

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **28th OCTOBER 2020**

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

SUBJECT: **RETROSPECTIVE CHANGE OF USE FOR OPERATING SITE AS B1, B2 AND B8 USES FOR A TEMPORARY PERIOD OF 18 MONTHS COMPRISING THE RECYCLING AND STORAGE NON-HAZARDOUS CARPET WASTE AND RETENTION OF EXISTING BUILDINGS FOR OFFICES AND MANUFACTURING INCLUDING ANCILLARY STORAGE.**

APPLICATION NUMBER: **061489**

APPLICANT: **ENDURMETA LTD**

SITE: **300 RECYCLING, UNITS A-D, DEVA INDUSTRIAL ESTATE, SANDYCROFT, DEESIDE**

APPLICATION VALID DATE: **14th July 2020**

LOCAL MEMBERS: **CLLR D WISINGER**

TOWN/COMMUNITY COUNCIL: **QUEENSFERRY COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **MEMBERS REQUEST**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 The proposal is a full planning application for a Retrospective change of use to plastic and end-of-life tyre recycling facility and retention existing buildings comprising B1, B2 and B8 uses on land at Deva Industrial Park, Factory Road, Deeside.

1.02 The main issues for consideration are:

- The principle of development,

- Character and appearance of the landscape,
- Highways safety,
- Designated nature conservation sites
- Visual Impact and Design
- Flood Risk
- Drainage
- Fire Risk

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-

- 2.01
1. Temporary permission for a period of 18 months
 2. In accordance with the submitted plans
 3. No operations hereby permitted shall take place after 18 months from the date of this permission.
 4. All waste material shall be removed from the site within 18 months of the date of this permission.
 5. No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

3.00 CONSULTATIONS

- 3.01 Local Member – Cllr D Wisinger
 Raised concerns regarding fire risk and requested committee determination

Queensferry Community Council

Raises the following concerns:

- Two serious fires at the have taken place at the site.
- Shredded carpet on the river bank
- The site is in close proximity to a plant that stores gas bottle
- The safety and well-being of residents and the concerns of the community council must be taken into consideration.

Highways Development Control

As the Highway Authority confirm that they have no objection to the proposal and do not wished to make a recommendation on highway grounds

Community and Business Protection

Have no adverse comments to make regarding this proposal.

North Wales Fire and Rescue Service

Have no observations to make in respect of access for fire appliances and water supplies.

Welsh Water/Dwr Cymru

The proposed development site is crossed by an 18 inch Steel Raw Water Main with the approximate position being marked on the attached Statutory Water Main Record. Under the Water Industry Act 1991. Dwr Cymru Welsh Water has rights of access to its apparatus at all times. No development (including the raising or lowering of ground levels) will be permitted within 4.5 metres either side of the centreline of the public watermain.

Notwithstanding this, they request that the condition outlined above and additional advisory note are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets:

Natural Resources Wales

The FCA submitted confirms that the site is at significant flood risk from the tidal river Dee, particularly in the event of a breach to the flood defences. A breach may cause rapid inundation of the site as outlined in the FCA. Due to the nature of the proposals and the existing less vulnerable land use we raise no objection to the application on flood risk grounds.

The site currently operates under waste exemptions, registered with Natural Resources Wales. The site will require a bespoke environmental permit with Natural Resources Wales to operate in line with the details provided in their planning application. Accompanying the environmental permit, the site will be required to operate in accordance with a Fire Prevention & Mitigation Plan, as well as an Environmental Management System.

The local authority will be required to undertake a HRA assessment on the proposals.

4.00 PUBLICITY

4.01 Site Notice and Neighbour Notification

At the time of writing, one response has been received to the raising the following concerns:

- Site represents a risk to the adjacent major hazard site.
- Proposal is retrospective and the council have not taken action

- The proposal has been incorrectly labelled as a mixture of B2 uses, with the importation of waste carpet for reuse should be considered Sui Generis.
- Waste carpet contains various toxic chemicals and recycling needs to be carefully monitored and managed.
- Historical plastic and tyre waste to not form part of the application.
- No evidence has been provided in relation to the relocation to another site.
- The operations are unacceptably hazardous, and that permission should be refused, and an Enforcement Notice with Stop Notice issued to cease the operations.
- The proposal is contrary to policies EM3, EM7, EWP6, EWP7, EWP8 and EWP12 of the Flintshire UDP. The proposal is also contrary to national planning policy provided in PPW.

5.00 SITE HISTORY

5.01 060057 (withdrawn 16/08/2019) - Retrospective change of use to plastic and end-of life tyre recycling facility and retention existing buildings comprising B1, B2 and B8 Uses

060354 (withdrawn 15/04/2020) - Retrospective application for operating the site as a B1, B2 and B8 use for the recycling and storage non-hazardous and non-mixed wastes and retention existing buildings comprising the same uses.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1: New Development

STR3: Employment

STR7: Natural Environment

STR10: Resources

GEN1: General Requirements for Development

D1: Design Quality, Location and Layout

D2: Design

TWH2: Protection of Hedgerows

WB2: Sites of International Importance

WB3: Statutory Sites of National Importance

WB5: Undesignated Wildlife Habitats

AC13: Access and Traffic Impact

AC18: Parking Provision and New Development
EM1: General Employment Land Allocations
EM3: Development Zones and Principle Employment Areas
EM7: Bad Neighbour Industry
EWP6: Areas of Search for New Waste Management Facilities
EWP7: Managing Waste Sustainably
EWP: Control of Waste Development and Operations
EWP12: Pollution
EWP13: Nuisance
EWP14: Derelict and Contaminated Land
EWP17: Flood Risk

Supplementary Planning Guidance

Supplementary Guidance Note 3: Landscaping
Supplementary Guidance Note 8: Nature Conservation and Development
Supplementary Guidance Note 11: Parking Standards
Supplementary Guidance Note 21 – Environmental Impact Assessment (2017)
Supplementary Guidance Note 29: Management of Surface Water for New Development

Planning Policy Wales Edition 10

Technical Advice Notes
Technical Advice Note 5 – Nature Conservation and Planning
Technical Advice Note 11 – Noise
Technical Advice Note 12 – Design
Technical Advice Note 15 – Development and Flood Risk
Technical Advice Note 18 – Transport
Technical Advice Note 21 – Waste
Technical Advice Note 23 – Economic Development

7.00 PLANNING APPRAISAL

7.01 Site Description

7.02 The site is located within a well-established industrial area which contains a variety of other industrial uses. The surrounding land use is primarily industrial, with the site in close proximity to the operational railway and other industrial land uses, including waste transfer and recycling centres. The nearest residential properties are approximately 600m and 620m to the north and south respectively.

The site is adjacent to a Hazardous Substance Consent and River Dee SAC/SSSI.

7.03 Proposal

This application is for the: Retrospective change of use for operating site as B1, B2 and B8 uses for a temporary period of 18 months

comprising the recycling and storage non-hazardous carpet waste and retention of existing buildings for offices and manufacturing including ancillary storage.

- 7.04 The site will accept two products for reuse, firstly the importation of textiles in the form of waste carpet. The carpet is stored, shredded and exported as a saleable product for the equestrian industry. Secondly, the importation rubber crumb material for reuse comprising the colouring, bagging and storage prior to export for use as a soft surfacing material.
- 7.05 Based on current tonnage projections, the site will accept:
- <10,000 tonnes per annum of waste carpets for shredding; and,
 - <2,500 tonnes per annum of tyre/rubber crumb for colouring
- 7.06 The application is for a temporary 18month period, at which time the he site will be clear of all waste and other material. A condition is included to ensure no waste remain at the site following the expiration of the permission.
- 7.07 Policy
There are a number of strategic and general policies within the UDP which are applicable to this proposal and I consider each in turn below:
- 7.08 STR1 New Development - Advises that development should generally located within existing settlement boundaries, allocations, development zones, principal employment areas and suitable brownfield sites.
- 7.09 STR10 Resources – Criterion a) requires that new development must make the best use of resources through utilizing suitable brownfield land wherever practicable in preference to greenfield land or land with ecological, environment or recreational value. The brownfield nature of the site satisfies this requirement. It should also be noted that whilst he site abuts the designated wildlife sites to the north, it is excluded from the designation. Provided the proposals do not adversely affect features of these wildlife sites, then I am satisfied that the proposal is policy compliant. I am also satisfied that proposal accords with both STR1 and STR10.
- 7.10 Policy GEN1 requires that proposed development should harmonise with the site and surroundings and, amongst other matters, the development should not have a significant adverse impact on recognised wildlife species and habitats. The appraisal below illustrates that the proposals accord with these general policy aims.
- 7.11 The site is within an area designated under Policy EM3: Development Zones and Principle Employment Areas, which directs B1, B2 and B8 uses to this location subject to the following tests:

- The site is not allocated for a specific employment use by virtue of policy EM1 or EM2;
- the proposal is of an appropriate type and scale for both the site and its surroundings;
- the proposal will not have a significant adverse impact on residential or other amenity or unacceptably restrict neighbouring land uses;
- the proposal provides satisfactory onsite parking, servicing and manoeuvring space and that the highway network (including access and egress) is adequate to safely cater for the type and volume of traffic generated by the proposal; and
- the proposal has no significant adverse impact on the integrity of nature conservation sites, the landscape and historic features.

7.12 In addition, Policy EM7: Bad Neighbour Industry which supports development which is potentially polluting on sites designated under policy EM3. The site is located within an area characterised by heavy industry has been used for a variety of industrial uses for a significant amount time albeit without a formal consent.

7.13 Whilst the proposal includes the handling of waste, the reuse and storage of waste textiles falls within a B2 and B8 use class as set out within the Land Use Gazetteer. As such, it is considered that the proposed use falls within B1, B2 and B8 use classification and does not require a sui generis waste permission. As the application is sole for development which falls within the B1, B2 and B8 use classes, it is considered that the requirements of both, Policy EWP7 of the adopted Flintshire Unitary Development Plan and TAN21, do not need to be met.

7.14 Visual Impact
Policy GEN 1 seeks to ensure that development harmonises with the site and surroundings. Policy Policies D1 and D2 seek to ensure that development is of a good standard of design, taking into account location.

7.15 The site is within the Queensferry coastal and estuary urban area, classified within Landmap as an extensive, often linear and interconnected urban area along the edge of the coast & estuary, with larger towns, sprawling suburban edges and large scale heavy industry including docks with a low visual and sensory value. The main nearby receptors would be users and customers of the industrial sites on the Deeside Industrial Park and are not be regarded as sensitive receptors. The proposal will have a localised impact upon the users of the adjacent footpath impact of the development would be limited because of the wider industrial landscape.

- 7.16 Ecology
Policy WB1 supports development where it would not have a significant adverse effect on important species or their habitats.
Policy WB2: Sites of International Importance seeks to ensure that development will not have an adverse effect on internationally designated sites. Policy WB3 Statutory Sites of National Importance states that there is a presumption against development which would have a significant adverse effect on the nature conservation interest of the site. The River Dee SSSI/SAC is directly to the north of the site. The River Dee SSSI/SAC is primarily designated for its migratory fish eg Atlantic Salmon but also for Otter.
- 7.17 Planning permission can only be granted if it can be demonstrated that there is no likely significant effect on the designated features of the River Dee SAC/SSSI. Under the precautionary principle if there is an element of doubt then permission cannot be granted. The Local Planning Authority has carried out a Test of Likely Significance, as recommended by NRW and concluded that there would be no direct effects on either the Dee Estuary or the River Dee but there is the potential for indirect effects caused by changes in air and water quality due to the potential for critical overload in particular the “in-combination effects”.
- 7.18 In line with the requirements of the Conservation of Habitats and Species Regulations the LPA has carried out an Appropriate Assessment which has considered the impacts of the development, alone and in combination with other plans and projects.
- 7.19 Highways
Policy AC 13 permits proposals where approach roads to of an adequate standard and safe vehicular access can be provided to and from the main highway network. The site is access via Factory which forms part of the highway network. The application has been the subject of consideration by the Local Highway Authority. The highways officer raises no objection to the proposal.
- 7.20 Flood Risk
Policy EWP 17: Flood Risk supports development within areas at risk of flooding where it is justified and subject to detailed tests to ensure that any flood risk can be effectively managed and would not increase the risk of flooding off-site. The application site lies within Development Advice Zones C1 and within the boundary of the 1 in 1,000-year floodplain. Based on Figure 2 of TAN15 the site comprises a less vulnerable development as no permanent disposal of waste will take place on the site. The site comprises previously developed land within an area identified for employment use within the Unitary Development Plan.

- 7.21 A Flood Consequences Assessment (FCA) accompanies this application and has been subject to consultation with Natural Resources Wales (NRW), Due to the nature of the proposals and the existing less vulnerable land use NRW raise no objection to the application on flood risk grounds.
- 7.22 Fire Risk
Policy GEN 1 supports development where it would not have a significant adverse impact on other users of nearby land/property. The proposal includes the management of waste which is potentially flammable. Fire, if not controlled, could pose a risk to neighbouring users of land and property, including the LPG storage and distribution on the adjacent site, the impact of which could have wider consequences.
- 7.23 Two fires were reported at the site in February and May 2018. The first fire was minor and no formal fire investigation was undertaken, however the subsequent fire resulted in investigations by both North Wales Fire and Rescue Service and an independent forensic investigator. The reports conclude that the most probable source of the fire, on both occasions, was a piece of equipment used for the removal of pocket spring from mattresses. Following the third fire, the machine was removed from use and pocket spring were no longer processed at the site. Since the fire in July 2018 there have been no further fire on site.
- 7.24 In addition to no longer using the equipment or processing the waste which resulted in the previous fires, the Applicant has introduced a number of fire mitigation measures including the thermal cameras and probes to monitor the waste during storage, a dampener used during shredding, and concrete and metal fire resistant boundary treatments adjacent to the storage and shredding areas.
- 7.25 Consultation has taken place with Natural Resources Wales, The Fire Service and the Health and Safety Executive in relation to fire risk and the proposal impact on the adjacent Hazardous Substance Consent. None of these consultees raised any concerns in relation to fire risk
- 7.26 The site will require a bespoke environmental permit with Natural Resources Wales to operate in line with the details provided in their planning application. Accompanying the environmental permit, the site will be required to operate in accordance with a Fire Prevention & Mitigation Plan.

8.00 CONCLUSION

The proposed development is therefore considered acceptable in both principle and detailed matters subject to conditions outlined in paragraphs 2.01 above

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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