

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **10<sup>TH</sup> APRIL 2024**

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

**SUBJECT:** **FULL APPLICATION – RETENTION OF BUILDING  
AND ASSOCIATED USE OF SITE FOR  
OPERATION OF A BREWERY (PARTLY  
RETROSPECTIVE)**

**APPLICATION  
NUMBER:** **FUL/000254/22**

**APPLICANT:** **MR J DALES  
(TREBOOM BREWERY)**

**SITE:** **LAND AT TOP WORKS,  
BAGILLT, CH6 6HZ,**

**APPLICATION  
VALID DATE:** **14/7/22**

**LOCAL MEMBERS:** **COUNCILLOR R DAVIES  
COUNCILLOR K RUSH**

**TOWN/COMMUNITY  
COUNCIL:** **BAGILLT COMMUNITY COUNCIL**

**REASON FOR  
COMMITTEE:** **MEMBER REQUEST IN ORDER TO ASSESS THE  
PRINCIPLE OF DEVELOPMENT AND ITS IMPACT**

**SITE VISIT:** **NO**

**1.00 SUMMARY**

- 1.01 This full application which is partly retrospective seeks permission for the retention of a building and associated site works to allow it to be used as a brewery, on land at Top Works, Bagillt. The application has been submitted following enforcement investigations.
- 1.02 Amended plans /forms /details have been received in progression of the application on which further consultation has been undertaken.

**2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION**  
**SUBJECT TO THE FOLLOWING CONDITIONS**

- 2.01 1 The development shall be carried out in accordance with the following approved plans and documents:
- AMENDED Application Forms
  - Location Plan 21-DES-026-L1
  - Proposed Block Plan 21-des-026-B1
  - Proposed Elevations / Floor Plan 21-DES-026-1
  - Proposed Floor Plans 21-DES-026-1
  - Preliminary Quality Risk Assessment 406.064838.000001 V1
- 2 The premises shall operate between the hours of 0900 – 1700 hours only Monday – Sunday. Outside these hours there shall be no deliveries to and from the site.
- 3 Adequate 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.
- 4 No further development shall take place, until a drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the disposal of foul and surface water. Thereafter the scheme shall be implemented in accordance with the approved details, prior to the bringing into use of the development and no further foul water shall be allowed to connect directly or indirectly with the public sewerage system.
- 5 No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage system.
- 6 Public Footpath 3 which abuts the site shall always remain open and available, and free from interference during the development
- 7 No further development shall commence until a scheme of biodiversity net benefit has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with a timetable to be approved, in accordance with the approved detail or any agreed variation therefrom.
- 8 There shall be no further change /alteration to existing site levels to be undertaken, without the further approval of the Local Planning Authority

### **3.00 CONSULTATIONS**

3.01 **Local Members Councillor R Davies:** No response received at time of preparing report.

**Councillor K Rush:** Request Planning Committee determination if the recommendation is to approve, to assess whether the principle of development is acceptable, and its impact.

**Bagillt Community Council:** Objection from the Council for the following reasons:

1. development has already taken place without any permission being previously applied for
2. It is contaminated land and there is no environmental report or any remedial proposals to deal with the leadworks that were on this site
3. there is wildlife in the area
4. no proposals for protection of the remaining industrial archaeology
5. the fact that the building is substantially built on the site before applying for permission should not influence these planning considerations.

**Highways Development Control:** Recommend that any permission includes a condition in respect of parking, turning, loading, and unloading of vehicles.

**Ramblers Cymru:** Object unless all the public footpaths in the vicinity of the site are safeguarded and open for use.

**Community and Business Protection (Pollution Control):** No adverse observations or comments from a noise and odour perspective.

**Community and Business Protection (Health and Safety):** No objection following the applicant's intention in progression of the application to obtain a water supply to serve the development from the main system.

**Contaminated Land Officer:** Following the submission of a Preliminary Land Quality Risk Assessment, raise no objection to the proposed development.

**Welsh Water/Dwr Cymru:** As there are no sewers within the immediate vicinity of the site, recommend the imposition of conditions to i) secure the undertaking of a sewer location survey

identifying a point of connection and ii) prevention of surface water entering the public sewerage system.

**Natural Resources Wales:** No objection

**Clwyd Powys Archaeological Trust (CPAT):** No objection, although it is recommended that CPAT are notified should there be any further ground alterations/levelling within the site.

**Public Rights of Way:** Public Footpath 3 in the community follows the line of the proposed access and abuts the site but appears unaffected by the development. The footpath shall remain open, and available at all times, and free from interference during the development.

**The Coal Authority:** Following the submission of a Preliminary Land Quality Risk Assessment which confirms that no coal or shallow mine workings were encountered, raise no objections to the development.

#### **4.00 PUBLICITY**

4.01 Neighbour Notifications were sent to 5 No neighbouring and nearby properties. The application was also publicised by way of a Site Notice displayed near the site and Press Notice.

No response(s) received at time of preparing report.

#### **5.00 SITE HISTORY**

5.01 None - relevant

#### **6.00 PLANNING POLICIES**

6.01 Flintshire Local Development Plan  
STR2 – The Location of Development  
STR4 – Principles of Sustainable Development, Design and Placemaking.  
STR5 – Transport and Accessibility  
STR7 – Economic Development, Enterprise, and Employment  
STR8 – Employment Land Provision.  
STR13 – Natural and Built Environment, Green Networks, and Infrastructure.  
PC2 – General Requirements for Development  
PC3 – Design  
PC5 – Transport and Accessibility  
PE3 – Employment Development Outside Allocated Sites and Principal Employment Areas.  
EN6 – Sites of Biodiversity Importance

EN16 – Development on or near Landfill Sites or Derelict and Contaminated Land  
EN18 – Pollution and Nuisance

Supplementary Planning Guidance Notes (SPGN)

SPGN3 – Landscaping

SPGN4 – Trees and Development

SPGN8 – Nature Conservation and Development

SPGN No 11. Parking Standards

National Planning Policy

Planning Policy Wales (PPW) Edition 12

Future Wales Plan 2020-2040

Technical Advice Note (TAN) 12: Design

Technical Advice Note (TAN) 18: Transport

Technical Advice Note (TAN) 23: Economic Development

**7.00 PLANNING APPRAISAL**

7.01 Introduction

This partly retrospective application proposes the retention, completion and bringing into use of a building and its associated curtilage on land at Top Works, Bagillt, for use as a brewery. The applicant is proposing the relocation of a brewery that previously operated in York, into Flintshire.

7.02 The site the subject of this application which amounts to approximately 0.4 hectares in area, is located within the open countryside on the southern side of the Coast Road (A548) being outside of a defined employment area in the Flintshire Local Development Plan (LDP).

7.03 The site was previously part of an Old Lead Works which following the cessation of this use reverted to scrubland. It is located to the north/north-west of existing residential properties Belmont and Cheshire View. There is also a HGV yard being undertaken to the south east of the residential properties, this being within approximately 110m of the site.

7.04 Proposed Development

The mono-pitch building that has been erected on site is linear in form measuring approximately 40m x 12m x 8m (high) and is constructed having profiled sheeting / brick external walls and a profiled sheeting roof. Although built the proposed brewery use is not operational. Vehicular access to serve the development is proposed from an unadopted section of road from its junction with the A548.

7.05 Main Planning Considerations

The main considerations to be addressed in determination of this application include:

- i. Principle of Development
- ii. Scale / Design
- iii. Impact on Living Conditions
- iv. Adequacy of Access
- v. Land Contamination
- vi. Impact on Ecology
- vii. Water Supply
- viii. Impact on Public Footpaths
- ix. Drainage
- x. Industrial Archaeology

These issues are addressed in further detail below.

Principle of Development

- 7.06 Although located outside of a defined employment area or settlement boundary, the site does fall within the definition of brownfield or Previously Developed Land (PDL) recognising its historic usage.
- 7.07 The settlement of Bagillt is split into two distinct parts, each recognised by a defined settlement boundary, and the site sits between the two. There is a gap of approximately 400m between the two parts, and on the northern side of the A548, there is a range of commercial and industrial development, and on the south side is a mix of scattered residential as well as commercial and industrial development. The gap is not therefore undeveloped open countryside, and the fact that the site is part of a larger area of brownfield land provides a context for appropriate employment development.
- 7.08 As the site falls within the definition of PDL, Policy STR8 – Employment Land Provision, in criterion v) recognises that land and sites outside settlement boundaries, allocated sites and Principal Employment Areas, can deliver sustainable employment development through the re-use of suitable land and buildings.
- 7.09 In this context, given the specific circumstances in this particular case, it is a brownfield site in a sustainable location close to Bagillt, employment areas along the A548 and public transport routes. The principle of development is therefore supported by Policy STR8, subject to the safeguarding of relevant development management considerations in order, to demonstrate that this does represent suitable land and whether planning harm would arise.

### Scale / Design

- 7.10 The scale, form and design of the linear building and its position /orientation help to assimilate it within both the site and wider surroundings. This is considered acceptable having regard to Policies STR8, PC2 and PC3 of the Flintshire Local Development Plan.

### Impact on Living Conditions

- 7.11 It is necessary in consideration of this application to ensure that the living conditions of the occupiers of existing residential properties located in proximity to the site are safeguarded.
- 7.12 The nearest dwelling Belmont, which is located to the south-east of the site, is within 5m of the site boundary and 22m of the building that has been erected on site, although there is no direct visual inter-relationship between them, given their orientation.
- 7.13 It is proposed that the site operates between the hours of 0900-1700 hours Monday – Sunday, with the brewing process taking place 2/3 times a week for a period of approximately 6/7 hours.
- 7.13 No objections to the proposed development have been received in respect of noise disturbance or odour emission from the brewing process or operation of the site, following consultation with Community and Business Protection (Pollution Control). There are also no objections from the nearest neighbours following the consultation exercise. It is however considered, that given the proximity of the site to existing residential properties at this location, that to avoid noise disturbance from any associated vehicular movements during unsocial hours, that there are no deliveries to or from the premises outside the hours of operation specified. This can be secured by condition.

### Adequacy of Access

- 7.14 Consultation of the application has been undertaken with Highways Development Control Following the submission of additional information in progression of the application in relation to traffic generation, there is no objection to the development from a highway perspective having regard to LDP Policies STR5, PC2 & PC5. It is however recommended that any permission be subject to the imposition of a condition to secure the provision adequate loading, unloading parking and turning of vehicles.

### Land Contamination

- 7.15 In progression of the application and in recognition of the site's historic usage as a Lead Works, a Preliminary Land Contaminated Report has been submitted, on which consultation has been undertaken with the Council's Contaminated Land Officer (CLO). The CLO is as a result supportive of the development, as the site is not

considered to present an unacceptable risk to human health or the wider environment.

#### Impact on Ecology

- 7.16 Consultation on the application has been undertaken with both Natural Resources Wales (NRW) and the Council Ecologist as the site the subject of this application is located approximately 160m from the Dee Estuary (Wales) Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar Site.
- 7.17 In recognising that a Preliminary Risk Assessment of the site has been undertaken to address both Contaminated Land and Mining Risk concerns, it is not considered that this would result in detriment to these ecological designations from pollution through any pathways.
- 7.18 In addition, it is noted and acknowledged that to facilitate the development that has currently been undertaken, that this has resulted in the removal of scrubland and trees from within the site.
- 7.19 To compensate for this loss, it is considered necessary in accordance with the requirements of PPW 12 for the development to deliver Biodiversity Net Benefit. It is considered in consultation with the Council Ecologist that this can be achieved with the introduction of appropriate native tree and shrub planting which will provide enhancement of the site in both ecological and visual terms. This can be secured by the imposition of a planning condition.

#### Water Supply

- 7.20 It was initially proposed as part of the application that a private on - site water supply be used to facilitate the brewing process. Following consultation with Community and Business Protection (Health and Safety) however, concerns were raised in respect of this approach from possible contamination from elevated concentrations of metals in the groundwater beneath the site, recognising its historical use.
- 7.21 As a result of the above, the applicant now proposes that the water supply to serve the development in the quantities required be obtained from the mains system. Welsh Water Dwr Cymru have subsequently raised no objection to this request recognising, the applicants have made a new connection to the existing mains supply on the site boundary.

#### Impact on Public Footpaths

- 7.22 Consultation on the application has been undertaken with Public Rights of Way (PROW), who confirm that Public Footpath 3 in the community of Bagillt. Follows the line of the proposed access road and abuts the application site, but appears unaffected by the development. Subject to the applicant being made aware of the



need, for this footpath to remain open and available, there is no objection to the development from PROW. This can be secured by condition.

#### Drainage

- 7.23 It was initially proposed by the applicant that foul drainage from the site be dealt with by connection into the main sewerage system. Whilst Dwr Cymru Welsh Water raised no objection to the principle of this approach, it was advised that there is no system near the site and therefore a suitable connection point into the system would need to be established by the undertaking of a sewer survey.
- 7.24 The result of the survey subsequently undertaken, is that the site is a significant distance away from the main system. As a result, the practicalities of this option no longer remain feasible to the applicant. As an alternative, it is now proposed that the development is served by a Package Treatment Plant (PTP) within the site curtilage.
- 7.25 Consultation on the revised foul drainage proposal has as a result been undertaken with Natural Resources Wales (NRW) who now become the drainage body responsible for installation of the PTP. It has been confirmed by NRW that there is no objection to the principle of the revised foul drainage proposal, but this will require an environmental permit or exemption certificate under their separate legislation. The drainage details associated with the development can therefore be secured by condition to ensure they are installed to the satisfaction of NRW prior to the bringing into use of the brewery.

#### Industrial Archaeology

- 7.26 Consultation on the application has been undertaken with Clwyd Archaeological Trust (CPAT), who confirm that the new building may have been erected on the site of a former smelting works building that was demolished prior to 1998 but was not statutorily designated from an industrial heritage perspective.
- 7.27 It is noted however, that there is an existing stone wall to the south-west of the site, which was possibly erected at the same time as the former industrial works. It is considered that this wall should be retained as a link to the sites previous history and should any future alteration inclusive of changes to site levels be undertaken which could impact on its structural integrity, this would need to be safeguarded through the undertaking of a watching brief. This can be secured by the imposition of a condition.

### **8.00 CONCLUSION**

Although the site is located outside a defined settlement boundary and Principal Employment Area, it falls within the definition of Previously Developed (PDL) or Brownfield Land. The principle of its

alternative use as a brewery is considered acceptable having regard to LDP Policy STR8, subject to the safeguarding of relevant development management considerations.

It is important to note that the proposal has been considered having regard to highway, ecological, drainage, land contamination, and water supply issues with specific regard also being given to the impact on the living conditions of occupiers of nearby residential properties. In addressing these issues in the context of the range of additional information / changes proposed in progression of the application, the recommendation is to approve the application subject to the imposition of conditions referenced in paragraph 2.01 of this report.

#### 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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