

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING & DEVELOPMENT CONTROL COMMITTEE**

DATE: **4TH SEPTEMBER 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPEAL BY MR STEWART RUMNEY AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CHANGE OF USE FROM AGRICULTURAL BUILDING TO B2 USE IN PART (50%) WITH THE REMAINING 50% REMAINING IN AGRICULTURAL USE (IN RETROSPECT) AT BANNEL DAIRY FARM, BANNEL LANE, PENYMYNYDD**

1.00 APPLICATION NUMBER

1.01 048595

2.00 APPLICANT

2.01 MR STEWART RUMNEY

3.00 SITE

3.01 "BANNEL DAIRY FARM", BANNEL LANE, PENYMYNYDD, CHESTER

4.00 APPLICATION VALID DATE

4.01 6TH MAY 2011

5.00 PURPOSE OF REPORT

5.01 To inform members of the Planning Inspectorate's decision in regards to an appeal against the Council's decision to refuse retrospective planning permission for the change of use of part of a building from agricultural use to B2 use. The appeal was considered by way of an informal hearing and was DISMISSED.

6.00 REPORT

6.01 The Inspector considered that the main issues to be the general effect of the B2 use on the character of its rural settings; whether there is a material possibility that such a use would cause danger on the A5118;

and, whether there is evidence to suggest that there has been an attempt to abuse the permitted development rights for the construction of this agricultural building.

- 6.02 On the first issue, the inspector considered that the existing use of the building is small scale; however, there would be no way of preventing the remaining part of the business, which is carried out at another premises in Sandycroft, relocating to the site and thus resulting in a much larger scale use. There would be no control over the number of people working at or visiting the site. As such, the development would be contrary to policy RE4 of the Flintshire Unitary Development Plan.
- 6.03 On the second issue, whilst the Council did not refuse the planning application on the grounds of its impact on highway safety, the Inspector re-examined this issue and considered that the junction onto the A5118 was unsuitable to accommodate an increase in traffic which the B2 could potentially generate. As such, a short temporary permission would not even be acceptable.
- 6.04 The final issue raised by the Inspector was with regard to whether or not the building was built with the intention of its early conversion to another use. Having questioned the appellant during the hearing it was evident that the change of use of the building took place only 6 months after it was constructed. There is not evidence that the building was reasonably required for agriculture on the small 11ha farm when it was constructed. The Inspector concluded that he was not persuaded that the building had been erected solely for the purposes of agriculture on the holding. He made a further comment that the appellant had submitted a prior approval application for the building and therefore should have understood that he needed permission for its change of use.

7.00 CONCLUSION

- 7.01 The Inspector concluded that it would not be possible to control any potential intensification of the B2 use; the access to the site is unsuitable and would be a risk to highway safety; and finally, there was insufficient evidence to allay his concerns that there had been an attempt by the applicant to abuse agricultural permitted development rights. The Inspector finally noted that a short temporary permission for the B2 industrial use would not be justified.

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