

LOCAL MEMBER, MP CONCERNS & PETITION

COMMITTEE DATE: 23/11/2016

APPLICATION No. **14/00364/DCO** APPLICATION DATE: 26/02/2014

ED: **RHIWBINA**

APP: TYPE: Full Planning Permission

APPLICANT: O'Connor Utilities Ltd
LOCATION: O'CONNOR UTILITIES LTD, RHIWBINA HILL, RHIWBINA,
CARDIFF, CF14 6UP

PROPOSAL: REGULARISATION OF THE USE OF THE LAND AS AN
OPERATIONAL /ADMINISTRATIVE DEPOT WITH SMALL
STORAGE AREA, OFFICE CABINS, ERECTION OF FENCE
AND SECURITY CCTV POSTS

RECOMMENDATION 1: That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing No.1, OCU-RH-1, OCU/RV/004 and AMA-SD10/8

Reason: For the avoidance of doubt and to ensure a satisfactory completion of development in line with Planning Policy Wales aims to promote an efficient and effective planning system.

2. Within 2 months of the date of this permission, details showing the rearrangement of the office cabins located in the south eastern corner of the site from a two storey to a single storey development and their painting in an appropriate colour (e.g., green) shall be submitted to the Local Planning Authority for written approval. The office cabins shall be rearranged and painted in accordance with the agreed details within 2 months of the date of the Local Planning Authority's written approval.

Reason: In the interests of visual amenity and in accordance with Policy KP5: Good Quality and Sustainable Design of the adopted Cardiff Local Development Plan.

3. The palisade fencing enclosing the site shall be painted in a colour to be agreed in writing with the Local Planning Authority. Details of the colour shall be submitted to the Local Planning Authority within 2 months of the date of this permission and the fence shall be painted in accordance with the agreed details within 2 months of the date of the Local Planning Authority's written approval.

Reason: In the interests of visual amenity and in accordance with Policy KP5: Good Quality and Sustainable Design of the adopted Cardiff Local

Development Plan.

4. The pole mounted yard lights shall only be operational during the opening hours of the development hereby approved or when triggered by movement sensors out of hours for security purposes. The lights shall be orientated to avoid light spillage outside the site footprint.
Reason: In the interests of visual and residential amenity and to mitigate the lighting impact on bats and in accordance with Policies EN13: Air, Noise, light pollution and EN7: Priority Habitats and Species of the adopted Cardiff Local Development Plan.
5. The operating hours of the site as an administrative/operational depot shall be between 07:00 and 18:00 Mondays to Fridays only.
Reason: To ensure that the amenity of neighbouring and nearby occupiers are protected in accordance with Policy EN13: Air, Noise, Light Pollution of the Cardiff Local Development Plan.
6. The application site shall be used as a depot for the carrying out of work comprising the repair, maintenance and replacement of Welsh Water/Dwr Cymru waste water and clean assets and/or in accordance with development permitted under Part 16 (Development by or on behalf of Sewerage Undertakers) of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order amending, revoking or re-enacting that Order).
Reason: For the avoidance of doubt and having regard to the location of the site outside the defined settlement boundary in the open countryside where it is intended that new development should be strictly controlled in accordance with policies KP3(A): Green Wedge and KP3(B): Settlement Boundaries of the Cardiff Local development Plan.
7. The car parking and manoeuvring areas shown on the approved plans shall be retained for the parking and manoeuvring of vehicles.
Reason : To ensure that the use of the proposed development does not interfere with the safety and free flow of traffic passing along the highway, in accordance with Policy T5: Managing Transport Impacts of the adopted Cardiff Local Development Plan.

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 This planning application relates land at the Welsh Water/Dwr Cymru Reservoir site, Rhiwbina Hill. Part of the site has been used for some time by a Company called O'Connor Utilities as an operational depot and administrative base for the carrying out of works comprising the repair, maintenance and replacement of Welsh Water/Dwr Cymru waste water and clean water assets. The planning application was submitted following an investigation by the Service's Enforcement Section and seeks permission to regularise the use of the land and retain demountable office cabins, 2.4 metre high palisade fencing enclosing the site and floodlights/security CCTV columns approximately 8.0 metres in height.

- 1.2 The applicant believes that there has not been a change in the use of the land and that the site has historically been used by utilities companies to operate an operational and administrative depot. Notwithstanding this opinion, the current application is not for a certificate of lawful use where the applicant would need to demonstrate that the use had been in operation for 10 years but a planning application for the specific use applied for together with the erection of office cabins, lighting columns and fencing.
- 1.3 The office compound is located in the south east corner of the site with the remainder of the land used for the storage of water supply related materials (e.g., pipe bedding, crushed stone, water pipes waste polyethylene skip, general waste skip and fittings) together with vehicular parking/ manoeuvring space for office workers/ operational staff and the parking of HGV vehicles.
- 1.4 The site is accessed via the existing WW/DC track off Rhiwbina Hill
- 1.5 Welsh Water/Dwr Cymru advises that the applicant occupies the site under a yearly licence with permitted core hours between 7:30 am and 5:00 pm although work outside these hours is permitted subject to operational needs. The Company also advises that the applicant does not have exclusive use of the site as Welsh Water/Dwr Cymru staff can access and use the site for activities associates with the operation of their assets.
- 1.6 The applicant advises that its general hours of operation are between 06:30 and 18:00 Monday- Friday but has also confirmed that it would accept a start time of 07:00. With regard to out of hours working, the Company states that it does not regularly operate outside its Monday- Friday hours and rarely work at weekends. It states that as a rule, deliveries are not early morning or late evening.
- 1.7 The Company also advises that the number of regular large vehicle movement on a daily basis is approximately 8 with deliveries and waste collection from time to time.

2. **DESCRIPTION OF SITE**

- 2.1 The application forms part of the Rhiwbina reservoir site which is a Welsh Water/Dwr Cymru operational asset located on the eastern side Rhiwbina Hill, immediately north of the M4 motorway.
- 2.2 The site is accessed via the existing WW/DC track off Rhiwbina Hill which passes to the side of a dwelling known as Waterworks House. The site is reasonably well screened from the nearby residential properties along the western side of Rhiwbina Hill by a belt of mature trees and occupies a lower ground level than the adjacent highway. There are existing Welsh Water/Dwr Cymru buildings to the south and east of the site.
- 2.3 The application site occupies an elevated position in relation to the field which adjoins the Reservoir site to the south and east. The site can be viewed from the public rights of way network to the south and east of the site, from nearby bridges crossing motorway and in glimpses directly from the motorway in an easterly

direction.

3. **SITE HISTORY**

3.1 No relevant planning applications.

4. **POLICY FRAMEWORK**

4.1 The Cardiff Local Development Plan 2006-2026 provides the local planning policy framework. Relevant policies include:

KP3 (B): Settlement Boundaries.

KP3 (A) Green Wedge

KP5: Good Quality and Sustainable Design

EN13: Air, Noise, Light Pollution and Land Contamination

T5: Managing Transport Impacts

EN1: Countryside Protection

EN3: Landscape Protection

EN1: Countryside Protection

EN7: Priority Habitats and Species

EN8: Trees, Woodlands and Hedgerows

4.2 Supplementary Planning Guidance: Access, Circulation and Parking (January, 2010);

Supplementary Planning Guidance: Waste and Collection and Storage Facilities (2007);

4.3 *Planning Policy Wales Edition 8 (2016):*

4.8.14: When considering applications for planning permission in Green Belts or green wedges, a presumption against inappropriate development will apply. Local planning authorities should attach substantial weight to any harmful impact which a development would have on a Green Belt or green wedge.

4.11.9: Visual appearance, scale and relationship to surroundings and context are material planning considerations.

4.11.11: Local planning authorities and developers should consider the issue of accessibility for all.

5.5.11: The presence of a species protected under UK or European legislation is a material consideration. Local planning authorities should advise applicants that they must conform to any species protection provisions.

13.15.1: Noise can be a material planning consideration, e.g. where proposed new development is likely to generate noise.

4.4 Technical Advice Note 11 – Noise (1997):

8. Local planning authorities must ensure that noise generating development does not cause an unacceptable degree of disturbance. They should also bear in mind that if subsequent intensification or change of use results in greater intrusion, consideration should be given to the use of appropriate conditions.

5. **INTERNAL CONSULTEE RESPONSES**

- 5.1 The Operational Manager, Transportation notes the information provided by the applicant in respect of the number of vehicle expected at the site on an average day. To corroborate these figures and also mindful of the objections raised by residents, the Officer advises that the Service has carried out its own traffic survey of vehicle movements during the 06:00- 08:30 period on three occasions. The Officer advises that Rhiwbina Hill carries in the order of 370 vehicles (2 way) during this time and that the recorded traffic flows associated with the development site during this period of between 9 and 20 movements, including 2 HGV movements, are considered to be low in terms of total vehicle trips.

The Officer notes that there have been concerns expressed by nearby residents that there are a large numbers of heavy goods vehicles associated with the site. However, the Officer advises that the evidence supports the view that the traffic generated from the site does not adversely impact on the existing situation and that the officer is not aware of evidence to indicate otherwise.

The Officer raises no objections on highway safety/transportation grounds subject to there being sufficient parking and manoeuvring areas within the site as shown on the submitted plans.

- 5.2 The Operational Manager, Environment (Pollution Control) has raised no objections to the application on noise and light pollution grounds subject to appropriate conditions.
- 5.3 The Operational Manager, Waste Management advises that a commercial contract is required for the collection and disposal of all commercial waste.

6. **EXTERNAL CONSULTEE RESPONSES**

- 6.1 Welsh Water/Dwr Cymru advises that it has no comments to offer concerning the regularisation of the development. Details of a trunk/distribution watermain crossing the site have been provided together with the Company's conditions for development near such infrastructure.

7. **REPRESENTATIONS**

- 7.1 Neighbouring occupiers have been consulted and a notice has been displayed on site.

35 letters/e-mails objecting to the application have been received. In summary the grounds of objection are as follows:

- Unlawful and illegal use of the land with no planning permission;
- The application is unneighbourly and inappropriate in a rural setting, not in keeping with the character surrounding environment and has caused concern to neighbouring properties with regard to noise, vibration, smells and disturbance;
- Disruption to indigenous wildlife including endangered species- adders.

- Pipistrelle bats and owls;
- Considerable number of additional vehicle movements as a result of the intensification of the use of the site as an operational depot including early movements of HGV's with consequences in terms of noise and disturbance;
- The road is not suitable for the movement and weight of heavy vehicles;
- Traffic safety issues through a residential area;
- Heavy vehicles passing through Rhiwbina village adding to congestion and causing highway safety issues;
- Noise and Disturbance- 24 hours;
- Indiscriminate use of floodlights 24/7;
- Further plans to extend and increase scale of development possibly to 200 employees;

7.2 Councillor Cowan advises that a number of local residents have contacted her expressing concerns about the site which date back a number of years and considers that a site visit would be beneficial for committee members prior to determining the application. The Councillor is concerned about the most recent letter from the applicants, O'Connor Utilities Ltd, regarding their future operations at the site and feels that there needs to be categorical assurances relating to times of operation etc. and not generalised statements.

7.3 Craig Williams MP advises that he has been contacted by constituents about the planning application and refers to long term concerns regarding the operation of the site supported by a petition. In order for the members of the planning committee to see the issues first hand, he would like to request a site visit on this occasion.

He notes the most recent letter from O'Connor Utilities Ltd and is concerned with the ambiguous statements regarding future operation noting that most of the statements are very generalised and do not fix down permanent hours of operation and also make reference to the fact that weekend work could continue on an informal basis.

7.4 A 76 signature petition has been received objecting to the application for the following reasons:

- *Gross and unacceptable visual detriment to the rural character of the area and can be observed as far away as the M4 motorway westbound.*
- *The application is unneighbourly and out of keeping with the rural setting and has caused concern to neighbouring properties with regard to noise and disturbance.*
- *Considerable number of additional vehicles.*
- *The Road is not suitable for the movement and weight of heavy vehicles.*
- *Traffic safety issues through a residential area.*
- *Noise and disturbance - 24 hr site.*

7.5 Julie Morgan AM for North Cardiff objects to the application, commenting as follows :

I would be very grateful if you would arrange for this letter to be placed before the Planning and Development Committee when it considers the application.

It seems that Welsh Water-Dwr Cymru occupied the land until 2000 and from 2000-2008 Laing & O'Rourke was allowed by Welsh Water-Dwr Cymru to use the site as a temporary base for refurbishment work carried out throughout the City. The site was vacant from 2008 to 2012 when O'Connor Utilities took up occupation.

Since receipt of your e-mail I have visited the site. I met Mr David Trott who showed me plans and explained to me that the site is rented from year to year from Welsh Water-Dwr Cymru. I also visited residential property on Rhiwbina Hill overlooking the site.

The site is now dominated by eight 2 storey portacabins, surrounded by a high metal security fence. There is also security CCTV and floodlights. The latter were not deployed during my visit which was during the day time. There were, however, a range of commercial vehicles alongside and around the portacabins.

The agents of the applicant have sought to cast the application as a regularisation of use that has prevailed for many years. It seems to me that the evidence of local residents does not support that contention. Local residents and Welsh Water-Dwr Cymru, subsequently Laing & O'Rourke, happily co-existed for many years. Whilst during Laing & O'Rourke's occupation some storage units were introduced on to the site these were tucked away under the hedge on the west side. Laing & O'Rourke's activity seems to have had little impact.

There also seems to be some effort by the applicant's agent to establish continuity of use by association, ie Welsh Water-Dwr Cymru is a water undertaker; one of the utility services provided by O'Connor relates to the renewal and refurbishment of sewers and water pipes; ipso facto they are engaged in the same activity. This is, of course, false logic. Welsh Water is a statutory water undertaker under the Water Industry Act 1991 and O'Connor's operations range across new build as well as refurbishment and repair in the electricity, railway and telecommunications industries. I believe this suggestion by the agents is misconceived.

Looking at the position in the round, it seems to me that the current activity, as well as embracing a wider range of functions, represents a much more intensive use of the site than has occurred hitherto and that this level of use is out of character in this beautiful rural environment. The building and fence are obtrusive and ugly. The land has been a haven for wildlife and the huge intensification of use is likely to have an adverse impact – there is already evidence of adverse impact on owls and Pipistrelle bats. I agree with the residents that approving this application north of the M4 is likely to be the thin edge of a thoroughly unwelcome wedge. Moreover, there is also evidence of the intensification of use having generated increased traffic on an unsuitable road and even congestion at certain times.

In these times of high unemployment I have, of course, carefully considered the issue of jobs, which I welcome to Wales and the City of Cardiff. However, I do not believe that these jobs depend on the success of the current application in that

there are other more suitable brown field sites within the City from which operations can be carried out.

Accordingly, I urge the Local Planning Authority to maintain the integrity of the M4 boundary line and not to accede to this application.”

7.6 *Former AM, Eluned Parrott advised that she had been contacted by a number of constituents and made the following points;*

- The roads are not suitable for high volume movement of HGV's and they will cause severe damage to many residential streets putting further pressure on an already stretched highway budget;*
- Traffic safety issues for pedestrian and cyclists given a projected substantial increase in HGV's in the area;*
- The potential use of floodlighting throughout the night will cause distress to local residents and wildlife;*
- Irreversible damage to a unique part of Cardiff and the destruction and disruption to several areas of wildlife within the City boundary.*

7.7 Neighbouring and nearby occupiers have been notified of additional information submitted by the applicants. Five further representations objecting to the application have been received. In summary the following concerns/issues have been raised:

Unacceptable noise and light pollution from plant, vehicles, equipment, workman 'banter' and the operation of high powered flood lights at all hours.

The location is unsuitable for the movement of lorries raising highway safety issues including concerns regarding pedestrian safety given the lack of footways. A resident states that there are often traffic jams and delays with lorries having to back down the road when they realise that it is unsuitable. A resident also comments that the road is showing signs of wear which is likely to become significantly worse.

It is suggested that there are more appropriate brown field sites where the operation would be suited with better access and facilities. There is no evidence that the work force could not work from another location.

The portacabins are unsightly and spoil the view of the Wenallt, from both the motorway and the Wenallt itself. The fencing and portacabins were installed without any consultation nor planning permission and should not have been allowed.

There is concern that if planning permission is granted, the operation will increase its activity with consequential increases in noise and pollution levels.

The suggested hours of use between 06:30 and 1800 would be unacceptable in a residential area. Smaller trucks and trailers also cause noise and disturbance. A resident considers that a restriction to the hours originally envisaged would be more appropriate (07:30- 17:30).

Notwithstanding the applicant's reference to the movement of large vehicle movements, a resident states that the applicant has failed to accurately describe the number and frequency of deliveries to the site. There are deliveries by vehicles not operated by the applicant which include articulated lorries, including 12 wheel tipper trucks containing aggregate.

Any conditions that may be attached, in the event that planning permission is granted should be realistic and enforceable as it would be impossible to supervise/enforce occasional departures from the general hours of operation.

It is necessary to draw a distinction between the permitted use of the site as a reservoir and the current/proposed use as an operational depot for heavy engineering works.

8. **ANALYSIS**

- 8.1 This planning application relates to land at the Welsh Water/Dwr Cymru Reservoir site, Rhiwbina Hill used by O'Connor Utilities as an operational depot and administrative base for the carrying out of works comprising the repair, maintenance and replacement of WW/DC assets. Permission is sought for the regularisation of the use of the land and the retention of six demountable office cabins, 2.4 metre high palisade fencing enclosing the site and floodlights/security CCTV columns.
- 8.2 Whilst historically it is understood there has been a stock of water related materials at the site with occasional visits by WW/DC vehicles, the use of the site has transformed in recent years to a more intensively used administrative /operational base. Notwithstanding this, Welsh Water/Dwr Cymru as sewerage undertaker, benefits from certain permitted development rights in respect of the use of land at Rhiwbina Reservoir, including the broad residual right to carry out *any other development* exercisable on operational land. Although this right does not extend to the provision of new buildings, it is considered that it would permit the storage of materials in connection with development by the Statutory Undertaker.
- 8.3 The main planning issues relate to the acceptability of the proposed development on land use policy grounds having regard to the location of the site within the countryside, the effect of the proposed development on the character and appearance of the area and the general amenities of neighbouring occupiers together with the acceptability of the proposal on transportation grounds.
- 8.4 The site lies outside the settlement boundary as defined on the Proposals Map of the Cardiff Local Development Plan and within an area designated as a Green Wedge. Policy KP3 (A) states that within this area development which prejudices the open nature of the land will not be permitted. Similarly, Policy KP3 (B) states that outside defined settlement boundaries, there will be a presumption against inappropriate development. The supporting text to policy KP3 (A) comments that the land forms a distinctive, prominent and well known green backdrop to the City forming a strategically important setting to the urban area. It is also generally well contained by a strong physical boundary of the M4 motorway to the south.

- 8.5 Planning Policy Wales (paragraph 4.8.16) provides guidance on inappropriate development within Green Wedges and states that *“The construction of new buildings in a Green Belt or in a locally designated green wedge is inappropriate development unless it is for the following purposes:*
- *justified rural enterprise needs;*
 - *essential facilities for outdoor sport and outdoor recreation, cemeteries, and other uses of land which maintain the openness of the Green Belt or green wedge and which do not conflict with the purpose of including land within it;*
 - *limited extension, alteration or replacement of existing dwellings;*
 - *limited infilling (in those settlements and other development sites which have been identified for limited infilling in the development plan) and affordable housing for local needs under development plan policies; or*
 - *small scale diversification within farm complexes where this is run as part of the farm business.”*
- 8.6 Importantly in respect of this application Planning Policy Wales (paragraph 4.8.18) also states that *“Other forms of development would be inappropriate development unless they maintain the openness of the Green Belt or green wedge and do not conflict with the purposes of including land within it”.*
- 8.7 The application site, forms part of Welsh Water/Dwr Cymru’s operational asset at Rhiwbina Hill. The storage of materials, erection of an enclosing palisade fence, lighting columns and the siting of office cabins needs to be viewed in context with established buildings and structures at the site and the backdrop of existing landscaping and residential properties in views from the public rights of way network to the south and east of the site, from nearby bridges crossing the motorway and in glimpses directly from the motorway in an westerly direction.
- 8.8 Whilst the materials stored at the site are not considered particularly visible and the fencing is only marginally taller than that which would be permitted without planning permission, the double stacked office cabins are prominent with the landscape and their blue colour draws particular attention to them. It is considered that lowering the cabins to ground level and painting them in a more sympathetic colour would reduce their visual impact to an acceptable degree as would painting of the palisade fence. Conditions are recommended to this effect.
- 8.9 The lighting columns are slender structures and not visually prominent. In the interests of visual and residential amenity and to mitigate potential impact on bats, a condition is proposed which seeks to restrict their use to operational operation hours other than at times when triggered by movement sensors out of hours for security purposes and orientated to avoid light spillage outside the site footprint.
- 8.10 On balance, and having regard to the mitigation measures outlined above, it is considered that the development would maintain the openness of the green wedge and would therefore not conflict with the purposes of including land within it and is policy compliant.

- 8.11 With regards to traffic concerns and highway safety issues, the Operational Manager, Transportation advises that Rhiwbina Hill carries in the order of 370 vehicles (2-way) between 06:00-8:30 and that the recorded traffic flows associated with the development site during this period are considered to be low in terms of total vehicle trips. The Officer notes the concerns expressed by nearby residents that there are large numbers of heavy goods vehicles associated with the site. However, the Officer advises that the evidence supports the view that the traffic generated from the site does not adversely impact on the existing situation.
- 8.12 As the site is located in close proximity to a number of houses and is accessed via the residential area of Rhiwbina to the south, it is considered to control the hours of operation of the administrative/operational depot so that noise and disturbance associated with the use of the site, including the movement traffic, does not unduly harm the amenities of residents. To this end, a condition is proposed restricting the opening hours of the depot to between 07:00 and 18:00 Mondays to Fridays. It should also be noted that the Operational Manager Pollution Control has raised no objections on noise grounds.
- 8.13 Whilst the site is sensitively located within the open countryside and in close proximity to a number of residential properties, it forms part of the Rhiwbina reservoir site which is a Welsh Water/Dwr Cymru operational asset, and, as indicated in paragraph 8.2, the Company as sewerage undertaker, benefits from certain permitted development rights in respect of the use of the land under Part 16 of the Town and Country Planning (General Permitted development) Order 1995. On balance, the current application is considered acceptable on planning grounds and approval is recommended subject to the proposed conditions.



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Scale: 1:6000

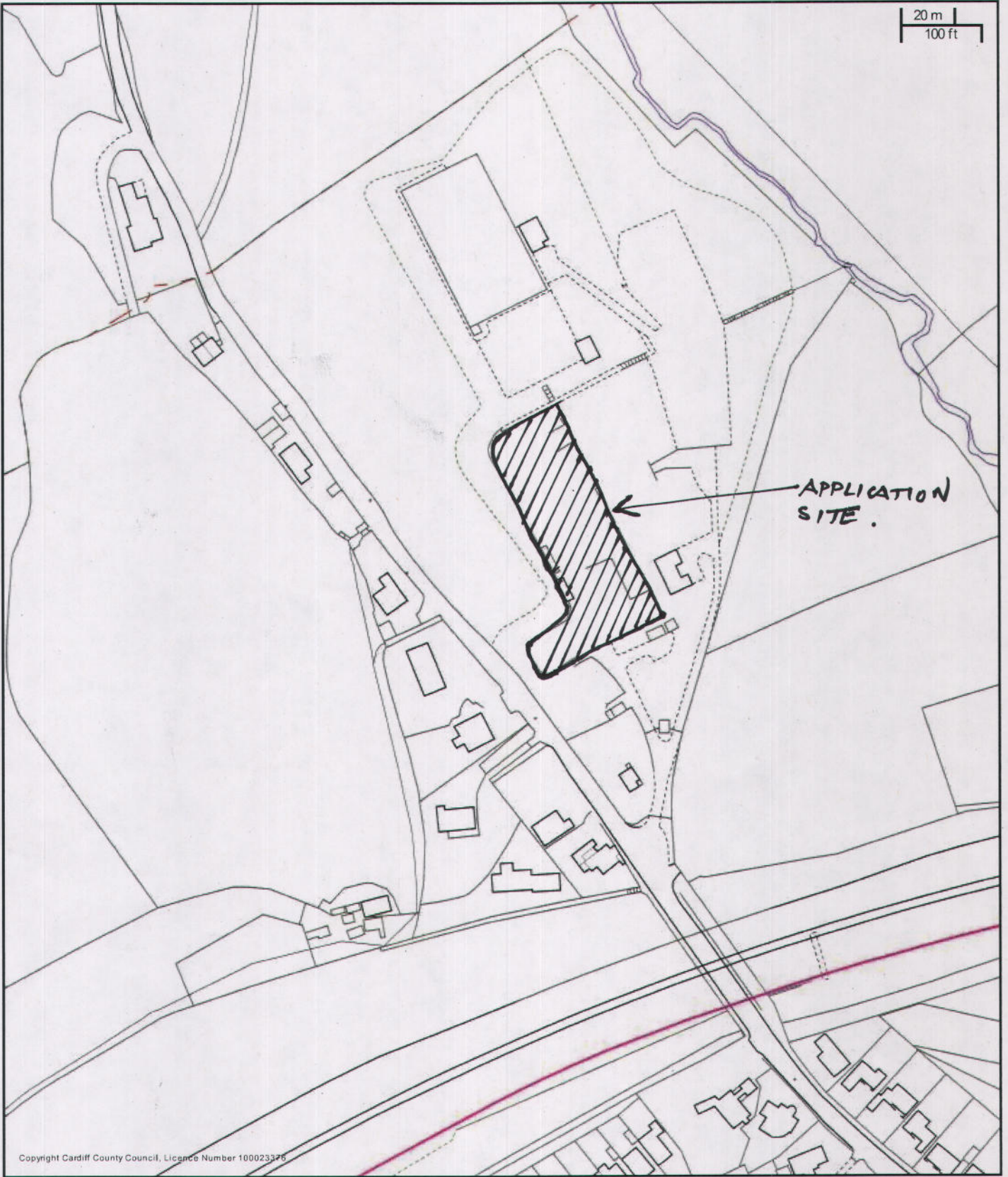
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Title

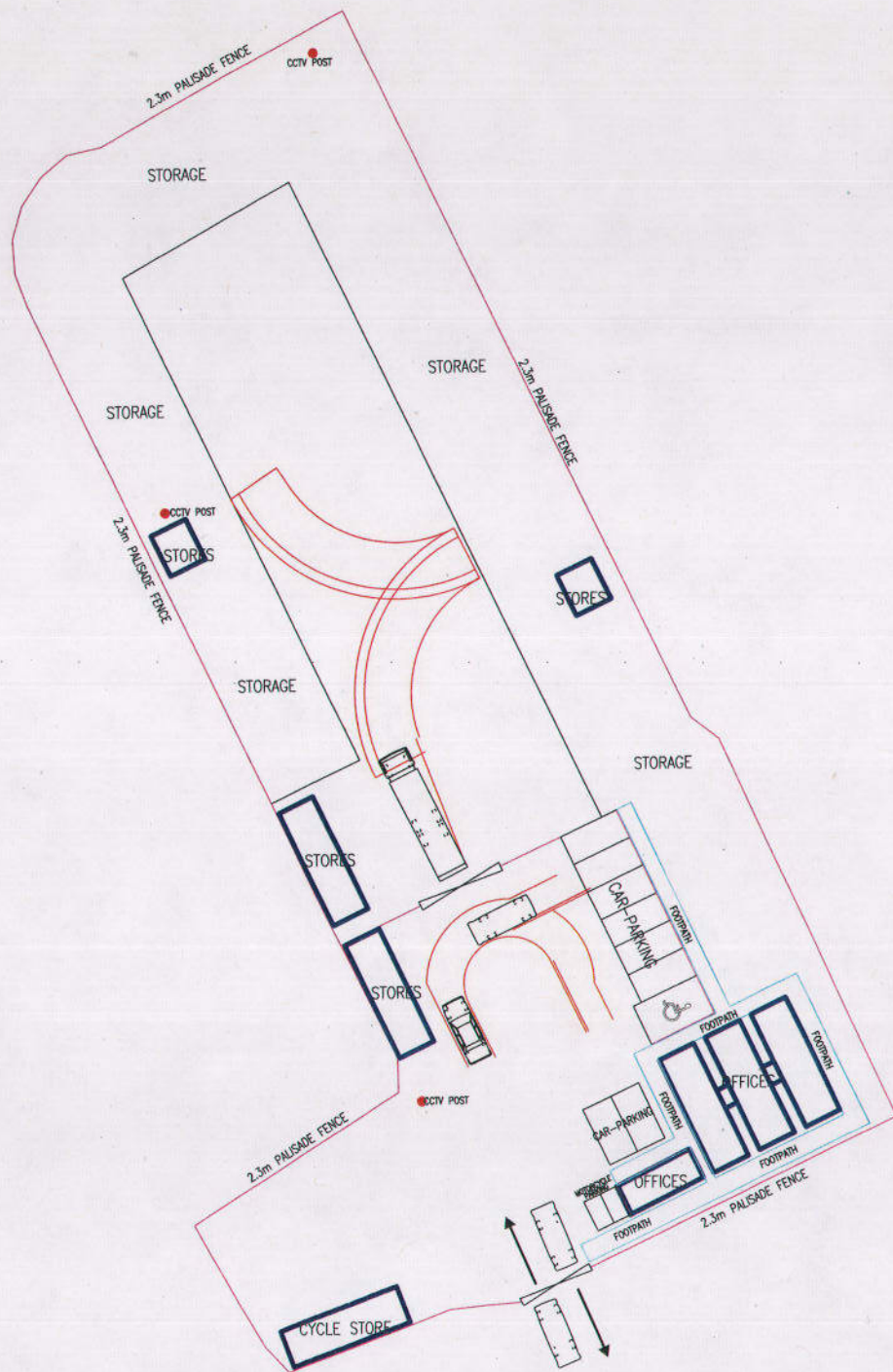
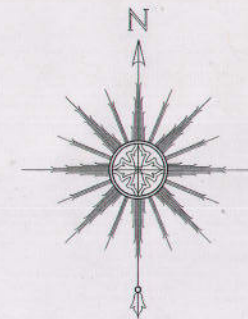
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Rev	By	Amendment	Date
Drawing Status			

File Name
 C:\Documents\Masons Surveys\Projects 2014\O'Connor Utilities\Whitstone Yard

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Client:
 O'Connor Utilities

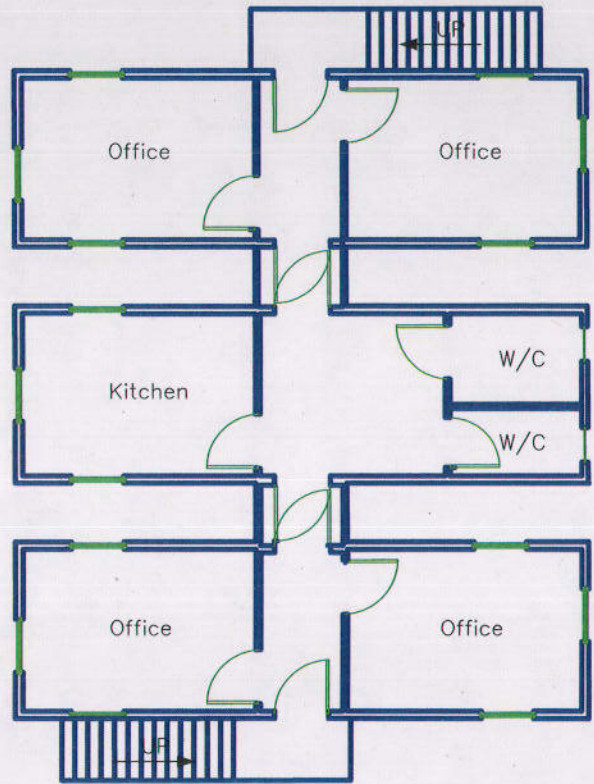
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 O'Connors Utilities Ltd

Drawing Title:
 Proposed Layout
 Service Yard

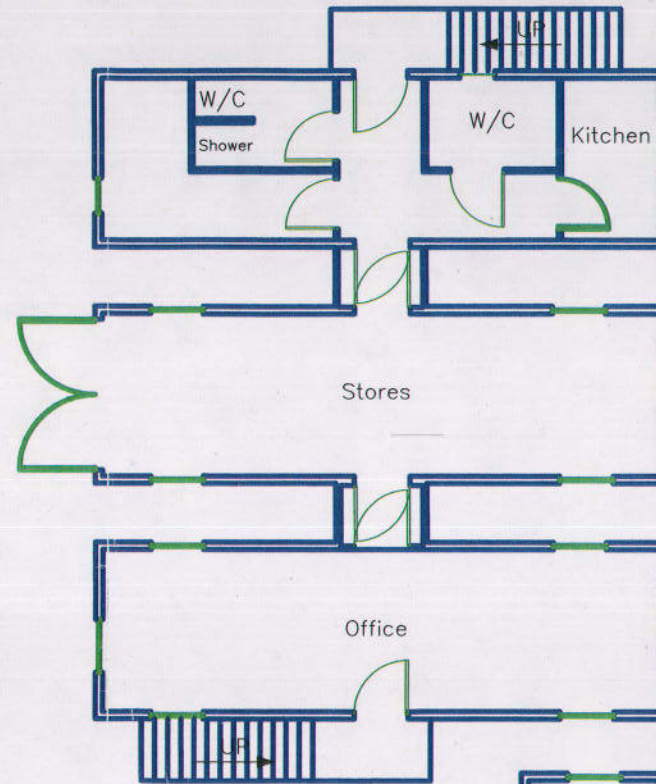
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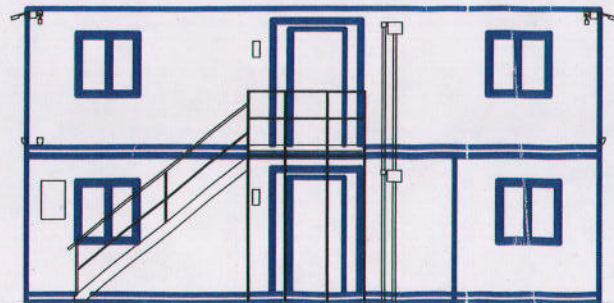
First Floor Plan



Ground Floor Plan



S.W. Elevation



C.C.T.V. Pole



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Project: O'Connor Utilities
 Rhiwbina Hill
 Cardiff
 Drawing: Existing Plans & Elevation
 Portacabin Offices

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