

45-2022-0644

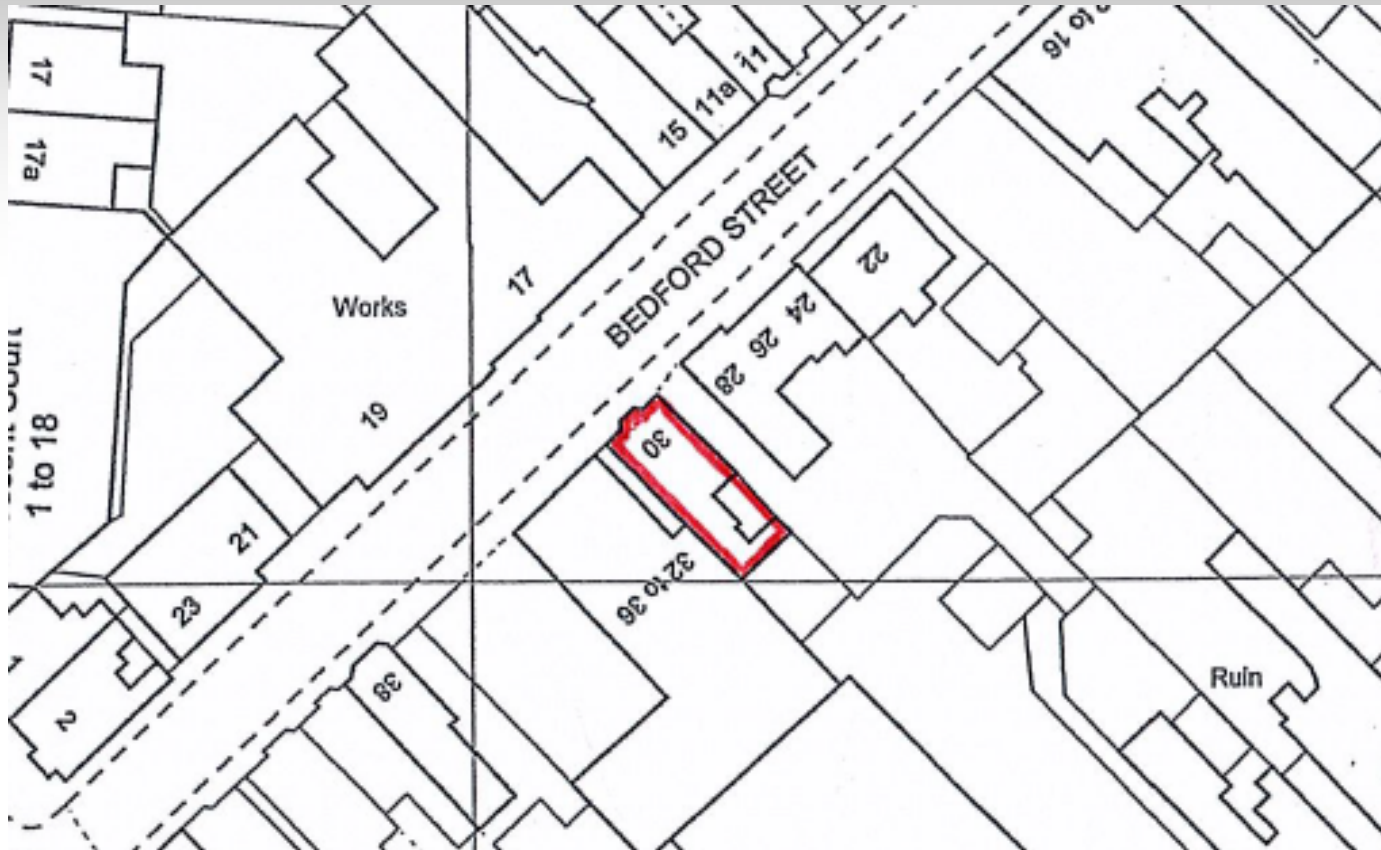


N Graddfa / Scale: 1:709

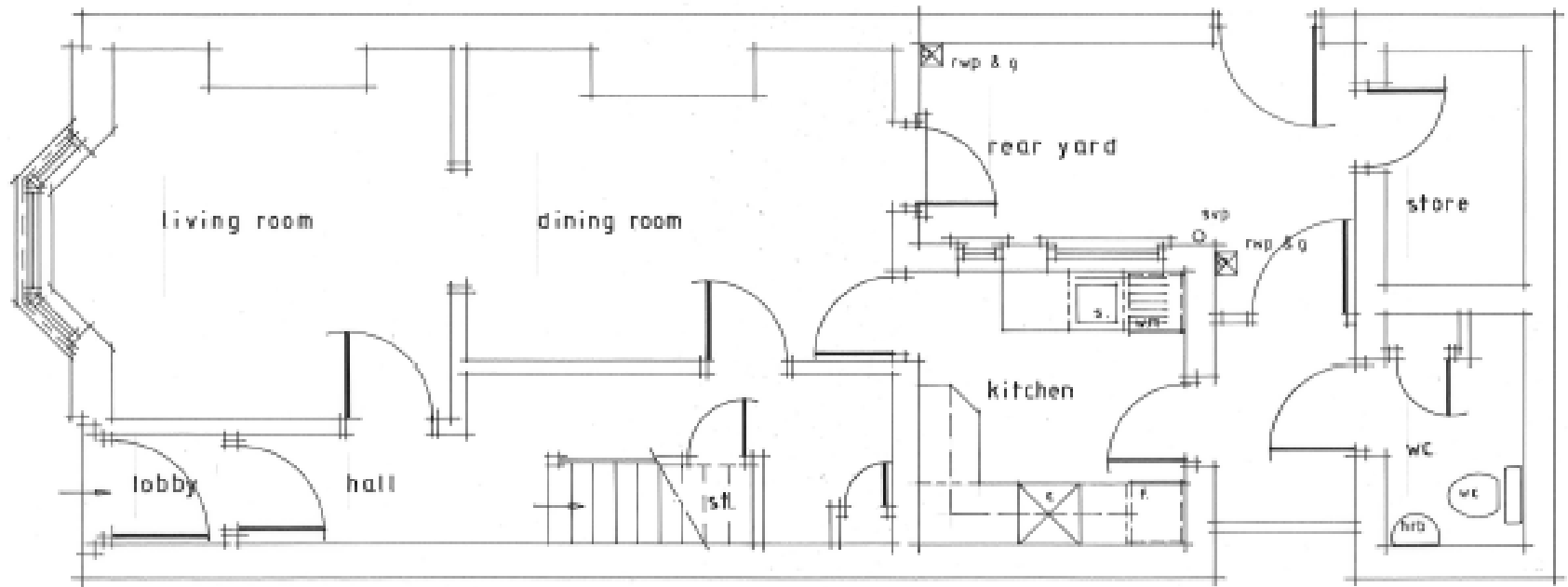
Canol / Centre: 300616, 381307

Dyddiad / Date: 2023-05-03 11:55:02

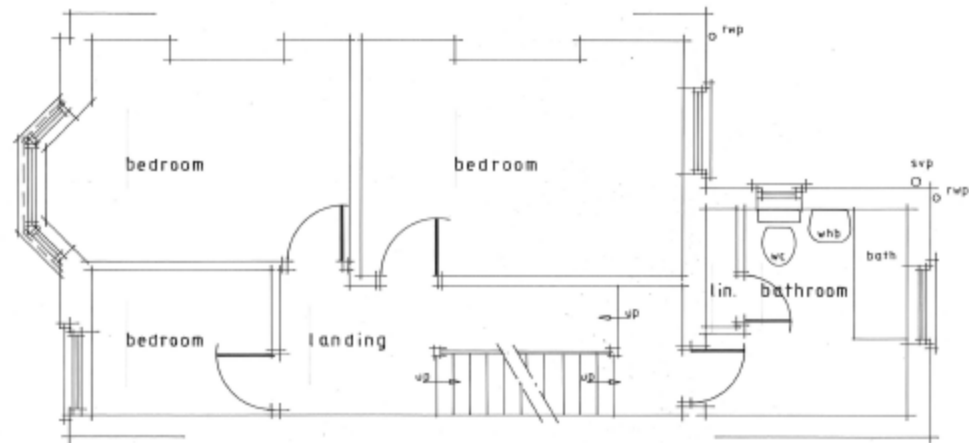
© Hawlfraint y Goron a hawliau cronfa ddata 2023 Arolwg Ordnans 100023408 © Crown copyright and database rights 2023 Ordnance Survey 100023408



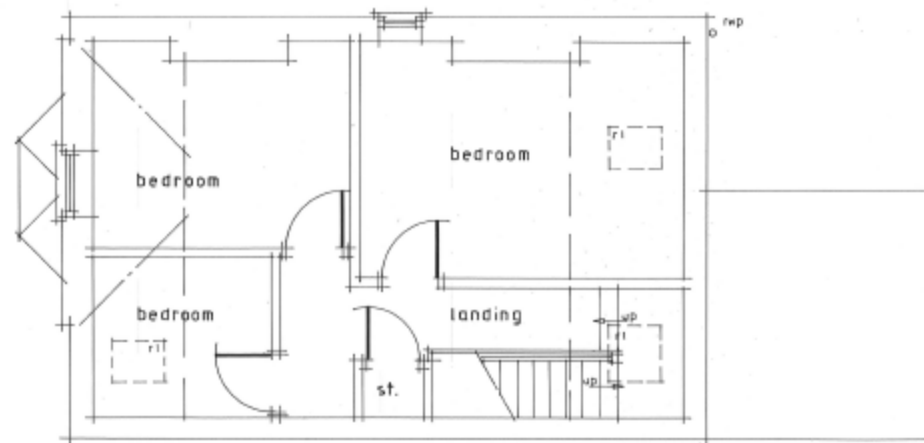
Site Location



Site Plan (and GF Plan)



FIRST FLOOR LAYOUT PLAN
1:50



SECOND FLOOR LAYOUT PLAN
1:50

Proposed First and Second Floor Plans



Street View of Site



WARD : Rhyl West

WARD MEMBER(S): Cllr Joan Butterfield
Cllr Alan James (c)

APPLICATION NO: 45/2022/0644/ PF

PROPOSAL: Change of use of offices to form a dwelling

LOCATION: 30 Bedford Street Rhyl LL18 1SY

APPLICANT: Mrs Debra Moore

CONSTRAINTS: C1 Flood Zone
Conservation Area
Article 4 Direction

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:

RHYL TOWN COUNCIL

"No objection"

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: 12/12/2022

EXTENSION OF TIME AGREED: 24/05/2023

REASONS FOR DELAY IN DECISION (where applicable):

- awaiting consideration by Committee

PLANNING ASSESSMENT:

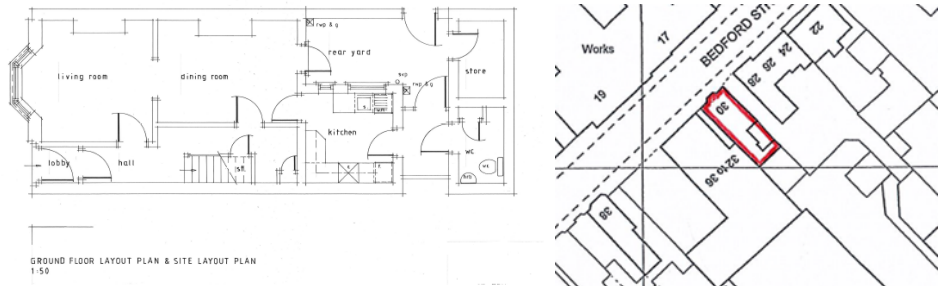
1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application proposes the "Change of use of Change of use of offices to form a dwelling at 30 Bedford Street in Rhyl.

- 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, dining room, kitchen and wc on the ground floor, with 3 bedrooms with bathroom on the first floor and 3 further bedrooms on the second floor.
- 1.1.3 Plans show a rear/side yard with an outhouse and wc as existing, accessed from a lane to the side of the site.

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 by an FCA from Brian Killingworth.
- 1.2.2 It is understood that the site was on the market for a commercial use since September 2021 with little interest for a commercial use. It was subsequently put up for auction and purchased by the Applicant with the intention to covert into a family home.
- 1.3 Description of site and surroundings
- 1.3.1 The site is located on the southern side of Bedford Street close to Rhyl town centre.
- 1.3.2 No. 30 is an existing three story detached property formally housing offices for various Community organisations.
- 1.3.3 The property fronts the street with access to the site via a lane/driveway to a garage to the rear. Within the rear curtilage there is a small yard, store and wc.

1.4 Relevant planning constraints/considerations

1.4.1 The site is located within the development boundary of Rhyl. It is within the West Rhyl Regeneration Area Supplementary Planning Guidance Note area. It is also within the Rhyl Central Conservation Area.

1.4.2 It is also within a C1 floodzone as defined by the DAM maps of TAN 15 Development and Flood Risk.

1.1 Relevant planning history

1.1.1 Planning permission was granted in 1993 for change of use from residential to offices.

1.2 Developments/changes since the original submission

1.2.1 Additional information was requested after the original consultation to address Flood Risk issues raised by NRW. An addendum to the FCA by submitted by Brian Killingworth to support the application.

1.7 Other relevant background information

1.7.1 The application is being considered by Planning Committee on the request of Cllrs Barry Mellor and Joan Butterfield.

2. DETAILS OF PLANNING HISTORY:

2.1 2/RYL/0432/92/P Change of use to Young People's Advice Centre. Granted 07/01/1993

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

Policy PSE3 – Protection of employment land and buildings

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Residential Development

Supplementary Planning Guidance Note: West Rhyl Regeneration Area

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 Rhyl which is defined as a lower growth town in the LDP.

The site is located within the West Rhyl SPG Regeneration Area, the majority of Bedford Street is allocated for minimal interventions in the SPG but it is noted that there is a general presumption in the SPG for the provision of family homes (i.e. larger dwellings) which this proposal intends to do.

Whilst the existing use of the site as offices is noted, and the implications of PSE 3 which aims to protect existing employment sites is relevant. It is noted that this site has been vacant for a substantial period of time and has been marketed without success for commercial uses.

Given the above considerations regarding the West Rhyl Regeneration Area SPG and the marketing exercise carried out, 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 wider site layout. It would remain as existing in appearance. Arguably the change of use would result in a positive impact on the Conservation area by enabling the reuse of a vacant property.

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 six-bed property. It would meet current floor space standards in terms of internal arrangements. Whilst external space is lacking it is located close to the town centre and open space at the end of Crescent Road, and within a 5 minute walk of the Seafront. The rear curtilage is private and bounded by a access road/lane to the east and Seagull foods to the west. The history of the residential use is also noted.

Whilst it would be preferable to have more amenity space for a dwelling of this size (i.e. 6 bedrooms) the fact it would be a change of use back to residential is noted, and on balance 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).

The development proposal is for the change of use from offices to a residential dwelling, the existing lawful planning use would be classed as 'less vulnerable', given the sites most recent use. 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 Flood Consequences Assessment (FCA) undertaken by Brian Killingworth, dated February 2023, reference 262/23. This was submitted to address the concerns raised in our letter dated 12/12/2022 (our ref: CAS-204997-S7F5). 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 commented on the flood risk posed to the site from a range of sources, including the sea and the tidal Clwyd. The FCA makes reference to a number of completed and proposed flood defence improvement schemes along the coastal frontage. As noted in the FCA, the primary source of flood risk posed to the site is from the tidal Clwyd. Based on the outputs from the Point of Ayr to Pensarn Tidal Flood Risk Analysis (2018), the site is not shown to flood in the 0.5% Annual Exceedance Probability (AEP) event with an allowance for climate change when considering flood risk from the sea only.

The assessment of risk for the tidal Clwyd is also based on the Point of Ayr to Pensarn study. The FCA quotes a flood level of 6.37 m AOD for the 0.5% AEP overtopping event with an allowance for climate change, which when taking into account the existing finished floor level of the building of 5.68 m AOD, would result in significant flooding (0.69 m depth) of the site.

An assessment of a breach in the tidal Clwyd defences is not considered within the FCA.

The development proposal would result in an increased land use vulnerability at the site, from less vulnerable development to highly vulnerable development. Therefore, in order to comply with section A1.14 of TAN15, the FCA needs to demonstrate that the entire site can be designed to be flood free in the design event, which in this case is the 0.5% AEP breach event with an allowance for climate change (for the tidal Clwyd). This event is not assessed in the FCA. The overtopping outputs demonstrate that significant flooding of the site would be expected in the corresponding return period event, and this flood risk would only be expected to increase in the event of a breach.

The FCA does not propose to raise finished floor levels above the 0.5% AEP overtopping event with an allowance for climate change flood level, so significant flooding of the proposed site would be expected in this event. Seeing as a breach would be expected to increase flood levels, it is clear that flooding of the proposed site would be expected in the design event, and the FCA acknowledges that 'neither the site nor access to the site will be flood free at all times...'. We therefore advise that the proposal fails to comply with the requirements of TAN15 and raise concerns with the application."

Amendments were made to the FCA and NRW re-consulted, they responded:

"We have reviewed a letter from Brian Killingworth, dated 15/03/2023, with queries in regard to NRW's response of 7/03/2023 (CAS-209640-T3Y1). Our advice to you remains 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 letter states that the outputs from the Point of Ayr to Pensarn study are inaccurate as they do not take account of completed and ongoing defence improvements along the coastal frontage.

The Rhyl West defence scheme was completed in 2015 and is included within the model.

The Central Rhyl scheme is expected to commence in the near future, but as works have not been completed, the model represents current conditions at this location. The Rhyl East works are not included in the model but are fairly remote from the application site and are unlikely to influence the flood risk posed to the site.

As advised in our previous response, the flood risk posed to this site is associated by overtopping of the Clwyd embankments, so we maintain that completed and future planned works to the coastal frontage will have little influence on the flood risk posed to the site. The fact the Point of Ayr to Pensarn outputs for the coastal frontage (no influence from the Clwyd) show that no flooding of the site is expected in the 0.5% AEP event with an allowance for climate change reinforces this point and shows that improvement works along the frontage are unlikely to have any influence on flood risk at the site. We therefore disagree that the flood levels included within the Point of Ayr to Pensarn study (for the coupled run) are 'inaccurate'. As we have explained, it should be noted that the depths of 0.69 m expected in the overtopping event would only be expected to increase in the event of a breach, so it is clear the site is at significant risk of flooding.

With regard to the point around proportionality, our response outlines that in order for the site to be considered compliant with the requirements of TAN15, the FCA should demonstrate that the site can be designed to be flood free in the 0.5% AEP breach event with an allowance for climate change. Whilst we appreciate that undertaking breach modelling is an expensive exercise, there is a requirement for the FCA to appropriately mitigate this event. As there are no readily available breach outputs for the Clwyd embankments, the applicant would need to commission this work, or request the outputs from the Denbighshire Strategic Flood Consequences Assessment (SFCA) from the consultants who undertook this work. It should be noted that our Point of Ayr to Pensarn study is in the process of being updated to include breach scenario outputs, which should be available by late Spring. Notwithstanding this, our response acknowledges that the risk posed in the overtopping event is significant (and would increase in the event of a breach) and given the limited scope for mitigation measures, it is unlikely that the proposal could demonstrate compliance with TAN15. Any further modelling work may therefore be abortive, as it is unlikely to change the outcome. We note the comments in respect to the occupancy of the current building and the safe haven that would be provided at first floor, but residential properties are inherently more vulnerable to the impacts of flooding, and in accordance with Figure 2 of TAN15, the proposal would result in an increased land use vulnerability at the site.

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.

The West Rhyl Regeneration Area SPG acknowledges the C1 Flood risk designation. And reiterates that development in these areas will only be permitted where it can be demonstrated to provide an employment or regeneration objective (see TAN15). It goes on to say that development which accords with this SPG will be considered to meet the necessary regeneration / employment objectives.

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. There is on street parking in the wider area. The proposed dwelling would have 6 bedrooms. Whilst parking standards advise that 3 spaces would be required for an equivalent size dwelling the exiting 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:

- 5.1 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 30 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 reason:

The reason for refusal is:

1. 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 (of depths of 0.69 metres expected in the overtopping event expected to increase in the event of a breach) and mitigation measures would not be adequate to mitigate the risks from the flood levels anticipated onsite. As such 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 6.29.