

FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 17 DECEMBER 2014**

REPORT BY: **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

SUBJECT: **FULL APPLICATION - CHANGE OF USE OF THE SUNDAWN GARDEN CENTRE TO A PLANT HIRE DEPOT, INCLUDING THE DEMOLITION OF THE EXISTING GARDEN CENTRE BUILDINGS, THE ERECTION OF A WORKSHOP BUILDING AND THE CONVERSION OF THE TEAPOT CAFE FOR USE AS ANCILLARY OFFICE ACCOMMODATION AT TEAPOT CAFÉ & SUNDAWN GARDEN CENTRE, LLWYBR HIR, CAERWYS**

APPLICATION NUMBER: **052645**

APPLICANT: **MR W THOMAS**

SITE: **TEAPOT CAFÉ & SUNDAWN GARDEN CENTRE, LLWYBR HIR, CAERWYS**

APPLICATION VALID DATE: **16TH SEPTEMBER 2014**

LOCAL MEMBERS: **COUNCILLOR J FALSHAW**

TOWN/COMMUNITY COUNCIL: **CAERWYS TOWN COUNCIL**

REASON FOR COMMITTEE: **LOCAL MEMBER REQUEST**

SITE VISIT: **YES**

1.00 SUMMARY

- 1.01 This application seeks full planning permission for the change of use of the land from a café and garden centre to a plant hire depot including the demolition of the existing garden centre buildings, the erection of a workshop building, and the change of use of the existing café to ancillary offices associated with the plant hire business.

1.02 It is considered that in principle the proposed development would be an inappropriate use in the open countryside setting and therefore would be contrary to the relevant planning policies.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS

2.01 The proposed plant hire depot would result in a form of development that would not be appropriate to the open countryside location and would therefore cause unacceptable harm to the character of the area, contrary to policies GEN1, GEN3 and EM4 of the adopted Flintshire Unitary Development Plan.

2.02 The application site is located within Zone 1 of the Ffynnon Asaph Source Protection Zone. The applicant has failed to demonstrate that the proposal will not pose a risk to the quality of the potable groundwater, contrary to policies GEN1 and EWP16 of the adopted Flintshire Unitary Development Plan.

3.00 CONSULTATIONS

3.01 Local Member

Councillor J Falshaw

Requests that the application is referred to the planning committee as the character of the site is different than the surrounding land, it is suitably screened against adverse visual impact. Existing site is commercial development and as such the site is eligible for redevelopment and would not constitute development of Greenfield land.

Caerwys Town Council

Object to the proposal on the following grounds:

- The workshop will not harmonise with the open countryside setting
- Artificial lighting will adversely affect the character of the area
- It is not a small scale rural enterprise or small scale farm diversification
- It is not within an allocated commercial area. Sporadic unnecessary development in the open countryside, particularly along the A55 corridor
- Contrary to policy EM4 of the FUDP
- Detrimental impact on highway safety
- Potential harm to Ffynnon Asaph aquifer
- The site can be seen from views from the AONB and would therefore have a detrimental impact upon its character
- Noise, dust and air pollution
- Detrimental impact on amenities of neighbouring properties

- Impact on the local ecology

Head of Assets and Transportation

Rights of Way – No objection

Development Control – No objection subject to the following conditions:

- a) No part of the proposed gates shall obstruct the adopted highway indicated on the attached plan.
- b) Facilities shall be provided and retained within the site for the loading, unloading, parking and turning of vehicles. Such facilities being completed prior to the proposed development being brought into use.
- c) No works associated with the development of the site shall commence unless and until an Operational Traffic Management Plan is submitted to and approved in writing by the County Council.

Welsh Government (Transport)

Directs that any permission granted by your authority shall include the following conditions:

1. Adequate provision shall be made within the development to enable vehicles to turn around, so they may enter and leave the site in a forward gear. In addition, provision shall be provided for servicing the site and adequate parking which must be in accordance with the local parking standards.
2. The applicant must ensure the formation of a safe and satisfactory means of access to the site in the interests of maintaining highway safety and the free and safe movements of traffic on the adjoining highway.
3. The applicant shall provide wheel-washing facilities at the site exit. Such facilities shall thereafter remain available and be used by all vehicles exiting the site.
4. No signs/posters etc. associated with the business, either temporary or permanent, shall be located on the public highway.

The above conditions are included to maintain the safety and free flow of trunk road traffic.

Head of Public Protection

No adverse comments

Welsh Water/Dwr Cymru

No objection

Natural Resources Wales

The site is located within Zone 1 of the Ffynnon Asaph Source Protection Zone (SPZ). Source Protection Zones are designated by Natural Resources Wales to identify the catchment areas of sources of potable water (that is high quality water supplies usable for human consumption) and show where they may be at particular risk from polluting activities on or below the land surface. Source Protection Zone 1 (SPZ1) areas are designated closest to the source of potable water supplies and indicate the area of highest risk for abstracted water quality. In this instance, the proposed development could threaten potable water supplies from the Ffynnon Asaph Source Protection Zone. The current septic tank is not discharging to an engineered soakaway designed to British Standards. Position statement G2 of GP3 states that *“Inside SPZ1 we will require all sewage effluent discharges (new or existing) to hold a permit. All permit applications will be considered on the basis of risk assessment and the appropriateness of the discharge with respect to the local environmental setting. Where necessary we will use a notice to stop any unacceptable discharge.”* Without an engineered soakaway the current system would be refused a permit. We will maintain our objection until we receive a satisfactory application that shows an improvement to the current soakaway.

4.00 PUBLICITY

4.01 Site Notice, Neighbour Notification

A letter of support has been received from David Hanson MP

Five representations have been received from local residents objecting the proposal on the following grounds:

- Impact on residential amenity
- Impact on the character of the area and the AONB
- Noise pollution from very large vehicles
- Impact on the aquifer from site pollution
- The use should be located on an industrial park
- Impact on highway safety
- Impact on the amenities of neighbouring properties

A letter has been received from the British Driving Society North East Wales objecting on the following grounds:

- The traffic generated would make the local highway network hazardous for riders, carriage drivers and walkers alike.

5.00 SITE HISTORY

5.01 LA Ref: 051622
Applicant: Mr W Thomas
Proposal: Erection of building for servicing and storage of plant and change of use of garden centre to plant hire depot.
Location: Garden Centre, Pen Y Cefn, Caerwys, Mold, CH7 5BL
Decision: Withdrawn
Decision Date: 25 March 2014

LA Ref: 9400818
Applicant: L Brimble And Son
Proposal: EXTENSION TO EXISTING GARDEN CENTRE GREENHOUSES
Location: The Garden Centre, St Asaph Road, Penycefn
Decision: Approved
Decision Date: 26 January 1995

LA Ref: 9200786
Applicant: L. Brimble & Son
Proposal: DISPLAY OF AN ILLUMINATED ADVERTISEMENT SIGN
Location: Sundawn Nursery Garden Centre, And Teapot Cafe, A.55 Caerwys
Decision: Approved
Decision Date: 1 February 1993

LA Ref: 9001322
Applicant: L. Brimble & Son
Proposal: EXTENSION TO CAFE AND PROVISION OF TOILETS
Location: Teapot Cafe, St Asaph Road, Caerwys
Decision: Approved
Decision Date: 16 April 1991

LA Ref: 8800244
Applicant: L. Brimble & Son
Proposal: ERECTION OF TWO TIMBER BOARD SIGNS
Location: Sundawn Garden Centre, Pen Y Cefn, Caerwys
Decision: Approved
Decision Date: 18 May 1988

LA Ref: 8700542
Applicant: L Brimble & Son
Proposal: DEVELOPMENT AS GARDEN CENTRE, NEW VEHICULAR ACCESS, CAR PARK AND CAFE EXTENSION
Location: The Tea Pot Cafe, & Nursery Garden, Pen-Y-Cefn, Caerwys
Decision: Approved
Decision Date: 14 September 1987

LA Ref: 8600601

Applicant: L. Brimble & Son Ltd
Proposal: FILL AND LEVEL SITE FOR USE IN CONNECTION WITH NURSERY
Location: Land Adjoining Teapot Cafe, Caerwys
Decision: Approved
Decision Date: 25 November 1986

LA Ref: 8600281
Applicant: L. Brimble & Son
Proposal: OUTLINE - CHANGE OF USE TO GARDEN CENTRE AND EXTENSION TO EXISTING CAFE
Location: The Teapot Cafe And Adjoining, Pen Y Cefn, Caerwys
Decision: Refused
Decision Date: 13 October 1986

LA Ref: 8500423
Applicant: L. Brimble And Son
Proposal: RETENTION OF EXISTING CAFE BUSINESS WITH DEVELOPMENT OF LAND AS NURSERY WITH SOME SALES
Location: Teapot Cafe, Penycefn, Caerwys
Decision: Refused
Decision Date: 10 January 1986

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan
STR1 – New Development
STR3 - Employment
GEN1 – General Requirements for Development
GEN3 – Development in the Open Countryside
D1 – Design Quality, Location & Layout.
D2 – Design
D4 – Outdoor Lighting
EM4 – Location of Other Employment Development
AC13 – Access and Traffic Impact
L1 – Landscape Character
EWP16 – Water Resources

7.00 PLANNING APPRAISAL

- 7.01 Introduction
The application site amounts to approximately 1.16 hectares in area. It is located within the open countryside as defined in the adopted Flintshire Unitary Development Plan (FUDP).
- 7.02 The existing use of the site is for a garden centre which comprises a number of greenhouses/buildings and a café. The site has a large car park to the front and is accessed via Llwybr Hir which is accessed from the westbound A55 carriageway.

7.03 There are a small number of residential properties to the west of the site, which are all served by a single lane which is also accessed via Llwybr Hir.

7.04 The site is surrounded by open fields to the east, south and west. Directly to the north of the site is the A55, from which the site is readily visible.

7.05 Proposed Development

The application comprises the change of use of the site to a plant hire depot, including the demolition of the existing garden centre buildings, the erection of a new workshop building and the change of use of the café to ancillary offices associated with the plant hire business. The proposal also includes for landscaping to the front of the site, the reconfiguration of the car park and access road, the erection of a 2m high mesh palisade fence with a 6m wide access gate.

7.06 The proposed new building will be sited along the southern boundary of the site. The building will measure approximately 20m deep x 40m wide and will have a height of 6m to the eaves and 7.3m to the ridge. There will be six roller shutter doors to the front of the building. The exterior will be clad in dark grey metal cladding.

7.07 The proposed use will involve the lease, rental, repair and maintenance of plant and equipment ranging from pavement rollers, JCB's, forward tipping dumpers, tele handling vehicles and excavators. Given the nature of the business, much of this plant and equipment will be off the site the majority of the time. The opening hours will be 6am till 6pm, Monday to Saturday.

7.08 Main Planning Issues

It is considered that the main planning issues can be summarised as follows:-

- a. The principle of development having regard to current planning policy framework
- b. Impact on the highway network and highway safety
- c. Potential impact on the Fynnon Asaph aquifer
- d. Impact on the visual amenity of the area
- e. Impact on the amenities of nearby residential properties

7.09 In commenting in detail in response to the above issues, I wish to advise as follows:-

7.10 Principal of Development

The Planning and Compulsory Purchase Act 2004 states at S38(6) that "if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

- 7.11 The Development Plan is therefore the starting point for the consideration of this application.
- 7.12 The most relevant policy applicable to this proposal is policy EM4 of the FUDP. EM4 allows for new industrial, office and warehousing outside either allocated sites, Development Zones or Principal Employment Areas will be permitted through the redevelopment of suitable brownfield, underused or vacant land. The application site has an established existing lawful use as a garden centre and therefore the land can be consider brownfield land.
- 7.13 However, EM4 goes on to state that this is subject to the following requirements:
- i. the scale and design of the development is in keeping with its immediate surroundings;
 - ii. the proposed use is appropriate to the location and causes no detriment to residential amenity or areas and features of landscape, nature conservation and historic importance;
 - iii. the proposal provides satisfactory on site parking, servicing and manoeuvring space and that the highway network (including access and egress) is adequate to safely cater for the type and volume of traffic generated by the proposal; and
 - iv. outside storage areas are screened from public view.
- 7.14 Whilst criterion iii and iv can be satisfied by means of site layout and conditions, criterion i and ii and more difficult to comply with.
- 7.15 The scale of the proposed development is within the confines of the existing site; however, the proposed new building is typically industrious in its design. The vernacular of the area is characterised by open fields and sporadic residential properties and farmsteads, and whilst the A55 is within very close proximity, the area remains very rural in its appearance and nature. Attempts have been made to reduce the visual impact of the development by means of positioning the new building to the rear of the site and providing soft landscaping; however, it is consider that the overall appearance of the site will be industrious and incongruous to the area, contrary to criterion ii of EM4.
- 7.16 Although the existing site is a garden centre that has a number of buildings and structures, such a use is not uncommon in the open countryside, often evolving from a previous horticultural use. The proposed use as a plant hire depot is very much typical of a use found on an industrial estate and not in the open countryside. Therefore it is considered to be an inappropriate use for this location and contrary to criterion ii of EM4.
- 7.17 Impact on Highway Network and Safety
The site is within very close proximity of and access/egress point of

the westbound carriageway of the A55. Notwithstanding the A55, the other roads leading to the site in the locality are narrow and inappropriate for large heavy goods vehicles, which would be used for the delivery of plant to/from the site.

7.18 The application site will provide adequate parking and turning facilities within the site and an Operational Traffic Management Plan (OTMP) can ensure that such heavy traffic only uses the adjoining A55 and not the nearby lanes leading to Caerwys Junction. This should negate any potential negative impact on highway safety along these lanes.

7.19 By reason that the site already benefits from a commercial use, there is already potential for significant traffic movements, including HGV's delivering goods. Furthermore, the existing use has customers visiting the site, whilst the proposed use is unlikely to have any as the business involves delivering plant to the customers.

7.20 Given the above, it is considered that the proposal will not have an adverse impact on highway safety.

7.21 Impact on Ground Water Resources

The site is located within Zone 1 of the Ffynnon Asaph Source Protection Zone (SPZ). Source Protection Zones are designated by Natural Resources Wales to identify the catchment areas of sources of potable water (that is high quality water supplies usable for human consumption) and show where they may be at particular risk from polluting activities on or below the land surface. Source Protection Zone 1 (SPZ1) areas are designated closest to the source of potable water supplies and indicate the area of highest risk for abstracted water quality.

7.22 In this instance, the proposed development could threaten potable water supplies from the Ffynnon Asaph Source Protection Zone. The current septic tank is not discharging to an engineered soakaway designed to British Standards.

7.23 Given the above, the proposed development as submitted is unacceptable because it involves the use of a non-mains foul drainage system, which poses an unacceptable risk of pollution to groundwater and the applicant has not supplied adequate information to demonstrate that the risks posed to groundwater can be safely managed.

7.24 Impact on Visual Amenity

The existing site comprises a number of low level buildings/structures through the southern half of the site. These comprise mainly of greenhouses and planting structures, which can be seen various vantage points in the locality.

The proposal will involve the demolition of all of the existing garden

- 7.25 centre buildings and structures and the erection of a single building, which would result in an overall reduction the floor area of buildings on the site. Whilst this can be seen as reducing the overall visual impact, the height of the proposed building is significantly greater than that of any existing building/structure on the site, and therefore would potentially be even more visible. Notwithstanding this, given that the proposed new building will be positioned to the rear of the site, on a lowers ground level than the front of the site, in reality the new building will only appear to be marginally taller than the existing main building.
- 7.26 Notwithstanding the building itself, the proposed site will no doubt have a large number of plant and vehicles stored outside at any one time, which themselves would have a detrimental impact on the visual amenity of the area. Although the existing use has goods stored outside, by their very nature they are generally plants which have a minimal impact on visual amenity.
- 7.27 Landscaping is provided at the front section of the development to aid in reducing the visual impact on the overall site, particularly when viewed from the A55, and existing trees and hedging will be utilised to help screen the site from views elsewhere.
- 7.28 Given the above, although the site will be screened by means of vegetation, by reason of the very nature of the proposed use with the industrial type building and plant machinery and large vehicles, it is considered that the resultant visual impact will unacceptably harm the character of the open countryside.
- 7.29 Impact on Residential Amenities
There are a small number dwellings within approximately 150m distance from the site.
- 7.30 Although the proposed use will generate some noise through the repairing and maintenance of the plant machinery and the movement of vehicles to and from the site, it is consider that this will not have an unacceptable impact on the amenities enjoyed by the occupants of these properties.
- 7.31 Other Considerations
Whilst not included in the application submission, objections have been raised regarding external lighting, which could potentially have a detrimental impact on the visual amenity of the area. To mitigate this, a condition could ensure that any lighting is to be agreed prior to it being installed.
- 7.32 Furthermore, the site does have an existing commercial use as a garden centre and a café and therefore is considered to be developable brownfield land; however, the proposed use is considered to be inappropriate for the open countryside setting.

8.00 CONCLUSION

- 8.01 In conclusion, the proposed use is considered to be contrary to policy EM4 by reason that it is an inappropriate use for this open countryside setting and would therefore result in unacceptable harm to the character of the area. Furthermore, the scale and design of the proposal would have an unacceptable impact on the visual amenities of the area.
- 8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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