

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **6TH MARCH 2019**

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

SUBJECT: **APPEAL BY MR S BANKS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR CHANGE OF USE OF LAND FOR THE TEMPORARY STORAGE OF CARS AND VANS ON LAND AT WOOD FARM, DEESIDE LANE, SEALAND – DISMISSED.**

1.00 APPLICATION NUMBER

1.01 057737

2.00 SITE

2.01 Wood Farm, Deeside Lane, Sealand, CH1 6BP

3.00 APPLICATION VALID DATE

3.01 28 May 2017

4.00 PURPOSE OF REPORT

4.01 To inform Members of a decision in respect of an appeal, following the decision of the Local Planning Authority, under delegated powers, to refuse to grant planning permission for the change of use of land for temporary storage of cars and vans on land at Wood Farm, Deeside Lane, Sealand.

The appointed Planning Inspector was Hywel Wyn Jones. The appeal was determined via the Hearing method and was DISMISSED

5.00 REPORT

Main Issues

5.01 The Local Planning Authority refused the application upon grounds of flood risk and impact upon green barrier. Accordingly the Inspector considered the mains issues to be;

- i. whether the development is inappropriate development within the green barrier for the purpose of local and national planning policy;
- ii. the effect of the scheme on the openness of the green barrier and the purposes of including land within it;
- iii. if the scheme is inappropriate development, whether the harm by reason of inappropriateness, together with any other harm to the green barrier, is clearly outweighed by other considerations, so as to amount to the very exceptional circumstances necessary to justify the harm to the green barrier; and
- iv. whether the proposed development is acceptable within a floodplain, having regard to local and national planning policy

Green Barrier

5.02 The Council acknowledged that the visual impact of the scheme is relatively modest. It is screened by a large earth mound from most of a nearby lane and public right of way. Buildings and vegetation screen it from most other potential vantage points other than from adjacent fields to the east. However, Notwithstanding the limited visual impact, the Inspected noted that the storage of cars and the cabins along with the perimeter fence has an appreciable harmful effect on the openness of the area.

5.03 In line with PPW, given the harm that the Inspector identified to the green barrier, he consider whether very exceptional circumstances exist to justify the grant of planning permission on the basis that other considerations clearly outweigh the harm to the green barrier.

5.04 The appellant argued that the harm is limited because of the site's visual containment and the temporary and reversible nature of the development. It was suggested that this limited harm when set against the economic benefit of the proposal represents very exceptional circumstances.

5.05 The Inspector concluded that there are no considerations that clearly outweighed the harm that he identified to the green barrier. Thus, very exceptional circumstances to justify development in the green barrier do not exist. The scheme is contrary to PPW and UDP policy GEN3.

5.06 In addition, the inspector commended that the scheme is also contrary policy GEN4 as it does not fall within any of the identified exceptions to its restrictive approach to development in the countryside. It is also at odds with policy EM4 which deals with employment development and seeks to limit such development in the countryside to schemes that involve the conversion of suitable buildings or the redevelopment of suitable brownfield, underused or vacant land.

Flooding

- 5.07 The inspected noted that the appeal site falls within the extensive, flat floodplain of the nearby River Dee which occupies an elevated position to the south of the site. It falls within Zone C1 (areas of the floodplain which are developed and served by significant infrastructure, including flood defences) as defined in the development advice maps issued with TAN15: Development and Flood Risk.
- 5.08 He noted that, in relation to flood risk, PPW requires a precautionary approach to decision making. Section 6 of TAN15 provides that development in Zone C1 should only be permitted if it is justified in that location. It is required meet one of 2 criteria that are set out in sub-section 6.2. These are that it assists or is part of a local authority regeneration scheme or strategy to sustain an existing settlement or that it contributes to key employment objectives. He noted that it is evident that the scheme fails to satisfy either of these requirements. It also fails to meet a third criterion, which is that a scheme should meet the aims of PPW and meet the definition of previously developed land.
- 5.09 The final requirement of sub-section 6.2 is that the potential consequences of a flooding event are assessed and shown to be acceptable. The inspector noted that taking into account the comments of Natural Resources Wales (NRW), it has not been demonstrated that the flooding consequences would be acceptable. In addition he shared NRW's concerns that the storage of such valuable goods may well encourage efforts to remove the vehicles in response to a known flood warning which could pose dangers to operatives and others, including the emergency services. The potential to require a flood plan to be agreed does not overcome my concerns in this respect.
- 5.10 The Inspector concluded was clearly in conflict with the advice in TAN15. The identified flood risk means that it also conflicts with policies GEN1 and EWP17 of the UDP. Thus, on the final main issue, I find that there is no justification for siting the development within the floodplain.

6.00 CONCLUSION

- 6.01 The Inspector considered the proposal failed to accord with the identified UDP policies and national guidance in respect of both issues. Accordingly, because of this failure to comply with these policies, the weight derived from other policies which seek to facilitate benefits of the local economy does not outweigh the harm and policy conflicts identified. Accordingly he DISMISSED the appeal.

6.02 Following the receipt of the appeal decision, the site was cleared of vehicles and the breach of planning control on the land ceased.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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