

## Planning Committee

7 September 2010

**Reference:**  
**APP/09/06038**

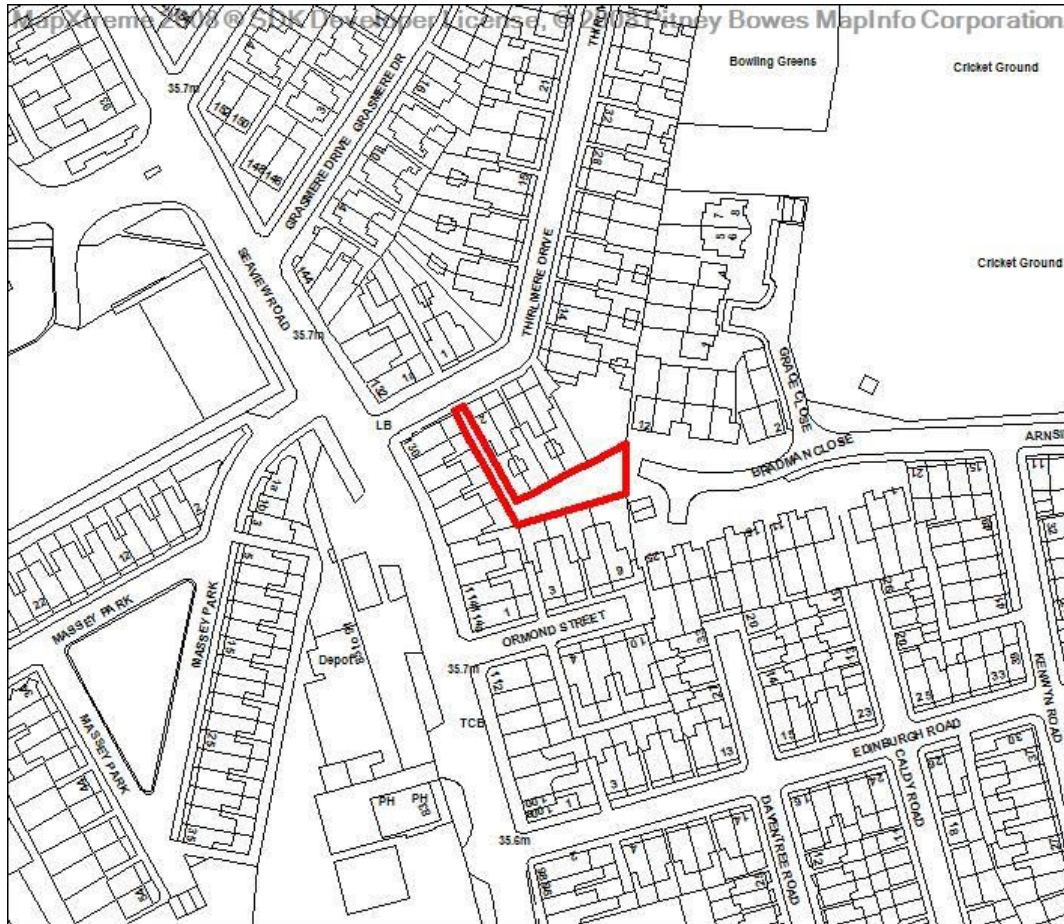
**Area Team:**  
**Deeside**

**Case Officer:**  
**Miss S Hesketh**

**Ward:**  
**Liscard**

**Location:** 2 Thirlmere Drive, Liscard, Wirral, CH45 4LW  
**Proposal:** Erection of a single storey extension, raising roof of existing workshops & installation of spray booth (retrospective application)  
**Applicant:** Mr Michael Bowers  
**Agent :** Mr Simon Finney

### Site Plan:



**Development Plan allocation and policies:**  
Primarily Residential Area

**Planning History:**  
None

### Summary Of Representations and Consultations Received:

#### REPRESENTATIONS

A site notice was displayed by the applicant. A total of 38 letters of notification have been sent to properties in the area. At the time of writing this report a qualifying petition of 89 signatures from separate households and 11 individual letters of objection have been received, listing the following

grounds:

- The use of the building;
- The effects on health of residents due to dust, paint fumes, smells (solvents, burning rubber) and noise (extraction, motorbikes and cars revving);
- The appearance and size of the structure and air vent, which is unsuitable in a residential area;
- Devaluation of property;
- The last use of the site was a double garage and a large lean-to shed;
- The materials of construction;
- Inaccuracies of the agents drawings;
- Traffic to the site has created congestion and parking issues, and the number of motor vehicles coming and leaving and being stored on site is unacceptable;
- Unsatisfactory access in case of fire;
- The application is for spraying motorbikes;
- The application is already built;
- Trees and shrubs have been removed;
- Water base paint is not being used;
- Operating hours;
- Interference with electrical equipment
- Health problems of residents will be exacerbated.

A further letter of objection was received, but wished to remain confidential.

The former Councillor, Leah Fraser, objected to the application citing the following reasons:

- The industrial style building within a residential area;
- Size of the building is overdevelopment;
- Appearance and size of air vent.

Letters were received from neighbours stating the following:

- The site has not been used for any purpose since August 2006
- The site has not been used as a business premises for the last 10 years;
- Prior to 2004 the site was used for storage of a caravan, boats and general odds and ends;
- Since 1983 the site has been used for storage of boats and building materials;
- Since 2002 the site comprised of disused garages with no commercial activity

#### **CONSULTATIONS:**

The Director of Technical Services, Traffic Management had no objection to the proposal  
The Director of Law, HR & Asset Management, Environmental Health had no objection to the proposal subject to conditions.

#### **Directors Comments:**

#### **REASON FOR REFERRAL**

A qualifying petition of 89 signatures of objection from separate households has been received and the former Councillor, Leah Fraser, had requested the application be taken out of delegation.

The application was considered at the 12th November Planning Committee, where it was deferred for a formal site visit by Members.

The application was considered at the 10th December Planning Committee, where consideration of the application be deferred for officers to gain sufficient information on the site's planning history and use and report back to this committee.

The application was returned to Planning Committee on the 18th February. At this meeting a motion moved to refuse the application was lost and the motion for recommendation approved. However as the motion for approval was not formally seconded the determination was not formally made.

Further consideration was given to the matter at the 11<sup>th</sup> March 2010 Special Planning Committee, where Members deferred the matter for clarification following further information submitted.

The application was deferred from Planning Committee on the 6 July 2010 for a Committee Site Visit.

**Following advice from the Director of Law, HR & Asset Management, the report has been amended to clarify the issue of the industrial use of the site. Namely that if permission is granted for the building then this will be construed as including the use for the purpose for which it is designed i.e. workshop.**

## **INTRODUCTION**

Erection of a single-storey extension, raising roof of existing workshops and installation of spray booth (retrospective application).

The application is to determine the impact of the physical structure of the building on the amenities of neighbouring properties. Both the previous use of a workshop/garage and the subsequent uses as a boatyard and motorcycle spraying booth fall under Use Class B1 (light industry). The planning application to determine the extensions and modifications that have taken place if approved by Members will also approve the use of the building and subsequently the site as (B1) Business/Light Industry.

The building measures 3.3 metres in height and is white rendered. The extractor flue measures 0.9 metres above the roof. The building has a total footprint of 133 square metres.

## **PRINCIPLE OF DEVELOPMENT**

The scale and design of the proposed buildings are considered acceptable under policy HS15 and are not considered to result in a detrimental change in the character of the area or cause nuisance to neighbouring uses.

## **SITE AND SURROUNDINGS**

The site comprises of a single storey commercial building with roller shutters and flue. The boundary treatment comprises of 2-metre high brick walls. There are surrounding two-storey residential properties on Thirlmere Drive, Bradman Close and Ormond Street.

## **POLICY CONTEXT**

UDP policy HS15 permits non-residential development in Primarily Residential Areas where the proposal will not be of such a scale as to be inappropriate to surrounding development or result in a detrimental change in the character of the area. Development will not be permitted should it cause nuisance to neighbouring uses.

## **APPEARANCE AND AMENITY ISSUES**

The application is to assess the extensions and modifications that have taken place.

The proposal is surrounded by two-storey dwelling houses, and as such the single-storey development is considered not to be of a scale that is detrimental to surrounding properties. The impact of the building could be further reduced by painting it a darker colour more inkeeping with the surroundings. The size of the building is not considered to have a detrimental impact on the residential amenity of the surrounding properties in terms of overshadowing, overlooking and outlook.

It is considered the visual prominence of the shiny fume extractor flue has been reduced by painting it a darker colour, which is considered more inkeeping with the surrounding residential chimneys in the area. The scale of the flue is not considered to significantly affect the outlook of neighbouring residential properties or alter the character of the residential area.

Committee members requested further information in respect of the lawful use of the land/premises, i.e. confirmation that the site has been used for light industry for the last 10 years. The agent provided four sworn affidavit statements confirming the following: the use of the site between 1983-1987 and 1987-1990 was for motor vehicle repairs and welding; between 1999-2000 the premises was used for Mercedes restoration body repairs and paint spraying; between 2001 to present day the premises have been used on a part-time basis for repairing, re-spraying and customising motorbikes, boats and cars.

The evidence submitted by neighbours does not contradict that of the applicant over the periods 1999

to 2000, and 2001 to the present. Correspondence dated 6th August 2010, received from the agent on behalf of the applicant, states that the premises were in use during the years 2000 and 2001 for uses including car maintenance and repair, metalwork fabrication and paving production and storage. The balance of evidence would suggest, therefore, that the lawful use of the site is B1 Business. The applicant has stated that the garage has been used as a B1 workshop intermittently, there is no evidence of the site having been in another use, and the original building appears to have been constructed for that use.

Notwithstanding a potential gap within this time period (given the contrary information submitted by residents) it is considered that the use of the site as B1 Business/Light Industrial and within the extended building is acceptable subject to the proposed conditions.

As stated earlier in this report, if Members are minded to approve this application, the **use** of the site and the building will be construed as including the use for the purpose for which it is designed i.e. workshop with B1 Business use. The use of the building for such a purpose within Class B1 could not be reconsidered at a later stage (for example through enforcement action). Use Class B1 includes use as: an office; for research and development or; for any industrial process which can be carried out in any residential area without detriment to the amenity of that area.

Objections that cannot form a reason for refusal under planning remit include devaluation of property, the retrospective nature of the proposal, the removal of trees and shrubs or interference with electrical equipment. Access in case of fire to an exiting site is a matter assessed by the Fire Authority. The plans supplied are considered satisfactory.

It should be noted that the Council retains powers to enforce against statutory nuisances under the Environmental Protection Act 1990.

#### **SEPARATION DISTANCES**

No.8 Thirlmere Drive is 12 metres away from the proposed building. No.9 Ormand Street is 6.8 metres away from the proposed building. No.12 Bradman Close is 0.6 metres away from the proposed building and has no primary windows directly facing the proposal. The single-storey proposal is not considered to result in loss of outlook or light to neighbouring properties. It is not considered to result in overlooking or overshadowing.

#### **HIGHWAY/TRAFFIC IMPLICATIONS**

The Director of Technical Services (Traffic Management Division) was consulted on the application and has no objection to the proposal. It is considered the potential for an increase in vehicle movement unlikely to be significant. There are no highway implications relating to this proposal.

#### **ENVIRONMENTAL/SUSTAINABILITY ISSUES**

Concerns regarding the effects on health of residents as a result of dust, paint fumes and smells are controlled via environmental health legislation. The Director of Law, HR & Asset Management (Environmental Protection Division) has no objection to the proposal subject to a condition detailing the fume extract and odour control system. The water-based sprays do not pose health concerns, and a condition can be attached for clarity. Whilst the sprays do not pose health concerns, the flue provides dilution and dispersment at a higher altitude, which reduces disturbance to neighbours. As previously discussed, without the containment of the spraying within the building and via the flue it is likely the fumes would reside at a lower level and cause more nuisance to neighbours.

The erection of new buildings can sometimes facilitate an overall improvement in amenity impact. Noisy aspects of the use can be contained within the proposed building, and work can be kept out of sight. Objections were received regarding noise (motorbikes and cars revving) from the site. The proposed building provides a containment for the noise, and is viewed as a planning gain. There is no evidence the flue would result in antisocial noise levels, and disturbance can be controlled through environmental health legislation.

It should be noted that the planning application provides an opportunity to regularise use of a site which the balance of evidence suggests is lawful and is, at present, unconditioned. In particular, a condition is proposed to restrict the hours of use of the site, further reducing disturbance to neighbouring residents.

## **HEALTH ISSUES**

The Director of Law, HR & Asset Management (Environmental Protection Division) was consulted in relation to the spray kit and had no objection to the proposal. For clarification, the paints are water based not solvent based. No evidence has been produced to show how the proposal will affect the health of residents.

## **CONCLUSION**

The proposal is considered to be acceptable in terms of scale and design and is not considered to be inappropriate to the surrounding residential properties or result in a detrimental change in the character of the area and provides a means of reducing noise and disturbance to surrounding neighbouring properties. The development is not deemed to cause nuisance to neighbouring uses or result in loss of privacy, daylight, or sunlight. The proposal complies with Unitary Development Plan Policy HS15.

### **Summary of Decision:**

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national and regional policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposal is considered to be acceptable in terms of scale and design and is not considered to be inappropriate to the surrounding residential properties or result in a detrimental change in the character of the area. The development is not deemed to cause nuisance to neighbouring uses or result in loss of privacy, daylight, or sunlight. The proposal complies with Unitary Development Plan Policy HS15.

### **Recommended Decision: Approve**

### **Recommended Conditions and Reasons:**

1. Details of the fume extraction system and the odour control system shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the date of this decision. The fume extractor and odour control system shall be implemented within 1 month of approval of the system and retained and operated thereafter in accordance with the approved details.

**Reason:** In the interests of amenity

2. Details of a colour coating to be applied to the building and flue shall be submitted to and agreed in writing by the Local Planning Authority within 3 months of the date of this decision. The approved colour coating shall be completed prior to the use commencing and retained as such thereafter.

**Reason:** In the interest of amenity

3. The premises shall be closed between the hours of 18.00 hours and 08.00 hours Monday to Friday, between the hours of 08.00 hours and 13.00 hours on Saturdays, and shall remain closed on Sundays and Bank Holidays

**Reason:** In the interests of amenity

4. Only water based paint shall be used for spraying as stated in the approved details (received 4<sup>th</sup> September 2009) unless with prior agreement with the Local Planning Authority

**Reason:** In the interests of amenity

**Last Comments By:** 22/10/2009  
**Expiry Date:** 30/10/2009