

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **WEDNESDAY, 18 NOVEMBER 2015**

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

**SUBJECT:** **HIGH COURT APPEAL BY FLINTSHIRE COUNTY COUNCIL AGAINST THE WELSH MINISTERS' DECISION TO GRANT PLANNING PERMISSION FOR CHANGE OF USE OF THE SITE TO A PLANT HIRE BUSINESS AND TO ERECT A NEW WORKSHOP BUILDING ALONG THE SOUTHERN BOUNDARY OF THE SITE, AS WELL AS THE CHANGE OF USE OF THE TEA POT CAFÉ INTO ANCILLARY OFFICE SPACE FOR THE PLANT HIRE BUSINESS - ALLOWED**

**1.00 APPLICATION NUMBER**

1.01 052645

**2.00 APPLICANT**

2.01 Mr W Thomas

**3.00 SITE**

3.01 Tea Pot Café and Sundawn Garden Centre, Llwybr Hir, Caerwys, Mold, Flintshire CH7 5BL

**4.00 APPLICATION VALID DATE**

4.01 16 September 2014

**5.00 PURPOSE OF REPORT**

5.01 To advise the committee about the outcome of a challenge brought by the Local Planning Authority in the High Court against the decision of the Welsh Ministers of the 11 June 2015 to allow an appeal against the Local Planning Authority's decision to refuse the application.

**6.00 REPORT**

6.01 On the 11 June 2015 an Inspector appointed by the Welsh Ministers allowed an appeal against the Local Planning Authority's decision to

refuse planning permission to change the use of the site to a plant hire business and to erect a new workshop building along the southern boundary of the site, as well as the change of use of the Tea Pot café into ancillary office space for the plant hire business.

- 6.02 The main issue in the appeal was the impact of the development on the character and appearance of the surrounding countryside. The Inspector reached a different view to the Local Planning Authority and considered that the development would harmonise with the site and its surroundings, thus complying with policy GEN1 of the Unitary Development Plan. However, the Inspector also dealt with highway safety considerations in light of the site being next to the A55 Expressway.
- 6.03 The Inspector found that “the development would not have any harmful impact on highway safety, which is confirmed by the Council’s own highways officers, a condition requiring the submission of a Traffic Management Plan is unnecessary”. However, this was incorrect, as a memorandum from the Highways Development Control Manager dated the 17 November 2014 recommended that any permission should include a condition requiring a Traffic Management Plan to be submitted prior to the commencement of development.
- 6.04 Additionally, the Inspector stated that he intended to attach a condition relating to “adequate vehicular turning space” within the site but then failed to do so in the Schedule of Conditions attached to his Decision Letter.
- 6.05 Although the determination of the landscape impact was a matter of planning judgement, that would not have been a valid reason for challenging the decision in the High Court, the Local Planning Authority considered that the parts of the decision dealing with highways safety were legal errors in the decision and an appeal to the High Court was made on this basis.
- 6.06 After considering its legal position and the Local Planning Authority’s grounds for challenge, both the Welsh Ministers and the interested parties (the applicant and landowners) agreed that the Inspector had made an error in his decision and by consent of all the parties the appeal to the High Court was allowed and the decision was quashed with the matter being remitted to the Welsh Ministers for re-determination.

## **7.00 CONCLUSION**

- 7.01 For the reasons set out above the appeal was allowed.

### **LIST OF BACKGROUND DOCUMENTS**

High Court Order

Inspector’s decision dated 11 June 2015

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

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