

**TOWN AND COUNTRY PLANNING ACT 1990  
TOWN AND COUNTRY PLANNING (GENERAL PERMITTED  
DEVELOPMENT PROCEDURE) ORDER 1995 - TO DATE  
PLANNING AND COMPENSATION ACT 1991  
TOWN AND COUNTRY PLANNING ADVERT REGULATIONS 1994  
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS)  
ACT 1990  
APPLICATIONS FOR PERMISSION FOR DEVELOPMENT**

These are reports and recommendations by Officers for consideration and resolution by the County Planning Authority.

All the applications in respect of the proposals specified in this report will be available for inspection by the Members of the Committee prior to and during the meeting at which the said applications will be considered.

The Background Papers relating to each application, including forms, plans, relevant correspondence, Development Plan and guidance documents are available for public inspection during normal office hours

## **PLANNING ENFORCEMENT REPORT**

- REFERENCE:** ENF/2002/00026
- LOCATION:** Bodfari Charcoal, (OS Parcels No. 2958 & 3256), The Caravan Site, The Warren, Mold Road, Bodfari, Denbigh
- INFRINGEMENT:**
- (i) Change of use of land to sui generis use including importation and storage of timber, charcoal burning, preparation of timber for retail sale and other uses associated with a timber yard.
  - (ii) Change of use of land by the stationing of two static caravan units in association with (i) above
  - (iii) Unauthorised operational development, including alterations to levels of land, creation of a hard standing and an earth bund
- CONSTRAINTS:** Clwydian Range AONB

### **RELEVANT PLANNING POLICIES AND GUIDANCE**

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (Adopted 3 July 2002)

Policy GEN 3 Development Outside Development Boundaries

Policy GEN 6 Development Control Requirements

Policy ENV 2 Development Affecting the AONB

Policy EMP 1 Pollution

Policy EMP 5 Small Scale Employment Development Outside Development Boundary

Policy TRA 6 Impact of New Development on Traffic Flows

#### **GOVERNMENT GUIDANCE**

Planning Policy Wales – March 2002

TAN (Wales) 9 : Enforcement of Planning Control

#### **HUMAN RIGHTS CONSIDERATIONS**

From October 2000, the provisions of the Human Rights Act 1998 are taken into account when considering taking enforcement action against unauthorised development of land. In this instance, the matters under consideration are specific to the owner's rights to use the land to develop and expand his forestry business and the rights of the Council to implement its policies which seek to protect the character and appearance of the Area of Outstanding Natural Beauty amongst other things. In this instance, third parties have also objected to the activities on site and many of the grounds of objections could be considered to be an infringement upon their human rights.

No specific human rights issues have however been raised by the owner of the land, or by any other interested party in the matter.

## **1. BACKGROUND INFORMATION**

- 1.1 In October 2001, it came to the attention of Officers that an existing forestry use of this agricultural field had intensified. The matter was investigated by Officers who were concerned that the level of activity could no longer be described as a forestry use with some ancillary/incidental activities.
- 1.2 Timber is now imported to the site from elsewhere so that the use is no longer reliant upon timber from the adjacent woodland. The level of activity on site, including charcoal production, could no longer be described as an ancillary use to the maintenance and management of adjacent local woodland.
- 1.3 The owner of the site described how he intended to further expand the business by carrying out operational development to create an earth bund around the main compound, the creation of a hard standing and introducing further ancillary activities such as woodland based education and training facilities and events.
- 1.4 The owner was advised that the level of activity at the site at that time required planning permission and that any application should address the future intended uses and operations to be introduced at the site.
- 1.5 That application has now been submitted under Reference 41/2002/0808/PC and has been subject to a consultation exercise with the local community which has resulted in various planning based representations being received which object to the use.
- 1.6 The application is reported elsewhere on this agenda under, "Applications for Permission for Development". The report recommends that planning permission be refused.
- 1.7 Should Members have agreed with the recommendation to refuse planning permission, then as the mixed use is continuing, authorisation is now required for the service of an Enforcement Notice to bring about a cessation in the use and the removal from the land of all associated items, including the earth mound, static caravans, hard standing, charcoal burning facilities, cutting machines etc.

## **2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE**

- 2.1 The unauthorised use of the land has commenced within the last 10 years, and the operational development has occurred within the last 4 years.
- 2.2 The site lies outside the development boundaries of the nearest settlement and within the Clwydian Range Area of Outstanding Natural Beauty. The use and associated operational development by virtue of their scale, prominent location within the AONB and nature of activities, conflicts with the primary planning objective for the Area of Outstanding Natural Beauty by detracting from the natural beauty of the area and the character and appearance of the landscape.
- 2.3 The nature and scale of activities, and operational development at the site relative to the nearby residential property at Glascoed has resulted, in the opinion of the Local Planning Authority, in an unacceptable loss of amenity of the occupier of that dwelling.
- 2.4 The site is located in a rural location, accessible by a single track highway only with no passing places and with a sub-standard junction to the A5411. The type and nature of material to be imported and exported from the site and the size and frequency of vehicles likely to visit the site will, in the opinion of the Local Planning Authority, result in potential for conflict between vehicles using the highway and harm highway safety.

- 2.5 The unauthorised use, therefore, is contrary to policies GEN 3, GEN 6, ENV 2, TRA 6 of the Denbighshire Unitary Development Plan and relevant parts of the National Planning Guidance, Planning Policy Wales : 2002.
- 2.6 The use of planning conditions as part of any grant of planning permission for retention of the unauthorised use would not overcome these reasons.

### **3. RECOMMENDATION**

- 3.1 That authorisation be granted for the following:
- (i) Serve an Enforcement Notice to secure the cessation of the unauthorised use, removal of all related items from the land and to reinstate the land to its former condition and appearance.
  - (ii) Instigate prosecution proceedings, or other appropriate action, under the Planning Acts against any person or persons upon whom any Enforcement Notice or other such Notice is served, or against whom legal action is taken should they fail to comply with the requirements thereof.

## **PLANNING ENFORCEMENT REPORT**

- REFERENCE:** ENF/2002/00043
- LOCATION:** Former Railway Land Adjoining Aberwheeler Nurseries, Mold Road, Bodfari, Denbigh
- INFRINGEMENT:** Use of land for storage of railway memorabilia and related items
- CONSTRAINTS:** Clwydian Range AONB

### **RELEVANT PLANNING POLICIES AND GUIDANCE**

#### DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (Adopted 3 July 2002)

Policy GEN 6	Development Control Requirements
Policy GEN 3	Development Outside Development Boundaries
Policy ENV 2	Development Affecting the AONB
Policy EMP 1	Pollution
Policy TRA 6	Impact of New Development on Traffic Flows
Policy TRA 10	Public Rights of Way

#### GOVERNMENT GUIDANCE

Planning Policy Wales – March 2002  
TAN (Wales) 9 : Enforcement of Planning Control  
TAN (Wales) 18 : Transport

#### HUMAN RIGHTS CONSIDERATIONS

From October 2000 the provisions of the Human Rights Act 1998 are taken into account when considering taking enforcement action against unauthorised development of land. In this instance, the matters under consideration are specific to the owner's rights to use the land for the storage of railway related items and the rights of the Council to implement its policies which seek to protect the character and appearance of the Area of Outstanding Natural Beauty amongst other things. In this instance, third parties have also objected to the activities on site and many of the grounds for objection could be considered to be an infringement upon their human rights.

No specific human rights issues have, however, been raised by the owner of the land or by any other interested party in this matter.

### **1. BACKGROUND INFORMATION**

- 1.1 In September 2001, it came to the attention of Officers that railway related equipment, such as track, carriages etc., were being stored in an open field on land at the rear of Aberwheeler Nurseries, Bodfari. The site lies within the AONB.
- 1.2 The matter was investigated and it was revealed that the land was owned by the Secretary of the Denbigh and Mold Junction Railway Society. The case was made on behalf of the Society that the site contained part of the former Denbigh to Mold Railway and that it was the Society's intention to commence a long-term project to reinstate the railway.

- 1.3 Discussions took place between Officers and representatives of the Society. Eventually, the Society agreed to submit a planning application to retain the storage use until they were better placed to pursue the reinstatement of at least a significant section of the railway.
- 1.4 That application has now been submitted under Reference 09/2002/1099/PC and has been subject to a consultation exercise with the local community which has resulted in various planning based representations being received that object to the use.
- 1.5 The application is reported elsewhere on this Agenda under, "Applications for Permission for Development". The report recommends that planning permission be refused.
- 1.6 Should Members have agreed with the recommendation to refuse planning permission, then as the storage use is continuing, authorisation is now required for the service of an Enforcement Notice to bring about a cessation in the storage use and the removal from the land of all the stored items.

## **2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE**

- 2.1 The unauthorised use of the land for storage purposes has commenced within the last 10 years.
- 2.2 The site lies outside the development boundaries of the nearest settlement and within the Clwydian Range Area of Outstanding Natural Beauty. The storage of items in the open countryside does not fall within any of the classes of development normally permitted outside development boundaries. The storage and restoration of railway related items conflicts with the primary planning objective for the Area of Outstanding Natural Beauty by detracting from the natural beauty of the area and the character and appearance of the landscape.
- 2.3 The storage of items in this location would be likely to result in a material increase in the volume of traffic entering and leaving the A541 via a junction which does not provide adequate visibility, with the consequent risk of additional danger to all highway users and interference with the free flow of traffic. In addition, the storage use is likely to result in an increase in the volume of traffic turning right into the site at a point where inadequate forward visibility is available with consequent risk of additional danger for all highway users.
- 2.4 The storage use will increase vehicular movement and disturbance to a public right of way to the detriment of the safety and enjoyment of the footpath by other users.
- 2.5 The unauthorised storage use would therefore be contrary to policies GEN 3, GEN 6, ENV 2 , TRA 6 and TRA 10 of the Denbighshire Unitary Development Plan and relevant parts of the National Planning Guidance, Planning Policy Wales, 2002.
- 2.6 The use of planning conditions as part of any grant of planning permission for retention of the unauthorised storage use would not overcome these reasons.

## **3. RECOMMENDATION**

- 3.1 That authorisation be granted for the following:
  - (i) Serve an Enforcement Notice to secure the cessation of the unauthorised storage use, removal of all stored items from the land and to reinstate the land to its former condition and appearance.
  - (ii) Instigate prosecution proceedings, or other appropriate action, under the Planning Acts against any person or persons upon whom any Enforcement Notice or other such Notice is served, or against whom legal action is taken should they fail to comply with the requirements thereof.

## REPORT BY HEAD OF PLANNING SERVICES

# COMMITTEE PROCEDURES HIGHWAY OFFICER INVOLVEMENT

### 1. PURPOSE OF REPORT.

- 1.1 During consideration of recent reports on the Planning Services Delegation Scheme and Planning Code of Practice for Members and Officers at Full Council, Members raised the issue as to whether Highway Officers should attend Planning Committee. No formal resolution has been made on this issue.
- 1.2 For Members information a report on the Delegation Scheme and other procedures considered by the Planning Committee and Full Council in October and November 2001 recommended that it was not appropriate for a specific consultee to be present at Committee as this may give undue weight to a particular issue when Members must consider the planning issues in the round. There are also time and resource implications involved. Members agreed with this recommendation at the time.

### 2. BACKGROUND

- 2.1 The Head of Highways is a statutory consultee on planning applications involving highway issues. A summary of the consultation response is currently included within the Committee report under Consultation Responses. Highway issues are addressed within the report and any relevant conditions or reasons for refusal are included within the recommendation.
- 2.2 The Head of Highways has occasionally attended Planning Committee. Historically this has been limited to attendance on specific issues where highways is a major issue e.g. Vicarage Road, Llangollen. The Head of Highways also attended the last Planning Committee on 27th November although the agenda did not include any applications raising major highway issues.
- 2.3 Reports to the Planning Committee are prepared by Planning Officers taking into account all material planning considerations including the response of the Head of Highways. Whilst the recommendation of the Head of Highways is normally followed this is not always the case as different weight may be given to other material factors such as planning history and also the enforceability of recommended conditions. The Planning Committee must be wary of giving too much weight to comments from one consultee which could be the impression given if a consultee attends committee on a regular basis. Other consultees may also claim that they ought to be present.

### 3. OPTIONS

3.1 Having regard for the above, it is considered that there are three possible options open to Members relating to the input of the Head of Highways on applications considered by the Planning Committee. These are as follows:-

**1. Consultation responses** - for the Head of Highways to include more detail in his responses including the reasons for arriving at a recommendation. The more detailed responses would then be reported to the Planning Committee under consultation responses.

**2. Occasional attendance at Planning Committee** - attendance would be in response to a specific request from the Head of Planning Services or a Member to deal with highway issues arising from a particular application. With regard to Member requests, these would be included within the written request to refer the planning application to Planning Committee.

**3. Attendance at every Planning Committee** - this option would result in the Head of Highways or his representative being present at every Planning Committee notwithstanding the content of the Agenda. However, Members need to be aware that the Committee reports are produced by Planning Officers and therefore it is for me or my representatives to answer questions on the report. Reference to the Head of Highways would only be required where a specific technical response was required.

### 4. RECOMMENDATION

**4.1 I would recommend a combination of Options 1 and 2 be approved by the Planning Committee for the reasons set out in the above report.**



**A REPORT BY THE HEAD OF PLANNING SERVICES**

**DATE OF SITE VISITS**

**1. PURPOSE OF REPORT**

- 1.1 To advise Members of the likely date of any Site Visits requested by the Planning Committee.

**2. DATE OF THE SITE VISITS**

- 2.1 In consultation with Legal and Administration, it has been decided that the **Monday 6th January 2003** is most suitable. This date has been provisionally booked.
- 2.2 You are advised, therefore that any site visits arranged today will take place **On Monday 6th January 2003**

**3. MEMBERSHIP OF THE SITE VISIT PANEL**

- 3.1 This will depend on Political Balance and will include the Chair and Vice Chair of the Committee and the relevant Local Member(s)

**4. RECOMMENDATION**

- 4.1 **That Members agree to the Site Visits being held on 6th January 2003.**

**Decisions Made by the Head of Planning Services under  
Delegate Powers  
7th - 22nd November 2002**

**Item For Information**

This is a list of applications where the decision has already been made under delegated powers. If you wish to discuss the application/decision please contact the Case Officer.

**DECISION TYPES**

<b>GRANT</b>	- grant planning permission
<b>REFUSE</b>	- refuse all types of application
<b>APPROVE</b>	- approve reserved matters or condition
<b>CONSENT</b>	- grant listed building, conservation area, or advert consent
<b>DEEMED</b>	- does not require advert consent
<b>NO OBJ</b>	- no objection to works to tree(s) in conservation area
<b>NOT REQ</b>	- proposal does not require permission/consent
<b>DETERMIN</b>	- determine that prior approval is not required or is granted on determination application (certain telecom or agricultural works)
<b>P DEV</b>	- proposal found to be permitted development after receipt
<b>WDN</b>	- application withdrawn by applicant
<b>INVALID</b>	- application found to be invalid
<b>CERTIFY</b>	- Certificate of lawful use issued
<b>RCERTIFY</b>	- refuse to issue certificate of lawful use