

43/2022/0537

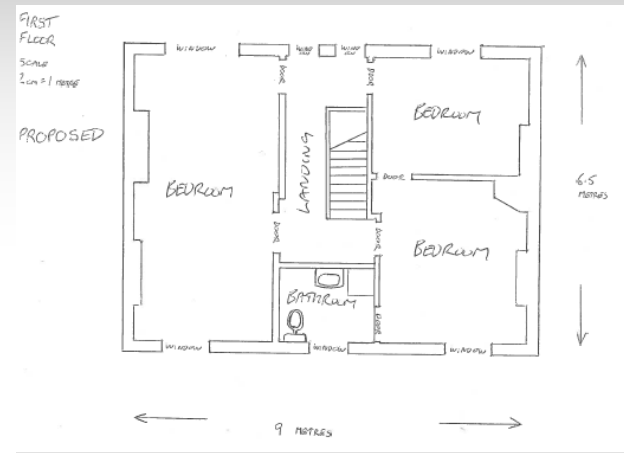
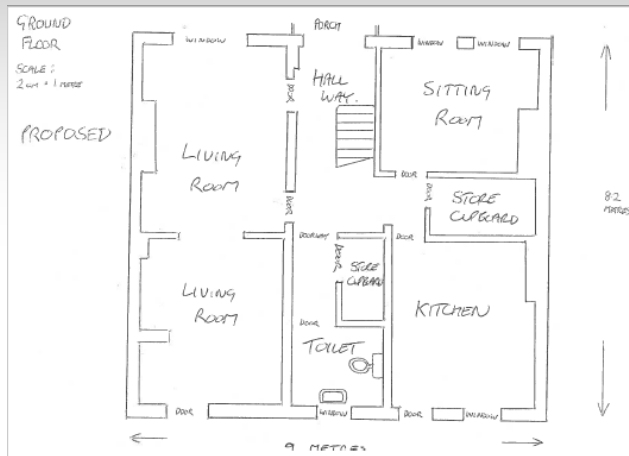


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Floor Plans



View from Bridge Road



View of site from Bridge Road (West Side)



View of site from Bridge Road (East Side)

Emer O'Connor

WARD : Prestatyn North

WARD MEMBER(S): Cllr Kelly Clewett
Cllr Gill German
Cllr Jason Mclellan

APPLICATION NO: 43/2022/0537/ PF

PROPOSAL: Change of use of former museum and tea rooms to form one dwelling

LOCATION: Station House, 1 Bridge Road, Prestatyn, LL19 7ER

APPLICANT: Ms Denise Hannon & Mr Mark Thompson

CONSTRAINTS: C1 Flood Zone
Conservation Area

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

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

- Member request for referral to Committee

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL
"No observations".

NATURAL RESOURCES WALES

Objects to the proposed development as submitted and considers that the Flood Consequence Assessment (FCA) submitted has failed to demonstrate that the consequences of flooding can be acceptably managed over the development lifetime. Further detail of NRW's assessment and conclusion is contained in section 4.2.4 of the report.

NRW advise that if the Council is minded to grant planning permission, NRW should be informed of all matters that influence this decision prior to granting permission.

RESPONSE TO PUBLICITY: None

EXPIRY DATE OF APPLICATION: 23/08/2022

EXTENSION OF TIME AGREE: 22/03/2023

REASONS FOR DELAY IN DECISION (where applicable):

- awaiting consideration by Committee

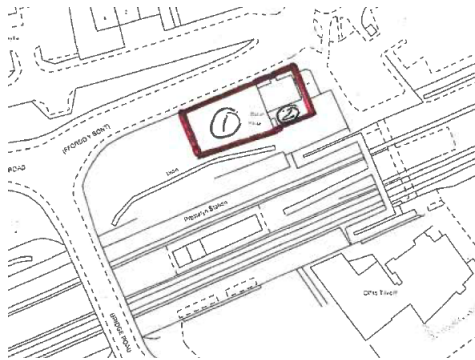
PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application proposes the "Change of use of former museum and tea rooms to form one dwelling" at Station House, 1 Bridge Road, Prestatyn.

- 1.1.2 Plans submitted in support of the application show no external alterations proposed. Nor would the internal layout be physically altered. The use of rooms would simply change to residential in the form of; living room, kitchen and wc on the ground floor and 3 bedrooms with bathroom above.
- 1.1.3 Plans show a rear/side garden (1), yard (2) with outhouse as existing, and retained for the proposed occupiers of the dwelling. See plans snip* Not to Scale and photo.



1.2 Other relevant information/supporting documents in the application

- 1.2.1 The application was supported initially by the applicants interpretation of a Flood Consequences Assessment.

1.3 Description of site and surroundings

- 1.3.1 Station House is located on the south side of Bridge Road, north of the town centre in Prestatyn. It is a distinctive two-storey brick building with slate roof presumably originally associated with the rail line which lies the south of the site.
- 1.3.2 To the east of the building is a single storey building which operates independently as a barbers shop.
- 1.3.3 The site is abutted by a drain to the south, and the railway land/ and station beyond, a car park for the railway station to the east, and Bridge Road to the north and west. In the surrounding area is a mixture of residential and commercial premises.

1.4 Relevant planning constraints/considerations

- 1.4.1 The site is located within the development boundary of Prestatyn and within the Conservation area.
- 1.4.2 It is also within a C1 floodzone as defined by the DAM maps pf TAN 15 Development and Flood Risk.

1.5 Relevant planning history

- 1.5.1 Planning permission was granted in 2008 for the change of use from single dwelling to mixed use including Class A3 tea room, Class D1 museum and Class A1 gift shop. The Applicant advised that permission was only implemented in 2011, and operated until November 2021.
- 1.5.2 The property was originally a dwelling and historic records refer to two flats at the site in the 1980's.

1.6 Developments/changes since the original submission

- 1.6.1 Additional information was requested after the original consultation to address Flood Risk issues raised by NRW. A FCA by Oakshire Environmental was submitted in October 2022 to support the application and later updated in December by the same Authors.

1.7 Other relevant background information

1.7.1 The Application is being considered by Planning Committee on the request of Cllrs Jon Harland and Hugh Irving.

2. DETAILS OF PLANNING HISTORY:

2.1 43/2008/0450/ PF Change of use from single dwelling to mixed use including Class A3 tea room, Class D1 museum and Class A1 gift shop. Granted 02/07/2008

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy RD1 – Sustainable development and good standard design

Policy BSC1 – Growth Strategy for Denbighshire

Policy VOE1 - Key areas of importance

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Residential Development

Supplementary Planning Guidance Note: Residential Development Design Guide

Supplementary Planning Guidance Note: Residential Space Standards

Government Policy / Guidance

Planning Policy Wales (Edition 11) February 2021

Development Control Manual November 2016

Future Wales – The National Plan 2040

Technical Advice Notes

TAN 15 Development and Flood Risk (2004)

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 11 (February 2021) and other relevant legislation.

Denbighshire County Council declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.

The Council aims to become a Net Carbon Zero Council and an Ecologically Positive Council by 31 March 2030. Its goal and priorities are set out in its Climate and Ecological Change Strategy 2021/22 to 2029/30. The actions, projects and priorities in the Strategy directly relate to council owned and controlled assets and services. One priority of the Strategy is to promote the existing policies within the Local Development Plan (LDP) 2006 to 2021 and Supplementary Planning Guidance (SPG) which contribute to environmentally responsible development. In preparing these reports to determine planning applications we therefore highlight the LDP 2006 to 2021 and appropriate SPG. Applications that are determined in accordance with the LDP 2006 to 2021 are

environmentally responsible developments.

Planning applications are assessed in accordance with statutory requirements including The Environment (Wales) Act 2016, national policy (Future Wales, PPW 11) and local policy (LDP 2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

The following paragraphs in Section 4 of the report therefore refer to all statutory requirements, policies and 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 Drainage (including flooding)
- 4.1.5 Highways (including access and parking)

4.2 In relation to the main planning considerations:

4.2.1 Principle

The main Local Development Plan Policy relevant to the principle of the development is Policy BSC 1. This policy seeks to make provision for new housing in a range of locations, concentrating development within development boundaries of towns and villages. It encourages provision of a range of house sizes, types and tenure to reflect local need and demand and the Local Housing market assessment.

The site is located within the development boundary of Prestatyn which is defined as a lower growth town in the LDP.

The principle of change of use to residential is considered acceptable in this location. Officers suggest the acceptability of the proposal therefore has to rest on assessment of the local impacts and constraints which are reviewed within the following sections of the report.

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 (vi) requires that development does not unacceptably affect prominent public views into, out of, or across any settlement or area of open countryside; test (vi) 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 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 visual amenity and landscape impacts of development should therefore be regarded as a potential material consideration.

Local Development Plan Policy VOE1 seeks to protect sites of built heritage from development which would adversely affect them, and requires that development

proposals should maintain and wherever possible enhance them for their characteristics, local distinctiveness and value to local communities.

Planning Policy Wales (PPW 11) Chapter 6 'Distinctive and Natural Places' states there should be a general presumption in favour of the preservation or enhancement of the character or appearance of a conservation area or its setting.

The application proposes no external alterations to the building or site. It would remain as existing in appearance (as it has been closed since 2021 with signage and outdoor seating removed).

The proposal is therefore considered acceptable in relation to the visual amenity policies and guidance listed above.

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 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.

The proposed dwelling would be a three bed property. It would meet current floor space standards in terms of internal arrangements and external space. There are no immediate neighbours. Whilst the proximity to the railway line is noted, given the history of the residential use here it is considered acceptable in this instance.

The proposal is therefore considered acceptable in relation to the residential amenity policies and guidance listed above.

4.2.4 Drainage (including flooding)

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 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 drainage / flooding impacts of a development proposal are a material consideration.

Planning Policy Wales (PPW 11) Section 6.6.22 to 6.6.29 identifies flood risk as a material consideration in planning and along with TAN 15 – Development and Flood Risk, which provides a detailed framework within which risks arising from different sources of flooding should be assessed.

TAN 15 advises that in areas which are defined as being of high flood hazard, development proposals should only be considered where:

- new development can be justified in that location, even though it is likely to be at risk from flooding; and
- the development proposal would not result in the intensification of existing development which may itself be at risk; and
- new development would not increase the potential adverse impacts of a flood event

The general approach adopted in TAN 15 is to advise caution in respect of new development in areas of high risk of flooding, and it sets out a 'precautionary' framework to guide planning decisions, seeking to direct new development away from areas at risk. It details specific tests for local planning authorities to apply to development proposals, requiring an authority to be satisfied a proposal is first *justified* (criteria set out in Section 6) and then that the *consequences of flooding* (set out in Section 7) are acceptable. It advises that where the risks and consequences of flooding cannot be managed to an acceptable level for the nature and type of development, development should be avoided irrespective of the justification. TAN 15 stresses the need for suitable Flood Consequences Assessments to be submitted with applications, to establish the source / mechanism of flooding, the consequences of flooding, and as appropriate, details of mitigation measures to show if risk can be managed to an acceptable level for the type of development.

The site is located within Zone C1 of the Development Advice Map (DAM) as referred to by the Technical Advice Note (TAN) 15: Development and Flood Risk. The site is also shown to lie within the Flood Zone 3 (Sea) and TAN15 Defended Zone according to the new Flood Map for Planning.

The site is situated less than 1 km south east of the Irish Sea and the Prestatyn Gutter is situated 190 metres north of the site. There are also multiple land drains in close proximity to the site, including bordering the site to the south. The site is situated within Flood Zone 3 (Sea) of the Flood risk map for planning, which the FCA acknowledges means that the land has a high probability of sea flooding (>0.5% annual probability of flooding from the sea, including the effects of climate change).

The development proposal is for the change of use from a museum and tea rooms to residential dwelling, the existing lawful planning use would be classed as 'less vulnerable', given the sites most recent use as a museum and tea rooms. As such the proposal would increase the land use vulnerability of the site, from less vulnerable to highly vulnerable land use.

NRW's detailed comments on the application are as follows:

"We have reviewed the new Flood Consequences Assessment (FCA) prepared by Oakshire Environmental (September 2022). Our advice to you is that the FCA fails to demonstrate that the risks and consequences of flooding can be managed to an acceptable level for the reasons explained below.

The FCA has assessed flood risk from a range of sources, including tidal flood risk. As outlined in our previous response, in order to demonstrate compliance with Section A1.14 of Technical Advice Note (TAN) 15, the FCA needs to demonstrate that the site can be designed to be flood free in the 0.5% Annual Exceedance Probability (AEP) breach event with an allowance for climate change.

The FCA refers to breach outputs from the Point of Ayr to Pensarn (2018) modelling study and states 'the majority of the site would be impacted by breaches at all the modelled locations by the year 2117'. No additional information is presented in respect to expected flood levels and depths at the site. In respect to flood risk mitigation, temporary flood resistance measures are proposed.

The mitigation measures outlined in the FCA are not considered to be sufficient, as flooding of the site would still be expected in the 0.5% AEP breach event with an allowance for climate change, and the proposal therefore still fails to comply with the

requirements of Section A1.14 of TAN15. There is repeated reference to 'residual risk' in the FCA, but as outlined above, and in the previous response, a breach should be considered as the design event.

The FCA needs to be updated to fully assess the risk of flooding for the 0.5% AEP breach event with an allowance for climate change (including expected flood levels and depths) and to show that the dwelling can be designed to be flood free in this event.

However, due to the nature of the proposal and likely flood depths at the site, we advise that it is unlikely that any updated FCA will be able to demonstrate compliance with the requirements of TAN15.

Amendments were made to the FCA and NRW re-consulted, they responded *"the FCA includes assessment of the 0.5%AEP breach events with an allowance for climate change, are acknowledged. However, the site is still subject to flood to depths up to 0.6m during the worst breach event. The 0.5%AEP breach event with climate change is the relevant 'design event' for the site and should not be considered a 'residual risk' as referred to in the FCA.*

Mitigation measures remain unchanged from the previous FCA which would not be adequate to mitigate the risks from the flood levels anticipated onsite, and therefore the application fails to demonstrate compliance with A1.14 of TAN15.

They go on to add, "As previously advised, due to the nature of the proposal and likely flood depths at the site, we advise that it is unlikely that any updated FCA will be able to demonstrate compliance with the requirements of TAN15. We therefore object to the application."

It is clear from the above that the flooding issues require careful assessment in relation to the general advice in PPW and the detailed contents of TAN15, all in the context of the information provided by the applicants and response from NRW.

Firstly in relation to applying the TAN 15 tests "Justification test"

Section 6.2 states that development will 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 justification criteria in paragraph 6.2 of TAN15, Officers' view is that:-

- i) The proposal would comply with test i) in that the provision of a dwelling would assist the Growth Strategy for the County in Local Development Plan Policy BSC1, which is to provide housing to meet the needs of local communities and population changes, and it would contribute to expanding the range of accommodation in the town. The site is an existing building located within the development boundary of the adopted Local Development Plan. Housing development in existing settlements concurs with the aims of Planning Policy Wales.

iii) As an existing building it is a brownfield site which meets the definition of 'previously developed land' in PPW, hence the proposals comply with test iii).

iv) In respect of criterion iv) it is not considered that the potential consequences of a flooding event for the particular type of development have been found to be acceptable.

NRW have reviewed the FCA and as the expert consultee have advised that they do not consider the FCA to demonstrate that the risk and mitigation in relation to flood risks can be managed. On this basis they recommend refusal of the application. On the advice of NRW which clearly states that the proposal fails to meet policy tests Officers have no option but to accept this advice recommend refusal of the application.

4.2.5 Highways (including access and parking)

Local Development Plan Policy RD 1 supports development proposals subject to meeting tests (vii) and (viii) which oblige provision of safe and convenient access for a range of users, together with adequate parking, services and manoeuvring space; and require consideration of the impact of development on the local highway network.

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 highway impacts of development should therefore be regarded as a potential material consideration.

The existing property has a permitted commercial use with no on site parking. It is located adjacent to a public carpark with on street parking in the wider area. The proposed dwelling would have 3 bedrooms. Whilst parking standards advise that 3 spaces would be required for an equivalent size dwelling the existing use/situation, proximity to the town centre and alternative means of transport (rail, bus and cycle network) are noted.

Having regard to the nature of the proposed development and existing arrangements, it is considered that the proposals would not have an unacceptable impact on highway safety. It would therefore be in general compliance with the tests of the policies referred to.

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:

Whilst the principle and other planning considerations on this proposal may be acceptable, NRW have made a clear objection to the application on the basis of flood risk. Officers note the history of the site, however in flood risk terms a less vulnerable use has been operating at the site for over 10 years, and the planning assessment must take the last use into account. On the advice of NRW which clearly states that the proposal fails to meet policy tests Officers have no option but to recommend refusal of the application on the grounds of flood risk.

RECOMMENDATION: REFUSE - for the following reasons:-

It is the opinion of the Local Planning Authority that the proposal is not acceptable in relation to flood risk. The FCA acknowledges that the site would be subject to flooding (to depths up to 0.6m) during the worst breach event, and mitigation measures proposed would not be adequate to mitigate the risks from the flood levels anticipated onsite. Therefore the application fails to demonstrate compliance with A1.14 of TAN15 and would be contrary to Local Development Plan Policy RD 1 test (xi) which requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding, and advice contained in Planning Policy Wales Section 6.6.22 to 6.6.29.