

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **14 DECEMBER 2022**

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

SUBJECT: **LISTED BUILDING APPLICATION FOR SITNG OF PORTABLE BUILDING FOR USE AS ANCILLARY CHANGING FACILITIES AT HAWKESBURY LITTLE THEATRE, MILL LANE, BUCKLEY**

APPLICATION NUMBER: **LBC/000351/22**

APPLICANT: **BUCKLEY THEATRE COMPANY**

SITE: **HAWKESBURY LITTLE THEATRE, MILL LANE , BUCKLEY**

APPLICATION VALID DATE: **16th AUGUST 2022**

LOCAL MEMBERS: **COUNCILLOR ELLIS**

TOWN/COMMUNITY COUNCIL: **BUCKLEY TOWN COUNCIL**

REASON FOR COMMITTEE: **MEMBER REQUEST**

SITE VISIT: **YES, DEFERRED FROM OCTOBER PLANNING COMMITTEE TO ALLOW FOR MEMBERS SITE VISIT**

1.00 SUMMARY

1.01 The application seeks listed building consent for the continued and permanent use of a portacabin for use as ancillary changing rooms, at Hawkesbury Little Theatre, Buckley

2.00 RECOMMENDATION: TO REFUSE LISTED BUILDING CONSENT FOR THE FOLLOWING REASONS

2.01 It is considered that the continued siting of a portacabin in this position would adversely affect the existing character and appearance of the

Hawksbury Little Theatre, which is a curtilage listed building. It is also considered that it will adversely affect the architectural and historical setting of the grade II listed Hawkesbury Hall , contrary to planning policy HE2 of the Flintshire Unitary Development Plan.

- 2.02 It is the opinion of the Local Planning Authority that the proposal fails to preserve and enhance the historic environment and does not ensure that the character of historic buildings is safeguarded from an extension that would compromise a building's special architectural and historic interest, contrary to Policy HE 2 of the Flintshire Unitary Development Plan.

3.00 CONSULTATIONS

- 3.01 **Local Member:** Councillor Ellis requests committee determination

- 3.02 **Buckley Town Council:** No observations

- 3.03 **Highways Development Control:** The Highway Authority confirm that they have no objection to the proposal and do not wish to make a recommendation on highway grounds. Attach Supplementary Notes.

- 3.04 **Community & Business Protection:** A detailed objection to this application on the grounds of light and noise impact as summarised below;

- The separating distance across the track access between the portable building and the nearest residential premises is really quite small. The potential impact and thus harm is potentially detrimental to the private amenity and the use and enjoyment of the residential premises immediately adjacent.
- Artificial light nuisance/pollution is of concern. There is a door, window and lights installed on the exterior of the buildings which are all potential sources of light nuisance. Artificial light from within the building could also be obtrusive and shine out through an open door, window etc and over the short separating gap into the neighbouring residential property. Habitable rooms have been identified facing the portable building in the residential premises adjacent.
- People noise is a further consideration. Noise and activity associated with performers and from actors accessing the changing facilities, would be potentially disruptive and loud for residents living in the property opposite. The duration and timings of the use hours of the changing facilities is likely to

vary but could extend quite late into the evenings and even into night-time hours (classed as after 11pm). Weekend use would not be immune either. Sources of noise could expand to include loud door shutting/door slamming, people talking and loudly on mobile phones, smokers' talking etc. There would also be potentially noise breakout from within the building if it were not adequately sound insulated. Given the adjacency there are further matters around privacy for both the residents and for those using the changing facilities. It is not considered that conditions could overcome these challenges.

3.05 **Conservation Officer:** The Conservation Officer has submitted a detailed objection to the application. The objection is summarised below:-

- The proposed extension differs to the previous traditional built extension in-so-much that it is essentially a portable cabin sited along the building with a new infill structure to connect the two parts.
- The current proposal differs in design and form to the listed and curtilage listed building particularly in terms of materials and the unorthodox flat roof;
- It is considered that the proposed rectangular box extension does not fit comfortably onto the existing gable elevation of the theatre. It appears to be too wide and out of scale for the existing elevation which it virtually conceals.
- The proposal will essentially extend the footprint of the building further back on the site which would have an adverse impact upon the adjacent Hawkesbury Hall, as the new extension would be sited directly in front of part of the hall's rear elevation.
- It is considered that the proposal would adversely affect the existing character and appearance of the Hawksbury Little Theatre, which is a curtilage listed building. It is also considered that it will adversely affect the architectural and historical setting of the grade II listed Hawkesbury Hall, thereby failing to preserve and enhance the historic environment and specifically safeguarding the character of the historic buildings.

3.06 **Society for the Protection of Ancient Buildings:** No response received

3.07 **Ancient Monument Society:** No response received

- 3.08 **The Victorian Society:** No response received
- 3.09 **Clwyd Powys Archaeological Trust:** No response received
- 3.10 **The Royal Commission on the Ancient and Historical Monuments:** No response received
- 3.11 **The Georgian Group:** No response received

4.00 PUBLICITY

4.01 41 Neighbour Notifications were sent to adjoining or nearby properties. A Site Notice was also displayed at the site and a Press Notice was published in a local newspaper. One objection was received which is summarised as follows:

1. overlooking and loss of privacy
2. loss of light and overshadowing
3. impact on visual amenity
4. poor design and location
5. risk of creating a precedent
6. impact on the setting of a listed building
7. contravention of national and local planning policies
8. over development of the site

41 Representations of support have been received and they are summarised as follows:

1. The Theatre is a much valued and much needed by the community and further afield
2. The Theatre is a community asset
3. Removal of the changing facilities would contravene Well-Being Objectives for Flintshire County Council
4. The changing block has been in-situ for almost 20 years – nothing has changed, increased or deteriorated in its use
5. Previous permissions have established the use of this block
6. Young people involved in the Theatre have a great advantage and learning facility which they may not otherwise have if it were not present (in their hometown)
7. Loss of this facility would have a huge negative impact on the well-being of the community
8. Loss of the changing room block would lead to the loss of the theatre
9. People come from distances to support the theatre
10. Theatre supports the mental health and well-being of its members, patrons, and residents
11. Important facility for children's education

5.00 **SITE HISTORY**

5.01 **032658** Partial demolition and extension to form toilets and kitchen - Approved 30/7/01

036374 Extension to theatre – Approved – 22.10.03

38122 Siting of portacabin approved 14.9.04

40052 Variation of condition No.1 attached to planning permission ref: 038122 (Renewal to allow siting of portacabin) - Approved 8.9.05

41899 Renewal of planning permission ref. 040052 for the siting of a Portacabin - Approved 5.9.06

43779 Renewal of planning permissions refs. 040052 and 041899 to allow the siting of a portacabin – Approved 24.9.07

45247 Renewal of planning permission ref. 040052 to allow the siting of a portacabin - Approved 28.8.08

46614 Renewal of planning permission ref: 040052 to allow siting of portacabin - Approved 28.10.09

47930 Renewal of planning permission ref: 046614 to retain portacabin to rear of building for a further 12-month period – Approved 8.11.10

049157 Renewal of planning permission ref: 047930 to retain portacabin to rear of building for a further 12-month period - Approved – 14.12.11

050330 Renewal of planning permission ref: 049157 for the retention of a Portacabin- Approved 6.2.13

051680 Renewal of planning permission ref: 050330 for the retention of a portacabin approved – 3.3.14

053243 Renewal of planning permission ref: 051680 for the retention of a Portacabin – Approved 16.4.15

055164 Renewal of planning permission ref: 053243 for siting of portacabin- approved 6.2.13

051680 Renewal of planning permission ref: 050330 for the retention of portacabin Approved – 3.3.14

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

- Policy GEN 1 – General Requirements for Development
- Policy GEN 2 – Development inside settlement boundaries
- Policy D1 - Design Quality, Location and Layout
- Policy D2 – Design
- Policy HE2 - Development affecting Listed Buildings and their Settings

6.02 Supplementary Planning Guidance (SPGN)

- LPG Note 6 – Listed Buildings

6.03 National Planning Policies

- Planning Policy Wales – Edition 11 (Feb.2021)
- Technical Advice Note 12 – Design
- Technical Advice Note 24 – The Historic Environment
- Future Wales: The National Plan 2040 (FWP 2040)

It is noted and acknowledged that the national planning framework as set out within Planning Policy Wales Edition 11 and Future Wales: The National Plan 2040 sets out the most up to date planning principles against which to consider development proposals. The Development Plan and associated supplementary planning guidance remain broadly consistent with these changes to legislation

7.00 PLANNING APPRAISAL

7.01 Site Description

Hawkesbury Little Theatre is located off Mill Lane Buckley and is a long-standing community facility, previously used as a community centre. The building itself is Curtilage Listed within the confines of the Grade II Listed Hawkesbury Hall, although the two premises are in different ownership. Hawkesbury Hall, after a period of restoration is now occupied as a single dwelling house. The theatre building is 'hut' like in appearance, having a brown brick wall which is clad in vertical metal sheeting. Comprising a pitched roof of concrete tile finish, the buildings' curtilage listed association is thought to have originated from its connection to Hawkesbury Hall which was listed for its early C19 origins and important historic associations with Jonathan Catherall.

7.02 Proposal

The application seeks permission for the continued and permanent siting of a flat roof portacabin which is used as changing rooms, ancillary to the theatre use. The portable building is located at the northwest side of the Theatre. It is separated from the listed

Hawkesbury Hall, but less than a 4 metre distance. The portacabin extends the full width of the existing theatre, and contains a window and door at either end, together with two high level windows to the side elevation. It is painted cream in colour and provides 4 additional security lights

7.03 Considerations

The main issue in considering this application is:

- Impact upon Character and Appearance of the curtilage listed Theatre and adjacent Listed Building

7.04 Character and Appearance

Policy D1 Design Quality, Location and Layout states that all development must incorporate good standards of design. When the proposed development is considered against the criteria in policy D1, it is difficult to identify where it would comply with any of those criteria, given its temporary and utilitarian design, and also set in context of its surroundings and relationship to the listed and curtilage buildings

7.05 The portacabin which has been sited on the west side of the existing curtilage listed theatre is of a flat-roof design which is not reflective of the existing pitched roof shape of either the curtilage theatre building, or the adjacent Hall. It contains low quality fenestration, which is not reflective of, nor in keeping with the character of the existing curtilage listed premises or adjacent listed dwelling. The window style is significantly different from those located at the adjacent Hawkesbury Hall.

7.06 It is not considered that the location of the proposed structure makes best use of the site or represents positive place making, in that there are potentially preferential locations for its siting elsewhere, for example to the roadside elevation, that would lessen the impact upon the character and appearance of the site and historic assets, but these have not been considered as part of the proposal.

7.07 The siting of the structure does not create a positive and attractive building alignment or frontage, creating a conflict with the respective form of the existing theatre building and adjacent listed dwelling. It is noted that a link has been formed between the existing theatre and the changing room facilities which has a breeze block and corrugated metal finish with a sloped roof where it faces Hawkesbury Hall. There is no paint or facing brickwork applied at the plinth of this section which contributes to the poor and disjointed external appearance. The painted exterior of the portacabin is beginning to show signs of a peeling and it is noted the storage of non-theatre related material underneath the portacabin.

7.08 A series of temporary consents have been granted for the siting of the portacabin for use as changing rooms for almost 20 years, its

current positioning is to allow direct access from the dressing room to the rear of the stage. This being said, it is considered that continually renewing temporary permissions for a building which is not acceptable as a permanent addition in this location is not appropriate particularly given the number of times that this has been done. Whilst recognising the use of the main building as a theatre and the community benefits that are associated with this use, the flexibility applied in the planning balance by the LPA in renewing the temporary consent over such a period of time has now been exhausted. The significant change in circumstances is the restoration of the listed Hall and its residential use.

7.09 Where temporary consents are issued, the Local Planning Authority can retain a degree of control over the appearance of the building and monitor the situation in terms of visual impact, however if consent is given to for the permanent retention of the changing rooms as now applied for, the portacabin will continue to deteriorate in condition and whilst the temporary consents given have enabled the theatre company to have the changing facility they required until now, ample time has also passed for the Buckley Theatre company to consider and explore the erection of a permanent, well designed and suitably located structure which would have a less harmful visual impact. Paragraph 2.6 of TAN 12 states that design which is inappropriate in its context, as this is, or which fails to grasp opportunities to enhance the character, quality, and function of an area, should not be accepted, as these have detrimental effects on existing communities.

7.10 Impact upon Listed Building

Policy HE2 Development Affecting Listed Buildings and their Settings states that any development affecting listed buildings or their settings, including internal or external alterations or change of use will be permitted only where there is no adverse effect on the building's special architectural or historic character and appearance and the setting of a listed building;

- it can be demonstrated that the loss of, or damage to its historic fabric is unavoidable, has been minimised and that works which would result in the loss of, or which would conceal parts of a listed building, and which contribute to its interest, will be recorded by a photographic or drawn survey; and
- a change of use of a listed building or structure would increase the likelihood of the survival of the building and where alterations do not harm its character or special interest.

7.11 Having regard to the detailed objection received from the Conservation Officer, it can only be concluded that the continued and permanent siting of the portacabin would adversely impact upon the special and historic character of the both the Grade II listed dwelling and curtilage listed theatre. The application does not adequately demonstrate how the development minimises damage to the fabric of

the theatre building nor is there adequate justification for the concealing of part of the curtilage listed building with such a poorly designed and temporary structure. The proposal would have an unacceptable and harmful impact upon the curtilage listed theatre and adjacent listed building, failing to satisfy the requirements of policy HE 2 of the Unitary Development Plan with limited detail accompanying the application as to how the fabric of the building will be preserved in the long term. The proposal therefore fails to satisfy the requirements of Policy HE 2 of the Unitary Development Plan

7.12 Paragraph 1.29 of Technical Advice Note 24 states that the local planning authority will need to make its own assessment of the impact within the setting of a historic asset, having considered the responses received from consultees as part of this process. A judgement has to be made by the consenting authority, on a case-by-case basis, over whether a proposed development may be damaging to the setting of the historic asset or may enhance or have a neutral impact on the setting by the removal of existing inappropriate development or land use. In this case, the Conservation Officer has given detailed comments which clearly identifies why the development is not suitable in its current position and how the proposal fails to preserve and enhance the historic environment. The development does not ensure that the character of historic buildings is safeguarded from an extension that would compromise a building's special architectural and historic interest. Subsequently, the proposal is contrary to Welsh Government Planning Policy Wales objectives for the conservation and improvement of the historic environment.

8.00 **CONCLUSION**

In conclusion, it is recognised that the siting of the portacabin has been deemed acceptable for a number of years by a flexible application of the planning balance. It is considered however that ample time has passed to allow the Buckley Theatre Company to consider the erection of a permanent and appropriately designed extension to the existing building to cater for their requirements. The development as proposed is detrimental to the character and appearance of the area, harmful to the living conditions of adjacent occupiers and impacts unacceptably upon the historic and architectural merit afforded to the curtilage listed building and adjacent grade II listed dwelling.

The proposal fails to satisfy the requirements of Policies D1, D2, GEN 1 and HE 2 of the Flintshire Unitary Development Plan and accordingly I recommend that the application is REFUSED and the portacabin be removed.

NOTE – Should Members be minded to approve this application, a report will be required to be sent to CADW detailing why the proposal is acceptable in relation to the impacts of the proposed development on the heritage assets.

8.01 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

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.

The Council has had due regard to its public sector equality duty under the Equality Act 2010.

The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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