

FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 24 FEBRUARY 2016**

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

SUBJECT: **GENERAL MATTERS - CONTINUATION OF USE OF LAND AS RESIDENTIAL GYPSY SITE ACCOMMODATING 9 FAMILIES ON 7 PITCHES, WITH A TOTAL OF 13 CARAVANS (NO MORE THAN 7 STATIC CARAVANS) AND RETENTION OF 3 NO. AMENITY BLOCKS AND ERECTION OF 1 NO. ADDITIONAL AMENITY AT DOLLAR PARK, BAGILLT ROAD, HOLYWELL**

1.00 APPLICATION NUMBER

1.01 053163

2.00 APPLICANT

2.01 Mr. L Hamilton

3.00 SITE

3.01 Dollar Park, Bagillt Lane, Holywell

4.00 APPLICATION VALID DATE

4.01 02.11.15

5.00 PURPOSE OF REPORT

5.01 To make recommendations to the Planning and Development Control Committee ("the committee") about the committee's proposed additional condition resolved to be added to the Officer's recommendation and condition contained in the late observations at the meeting on the 20th January 2016.

6.00 REPORT

- 6.01 At the meeting of the committee on the 20th of January 2016 the committee resolved to grant planning permission for a 5 year period in accordance with the Officer recommendation and additional condition in the late observations, but subject to an additional or amended condition to the effect that planning permission should cease within the 5-year period upon identification of an alternative site. The drafting of such a condition was resolved to be brought back to this committee for consideration. The legal officer was asked whether this type of condition would be lawful and expressed some concern about the condition and particularly in terms of applying a sufficiently certain condition.
- 6.02 In seeking to draft an appropriate condition the legal officer has been unable to find a precedent elsewhere in relation to this type of development, which seeks to end planning permission for the development on the outcome of a particular event as opposed to at the end of a specified period. Further, there is nothing in any of the relevant guidance that advises this approach.
- 6.03 In the circumstances it is considered that the safest resolution would be to grant planning permission subject to the officer recommendation and additional condition in the late observations made to the committee at the meeting on the 20th January 2016 but without the further additional condition seeking to end permission on identification of an alternative site. However, with it in mind that the particular concern of the legal officer is the certainty of the proposed condition, should members be minded to proceed on the basis resolved at the meeting on the 20th of January 2016, two alternative recommendations have been set out at paragraph 7 below. The first is the recommendation referred to in this paragraph and the second is to approve a condition that the legal officer has drafted on the basis that it overcomes any concerns about certainty.

7.00 RECOMMENDATIONS

- 7.01 To grant planning permission in accordance with the recommendation set out in the officer's report considered by the committee on the 20th January 2016 and subject to the additional condition set out in the late observation provided to that committee.
- 7.02 To grant planning permission in accordance with the recommendation set out in the officer's report considered by the committee on the 20th January 2016 and subject to the additional condition set out in the late observations provided to that committee but with an amended condition in respect of the life of the permission that states "The use hereby permitted shall be for a limited period, being the period of 5 years from the date of this decision. If within the 5-year period of the permission the Council confirms in writing by way of notice served at

the site, that in its opinion there is a suitable alternative site then planning permission shall cease within 6 months of the date of that written notice”.

LIST OF BACKGROUND DOCUMENTS

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

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