening hours are as follows:

- Monday to Saturday (Including Bank Holidays) 07:00 to 20:00; and*
- Sundays 09:00 to 17:00.*

There is proposed to be one delivery anytime per day. Car parking and loading locations are as existing.

Toolstation Ltd is a UK wide subsidiary of Travis Perkins plc with 400 outlets across the UK. It specialises in the sale of power tools and accessories, hand tools, screws and fixings, decorating materials, plumbing/heating and electrical supplies, work clothing and other products associated with building/DIY. Each unit stocks approximately 10,000 catalogue products and serves predominantly the building industry, although Toolstation do accept trade from private customers.

Toolstation's format usually comprises a Class B8 trade counter, and is therefore typically located on industrial estates. However, to meet the growing demand by private customers and small businesses for its goods, it has designed a new high street format called 'Toolstation Metro'. This format has already opened at numerous locations across the UK, however this unit will be the first of this type in Wales.

In addition to the catalogue sales, there will be a range of point of sale/promotional and pick up goods from right across the full product range on sale in the customer area. This range will be updated regularly in response to consumer demand. Whilst still 'bulky' in its nature, this new format requires a Class A1 permission. This complies with the current Class A1 permission at this unit.

In conclusion, the submitted information demonstrates that the slight extension of opening hours at the proposed Toolstation Metro unit, Unit 2a/b Vale Road, Rhyl is appropriate at this location. Therefore, in this case, the application to vary Condition 2 of appeal decision APP/R6830/A/04/1170834 should be supported.

A Management and Operational Plan has also been submitted with the application.

The main points are:

1. There is proposed to be a maximum of 1 delivery any day between 1000 to 2100 from Monday to Saturday.
2. Signage will be visible outside and within the premises, requesting noise to be kept to a minimum and encourage customers to only park in the Vezey Street parking area if there are no spaces available in the parking area to the front of the unit. The signage will also include a contact number for residents to use if they are affected by any unreasonable disturbance.
3. During deliveries, staff to keep noise to a minimum and follow the following management measures:
 - Goods pallets or cages are wheeled directly into the building via the shortest route available.
 - The delivery vehicle generally parks with the tailgate as close to the entrance doors as practicable;
 - Delivery vehicle engines are switched off as soon as the vehicle is parked at the unloading position and not restarted until the vehicle is ready to depart;
 - Delivery vehicles are required to be driven in as quiet a manner as possible, avoiding unnecessary engine revving and, in the case of reversing alarms, as little reversing as possible; and
 - Staff are instructed to work quietly when outside the building.
- Customers only have access to the Sales Counter area from the entrance to Unit 2A fronting Marsh Road.

A subsequent letter has been received from Legat Owen (Chartered Surveyors) on behalf of the owner of the building.

The supporting information states as follows:

I write as the landlords letting agent in respect of the above mentioned site to provide some background information in respect of marketing the premises to date to assist with the determination of the planning application submitted by our proposed tenants, Toolstation.

Legat Owen were appointed by the landlord in March 2018 to assist with marketing the property pending the expiry of the Pet store in August 2018. As of March 2018, they had not been in occupation for quite some time prior to this.

We undertook a formal and wide-ranging marketing campaign on the vacant property which included marketing boards on site, circulation of marketing particulars, listings on Zoopla, CoStar and Realla (amongst others) together with a targeted campaign towards occupiers that may have a requirement for accommodation in the area. A

copy of our marketing particulars is attached to this report.

Over the last two and a half years, we had no viable interest in taking a lease on the premises with only one viewing undertaken on the property during this period (Prior to Toolstation), but unfortunately given the configuration of the property it was not suitable for that particular tenant.

In March this year, Carphone Warehouse announced the closure of all the standalone stores across the country, including this site. This has led the landlord to having 50% of the scheme vacant together with the loss to the town of a number of jobs where there is already an increasing rate of retail casualties and a significant number of vacant retail outlets.

Following the announcement of this closure, we were able to agree terms with Toolstation for a new lease of the whole premises, the first serious interest we have had in over two years of marketing.

The proposal from Toolstation will secure an occupier for the gateway building for a period of 10 years and the proposal will result initially in the creation of between 5 and 8 full time equivalent jobs, the majority of which we anticipate will be recruited locally.

The adjoining building which was previously occupied by Johnson dry cleaners has been closed and vacant since Johnson is vacated in 2015. Given the increasing number of voids on the park, this has led to an increase in fly tipping and antisocial behaviour.

As I'm sure you can appreciate (particularly now given the impact of Covid 19) retail is challenging in the current climate and anything local authorities can do to help support landlords and tenants (such as supporting minor planning applications) will go a long way to help the recovery of town centres. Given the significant length of time the premises have been vacant, we would have anticipated the local planning authority to be able to conclude quickly the proposal will only have a positive impact on the vitality and viability of Rhyl.

It is our professional opinion a planning refusal would leave both premises vacant for the foreseeable future.

1.3 Description of site and surroundings

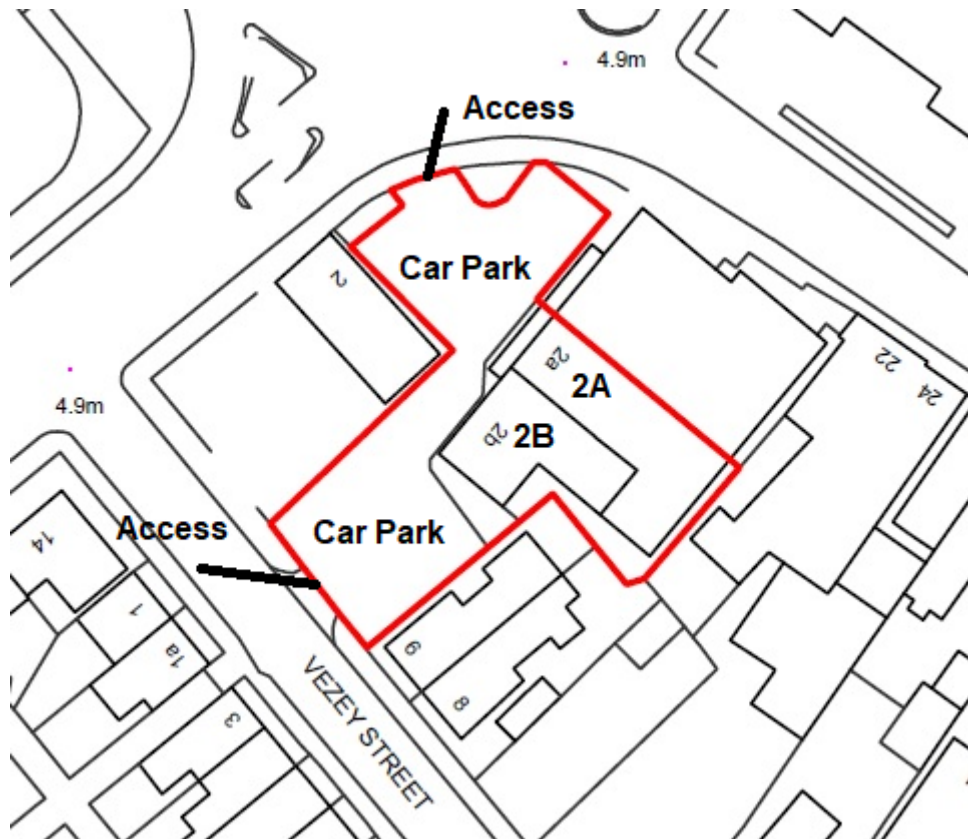
- 1.3.1 The application site occupies a small retail terrace located on the corner of Vale Road with Marsh Road in Rhyl.
- 1.3.2 The units have an access off the signalled junction on the corner of Vale Road with Marsh Road and also off Vezey Street, with access to 2 car parking areas.
- 1.3.3 Opposite the site on Marsh Road is the 'Morrisons' store and petrol station, adjoining the site is Unit 1 which is in use by 'Barnardos' with Vale Road and 'The Little Theatre' opposite along with numerous commercial properties fronting Vale Road on both sides. To the south and western boundary are residential properties on Vezey Street.
- 1.3.4 To the front of the unit is a small detached retail unit previously occupied by 'Johnsons Dry Cleaners' which is also vacant.
- 1.3.5 Photographs and an illustrated site plan have been included below:



Units 2A and 2B



Relationship with residential properties on Vezey Street



Site arrangements

1.4 Relevant planning constraints/considerations

- 1.4.1 The site is located within the development boundary of Rhyl. The site is located on the outside edge, but close to the Town Centre Boundary of Rhyl (Policy PSE 8).

1.5 Relevant planning history

- 1.5.1 Planning permission for the erection of 2 no. units was granted in 2003. This planning permission placed no operational restrictions, such as hours opening or delivery restrictions on the retail units.
- 1.5.2 In 2004, planning permission was granted on appeal for the change of use and subdivision of Unit 2 to part Class A1 retail and part Class A3 (pizza take-away) with a condition (no 2) allowing opening hours from 9am to 10pm every day.
- 1.5.3 In 2005 planning permission was granted for the installation of a new shop front and variation to condition No.2 to planning permission 45/2004/1248/PF to allow increase in hours of operation of class A3 takeaway from 22.00 hours closing to 23.00 hours closing.
- 1.5.4 The planning permission was implemented and the unit sub-divided in to Units 2A and 2B, however the Class A3 pizza take away use is understood to have fallen through. A Pet Shop business occupied the site until 2017/2018.

1.6 Developments/changes since the original submission

1.6.1 Discussions around the opening hours have taken place with the applicant's agent and the Councils Pollution Control Officer.

1.6.2 A Management and Operational Plan for the site has been submitted as part of the application which sets out detailed management arrangements for the site.

1.7 Other relevant background information

1.7.1 None

2. DETAILS OF PLANNING HISTORY:

2.1 45/2003/0678/PF Erection of 2 No. retail units, alterations to existing vehicular accesses and formation of parking and turning areas GRANTED 15th August 2003.

45/2004/1248/PF Change of use and subdivision of Unit 2 to part Class A1 retail and part Class A3 (pizza take-away) REFUSED 5th November, 2004.

ALLOWED on Appeal Decision letter dated 6th April 2004 subject to the following condition:

Condition 2: The use as take away hereby permitted shall not be open to customers outside the following times: 09:00hours and 22:00hours on any day.

45/2005/0687/PF Installation of new shop front and variation to condition No.2 to planning permission 45/2004/1248/PF to allow increase in hours of operation of class A3 takeaway from 22.00 hours closing to 23.00 hours closing GRANTED 29th October, 2005.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

3.1 Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy RD1 – Sustainable development and good standard design

3.2 Government Policy / Guidance

Planning Policy Wales (Edition 10) December 2018

Development Control Manual November 2016

Technical Advice Notes

TAN 4 Retail and Commercial Development (2016)

Circulars

3.3 Other material considerations

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It 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. The DMM further 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 (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales, Edition 10 (December 2018) and other relevant legislation.

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 Residential amenity

4.2 In relation to the main planning considerations:

4.2.1 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..

Planning Policy Wales 3.1.4 confirms that factors to be taken into account in making planning decisions (material considerations) must be planning matters; that is, they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability. The residential amenity impacts of a development proposal are a material consideration.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and 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; and the effects of a development on, for example, health, public safety and crime. The residential amenity impacts of development should therefore be regarded as a potential material consideration.

No representations have been received from local residents however Rhyl Town Council have raised concerns relating to the nature of the use and the impact the early hours proposed would have on amenities of nearby residents.

The proposal seeks to regularise the opening hours at Units 2A and 2B which is intended for use by 'Toolstation'. Currently the units have no/differing restrictions in place and it is considered reasonable for a new occupier to seek approval of the same hours across both units. The hours proposed are 07.00 to 20.00 Monday to Saturday and 09.00 to 17.00 on Sunday.

Unit 2A (central unit) was granted permission in 2003 with no operational hours/restrictions placed on the use at all. Until recently the unit was occupied by Carphone Warehouse however due to nationwide closures the unit was closed and remained vacant since early 2020.

Unit 2B (end unit, former Pet Shop) was granted consent in 2004 with operational restrictions of 9am to 10pm (every day) placed on the Class A3 use. A further amendment to the closing time to 11pm (every day) was also granted in 2005. Whilst a Class A3 use hasn't operated, permitted development rights allowed the store to operate as a Class A1 retail use and any operational conditions included within the Class A3 permission is repeated.

The Council's Public Protection Officer has raised no objection to the proposed hours Monday to Saturday however has expressed concern in relation to the Sunday and Bank Holiday hours, which it is intended would be the same standard hours

dependent on the day the bank holiday falls, on the amenity of local residents on Vezey Street.

In discussions with the applicants agent, the applicant's agent has confirmed the hours proposed are what 'Toolstation' require to operate effectively and which are standard operating hours for all of their units across the UK. Whilst the Sunday and Bank Holiday hours have not been amended, a Management and Operational Plan has been submitted which seeks to address concerns relating to deliveries and activities that could potentially be harmful to local residents on Vezey Street.

Officers welcome the submission of a Management and Operational Plan as currently these are not in place in any form for either Unit 2A or 2B. The measures within the Plan are considered acceptable and address operational issues that have the potential to impact on the amenities of local residents on Vezey Street.

In relation to the proposed hours and concerns of the Town Council, it is acknowledged that the properties on Vezey Street are in close proximity to the units and parking area. However, the planning history and current operational controls in place have to be considered - Unit 2A has no controls on opening hours or deliveries at all and could operate 24hours every day; Unit 2B could open from 9am to 11pm every day with no controls on deliveries.

Approval of the application would provide controls on Unit 2A and in terms of Unit 2B, overall the opening hours proposed would be less than currently approved. It is acknowledged that the hours proposed would allow Unit 2B to open 2hours earlier in the morning than the current approved hours, however a Management and Operational Plan has been submitted which contains a number of mitigation measures, which if the application is approved, would be enforceable. In relation to the Sunday/Bank Holiday hours, as referred to above, the hours proposed are an improvement to the controls currently in place.

In relation to noise, it should also be noted that the granting of planning permission does not preclude the Public Protection department from carrying out a formal investigation should a complaint of noise nuisance be received.

Furthermore, both retail units are vacant, with Unit 2B having been vacant for over 2 years. The detached unit to the front of the units (formerly 'Johnsons') has also been vacant for 5 years and there was evidence of fly tipping observed when the site visit was undertaken. The proposal would not only secure a beneficial, economic re-use for these vacant units but also secure the investment of a major UK wide company in Rhyl and create between 5 and 8 full time jobs.

Having regard to all of the above considerations, the proposal is considered acceptable and would not result in a significant adverse impact on the amenities of local residents.

Other matters

Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development

principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

5. SUMMARY AND CONCLUSIONS:

5.1 The proposed opening hours are considered acceptable and the proposal is recommended for approval.

RECOMMENDATION: APPROVE- subject to the following conditions:-

1. The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition pursuant to this permission;
 - i) Existing arrangements/ground floor plan (Drawing No 1720761/E01 PSO) received 27 April 2020
 - ii) Block Plan (Drawing No 1720761/B) received 27 April 2020
 - iii) Proposed Floor Plan (Drawing No 1720761/P01) received 27 April 2020
 - iv) Location Plan (Drawing No. 172076-LP) - Received 27 April 2020
 - v) Management and Operational Plan received 21 July 2020

The reasons for the conditions are:-

1. For the avoidance of doubt and to ensure a satisfactory standard of development.