

FLINTSHIRE COUNTY COUNCIL

REPORT TO: PLANNING AND DEVELOPMENT CONTROL
COMMITTEE

DATE: 20TH JUNE 2012

REPORT BY: HEAD OF PLANNING

SUBJECT: Full Application – Continuation of an Outdoor
Recreation Activity Known as Sphereing Including
Retention of Cabin, Portaloo and Alteration to
Existing Access on Land Opposite Bryn Coch
Road, Whitford, Holywell.

**APPLICATION
NUMBER:** 049709

APPLICANT: Have You Got the Ball Ltd.

SITE: Land Opposite Bryn Coch Farm.
Whitford,
Holywell. CH8 8SN

**APPLICATION
VALID DATE:** 30th April 2012

LOCAL MEMBERS: Councillor C.J. Dolphin

**TOWN/COMMUNITY
COUNCIL:** Whitford Community Council

**REASON FOR
COMMITTEE:** Member request due to concern of closure of
bridleway for horse riders during times of
operation, normally summer weekends.

SITE VISIT: Yes

1.00 SUMMARY

- 1.01 This application is for the operation of an outdoor recreation activity known as sphereing including retention of earthworks, portacabin and portaloo, car parking and alteration to existing access at land opposite Bryn Coch Road, Whitford, Holywell. Members will recall that a similar application was granted temporary planning permission by the Planning & Development Control Committee at the meeting on 13th April 2011. The reasons for granting a one year permission were because of the temporary nature of the buildings and in order for the impact of the developments upon highway, horse and rider safety and usage of the bridleway to be monitored. The permission expired on 5th May 2012, hence this current application for continuation of the use

and retention of ancillary structures etc. The main issues to be considered within the determination of this application are the principle of the developments in planning policy terms, the highway implications, the effects upon the character and appearance of the area, the impact on the setting of the listed building, the effects upon the users of the bridleway and the economic implications. It is recommended to refuse this application given the complaints by the British Horse Society at the Flintshire Local Access Forums of horse riders being put off using this part of the bridleway for fear of themselves or their horses having an accident and the reported incident of one rider being thrown from a horse which bolted off, when the activity was in use.

2.00 RECOMMENDATION: TO REFUSE FOR THE FOLLOWING REASON:-

- 2.01 1. In the opinion of the Local Planning Authority, the activity has a detrimental impact upon the safety and enjoyment of horse riders using Bridleway No. 120 and therefore contrary to Policies GEN1 and AC2 of the Flintshire Unitary Development Plan.

3.00 CONSULTATIONS

3.01 Local Member

Councillor C.J. Dolphin

Requests application be referred to Planning Committee. The bridleway is immediately adjacent the launch pad. This in effect closes this facility for horse riders during times of operation, normally summer weekends. Requests site visit also to specifically see the bridleway/launch pad locations. There is a huge health and safety danger there for rider and horse.

Whitford Community Council

No objection as long as it complies with Planning Officer guidelines.

Head of Assets & Transportation

Recommends that any permission to include suggested conditions.

Environment Directorate

(Rights of Way)

In the light of safety concerns expressed by horse riders over this, recommends application be refused.

Head of Public Protection

Been advised by our Health & Safety Section that they wish to make some observations/recommendations on this application and that they will advise me of the detail in due course.

British Horse Society

Objects on the following grounds:-

- Difficult to see how Flintshire benefits financially.
- Roads are a lot busier now, especially at weekends when horses are more likely to be around.
- Flintshire has a thriving equine industry which is dependent on bridleways.
- Warning signs were put out when use is in operation. These have been regularly moved. The operator does not own the bridleway and cannot legally stop anyone using it. Where a right of way can be blocked up by a padlocked gate they can throw a rider and if signs are removed then there is no warning that horse riders are in great danger.
- Ball is so frightening to a horse or pony, it bolts. Operation constitutes a real impediment to the free access of horse riders on the bridleway or adjacent roads. Difficult to acclimatise a horse to the activity.
- Currently of the rights of way in the whole of Wales, only 22% are bridleways, but in Flintshire only 10% are.
- Plenty of places in Chester, Kinmel Bay or elsewhere in Flintshire activity can take place.
- Flintshire Local Access Forum had one serious accident reported to it when one rider was thrown from a horse which bolted off.

Ramblers Association

Development appears to have a minimal impact on local rights of way and RA is content to adopt a neutral stance.

Tourism Manager

During the past 12 months, 1,300 people have participated in the activity. Creates part time employment for upto 10 people and the philosophy of the operators is to seek to source locally for goods and services. Prospective visitors who wish to stay are given information about local accommodation providers and are informed of other places to visit in the area. Aware that some concerns have been raised by horse-riders using the adjacent bridleway and hopes the planning process will resolve any potential issues to mitigate against any detrimental effect. In relation to tourism and with the proviso that all other statutory and safety requirements are in place, wishes to support this application.

4.00 PUBLICITY

4.01 Site Notice and Neighbour Notification

2 letters of support received. Grounds of support being:-

- Benefit to local pubs, shops, petrol stations, hotels etc.
- Horse riders and local business need to co-exist and compromise if they wish rural life to continue and local businesses to flourish.
- Annual 'Mostyn Fun Ride' of approximately 100 riders, this year the ball was in operation and no horses were seen to react.
- Getting horses used to strange sights and objects is nothing but a good thing as it makes them and any other equine a much safer ride in the long term.
- Rides horse on the bridleway adjacent to the activity and has no problems.

9 letters of objection and a petition with 5 signatories received. The grounds of objection being:-

- Proximity of the activity to bridleway – horses are fright animals and will react at the sight of a large moving object. This includes noise.
- The horses natural reactions will endanger their riders and other users of the bridleway, i.e., walkers.
- Would be in favour of solid timber screening approximately 4 m in height to block out the vision and noise for the length of the bridleway affected.
- Cannot ride horse in this area due to screams and shouts that activity generates.
- Increased traffic on narrow road.
- A spooked horse poses a danger to walkers as well.
- Quiet enjoyment of countryside is spoiled.
- Activity is not 'sustainable tourism' as people have to get in their cars to go to it.
- Horse riders now have to go on the road which carries a greater risk to horse and rider.

- Even when activity is temporarily stopped at launch site, it is likely that the horses will still spook at a large inflatable ball.
- Suspension of activity for horse riders does not cover those passing by on the road where horses would still see the spheres.

5.00 SITE HISTORY

- 5.01 47928 – Retrospective application for the operation of an outdoor recreation activity known as “sphereing”, including retention and resiting of cabin, retention of ‘portaloo’, and alteration to existing access – Temporary Permission Granted 5th May 2011.

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan
 STR1 – New Development
 STR6 – Tourism
 STR7 – Natural Environment
 STR11 – Sport, Leisure & Recreation
 GEN1 – General Requirements for Development
 GEN3 – Development in the Open Countryside
 D1 – Design Quality, Location & Layout
 D2 – Design
 D3 – Landscaping
 D4 – Outdoor Lighting
 L1 – Landscape Character
 HE2 – Development Affecting Listed Buildings & Their Settings
 AC2 – Pedestrian Provision & Public Rights of Way
 AC13 – Access & Traffic Impact
 RE4 – Small Scale Rural Enterprises
 RE5 – Small Scale Farm Diversification
 SR2 – Outdoor Activities

National

Planning Policy Wales 2011

Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities (2010).

Technical Advice Note (TAN) 11: Noise (1997)

Technical Advice Note (TAN) 12: Design (2009)

Technical Advice Note (TAN) 13: Tourism (1997)

Technical Advice Note 16: Sport, Recreation and Open Space (2009)

In principle, the developments are supported in Planning Policy terms. The detailed matters of access, impact upon the character and appearance of the landscape, setting of the listed building and impact upon the bridleway together with the economic implications need to be considered.

7.00 PLANNING APPRAISAL

7.01 Site Description & Developments

The site comprises the western part of an existing piece of agricultural land which slopes steeply downwards from Public Bridleway 120 (which runs east-west) at its southern end to Bryn Coch Road to its northern, southern and part western boundaries, with a new stock proofed fence along the eastern boundary. The site is accessed off the existing agricultural access onto Bryn Coch Road.

It is situated upon the southern side of Bryn Coch Road, opposite the existing complex of buildings at Bryn Coch Farm, Whitford.

- 7.02 The proposals involve the continuation of the use of the land for the outdoor recreation activity known as sphereing, and retention of a portacabin, portaloos, car park and access. Sphereing is an adventure sport known as “hill rolling” and involves rolling down the hill at high speed in a large inflatable ball.
- 7.03 The farmer, as well as the landlord, Mostyn Estates have consented to the activity on the land as it provides a ‘useful form of diversification’ for the land use. However, the land is still managed by the farmer in as much as, sheep are allowed to graze on the site to control the grass height naturally. This is possible because the events only occur 3-4 days a week, and then during a restricted season of April to October. Activity within the site is strictly controlled. All visitors have to attend an induction meeting in the cabin provided on the site. They are then taken to the upper launch area, and assisted throughout. The spheres are recovered at the base and taken to the restart for the process to be continued. Sensible time is allowed between party arrivals so as to restrict numbers on site at any one time, in accordance with health & safety requirements.
- 7.04 Two long grassed bunds were created along both the eastern side and part northern end of the site to form barriers to control both the direction and stopping of the rolling of the ball. At the top of the slope (southern boundary) lies the “launch pad” which has been created by clearing the vegetation etc.
- 7.05 A small car park area has been created close to the access of the site which has also been enclosed by a timber railed fence. Alterations to the existing agricultural access to the north-eastern corner of the site have been undertaken to serve the development.
- 7.06 The developments also involve the siting of both a portacabin (used for the training of customers in health and safety and to a café/booking office etc) measuring approximately 10 m x 3 m x 2.5 m (height) and a portaloos measuring approximately 2.3 m x 1.2 m x 1.2 m (height) alongside the hedgerow upon its northern boundary.
- 7.07 The main issues to be considered within the determination of this

planning application are the principle of the developments in planning policy terms, the highway implications, the effects of the developments upon the character and appearance of the area, the impact upon the setting of the listed building, the impact upon the bridleway and the effects upon the economy of Flintshire.

7.08 Background

Members will recall that retrospective planning permission for this activity and retention of buildings, earthworks, access, car parking etc was granted for a temporary period of one year at the meeting on 13th April 2011 under planning ref. 047928. The reasons for granting a one year permission only were because of the temporary nature of the buildings and in order for the impact of the developments upon highway, horse and rider safety and usage of the bridleway to be monitored. There has been no traffic accidents or noise complaints resulting from this activity. However, there have been many complaints by the British Horse Society of the activity to the Flintshire Local Access Forum on the grounds that horse riders are put off using this part of the bridleway for fear of an accident to either themselves or their horses. Also, there has been one reported incident whereby one rider was thrown from a horse which bolted off and was not found until much later. The applicant has complied with all the conditions imposed upon 47928. These include screening of the temporary buildings, approval of their colour, no flags erected on buildings etc.

7.09 Principle of Developments

The application site is situated within open countryside to the north west of the settlement boundary of Whitford as defined by the Flintshire Unitary Development Plan (FUDP). Policy GEN3 of the FUDP is permissive of development related to tourism, leisure and recreation. In addition, as the proposal constitutes an outdoor activity, Policy SR2 contained in the FUDP would also be relevant. In order for the proposal to satisfy Policy SR2, the activity needs to be of a type, scale and intensity so not to unacceptably harm the character and appearance of the site and its surroundings, residential or other amenity, or any landscape, nature conservation or historic interest. The policy also requires proposals to be located on sites accessible by a choice of modes of travel other than private motor car.

7.10 Also, the proposals would have to comply with Policy L1 of FUDP, which requires new development to maintain or enhance the character or appearance of the landscape.

7.11 Therefore, the principle of the developments are acceptable in Planning policy terms. What needs to be assessed are the detailed matters of access, the impact of the developments upon the visual appearance and character of the landscape together with the effects of the developments upon the setting of the listed building and bridleway and the implications upon Flintshire's economy.

- 7.12 Highway Implications
The site is served by the altered agricultural access. Members may recall that the Head of Assets & Transportation requested a temporary consent be granted in order for the authority to monitor the situation over a period of time to ensure that there are no potential problems and associated with the developments in terms of highway safety upon the previous application. No problems have been reported and therefore it is considered that the access is acceptable.
- 7.13 Character & Appearance
The developments are only immediately visible from the public footpath, bridleway and the existing access.
- 7.14 The 'launch pad' which lies at the top of the slope had been created by only clearing part of the existing vegetation. The two bunds that have been created are low in height and have been fully grassed over. These together with the slope are not mown but grazed by the sheep in between events. As it has been sometime since these features were created they are becoming well vegetated and are settling into landscape.
- 7.15 Given the above, it is considered that these developments appear to be not 'alien', but natural features upon the landscape and therefore do not significantly detrimentally affect the visual appearance or character of the landscape in this location.
- 7.16 Both the portacabin and portaloo are sited alongside the hedgerow upon the northern side and are now of a green colour. The colours of the portacabin work exceptionally well with the existing landscape with the paler green losing itself naturally against the sky and grassed landscape. Landscaping has also been undertaken upon the eastern side of the portaloo and portacabin to screen this more visible part of the buildings. Both the car park and altered access are also located upon this eastern side. All the developments above are also located in close proximity to the existing farm complex of Bryn Coch opposite whereby it is considered that they will be assimilated into the existing landscape.
- 7.17 Impact on Setting of Listed Building/Scheduled Ancient Monument
The 'launch pad' of the development is located approximately 272 m from the Grade II listed building of Mynydd y Garreg tower. From our records it is not a scheduled ancient monument. Given the long distance away and that the earthwork of the 'launch pad' has settled into the landscape, it is considered not to affect the setting. It is also considered that the activity does not significantly affect the tranquillity and public enjoyment of the listed structure, its approach or its wider rural setting.
- 7.18 Impact Upon Bridleway
Bridleway 120 which is located at the top of the site (southern end)

and runs east-west, abuts the launch pad, but physically is not affected by the development.

- 7.19 It is considered that the enjoyment of walkers using the bridleway is not significantly affected by the activity.
- 7.20 However, the bridleway is very well used by horse riders. Given that horses are prey animals, whose only defence is flight and who have all round vision and extremely acute hearing, it is considered that they are distressed by this activity taking place in close proximity to the bridleway and cause accidents to their riders. There have been many complaints by the British Horse Society of the activity to the Flintshire Local Access Forum on the grounds that horse riders are put off using this part of the bridleway for fear of an accident to either themselves or their horses. In addition, a petition with 5 signatories upon it and 2 letters of objection to this application have stated that they have not used the bridleway for fear of an accident. Also, there has been one reported incident whereby one rider was thrown from a horse which bolted off and was not found until much later.
- 7.21 The fear of an accident also puts many horse riders off using this part of the bridleway whilst the activity is taking place. Effectively, it closes the bridleway between the end of April until the end of October at weekends for the enjoyment of horse riders.
- 7.22 Measures to mitigate against the above concerns have been explored. However, it is considered that such measures e.g, signage, management of the activity to temporarily stop horse riders' use of the bridleway would also spoil the enjoyment of their activity in this part of the countryside.
- 7.23 Therefore, if planning permission is given for this activity, it would be equivalent to closing the bridleway at weekends and holidays, precisely the time when the activity would be taking place. In addition, in the event of horse riders being unaware that the activity was taking place, their lives could be put in danger and the welfare of their horses seriously compromised.
- 7.24 Economy
It appears that during the past 12 months, approximately 1,300 people have participated in this activity. It creates part time employment for up to 10 people and the philosophy of the operators is to seek to source locally for goods and services. Prospective visitors who wish to stay, are given information about local accommodation providers and are informed of other places to visit in the area.
- 7.25 In addition, the activity is a Farm Diversification Scheme providing another form of income to either the landlord, Mostyn Estates or the tenant farmer.

7.26 However, the national equine database shows that there are 5,300 horses registered in Flintshire, there are a number of horses brought in to the county to compete, to receive tuition and to take part in regular events. With the average annual maintenance cost of a horse is £3,000; this means that at least £15,300 is brought by horse owners into Flintshire's economy every year.

8.00 CONCLUSION

8.01 Given the comments in paragraph 7.18 – 7.23, it is considered that the activity has a detrimental impact upon the enjoyment of horse riders using the bridleway.

8.02 In considering this planning application 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.

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