

PWYLLGOR CYNLLUNIO
CYFARFOD: 15 fed Rhagfyr 2010
Eitem: 2

PLANNING COMMITTEE
MEETING – 15th December 2010
Agenda Item: 2

DEDDF CYNLLUNIO TREF A GWLAD 1990
CYNLLUNIO TREF A GWLAD (DATBLYGIAD CYFFREDINOL)
GORCHYMYN 1995 - HYD HEDDIW
DEDDF CYNLLUNIO A IAWNDAL 1991
RHEOLIAD HYSBYSEBU CYNLLUNIO TREF A GWLAD 1994
DEDDF CYNLLUNIO (ADEILADAU RHESTREDIG A CHADWRAETH)
1990
CEISIADAU AM GANIATAD DATBLYGU

Adroddiadau ac argymhellion gan Swyddogion i'w hystyried a'u datrys gan Awdurdod Cynllunio'r Sir.

Bydd pob cais am y cynigion a nodir yn yr adroddiad hwn ar gael i'w archwilio gan Aelodau o'r Pwyllgor cyn ac yn ystod y cyfarfod lle ystyrir y ceisiadau.

Gellir gweld y Papurau Cefndir i bob cais, gan gynnwys ffurflenni, cynlluniau, gohebiaeth, Cynllun Datblygiad a dogfennau arweiniad yn ystod yr oriau swyddfa arferol.

Nid yw'r atodiad y cyfeiriwyd ato yn yr adroddiad ar gael yn Gymraeg ac mae hynny yn unol â Chynllun Iaith Gymraeg y Cyngor

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

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PLANNING COMMITTEE
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ITEM NO: 1

WARD NO: Ruthin

APPLICATION NO: 02/2010/1152/ AC

PROPOSAL: Details of parking bays, bin store and clothes drying area submitted in accordance with condition no. 3 of planning permission code no. 02/2005/0069/PF

LOCATION: Park Place Hotel 2 Mwrog Street Ruthin

APPLICANT: Robin Owain

CONSTRAINTS: C1 Flood Zone
Within 67m Of Trunk Road
Listed Building

PUBLICITY UNDERTAKEN: Site Notice - No
Press Notice - No
Neighbour letters - No

CONSULTATION RESPONSES:

RUTHIN TOWN COUNCIL – “No objection”.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES
HEAD OF HIGHWAYS AND INFRASTRUCTURE:
The condition can now be discharged – no objections.

PUBLIC PROTECTION OFFICER
No response received.

LICENSING OFFICER
No response received.

RESPONSE TO PUBLICITY:

Letters of representation received from:
Mr G Williams, Y Berllan, Efenechtyd, Ruthin
Sally Hughes, 4b Mwrog Street, Ruthin
Jane Knight, 4a Mwrog Street, Ruthin
Pat Fillingham, 8 Mwrog Street, Ruthin

Summary of planning based representations:

- Impact upon highway safety by virtue of increased on road parking.
- Loss of parking for public house
- Impact upon residential amenity by virtue of increased activity near residential dwellings
- Impact upon character of listed building by virtue of unsightly bins
- Proposals do not accord with planning policy

EXPIRY DATE OF APPLICATION: 21/09/2010

REASONS FOR DELAY IN DECISION (where applicable):

- timing of receipt of representations

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 Approval is sought for details of parking arrangements, a drying area and bin store as required by condition 3 of planning permission code 02/2005/0069. The permission was granted in 2005 for the creation of 7 flats within the Park Place Hotel building.
- 1.1.2 The wording of condition 3 states that:
- 1.1.3 A total of 5 parking spaces are proposed - 2 spaces within the rear court yard of the Park Place Hotel and 3 spaces to the front, adjacent to Mwrog Street. Drying areas would be in the rear court yard, with bin storage to the front, adjacent to a boundary hedge and parking spaces. The details are shown on the plan at the front of the report.

1.2 Description of site and surroundings

- 1.2.1 The Park Place Hotel is located on the junction of Denbigh Road, Mwrog Street, Park Road and Clwyd Street.
- 1.2.2 The seven flats are on part of the ground floor, first floor and second floor of the Park Place Hotel.
- 1.2.3 The majority of existing long established dwellings along Mwrog Street have no off street parking. The street is a wide road, which accommodates a considerable amount of on street parking and is similar to Park Road where vehicles are also parked along the street.
- 1.2.4 Opposite the site to the east is a petrol station, and further beyond that on Park Road, is a council car park. Another council car park is located within 50 metres of Park Place, on Clwyd Street.

1.3 Relevant planning constraints/considerations

- 1.3.1 The Park Place Hotel is a Grade II listed building.

1.4 Relevant planning history

- 1.4.1 The original permission for the 7 flats showed proposals for a total of 9 off street parking spaces. The erection of a smoking shelter for the public house in 2007 resulted in the loss of 4 parking spaces. The wording of condition 3 on permission 02/2005/0069 allows for the allocation and laying out of spaces to be agreed with the local planning authority.

1.5 Developments/changes since the original submission

- 1.5.1 None

1.6 Other relevant background information

- 1.6.1 None

2. DETAILS OF PLANNING HISTORY:

- 2.1.1 02/2005/0069 – Conversion of building to 7 self contained flats – GRANTED 8/7/2005
- 2.1.2 02/2007/1440 - Retention of outdoor covered area at rear of premises (retrospective application) – GRANTED 18/3/2008

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

Policy GEN 1 – Development within Development Boundaries

Policy GEN 6 – Development Control Requirements

Policy TRA 9 – Parking and Servicing Provision

Policy CON 1 – The Setting of Listed Buildings

SPG 21 – Parking Requirements in New Development

3.2 GOVERNMENT GUIDANCE

Planning Policy Wales 3 (July 2010)

Technical Advice Note 18 – Transport

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

- 4.1.1 Parking and impact upon highway safety
- 4.1.2 Impact upon residential amenity
- 4.1.3 Impact upon listed building

4.2 In relation to the main planning considerations:

4.2.1 Parking and impact upon highway safety

Policy GEN 6 of Denbighshire's Unitary Development Plan seeks to protect the local highway network from congestion and danger generated by traffic associated with the approved use. Policy TRA 6 and TRA 9 require development to provide adequate parking for a development, and to not impinge upon the safe and free flow of traffic upon the highway. TAN 18, Transport, indicates that factors such as proximity to public transport, opportunities for walking and cycling to services, provision of public car parks in the area, should all be taken into account when assessing the requirement for parking provision within a site. Supplementary Planning Guidance Note 21, Parking Requirements in New Development reinforces this approach and outlines maximum requirements for parking spaces, which for 1 bedroom units is 1.5 spaces per unit (totalling 10 spaces for a 7 flat scheme).

In considering the parking details for the flats, due regard has to be taken of the location of the town centre location, the existence of the two large car parks in close proximity to the site, on street parking opportunities, the distance to local shops, the availability of public transport, and the opportunities for encouraging walking and cycling. It is suggested that within this context the reduced provision of parking for the 7 flats is acceptable and in accordance with the thrust of national and local planning policy. This view is supported by the Highway Officers who confirm the proposal is acceptable, and is unlikely to have a detrimental impact upon the safe and free flow of traffic upon the highway.

With regard the provision of parking for the public house, it has to be noted that this is a long established enterprise which is located close to the town centre. It is considered, that unlike more rural pubs, the need for on site

parking for the patrons of a town centre pub is low, and that what need may arise can adequately be catered for by the public car parks in the area.

The location of the bin store is of benefit to the occupants of the 7 flats as it is in a more functional location than in the rear yard. If the bins were located to the rear, it is most likely that they would need to be emptied immediately adjacent to the junction of Denbigh Road and Mwrog Street which would result in a refuse wagon being stationary on a sharp bend, within 10 metres of a junction, on the A525. It is considered likely that this would result in a greater highway hazard than in the location proposed on Mwrog Street.

4.2.2 Impact upon residential amenity

Policy GEN 6 seeks to ensure that proposals for development do not detrimentally impact upon the amenity of neighbouring residents by way of increased activity/disturbance. It also seeks to ensure that sufficient amenity is provided for occupants.

In this instance it is considered that the provision of bins to the front of the Park Place Inn is unlikely to have a detrimental impact upon the amenity of occupiers of other dwellings on Mwrog Street, as the bins are screened to the rear by established planting. The reduced parking spaces are also likely to have a reduced impact upon the neighbouring properties as they place more emphasis on visitors/residents of the flats having to utilise the public car parks, which are further away from other dwellings in the locality. The provision of drying areas to the rear is also considered functional and useable and is unlikely to impact upon the amenity of neighbouring residents.

With regard to the general requirements of Policy GEN 6 in relation to the provision and protection of residential amenity, it is considered that the details submitted are acceptable.

4.2.3 Impact upon setting of Listed Building

Policy CON 1 seeks to protect the setting of listed buildings. Concern has been raised that the location of the bins would negatively impact upon the setting of the Park Place Hotel, a Grade II listed building.

Policy CON 1 suggests that preservation of the setting of listed buildings is given weight where the setting is essential to the character of the building. The list description for the building makes little reference to the setting of the building, save for its prominent position. It is not considered that the location of bins would significantly affect the prominence of the building.

It is also considered that the bins are located in a functionally appropriate location in terms of the flat occupants achieving access to them, and for emptying. As no 'development' is involved in their being placed as such, it would be difficult to sustain an objection on the grounds of negative impact upon the setting of the listed building. The details submitted accord with the broad requirements of Policy CON 1.

5. SUMMARY AND CONCLUSIONS:

5.1 It is considered that the proposal complies with planning policy and it is recommended that the details be approved.

RECOMMENDATION: APPROVE –

No conditions imposed.

NOTES TO APPLICANT:

None

ITEM NO: 2
WARD NO: Llandymog
APPLICATION NO: 09/2010/1356/ PF
PROPOSAL: Construction of a circular slurry store
LOCATION: Efail Y Waen Bodfari Denbigh
APPLICANT: Mr Ken Hulme
CONSTRAINTS:
PUBLICITY Site Notice - No
UNDERTAKEN: Press Notice - No
Neighbour letters - Yes

CONSULTATION RESPONSES:

ABERWHEELER COMMUNITY COUNCIL

- “(1) misleading size of farm. 11.5 hectares only is rented from DCC. As this is a starter unit. Other land farmed from private landlords.
(2) Size of Farm does not warrant a circular slurry store of the height and capacity.
(3) Height of tank an intrusion on the landscape.
(4) Location of tank too close to the residential village of Aberwheeler e.g. Porth-y-Waen, Catrefle and Hafoty Wen.
(5) Very concerned about the health effects on the residents of Aberwheeler and Bodfari.
(6) The impact on the devaluation of property in the area.
(7) The smell will be a major problem”

ENVIRONMENT AGENCY

No objection

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

PUBLIC PROTECTION

No objection

RESPONSE TO PUBLICITY:

Letters of representation received from:

J A Jones, Hafoty Wen, Bodfari, Denbigh, Denbighshire, LL16 4EE

Summary of planning based representations:

Objections

- Landscape Impact
- Impact on Residential Amenity
- Environmental Impact

EXPIRY DATE OF APPLICATION: 22/12/2010

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

1.1.1 The proposal is for the erection of a circular slurry store 4.27m in height and 17m in diameter.

1.1.2 The store would be located to south west of the existing farm complex and will be finished in non reflective dark green steel sheets.

1.2 Description of site and surroundings

1.2.1 The existing farm complex is located to the north east of Aberwheeler. The proposed slurry store would be approximately 75m from the nearest residential properties at Porth Y Waen.

1.2.2 The farm occupies a tenanted holding occupying 40.8ha of agricultural land which is rented off various landowners including 11.5ha from Denbighshire County Council.

1.3 Relevant planning constraints/considerations

1.3.1 The site is located outside of the development boundary.

1.4 Relevant planning history

1.4.1 None

1.5 Developments/changes since the original submission

1.5.1 None

1.6 Other relevant background information

1.6.1 The store is required to provide 5 months slurry storage to comply with European Nitrate Vulnerable Zone (NZV) legislation which intends to reduce water pollution.

2. DETAILS OF PLANNING HISTORY:

2.1 None

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

Policy GEN 3 - Development Outside Development Boundaries

Policy EMP 13 - Agricultural Development

3.2 GOVERNMENT GUIDANCE

Planning Policy Wales (July 2010)

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

4.1.1 Principle

4.1.2 Visual and landscape impact

4.2 In relation to the main planning considerations:

4.2.1 Principle

Policy GEN 3 allows for certain types of development outside development boundaries, criterion vi) permits agricultural development providing there is no unacceptable impact on the social natural and built environment. EMP 13 relates to specifically to agricultural development, the aim of this policy is to ensure agricultural development has no unacceptable impact on the environment. Proposals must comply with four tests relating to; the need for the development, the use of alternative existing buildings, the impact of development on the character and appearance of the countryside and the siting relating well to the existing complex. This development is required to

comply with NVZ legislation and no other suitable buildings exist on the site that could meet this need. It is therefore considered that the proposals comply with tests i) and ii) of EMP 13. Compliance with tests iii) and iv) are assessed in the next section.

4.2.2 Visual and landscape impact

The design, siting and scale of the proposed development ensure that the proposed development relates well to the existing farm complex. In relation to scale, the height of the proposed structure is lower than building in the existing complex. For the above reasons it is considered that the proposals comply with test iii) and iv) of EMP 13.

The comments of the Community Council and local residents are duly noted. A number of concerns have been raised as to the potential impacts of the proposed development in relation to public health and odour given the proximity of the development to residential properties (approximately 75m to nearest residential property). In consultation with the Environment Agency and the Public Protection department of Denbighshire County Council, no concerns have been raised over health impacts of slurry storage. Additionally the proposed development is necessary to comply with NVZ regulations which require 5 months slurry storage for farms within NVZ's. The Public Protection department of Denbighshire County Council have confirmed that the ability to store greater amounts of slurry would improve the situation in relation to odour. Issues of odour release from slurry area greatest when stored slurry is being distributed as fertiliser. Increased storage capacity means that distribution of the stored slurry can occur less often and therefore reduce exposure to the odour.

Concerns have also been raised over the size of the proposed development in terms of necessity and impact. The volume of the proposed development is justified by a detailed need calculation that was submitted with the planning application. As statutory consultees the Environment Agency have not disputed these calculations and it is therefore considered that they provide adequate justification. As is highlighted in the assessment of visual and landscape impact it is considered that the height of the proposed structure is appropriate in relation to other buildings in the existing complex.

5. SUMMARY AND CONCLUSIONS:

It is considered that the proposed development has a justified need with acceptable impacts and it is therefore considered that the application is acceptable and is recommended for grant.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

NOTES TO APPLICANT: None

ITEM NO: 3

WARD NO: Llanrhaeadr Yng Nghinmeirch

APPLICATION NO: 14/2010/0959/ PFDT

PROPOSAL: Erection of a 55 kW wind turbine on a 25 m tower with a 19.2 m rotor diameter (approximate ground to blade tip height 35 m)

LOCATION: Cae Gwyn Cyffylliog Ruthin

APPLICANT: Mr Richard Roberts

CONSTRAINTS:

PUBLICITY Site Notice - No

UNDERTAKEN: Press Notice - No
Neighbour letters - Yes

CONSULTATION RESPONSES:

CYFFYLLIOG COMMUNITY COUNCIL
"No objection"

AIRBUS

No aerodrome safeguarding objection to the proposal.

CIVIL AVIATION AUTHORITY

No objection.

MINISTRY OF DEFENCE

No objection, would like to be kept informed of further developments.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES**DCC POLLUTION CONTROL OFFICER**

No objection, subject to conditions.

SENIOR BIODIVERSITY OFFICER

No reply received.

LANDSCAPE CONSULTANT

The proposal given its landscape and visual impact does not accord with UDP policy STRAT 7 iii), GEN6 i) ii) iii) and ENV1.

RESPONSE TO PUBLICITY:

Letters of representation (in support) received from:

Mr. G. Jones, 55, Maes Cantaba, Ruthin (email)

Lisa, 24, Chertsey Road, Windlesham, Surrey (email)

R. & K. Petch, Bryn Gwyn, Cyffylliog (email)

Mr. I. Henshall, Merllyn, Cyffylliog (email)

Mr. G. Carney, Maes Cadarn, Llanelidan, Ruthin (email)

Mr Nicholson, Maes Cadarn, Cyffylliog (email)

Mr. E. Evans, Ty Mawr, Llanrhaeadr, Dinbych (email)

Ms. E. Horton-Jones, 8, Lon y Fedwen Arian, Denbigh (email)

Mr. D. Oakes, co-owner, Glan Ceirw, Nant Ucha, Cyffylliog (email)
Mr. G. Jones, Ffynnon Ddu, Cyffylliog (email)
Ms. D. Askew, Ffridd y Rhos, Cyffylliog, Ruthin (email)
I. D. Evans, Pentyla House, Pentyrch, Cardiff (email)
A. Lloyd, Llwyn On, Cyffylliog (email)
I. Jones, Cae Felin, Cyffylliog (email)
G Davies, Derlwyn, Cyffylliog (email)
E Jones, Yscubor Newydd, Cyffylliog (email)
S Jkinson, Nant Mostyn, Cyffylliog (email)

Summary of planning based representations:
Sustainability - support green energy
Visual impact - limited owing to siting
Precedent - existence of other turbines in area

EXPIRY DATE OF APPLICATION: 20/09/2010

REASONS FOR DELAY IN DECISION (where applicable):

- timing of receipt of representations
- delay in receipt of key consultation response(s)

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application proposes the erection of a single wind turbine at Cae Gwyn Farm, Cyffylliog. The turbine would have an overall height of 35m from ground level to blade tip. There would be three blades on the turbine, with a 19.2m diameter, and the supporting tower would be 25m in height.
- 1.1.2 The turbine would have a 6.5m by 6.5m foundation pad of steel and concrete. A control cabinet is also proposed to the north east of the base of the turbine, which would measure 2m by 1.9m by .7m.
- 1.1.3 The submission indicates the basis of the proposal is to export all the electricity to the grid. The turbine would be connected to the grid at the farmhouse and a three-phase electricity system will be required for the connection.
- 1.1.4 The 55kW wind turbine would have a predicted annual electricity output of 167,780kWhrs; which the submission estimates would meet the domestic electricity requirements for 35 homes per annum.
- 1.1.5 The application is one of two on the agenda which relate to the erection of individual wind turbines, the other is ref 14/2010/0960 involving the erection of a 55kW wind turbine on a 25m tower (approx height 35m) at Cae'r Weirglodd.
- 1.1.6 The Cae Gwyn turbine would be located some 980 metres to the north west of the one at Cae'r Weirglodd. It is submitted by the same planning agents, Dulas Limited, but the applicants and landowners are different.
- 1.1.7 The application is accompanied by a 25 page Supporting Statement which includes commentary on planning policy and site specific impacts, and a photo montage showing a representation of the turbine alongside the one proposed at Cae'r Weirglodd, taken from a viewpoint along a public road to the north west. The statement refers to the site being outside the Strategic Search Area in TAN 8 and the scheme being within the 'small scale category'.
- 1.1.8 Reference is made in the Supporting Statement to exporting energy under the 'Feed-in Tariff'. This is a government initiative, which provides fixed payment for the electricity generated, and pays for any unused electricity exported to

the grid.

1.2 Description of site and surroundings

- 1.2.1 The site is located on land to the south west of Cae Gwyn Farm, approximately 400m from the farm complex on the southern side of a public right of way.
- 1.2.2 The turbine is proposed within a field, on a broad ridgeline, which drops on each side to the small tributary valleys of the Afon Clywedog, Nant Gladur on the southern side and the Afon Corris on the northern side. The extensive edge of Clocaenog forest coniferous plantation lies approximately 1200m to the south west of the site.
- 1.2.3 The LANDMAP Visual and Sensory evaluation for the area, which is within the Denbigh and Derwen Hills, indicates it is typified by upland/hill, lower plateau and scarp slopes. The area is recognised as a landscape of regional or county significance, with High character and High scenic qualities.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located in the open countryside outside of any defined development boundary.
- 1.3.2 The Strategic Search Area A in TAN 8 is one of the Assembly's 7 preferred locations for large scale wind turbine developments in Wales.

1.4 Relevant planning history

- 1.4.1 A temporary permission was granted in April 2010 for a wind monitoring mast on the site.

1.5 Developments/changes since the original submission

- 1.5.1 None

1.6 Other relevant background information

- 1.6.1 Officers are presenting this application and the other one to Planning Committee, as there are important issues of policy and principle to be considered.
- 1.6.2 Officers are aware of the encouragement in TAN 8 for renewables and the advice in Section 2.11 - 2.14 on 'smaller' turbine applications. The Council has not however developed any detailed local criteria to determine the acceptability of individual turbine applications, what may be defined as 'smaller', or 'community wind farms', nor is there any strategy to deal with the implications of developing 'one off' turbines throughout the County (2.13) including those around the Strategic Search Area of Clocaenog Forest.

2. DETAILS OF PLANNING HISTORY:

- 2.1 Ref 14/2010/0305 Application for a 24-metre monopole meteorological measuring mast. Granted (delegated powers) 24/04/2010

3. RELEVANT POLICIES AND GUIDANCE:

- 3.1 The main planning policies and guidance are considered to be:
 - DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (UDP adopted 3rd July 2002)
 - Policy STRAT 2 Energy
 - Policy STRAT 7 Environment
 - Policy GEN 6 Development Control Requirements
 - Policy ENV 1 Protection of the Natural Environment
 - Policy ENV 6 Species Protection

Policy MEW 8 Renewable Energy
Policy MEW 10 Wind Power

GOVERNMENT GUIDANCE

PLANNING POLICY WALES (PPW July 2010)

This provides a range of general advice for local planning authorities on:

- Sustainable Development (Section 4)
- Conservation of Wildlife and Habitats (Section 5)
- Sustainable Energy (Section 12)

TAN 8 PLANNING FOR RENEWABLE ENERGY (2005)

TAN 8 is a key document setting the context of national and UK energy policies and introduced a fundamental change in the principle of spatial planning for the delivery of clean energy policy. The TAN sets out the Assembly's target for production of renewable energy by 2020 and the requirements for 800MW of installed capacity from onshore wind sources. Delivery is to be concentrated in 7 Strategic Search Areas by way of large-scale turbines (25MW +) development. The Clocaenog Forest is identified as one of these SSA's.

TAN 8 makes reference to smaller scale (less than 5MW schemes) in para. 2.11 - 2.14, however this puts the onus on Local Planning Authorities to define what is meant by 'small scale' and community based wind power schemes. The TAN refers to the need for Local Authorities to consider the cumulative impact of smaller schemes and the balance to be struck between the desirability of renewable energy and landscape protection.

TAN 5 NATURE CONSERVATION AND PLANNING (2009)

TAN 5 contains general advice on positive planning for nature conservation, and more specific information relating to the handling of proposals, which may affect protected species, and areas with special designations (Sites of Special Scientific Interest, Special Areas of Conservation etc).

TAN 6 PLANNING FOR SUSTAINABLE RURAL COMMUNITIES (2010)

TAN 6 provides guidance on the role of the planning system in supporting the delivery of sustainable rural communities.

TAN 6 also encourages farmers to consider farm diversification as an alternative means of supporting the farm enterprise, and mentions renewable energy projects as a possibility.

TAN 11 – NOISE (1997)

TAN 11 relates to the assessment of noise in relation to development proposals. The general guidance is that planning authorities should ensure noise generating development does not cause an unacceptable degree of disturbance; but acknowledges there may be circumstances where it may be acceptable to allow noise generating activities near to noise sensitive development. It recommends the use of planning conditions or obligations to safeguard local amenity, and mitigation measures such as adequate separation distances between noise sources and noise sensitive buildings or areas.

DENBIGHSHIRE COUNTY COUNCIL LANDMAP

This study is a comprehensive Landscape Area Character Assessment undertaken by Denbighshire County Council with assistance from the CCW. It provides a useful appraisal of the quality of the landscape and a baseline against which the impact of wind turbine proposals can be assessed.

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle
- 4.1.2 Visual and Landscape Impact
- 4.1.3 Residential Amenity
- 4.1.4 Ecology
- 4.1.5 Safeguarding Wind Farm Sites

4.2 In relation to the main planning considerations:

4.2.1 Principle
Welsh Assembly Policies

There is clear policy guidance at national level encouraging the development of suitable means of generating electricity through renewable sources, to help reduce greenhouse gas emissions and to address issues of climate change. In support of this policy, WAG has produced TAN 8 and Planning Policy Wales, and sets specific targets for the generation of electricity through renewables. There is also general support for the principles of farm diversification in Planning Policy Wales and TAN 6.

TAN 8 establishes the principle of Strategic Search Areas for locating large-scale onshore wind turbine developments (i.e. wind farms with a generating capacity exceeding 25MW). In relation to smaller scale proposals, TAN 8 states that each Planning Authority should provide local guidance and define 'smaller', or 'community wind farms'. The TAN refers to the need for Local Authorities to consider the cumulative impact of smaller schemes and the balance to be struck between the desirability of renewable energy and landscape protection. Paragraph 2.13 acknowledges that the balance should not result in a severe restriction on the development of wind power capacity, and there is a case for avoiding a situation where wind turbines are spread across the whole of a County. Authorities are also expected to safeguard developments of large-scale wind farms in the Strategic Search Area (Para. 2.10) from over development which may sterilise land for such proposals.

WAG has recently closed consultations on a revised Section 12 of Planning Policy Wales. This consultation document will update the Assembly's position in terms of delivering of renewable energy targets set out in the Welsh Assembly Government Energy Policy Statement 2010. It is of interest that the consultation contains commentary on different scales of renewable energy approaches, referring to small-scale, 'microgeneration' projects as below 50kW, and the next category up would be classed as 'community scale' projects.

Unitary Development Plan Policies

At present at local level, the UDP contains general policies on renewable energy in policy STRAT 2 and MEW 8 which support the principle of development which captures energy from naturally sustainable sources. Policy MEW 8 is supportive of proposals that generate energy from sustainable sources, but requires that development will only be permitted where there is no unacceptable effect on the environmental quality of the locality.

Policy MEW 10 deals specifically with wind power developments, stating these will be permitted subject to assessment against 10 tests. The tests of most relevance are, iii) the proposal should not unacceptably harm the character and appearance of the landscape and viii) the proposal does not cause unacceptable harm to the enjoyment of the landscape for recreational

and tourist purposes.

Policy GEN 6 refers to general development control requirements and applies to most developments. The criteria of most relevance are the following; ii) relating to the effect of development on the form and character of surrounding landscape, iii) the effect on prominent views into, out of, or across any area of open countryside, v) the impact on residential amenity and iv) incorporating existing landscape features and taking account of site contours and changes in levels and avoids prominent skylines.

Policy ENV 1 relates to the protection of landscape and biodiversity. It states development must be designed to maintain or enhance the landscape character of the countryside and biodiversity of the natural environment. Policy ENV 6 is the detailed policy relating to species protection, which seeks to ensure that development which would unacceptably harm species given special protection by law are not permitted.

Taken together, the policies of the Unitary Development Plan offer basic support for a range of suitable renewable energy schemes, all subject to detailed tests of impact. However as the Unitary Development Plan was adopted in 2002, its contents predate TAN 8 and more recent WAG policy statements relating to energy development, and inevitably contain no guidance on what may be 'smaller' or 'community' turbine developments, and it offers no specific guidance on how to deal with the issues of 'community' turbine developments and the cumulative impact/ spread of turbines throughout the county. There are currently detailed policies proposed in the draft Local Development Plan which will be of some assistance in developing a strategy for handling 'one off' turbine applications. However these policies carry no weight at this stage and are likely to be updated in the deposit LDP following the adoption of the revised Section 12 of PPW.

Ultimately Officers take the simplistic view that in the absence of any up to date and specific local level guidance on the matter of single turbine applications of this scale, it is incumbent on the Council to deal with the proposal in accordance with the statutory requirements in the Planning/ Planning and Compensation Act i.e. determine in accordance with the current policies of the development plan, unless material considerations indicate otherwise. The following sections of the report therefore weigh the merits of the application against the policies of the Unitary Development Plan and then in respect of the other material considerations including current WAG policy and guidance in PPW and TAN 8.

4.2.2 Impact on visual amenity

There are specific requirements in the Unitary Development Plan policies in relation to the visual and landscape impact of wind turbine developments. Policy MEW 10 (iii) requires that proposals do not unacceptably harm the character and appearance of the landscape, (viii) requires that proposals would not lead to an unacceptable cumulative visual impact in an area where zones of visibility (with other wind turbine development) overlap, and that particular attention will be paid to the potential proliferation of such developments in any one area. Policy MEW 10 (i) requires details of all ancillary equipment as part of an application.

PPW and TAN 8 are essentially strategic level policy statements and contain limited specific guidance on the consideration of landscape and visual impact in respect of individual turbine planning applications. However it is noted that in introducing the concept of SSA's to accommodate large-scale wind farm developments, TAN 8 recognises that significant landscape character change will occur in and around those areas. The site is on the periphery of the SSA of Clocaenog Forest, on open land to the east of the conifer plantation.

The LANDMAP study provides useful background material on the essential characteristics and quality of the landscape in the area. The site is within an area recognised as a landscape of regional or county significance, with High character and High scenic qualities. The LANDMAP Visual and Sensory evaluation for the general area (which is within the Denbigh and Derwen Hills) notes that it is typified by upland/hill, lower plateau and scarp slopes.

The application itself contains a brief landscape and visual assessment. It concludes there will be negligible cumulative effect on the landscape and visual receptors.

The Council's Landscape Consultant considers the supporting statement to be somewhat general in its discussion of the landscape and visual issues, and that there are a number of assertions made which are not substantiated by a clearly presented assessment process. However, in dealing with the application he accepts the Local Authority is required to make an assessment of the proposed development as submitted, and he comments in detail that: The proposed siting of the turbine would not allow the turbine to sit well within the landscape. Its location on a broad ridge, some distance from the Clocaenog Forest boundary would result in an isolated form of development, unrelated to the most dominant visual component of the landscape (the wooded skyline, particularly the vertical woodland edge). There are a number of sensitive views of the site which have been identified in assessing the application. These include views from Pen Y Llan Uchaf, a dwelling to the north of the site which would have views upwards to the turbine. Also views from public roads to the north from which the turbine would be visible looking south and northeast towards Moel Arthur. There is also a promoted mountain bike route (Ride Hiraethog) following the byway to the north which would have close views of the turbine. In concluding, the Landscape Consultant considers the siting of the proposed 35 metre high turbine would have a landscape and visual impact which cannot be mitigated.

In looking at the application first in terms of UDP policy, there is clearly a degree of conflict with tests (iii) and (viii) of MEW 10 as the erection of a 35 metre high turbine will impact on the local landscape, views in and out of the area and may contribute to a cumulative impact with existing larger turbines within the SSA and future smaller scale turbines outside the SSA. This is a negative factor in the weighing of the application. National policy supports development for renewable energy projects subject to considerations of local landscape issues, although as outlined previously, to date, offers no specific advice on the scale of developments or how the balance is to be struck when there are likely adverse landscape/visual impacts.

In concluding on the issue of landscape and visual impact, and with regard to the comments of the Landscape Consultant, Officers consider there would be a negative impact from a 35 metre high turbine in this location on open land east of the tree cover in Clocaenog Forest. Whilst it has to be accepted there is a possibility of a large scale wind farm being developed in the near future in

the Clocaenog Forest SSA, and the Cae Gwyn site may be viewed from many viewpoints in that context, there are issues of precedent to address over such 'one off' proposals for non-domestic 'small' turbines of this height extending the 'wind farm landscape' further out into open tracts of land in the county. In the absence of a County or WAG policy or strategy to assess the merits of spreading 'one off' non-domestic turbines of this scale, Officers believe some caution has to be extended at this point in respect of this aspect of the application.

4.2.3 Impact on residential amenity

Policy MEW 10 and GEN 6 seek to ensure that proposals for wind turbines do not harm the residential amenity of the locality, and this would include particular consideration to be given to noise and shadow flicker.

There are some dwellings within a 500m radius of the site. Information submitted as part of the application indicates that the noise level generated by the proposed turbine would not exceed 29.7(db(A)) at the Applicants dwelling Cae Gwyn 400m metres from its base, 34.8(db(A)) at the next nearest dwelling Ffridd Yn Rhos 250 metres north of the base, the next closest dwelling Bryn Yr Eirin would be 290 metres north of the base and the noise would not exceed 33.5(db(A)). Given the distances involved it is considered that the noise generated by the wind turbine would be below the general back ground noise level of the area and so would be unlikely to have a significant impact upon the amenity of the neighbouring occupiers.

The Public Protection Officer indicates that given the distances involved, it is considered that the noise generated by the wind turbine would be below the general back ground noise level of the area and so would be unlikely to have a significant impact upon the amenity of the neighbouring dwellings. Noise level conditions can be imposed to protect residential amenity.

The size and siting of the turbine in relation to the neighbouring dwelling is such that it is unlikely to result in shadow flicker.

It is considered that the proposal accords with policy GEN 6 part v) and MEW 10 as it is unlikely to result in harm to the residential amenity of residential property in the area.

4.2.4 Ecology

The general requirement to consider the impact of development on ecological interests is set out in the strategic policies of the Unitary Development Plan, STRAT 1 and STRAT 7 and the general policies ENV 6 and GEN 6. Specific to turbine development is MEW 10 (x); all of which require the protection and enhancement of the biodiversity of the Council, in support of national policy, guidance in PPW, TAN 5, SPG 18 and legislation relating to the safeguarding of protected species.

In this case the turbine would be located 60 metres from the boundary to the northwest of the site. The authority has taken the view on similar proposals that bats and birds are unlikely to be adversely affected by turbines. It is not considered therefore, that the proposal would unacceptably harm any protected species or surrounding wildlife and there would be no conflict with the requirements of policy ENV 6 or relevant policy or guidance.

4.2.5 Safeguarding Wind Farm Sites

Paragraph 2.10 of TAN 8 enlarges on the area where local authorities are encouraged to take an active approach in developing local policies for SSA's, 'in order to ensure best outcomes'. This includes 'safeguarding wind farm

sites' and states that Local Planning Authorities should be aware that other developments could sterilise land for wind power proposals, and bear this in mind during policy formulation and decision-making. There is currently no local policy developed in respect of 2.10.

The submission refers briefly to the issue of large-scale wind farm development in the SSA close to the location of the proposed turbine. It states the turbine will not sterilise the SSA 'A' from wind development.

It is not clear from TAN 8 whether the matter of safeguarding wind farm sites in the SSA from other development includes 'protecting' large scale wind farms from 'one off' turbine developments on the fringe of the SSA such as this. The submission contains no detailed analysis of this matter and in the absence of any policy or guidance to assist interpretation or evidence to determine either way, it is impossible to conclude whether there would be any safeguarding issues. Officers would not considered this to be a key determinant issue on the application, but nonetheless suggest a precautionary approach to such 'one off' development is not unreasonable.

5. SUMMARY AND CONCLUSIONS:

- 5.1.1 The report sets out a number of considerations officers suggest are relevant to the determination of the application.
- 5.1.2 Inevitably, with wind turbine applications there will be factors which weigh against and in favour of grant of permission. The particular application is for a 35 metre high turbine, and this raises specific issues of principle, precedent and negative landscape/visual impact which require careful deliberation.
- 5.1.3 Current Unitary Development Plan policy predates WAG policy and guidance in TAN 8 and PPW. The UDP policies give general encouragement to schemes to generate renewable energy, but the main policy is 'criteria based', setting only requirements to assess detailed impacts. TAN 8 (2005) is a material consideration and redefined national policy in support of renewables and adopted a locational approach to large-scale turbine developments, but gives limited guidance for the handling of one off single turbine applications.
- 5.1.4 In the absence of any local or national strategy for the handling of single turbine proposals of this size, the difficulty facing the Authority is the weight to be given to the Unitary Plan policies and other material considerations such as PPW and TAN 8.
- 5.1.5 In terms of general principle, Officers acknowledge there is considerable national support for the development of suitable renewable schemes, and that turbines are one of many potentially acceptable means of delivering WAG's aspirations for generating electricity. This has to be weighed appropriately when dealing with applications such as the one at Cae Gwyn. The difficulty remains however, that in the absence of a clear strategy for handling one off applications for non domestic scale turbines of 35 metres (or greater), there is a clear danger of precedent being set indicating acceptance of the spread of turbines throughout Denbighshire, further enlarging the 'windfarm landscape' being created by the large scale turbine schemes in the designated Strategic Search Area in the west of the County. This is a concern which has to be addressed with this application as it would seem inappropriate to deal with each proposal solely on its individual merits, oblivious of the wider picture.
- 5.1.6 In the particular circumstances therefore, Officers have reservations over the landscape/ visual impact of a 'one off' turbine of 35 metre height on land fringing the Strategic Search Area, and whether the principle of this development should be regarded as acceptable in the absence of any County strategy for the handling of such applications, including how to address the spread of turbines over the rest of the County and the issue of safeguarding

the SSA from other development. It is respectfully questioned at this point whether the general support for renewable energy schemes in Welsh Assembly and Unitary Plan policies outweigh the concerns over the impact of the development, and the setting of a clear precedent.

RECOMMENDATION: REFUSE- for the following reason:-

1. It is the opinion of the Local Planning Authority that the erection of a 35 metre turbine would have an unacceptable landscape and visual impact, and in the absence of any national or local criteria to determine the acceptability of one off turbine proposals of this nature on the fringes of and outside the Clocaenog forest Strategic Search Area, in terms of cumulative impact, the effect of extending the wind farm landscape of the Strategic Search Area by spreading turbines into the rest of the County, and the potential for sterilising large scale wind farm development in the SSA, it is considered premature to consent to development which could set a significant precedent, contrary to policies of the Denbighshire Unitary Development Plan which seek to protect the quality of the landscape, including STRAT 7, GEN 6, ENV 1 and MEW 8 and 10, and the principles set out in TAN 8 Section 2.10-2.13.

NOTES TO APPLICANT:

None

ITEM NO: 4

WARD NO: Llanrhaeadr Yng Nghinmeirch

APPLICATION NO: 14/2010/0960/ PFDT

PROPOSAL: Erection of a 55 kW wind turbine on a 25 m tower with a 19.2 m rotor diameter (approximate ground to blade tip height 35 m)

LOCATION: Cae'r Weirglodd Cyffylliog Ruthin

APPLICANT: Huw Jones

CONSTRAINTS:

PUBLICITY Site Notice - No

UNDERTAKEN: Press Notice - No
Neighbour letters - Yes

CONSULTATION RESPONSES:

CYFFYLLIOG COMMUNITY COUNCIL

"No objection"

AIRBUS

No aerodrome safeguarding objection to the proposal.

CIVIL AVIATION AUTHORITY

No objection.

MINISTRY OF DEFENCE

No objection, would like to be kept informed of further developments.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

DCC POLLUTION CONTROL OFFICER

No objection, subject to conditions.

SENIOR BIODIVERSITY OFFICER

No reply received.

LANDSCAPE CONSULTANT

Considers the turbine would be a prominent feature within local views from publicly accessible locations, although landscape and visual impact has been lessened by careful siting in relation to large-scale landscape elements. Planting proposals would be required to bring about visual mitigation and landscape enhancement to fully support UDP policy ENV1. Has no objection subject to the incorporation of landscape enhancement measures and conditions.

RESPONSE TO PUBLICITY:

Letters of representation (in support) received from:
 Warwick Nicholson, Maes Cadarn, Llanelidan, Ruthin (email)
 Ian Jones, Cae Felin, Cyffylliog (email)
 Mr G Jones, Ffynnon Ddu, Cyffylliog (email)
 Mr. E. Evans, Ty Mawr, Llanrhaeadr, Dinbych (email)
 Mr Paul Fowles, Ffrith Arw, Cyffylliog (email)

Sion Jkinson, Nant Mostyn, Cyffylliog (email)

Summary of planning based representations:

Sustainability - support green energy

Visual impact - limited owing to siting

EXPIRY DATE OF APPLICATION: 20/09/2010

REASONS FOR DELAY IN DECISION (where applicable):

- timing of receipt of representations
- delay in receipt of key consultation response(s)

PLANNING ASSESSMENT:

1. THE PROPOSAL:

5.1 Summary of proposals

- 5.1.1 The application proposes the erection of a single wind turbine at Cae'r Weirglodd Farm, Cyffylliog. The turbine would have an overall height of 35m from ground level to blade tip. There would be three blades on the turbine, with a 19.2m diameter, and the supporting tower would be 25m in height.
- 5.1.2 The turbine would have a 6.5m by 6.5m foundation pad of steel and concrete. A control cabinet is also proposed to the north east of the base of the turbine, which would measure 2m by 1.9m by .7m.
- 5.1.3 The submission indicates the basis of the proposal is to export all the electricity to the grid. The turbine would be connected to the grid at the farmhouse and a three-phase electricity system will be required for the connection.
- 5.1.4 The 55kW wind turbine would have a predicted annual electricity output of 167,780kWhrs; which the submission estimates would meet the domestic electricity requirements for 35 homes per annum.
- 5.1.5 The application is one of two on the agenda which relate to the erection of individual wind turbines. The other is ref 14/2010/0959 involving the erection of a 55kW wind turbine on a 25m tower (approx height 35m) at Cae Gwyn.
- 5.1.6 The Cae'r Weirglodd turbine would be located some 980 metres to the south east of the one at Cae Gwyn. It is submitted by the same planning agents, Dulas Limited, but the applicants and landowners are different.
- 5.1.7 The application is accompanied by a 25 page Supporting Statement which includes commentary on planning policy and site specific impacts, and a photo montage showing a representation of the turbine alongside the one proposed at Cae Gwyn, taken from a viewpoint along a public road to the north west. The statement refers to the site being outside the Strategic Search Area in TAN 8 and the scheme being within the 'small scale category'.
- 5.1.8 Reference is made in the Supporting Statement to exporting energy under the 'Feed-in Tariff'. This is a government initiative, which provides fixed payment for the electricity generated, and pays for any unused electricity exported to the grid.

5.2 Description of site and surroundings

- 5.2.1 The turbine is proposed to be sited on land to the north east of Cae Weirglodd Farm, approximately 290m from the farm complex on the eastern side of a public footpath.
- 5.2.2 The turbine is proposed within a field, which lies along the upper slopes of a small tributary valley of the Clywedog Valley adjacent to the edge of Clocaenog forest. The extensive edge of coniferous plantation lines the top of the valley, below which gentle convex slopes and spurs descend to the valley

below covered with a regular field pattern defined by hedgerows in variable condition, some tree lined, some maintained, sections which have gaps and sections replaced with post and wire fencing. The integrity of field patterns is showing signs of decline. The landscape of the upper slopes is large-scale and where hedgerow trees and hedgerows are intermittent, particularly open, which is apparent within a number of local and distant scenic views. Farmsteads are scattered across the gentle upper valley slopes and have typically spread out beyond their traditional form, and include several large barns that appear industrial within some views.

- 5.2.3 The LANDMAP Visual and Sensory evaluation for this area, which is within the Denbigh and Derwen Hills, indicates it is typified by upland/hill, lower plateau and scarp slopes. The area is recognised as a landscape of regional or county significance, with High character and High scenic qualities.

5.3 Relevant planning constraints/considerations

- 5.3.1 The site is located in the open countryside outside any defined development boundary.
- 5.3.2 The Strategic Search Area A in TAN 8 is one of the Assembly's 7 preferred locations for large scale wind turbine developments in Wales.

5.4 Relevant planning history

- 5.4.1 A temporary permission was granted in April 2010 for a wind monitoring mast on the site.

5.5 Developments/changes since the original submission

- 5.5.1 None

5.6 Other relevant background information

- 5.6.1 Officers are presenting this application and the other one to Planning Committee, as there are important issues of policy and principle to be considered.
- 5.6.2 Officers are aware of the encouragement in TAN 8 for renewables and the advice in Section 2.11 - 2.14 on 'smaller' turbine applications. The Council has not however developed any detailed local criteria to determine the acceptability of individual turbine applications, what may be defined as 'smaller', or 'community wind farms', nor is there any strategy to deal with the implications of developing 'one off' turbines throughout the County (2.13) including those around the Strategic Search Area of Clocaenog Forest.

6. **DETAILS OF PLANNING HISTORY:**

- 6.1 Ref 14/2010/0306 Application for a 24-metre monopole meteorological measuring mast. Granted (delegated powers) 29/04/2010

7. **RELEVANT POLICIES AND GUIDANCE:**

- 3.1 The main planning policies and guidance are considered to be:
DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (UDP adopted 3rd July 2002)
Policy STRAT 2 Energy
Policy STRAT 7 Environment
Policy GEN 6 Development Control Requirements
Policy ENV 1 Protection of the Natural Environment
Policy ENV 6 Species Protection
Policy MEW 8 Renewable Energy
Policy MEW 10 Wind Power

GOVERNMENT GUIDANCE

PLANNING POLICY WALES (PPW July 2010)

This provides a range of general advice for local planning authorities on:

- Sustainable Development (Section 4)
- Conservation of Wildlife and Habitats (Section 5)
- Sustainable Energy (Section 12)

TAN 8 PLANNING FOR RENEWABLE ENERGY (2005)

TAN 8 is a key document setting the context of national and UK energy policies and introduced a fundamental change in the principle of spatial planning for the delivery of clean energy policy. The TAN sets out the Assembly's target for production of renewable energy by 2020 and the requirements for 800MW of installed capacity from onshore wind sources. Delivery is to be concentrated in 7 Strategic Search Areas by way of large scale turbines (25MW +) development. The Clocaenog Forest is identified as one of these SSA's.

TAN 8 makes reference to smaller scale (less than 5MW schemes) in para. 2.11 - 2.14, however this puts the onus on Local Planning Authorities to define what is meant by 'small scale' and community based wind power schemes. The TAN refers to the need for Local Authorities to consider the cumulative impact of smaller schemes and the balance to be struck between the desirability of renewable energy and landscape protection.

TAN 5 NATURE CONSERVATION AND PLANNING (2009)

TAN 5 contains general advice on positive planning for nature conservation and more specific information relating to the handling of proposals, which may affect protected species, and areas with special designations (Sites of Special Scientific Interest, Special Areas of Conservation etc).

TAN 6 PLANNING FOR SUSTAINABLE RURAL COMMUNITIES (2010)

TAN 6 provides guidance on the role of the planning system in supporting the delivery of sustainable rural communities.

TAN 6 also encourages farmers to consider farm diversification as an alternative means of supporting the farm enterprise, and mentions renewable energy projects as a possibility.

TAN 11 – NOISE (1997)

TAN 11 relates to the assessment of noise in relation to development proposals. The general guidance is that planning authorities should ensure noise-generating development does not cause an unacceptable degree of disturbance; but acknowledges there may be circumstances where it may be acceptable to allow noise-generating activities near to noise sensitive development. It recommends the use of planning conditions or obligations to safeguard local amenity, and mitigation measures such as adequate separation distances between noise sources and noise sensitive buildings or areas.

DENBIGHSHIRE COUNTY COUNCIL LANDMAP

This study is a comprehensive Landscape Area Character Assessment undertaken by Denbighshire County Council with assistance from the Countryside Council for Wales. It provides a useful appraisal of the quality of the landscape and a baseline against which the impact of wind turbine proposals can be assessed.

8. MAIN PLANNING CONSIDERATIONS:

8.1 The main land use planning issues are considered to be:

- 8.1.1 Principle
- 8.1.2 Landscape and Visual Impact
- 8.1.3 Residential Amenity
- 8.1.4 Ecology

8.1.5 Safeguarding Windfarm Sites

8.2 In relation to the main planning considerations:

8.2.1 Principle

Welsh Assembly Government Policy

There is clear policy guidance at national level encouraging the development of suitable means of generating electricity through renewable sources, to help reduce greenhouse gas emissions and to address issues of climate change. In support of this policy, WAG has produced TAN 8 and Planning Policy Wales, and sets specific targets for the generation of electricity through renewables. There is also general support for the principles of farm diversification in Planning Policy Wales and TAN 6.

TAN 8 establishes the principle of Strategic Search Areas for locating large-scale onshore wind turbine developments (i.e. wind farms with a generating capacity exceeding 25MW). In relation to smaller scale proposals, TAN 8 states that each Planning Authority should provide local guidance and define 'smaller', or 'community wind farms'. The TAN refers to the need for Local Authorities to consider the cumulative impact of smaller schemes and the balance to be struck between the desirability of renewable energy and landscape protection. Paragraph 2.13 acknowledges that the balance should not result in a severe restriction on the development of wind power capacity, and there is a case for avoiding a situation where wind turbines are spread across the whole of a County. Authorities are also expected to safeguard developments of large-scale wind farms in the Strategic Search Area (Para. 2.10) from over development which may sterilise land for such proposals.

WAG has recently closed consultations on a revised Section 12 of Planning Policy Wales. This consultation document will update the Assembly's position in terms of delivering of renewable energy targets set out in the Welsh Assembly Government's Energy Policy Statement 2010. It is of interest that the consultation contains commentary on different scales of renewable energy approaches, referring to small-scale, 'microgeneration' projects as below 50kW, and the next category up would be classed as 'community scale' projects.

Unitary Development Plan Policies

At present at local level the UDP contains general policies on renewable energy in policy STRAT 2 and MEW 8 which support the principle of development which captures energy from naturally sustainable sources. Policy MEW 8 is supportive of proposals that generate energy from sustainable sources, but requires that development will only be permitted where there is no unacceptable effect on the environmental quality of the locality.

Policy MEW 10 deals specifically with wind power developments, stating these will be permitted subject to assessment against 10 tests. The tests of most relevance are, iii) the proposal should not unacceptably harm the character and appearance of the landscape and viii) the proposal does not cause unacceptable harm to the enjoyment of the landscape for recreational and tourist purposes.

Policy GEN 6 refers to general development control requirements and applies to most developments. The criteria of most relevance are the following; ii) relating to the effect of development on the form and character of surrounding landscape, iii) the effect on prominent views into, out of, or across any area of open countryside, v) the impact on residential amenity and iv) incorporating

existing landscape features and taking account of site contours and changes in levels and avoids prominent skylines.

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Taken together, the policies of the Unitary Development Plan offer basic support for a range of suitable renewable energy schemes, all subject to detailed tests of impact. However as the Unitary Development Plan was adopted in 2002, its contents predate TAN 8 and more recent WAG policy statements relating to energy development, and inevitably contain no guidance on what may be 'smaller' or 'community' turbine developments, and it offers no specific guidance on how to deal with the issues of 'community' turbine developments and the cumulative impact/ spread of turbines throughout the county. There are currently detailed policies proposed in the draft Local Development Plan which will be of some assistance in developing a strategy for handling 'one off' turbine applications. However these policies carry no weight at this stage and are likely to be updated in the deposit LDP following the adoption of the revised Section 12 of PPW.

Ultimately Officers take the simplistic view that in the absence of any up to date and specific local level guidance on the matter of single turbine applications of this scale, it is incumbent on the Council to deal with the proposal in accordance with the statutory requirements in the Planning/ Planning and Compensation Act i.e. determine in accordance with the current policies of the development plan, unless material considerations indicate otherwise. The following sections of the report therefore weigh the merits of the application against the policies of the Unitary Development Plan and then in respect of the other material considerations including current WAG policy and guidance in PPW and TAN 8.

8.2.2 Impact on landscape and visual amenity

There are specific requirements in the Unitary Development Plan policies in relation to the visual and landscape impact of wind turbine developments. Policy MEW 10 (iii) requires that proposals do not unacceptably harm the character and appearance of the landscape, (viii) requires that proposals would not lead to an unacceptable cumulative visual impact in an area where zones of visibility (with other wind turbine development) overlap, and that particular attention will be paid to the potential proliferation of such developments in any one area. Policy MEW 10 (i) requires details of all ancillary equipment as part of an application.

PPW and TAN 8 are essentially strategic level policy statements and contain limited specific guidance on the consideration of landscape and visual impact in respect of individual turbine planning applications. However it is noted that in introducing the concept of SSA's to accommodate large-scale windfarm developments, TAN 8 recognises that significant landscape character change will occur in and around those areas. The site is on the periphery of the SSA of Clocaenog Forest, on open land to the east of the conifer plantation.

The LANDMAP study provides useful background material on the essential characteristics and quality of the landscape in the area. The site is within an area recognised as a landscape of regional or county significance, with High character and High scenic qualities. The LANDMAP Visual and Sensory evaluation for the general area (which is within the Denbigh and Derwen Hills) notes that it is typified by upland/hill, lower plateau and scarp slopes.

The application itself contains a brief landscape and visual assessment. It concludes there will be negligible cumulative effect on the landscape and visual receptors. The Council's Landscape Consultant considers the supporting statement to be somewhat general in its discussion of the landscape and visual issues, and that there are a number of assertions made which are not substantiated by a clearly presented assessment process. However, in dealing with the application he accepts the Local Authority is required to make an assessment of the proposed development as submitted, and he comments in detail that:

'A number of sensitive views of the site have been identified in assessing the application. The most prominent view is from the lane which climbs out of the valley south westwards from Cyffylliog, which passes 650 metres north of the turbine, and there would be a number of views up towards the turbine given the intermittent hedgerow which lines the lane. The views from here would also include the farm complex at Cae'r Weirglodd. The dwelling Pen y Llan Uchaf, 2km to the north, has open panoramic views southwards to the site. There are several public rights of way in close proximity to the site, one passing within 110 metres of the turbine. There is also a promoted mountain bike route (Ride Hiraethog) following the byway open to all traffic along the ridgeline 1km to the north which would have views of the site to the south'.

In concluding, the Landscape Consultant considers that the backdrop of the forestry and landscape features in the area provide a setting which has a potential to reduce the prominence and apparent scale of a single isolated 35 metre turbine in the proposed location. He indicates that the close proximity of the turbine to the woodland backdrop, and the setting of the structure lower down the valley slopes, in combination, would help reduce the potential of turbine blades breaking the skyline, relate the turbine to the key landscape form and pattern, and thereby integrate it as well as could be achieved given the characteristics of the development. Improving boundary treatments and additional planting may mitigate the visual impact of lower views of the site.

Whilst noting the conclusion of the Landscape Consultant, in looking at the application first in terms of UDP policy, there is inevitably a degree of conflict with tests (iii) and (viii) of MEW 10 as the erection of a 35 metre turbine will impact on the local landscape, and may contribute to a cumulative impact with existing larger turbines within the SSA and future smaller scale turbines outside the SSA. This is a negative factor in the weighing of the application. National policy supports development for renewable energy projects subject to considerations of local landscape issues, although as outlined previously, to date, offers no specific advice on the scale of developments or how the balance is to be struck when there are likely adverse landscape/visual impacts.

In concluding on the issue of landscape and visual impact, and with regard to the comments of the Landscape Consultant, Officers consider there would be a negative impact from a 35 metre turbine in this location on open land east of the tree cover of Clocaenog Forest. Whilst it has to be accepted there is a possibility of a large scale windfarm being developed in the near future in the

Clocaenog Forest SSA, and the Cae'r Weirglodd site may be viewed from many viewpoints in that context, there are issues of precedent to address over such 'one off' proposals for non-domestic 'small' turbines of this height extending the 'windfarm landscape' of a SSA further out into open tracks of land in the County. In the absence of a County or WAG policy or strategy to assess the merits of spreading 'one off' non-domestic turbines of this scale, Officers believe some caution has to be extended at this point in respect of this aspect of the application.

8.2.3 Impact on residential amenity

Policy MEW 10 and GEN 6 seek to ensure that proposals for wind turbines do not harm the residential amenity of the locality, and this would include particular consideration to be given to noise and shadow flicker.

There are some dwellings within a 500m radius of the site. Information submitted with the application indicates that the noise level generated by the proposed turbine would not exceed 30.7(db(A)) at the Applicants dwelling (280m from its base), 30.7(db(A)) at the next nearest dwelling Ffridd Arw (450m south west of the base). The next closest dwelling would be 500m north of the base and the noise would not exceed 29.4(db(A)).

The Public Protection Officer indicates that given the distances involved, it is considered that the noise generated by the wind turbine would be below the general back ground noise level of the area and so would be unlikely to have a significant impact upon the amenity of the neighbouring dwellings. Noise level conditions can be imposed to protect residential amenity.

The size and siting of the turbine in relation to the neighbouring dwelling is such that it is unlikely to result in shadow flicker.

It is considered that the proposal accords with policy GEN 6 part v) and MEW 10 as it is unlikely to result in harm to the residential amenity of residential property in the area.

8.2.4 Ecology

The general requirement to consider the impact of development on ecological interests is set out in the strategic policies of the Unitary Development Plan, STRAT 1 and STRAT 7 and the general policies ENV 6 and GEN 6. Specific to turbine development is MEW 10 (x); all of which require the protection and enhancement of the biodiversity of the Council, in support of national policy, guidance in PPW, TAN 5, SPG 18 and legislation relating to the safeguarding of protected species.

In this case the turbine would be located 10 metres from the closest field boundary to east. The authority has taken the view on similar proposals that bats and birds are unlikely to be adversely affected by turbines. It is not considered therefore, that the proposal would unacceptably harm any protected species or surrounding wildlife and there would be no conflict with the requirements of policy ENV 6, or relevant policy guidance.

8.2.5 Safeguarding Wind Farm Sites

Paragraph 2.10 of TAN 8 enlarges on the area where local authorities are encouraged to take an active approach in developing local policies for SSA's, 'in order to ensure best outcomes'. This includes 'safeguarding wind farm sites' and states that Local Planning Authorities should be aware that other developments could sterilise land for wind power proposals, and bear this in mind during policy formulation and decision-making. There is currently no local policy developed in respect of 2.10.

The submission refers briefly to the issue of large-scale wind farm development in the SSA close to the location of the proposed turbine. It states the turbine will not sterilise the SSA 'A' from wind development.

It is not clear from TAN 8 whether the matter of safeguarding wind farm sites in the SSA from other development includes 'protecting' large scale wind farms from 'one off' turbine developments on the fringe of the SSA such as this. The submission contains no detailed analysis of this matter and in the absence of any policy or guidance to assist interpretation or evidence to determine either way, it is impossible to conclude whether there would be any safeguarding issues. Officers would not consider this to be a key determinant issue on the application, but nonetheless suggest a precautionary approach to such 'one off' development is not unreasonable.

9. SUMMARY AND CONCLUSIONS:

- 9.1.1 The report sets out a number of considerations officers suggest are relevant to the determination of the application.
- 9.1.2 Inevitably, with wind turbine applications there will be factors which weigh against and in favour of grant of permission. The particular application is for a 35 metre high turbine, and this raises specific issues of principle, precedent and negative landscape/visual impact which require careful deliberation.
- 9.1.3 Current Unitary Development Plan policy predates WAG policy and guidance in TAN 8 and PPW. The UDP policies give general encouragement to schemes to generate renewable energy, but the main policy is 'criteria based', setting only requirements to assess detailed impacts. TAN 8 (2005) is a material consideration and redefined national policy in support of renewables and adopted a locational approach to large-scale turbine developments, but gives limited guidance for the handling of one off single turbine applications.
- 9.1.4 In the absence of any local or national strategy for the handling of single turbine proposals of this size, the difficulty facing the Authority is the weight to be given to the Unitary Plan policies and other material considerations such as PPW and TAN 8.
- 9.1.5 In terms of general principle, Officers acknowledge there is considerable national support for the development of suitable renewable schemes, and that turbines are one of many potentially acceptable means of delivering WAG's aspirations for generating electricity. This has to be weighed appropriately when dealing with applications such as the one at Cae'r Weirglodd. The difficulty remains however, that in the absence of a clear strategy for handling one off applications for non domestic scale turbines of 35 metres (or greater) height, there is a clear danger of precedent being set indicating acceptance of the spread of turbines throughout Denbighshire, further enlarging the 'windfarm landscape' being created by the large scale turbine schemes in the designated Strategic Search Area in the west of the County. This is a concern which has to be addressed with this application as it would seem inappropriate to deal with each proposal solely on its individual merits, oblivious of the wider picture.
- 9.1.6 In the particular circumstances therefore, Officers have reservations over the landscape/ visual impact of a 'one off' turbine of 35 metre height on land fringing the Strategic Search Area, and whether the principle of this development should be regarded as acceptable in the absence of any County strategy for the handling of such applications, including how to address the spread of turbines over the rest of the County and the issue of safeguarding the SSA from other development. It is respectfully questioned at this point whether the general support for renewable energy schemes in Welsh

Assembly and Unitary Plan policies outweigh the concerns over the impact of the development, and the setting of a clear precedent.

RECOMMENDATION: - REFUSE for the following reasons:-

1. It is the opinion of the Local Planning Authority that the erection of a 35 metre turbine would have an unacceptable landscape and visual impact, and in the absence of any national or local criteria to determine the acceptability of one off turbine proposals of this nature on the fringes of and outside the Clocaenog forest Strategic Search Area, in terms of cumulative impact, the effect of extending the wind farm landscape of the Strategic Search Area by spreading turbines into the rest of the County, and the potential for sterilising large scale wind farm development in the SSA, it is considered premature to consent to development which could set a significant precedent, contrary to policies of the Denbighshire Unitary Development Plan which seek to protect the quality of the landscape, including STRAT 7, GEN 6, ENV 1 and MEW 8 and 10, and the principles set out in TAN 8 Section 2.10-2.13.

NOTES TO APPLICANT:

None

ITEM NO: 5

WARD NO: St Asaph West

APPLICATION NO: 46/2010/1221/ PS

PROPOSAL: Variation of Condition No. 5 of planning permission Code No. 46/2004/0445/PF to allow continuous 12-month occupancy of the static caravan site and its facilities

LOCATION: Spring Gardens The Roe St. Asaph

APPLICANT: Mr & Mrs D G Williams Spring Gardens Caravan Park

CONSTRAINTS: PROW

PUBLICITY UNDERTAKEN: Site Notice - No
Press Notice - No
Neighbour letters - Yes

CONSULTATION RESPONSES:

ST ASAPH TOWN COUNCIL

"Object on the ground that the site is not suitable for 'all year occupancy'".

PUBLIC PROTECTION

Notes need for an amended site licence and assessment of impacts of a 12 month occupancy

RESPONSE TO PUBLICITY:

Letters of representation received from:

G.O Roberts, Pen y Bryn Farm, Mount Road, St Asaph
Mr C. Marriott, 32, Roe Parc, St Asaph

Summary of planning based representations:

Principle of the use as a static caravan park.

Flood Risk.

Impact on the farmland and property at Pen y Bryn.

EXPIRY DATE OF APPLICATION: 22/11/2010**REASONS FOR DELAY IN DECISION:**

- timing of receipt of representations

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application seeks to vary one of the conditions imposed on a 2004 permission for a 72 unit static caravan site on land at Spring Gardens off The Roe in St Asaph.
- 1.1.2 The condition in question is no. 5, which states as follows:
"No caravans shall be occupied on site between the 31 October in any one year and 1 March in the succeeding year".
- 1.1.3 In 2005, permission was granted to vary condition 5 on the 2004 permission to allow for an extended period of occupation of caravans from 1st March in any one year to 14 January the following year, allowing a 10½ month occupancy season.
- 1.1.4 The variation is sought to allow the site to operate for 12 months.
- 1.1.5 The application is accompanied by a Planning, Design & Access Statement, which states there is a demand for 12 month occupancy by a majority of caravan owners.

1.2 Description of site and surroundings

- 1.2.1 Spring Gardens Caravan Park is an established 72 unit static caravan park accessed off the A525 Rhuddlan to St Asaph road. The River Elwy surrounds the whole western boundary of the caravan park, with open agricultural land to the north east and a sewage works to the south east. To the south, residential properties on Roe Parc are located approx 70m from the entrance of the site.
- 1.2.2 The caravan site is located within the open countryside outside of the St Asaph development boundary. The site is level and well screened on all boundaries.

1.3 Relevant planning constraints/considerations

- 1.3.2 The site lies within a Zone C2 flood zone as indicated in the Development Advice Maps contained within TAN 15: Development and Flood Risk.

1.4 Relevant planning history

- 1.4.2 The site has planning permission for a 72 pitch static caravan site, granted at Committee in October 2004. The caravans can as a consequence of the variation granted in 2005, be occupied for 10½ months in a year. Condition 4 of the 2004 permission requires that the occupancy of the caravans should be limited to holiday accommodation only, and none shall be used as a sole or main unit of living accommodation.

1.5 Developments/changes since the original submission

- 1.5.2 None

1.6 Other relevant background information

1.6.2 None

2 DETAILS OF PLANNING HISTORY:

2.1 46/2002/0758/PF Change of use of land to touring caravan site and alterations to vehicular access (limited to 72 touring caravans) GRANTED 28th November, 2002.

46/2004/0445/PF Change of use from touring caravan site and agricultural land to static caravan site with associated amenity block and installation of septic tank GRANTED 1st October, 2004 at Planning Committee.

46/2004/1658/PS Variation of Condition 5 on planning permission ref no 46/2004/0445/PF to allow for extended period of occupation from 1st March in any one year to 14th January the following year GRANTED 16th March, 2005.

3 RELEVANT POLICIES AND GUIDANCE:

3.1 The main planning policies and guidance are considered to be:

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

Policy STRAT 9 Tourism

Policy GEN 6 Development Control Requirements

Policy ENV 1 Protection of the Natural Environment

Policy TSM 5 Rural Tourism

Policy TSM 9 Static Caravan and chalet development

Policy TRA 6 Impact of new development on traffic flows

Policy TRA 9 Parking & Servicing Provision

Policy ENP 6 Flooding

3.2 Supplementary Planning Guidance

Supplementary Planning Guidance 20: Static Caravan and Chalet Development

3.3 GOVERNMENT GUIDANCE

Planning Policy Wales, Edition 3, 2010

TAN 13: Tourism (1997)

TAN 15: Development & Flood Risk (2004)

Welsh Office Circular 35/95 – The use of conditions in Planning Permissions

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

4.1.1 Principle

4.1.2 Landscape Impact

4.1.3 Residential Amenity Impact

4.1.4 Highway Impact

4.1.5 Controls over Holiday Use

4.1.6 Flooding

4.1.7 Relevant Application and Appeal Decisions

4.2 In relation to the main planning considerations:

4.2.1 Principle

There are no Unitary Development Plan Policies of specific relevance to applications which seek to extend the season of occupation of an existing static caravan site. There is general reference in the Strategic and Tourism policies of the plan to the importance of the tourist industry to the local economy, and while there remains a general restraint on new development in open countryside, there is encouragement for suitable 'small scale' projects subject to compliance with basic environmental impact tests.

At a national level, the Welsh Assembly Government's objectives for tourism are to encourage sustainable tourism, promoting local prosperity and supporting community well-being and involvement, while protecting and giving value to natural heritage and culture; and to manage the tourism sector in ways which minimise environmental impact. Planning Policy Wales (3rd edition 2010) states that the planning system should encourage sustainable tourism in ways which enable it to contribute to economic development, conservation, rural diversification, urban regeneration and social inclusion, recognising the needs of visitors and those of local communities.

TAN 13 Tourism (1997) highlights particular consideration be given to the suitability of holiday caravans in designated areas, including sites of national and international importance, noting that tourism development should not have an unacceptable adverse impact on the environment, landscape, biodiversity, coastal or historic environment or the interests of local communities. TAN 13 predates Planning Policy Wales but suggests as broad principles that the planning system can respond to changes in tourism without compromising policies to safeguard the countryside, through the use of holiday occupancy conditions to reconcile these two objectives.

The grant of permission for the static caravans in October 2004 recognised the Council's acceptance that the site was suitable for a 72 pitch static caravan site, having regard to the principle, and following assessment of the visual/landscape, highway, agricultural land quality, residential amenity and flooding impacts. Officers consider therefore that the key issue to address here is whether there would be any 'additional' localised impacts from potential occupation of the 72 static caravans between 14th January and 1st March, and whether there are adequate controls to ensure the 12 month use is for holiday purposes and would not in effect allow potential to create a residential site.

4.2.2 Landscape Impact

The Unitary Development Plan's main policies requiring assessment of landscape impact are STRAT 7, GEN 6, ENV 1, ENV 7 and TSM 9.

The Council has accepted previously that the siting of 72 static caravans on the site was not in conflict with the main policies, and that given the location and additional planting that has taken place on the site, it is not considered there would be any harm to the rural character of the site and surrounding area.

Officers take the view that as caravans can be left permanently on site in accordance with the 2004 permission, there would be limited additional landscape impacts arising from the extension to the period of occupation of the units between 14th January and 1st March.

4.2.3 Residential Amenity Impact

Policy GEN 6 sets out the general requirement to assess impact of proposals

on the amenity of local residents, including from increased activity, disturbance and noise.

The site lies close to the development boundary of St Asaph, but other than the applicants dwelling, the nearest residential properties are located to the south on the other side of the River Elwy, approximately 70m away from the entrance to the caravan park. The access drive lies adjacent to the rear gardens of the dwellings on Roe Parc, the gardens being screened from the access by a mixture of fencing and hedging. The site itself is well screened on its boundaries and there is significant natural screening along the banks of the river.

Whilst acknowledging the potential use of the caravans between 14th January and 1st March could increase activity on the site for an additional 6 weeks occupation of the year, it is not considered that it is likely to result in such significant additional disturbance to occupiers of the properties on Roe Parc that a refusal could be justified.

4.2.4 Highway Impact

Policies GEN 6, TRA 6 and TRA 9 require due consideration of the highway impacts of a development.

Having regard to this application, the Highways Officers raise no objections to the application. Significant highway works have been undertaken at the site as required by the main planning permission for the static caravan site. It is not considered that the additional 6 weeks use of caravans would be so significant to either result in highway safety problems or raise new questions over the principle of the development from reliance on the motor car.

4.2.5 Control over holiday use

There is limited local policy content directly dealing with the requirement for controls over occupation of caravans. SPG 20, Section 17 states that conditions will be imposed on planning consents to restrict occupancy for holiday purposes only, primarily to ensure that chalets and static caravans are not used as residential accommodation. There are separate site licence controls administered by the Public Protection section which can include conditions relating to the nature of occupation.

As referred to earlier in the report, there is a general support in Assembly policy for all year tourism subject to safeguarding the environment. The use of conditions restricting occupation to holiday use is recognisable mechanism to deliver the Assembly's objectives.

The local planning authority is obliged to have regard to Government advice on the use of conditions on planning permissions. Welsh Office Circular 35/95 is a significant material consideration in this respect, and provides clear advice on how local authorities can ensure static caravans remain in holiday use, i.e. it sets out the possibility of allowing developments subject to controls. The Circular actually advises the use of a condition specifying use as 'holiday accommodation only'. This approach has been adopted by many Planning Inspectors in issuing decisions on appeals involving caravan site developments. Condition 4 on the main consent states the following:

"The occupancy of the caravans units shall be limited to holiday accommodation only, and the caravan units shall not be used as a sole or main unit of living accommodation"

In this context, having regard to the background policy and guidance, and the nature of the development at Spring Gardens, officers consider that it would be reasonable to consent to the principle of a 12 month holiday use of the static caravans. The above condition remains on the main planning permission as do the controls within the site licence.

Officers consider the above condition provides clear control over the occupation of the units as holiday caravans only.

4.2.6 Flooding

Policy ENP 6 seeks to control development to avoid an unacceptable risk from flooding.

Issues in relation to flood risk were addressed at the time of assessing the main planning application for the use of the site as a static caravan park. A Flood Report was submitted for consideration as part of application ref 46/2004/0445/PF and the Environment Agency was satisfied with the proposal subject to the inclusion of conditions in relation to the implementation of a 7 metre easement strip maintained from the landward toe of the flood defence embankment; a second safe access and egress shown and maintained from the site; Flood risk warning notices; details of evacuation procedures and a flood warning scheme, and the anchoring of caravans to prevent being moved by flood water.

In considering the 2005 variation of condition for a 10½ month occupancy condition, an addendum report to the main Flood Report was submitted and accepted by the Environment Agency. The Environment Agency has considered the previous Flood Reports as part of assessing this current application, and whilst accepting that the site may flood in an extreme event and that an extension to the operating season may increase the risk of users to such events, they are mindful that the site is an existing facility which already operates a 10.5 month season and are satisfied that the Flood Reports provide sufficient evidence of mitigation measures for the Agency not to oppose the application.

4.2.7 Relevant Application and Appeal Decisions

Members will be aware that Planning Committee has accepted the principle of 12 month holiday use in recent granting permission (February 2010 meeting) for a 10 unit static caravan park at The Thatched Cottage at Trefnant, so there is recent acceptance of extending the season of use at static sites.

It is also relevant that in June 2010, an appeal was allowed on an application for granting a 12 month occupancy season for a static caravan site at Llwyn Afon Caravan Park in Llanrhaeadr. The Planning Inspector concluded that the restricted season condition was not necessary, and allowed the appeal on the basis that that a 'holiday use only' condition would provide effective control. Further consideration was given to the fact that caravans could be left permanently on the site all year round in any event, and that use for an additional 2 months (in the case of the appeal site) would not have any material impact on the character and appearance of the surrounding area, nor would it result in levels of disturbance that would be sufficient to harm the living conditions of neighbouring residents.

5 SUMMARY AND CONCLUSIONS:

- 5.1 The static caravan site is established by virtue of a 2004 permission which conditioned an 8 month occupancy season, which has since been varied to allow a 10½ month season. The proposal to allow use for holiday purposes for 12 months is not considered likely to have additional adverse effects on the immediate locality in terms of landscape, residential amenity, or highways impacts. Officers believe there is clear national policy encouragement for year round tourism use in appropriate locations.

RECOMMENDATION: APPROVE- No Conditions imposed

NOTES TO APPLICANT: None

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PLANNING COMMITTEE
MEETING: 15th December 2010
Agenda Item: 3

ENFORCEMENT MATTERS

1) REFERENCE: ENF/2010/00098

LOCATION: Ledden Transport Services 59 Ffordd Las Rhyl

INFRINGEMENT: Change of Use from MOT Centre to MOT Centre & Car Sales.

2) REFERENCE: ENF/184/99/S

LOCATION: Former North Wales Hospital, Denbigh

INFRINGEMENT: Neglect of Listed Building.

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2010/00098
LOCATION: Ledden Transport Services 59 Ffordd Las Rhyl
INFRINGEMENT: Change of Use from MOT Centre to MOT Centre & Car Sales

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 6 Development control requirements

GOVERNMENT GUIDANCE
Planning Policy Wales – March 2002

HUMAN RIGHTS CONSIDERATIONS

The Human Rights Act 1998 is taken into account when considering taking enforcement action in relation to unauthorised changes of use. In this case the matter under consideration relates to the rights of a business to allow the sale of cars. These rights are outweighed by the general public interest and the need to exercise general development control. No claim has been made in respect of Human Rights.

1. BACKGROUND INFORMATION

- 1.1 Ffordd Las Rhyl is a busy mixed use road with residential housing and industrial units. The site is designated in the UDP as an EMP2 Main Employment Area, and within the GEN1 Development Boundary of Rhyl.
- 1.2 On the 13th of September 2004 planning permission was granted for “Change of use from ice cream factory to MOT testing station” (Planning reference 45/2004/0929/ PF).
- 1.3 The car sales area is directly adjacent to the south of the MOT station and separated by a 2 metre high metal pallisade fence. The car sales area consists of a portacabin located to the rear of the plot, with cars for sale placed between the portacabin and Ffordd Las. Entrance to the car sales area is gained from Ffordd Las, although the car sales area does not have dedicated customer parking spaces. The car sales area also has a number of unauthorised advertisements.
- 1.4 In June 2010, the Council received complaints that cars parking on Ffordd Las were becoming a problem on Ffordd Las, and that this problem was exacerbated by the car sales area that was operating from the former ice cream factory.
- 1.5 In August 2010, a site meeting was held between the owner of the MOT testing station and a Planning Officer. The owner of the MOT testing station explained that he thought that he had been granted permission to sell cars from the site, courtesy of the planning permission for “Change of use from ice cream factory to MOT testing station” (Planning reference 45/2004/0929/ PF). It was explained that the site did not have planning permission to operate as an MOT Centre and car sales area, and that the

car sales element would have to cease, or the owner of the MOT testing station would have to submit a retrospective planning application in order to attempt to regularise the unauthorised change of use.

- 1.6 In October 2010, a planning officer met with the owner of the MOT testing station twice to discuss when a retrospective planning application would be submitted. The owner of the MOT testing station was warned that unless he ceased his car sales or submitted his application that he would be reported to the Council's Planning Committee. A site visit in November revealed that even though a planning application had not been submitted that the car sales area was still operating.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised change of use has occurred within the last ten years.
- 2.2 The site does not provide customer parking spaces and relies on customers parking on Ffordd Las. Given that Ffordd Las is a busy road with by domestic and commercial vehicles this causes problems for road users, particularly at the junction with Ffordd Las and Victoria Road.
- 2.3 The unauthorised change of use is therefore contrary to the provision of Policy RET 11 – Car Showrooms and Vehicle Related Uses (iii c) of the adopted unitary development plan.
- 2.4 The use of conditions as part of any grant of planning permission for retention of the unauthorised use could not overcome these objections.

3. RECOMMENDATION

- 3.1 Serve an Enforcement Notice to secure the cessation of the unauthorised change of use at the site.
- 3.2 Instigate proceedings, or any other appropriate action under the Planning Acts against the person, or persons, upon whom any Enforcement Notice, or other such Notice is served, should they fail to comply with the requirements thereof.
- 3.3 PERIOD FOR COMPLIANCE: 1 month

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/184/99/S

LOCATION: Former North Wales Hospital, Denbigh

INFRINGEMENT: Neglect of Listed Building

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

Policy CON1 – The setting of Listed Buildings

Policy CON2 – Extension or alteration to a Listed Building

SPG14 – Listed Buildings

Government Guidance

Planning Policy Wales (2010) – Chapter 6 – Conserving the Historic Environment

Circular 61/96 – Planning and the Historic Environment – Listed Buildings and Conservation Areas

Technical Advice Note (Wales) 9 – Enforcing of Planning Control

Planning (Listed Buildings and Conservation Areas) Act 1990

HUMAN RIGHTS CONSIDERATIONS

The provision of the Human Rights Act 1989 are taken into account when considering taking enforcement action against unauthorised development, unauthorised uses, neglect of buildings and other related matters.

In this particular instance, matters relate to the rights of the owner of the property to not maintain it to an acceptable standard and any obligations the owner has to preserve the listed building and not to neglect its condition.

The rights of the owner in this situation do not outweigh the rights of the Local Planning Authority to ensure that such neglect is addressed.

No human rights issues have been raised in this particular case.

1. BACKGROUND INFORMATION

1.1 Previous attempts to work with the owner to bring about a viable and acceptable scheme for this site have failed. An outline planning permission previously granted has lapsed as no reserved matters applications were submitted. There is no indication that the owners intend to submit a new application.

1.2 The main building is listed grade 2* and due to theft, vandalism and neglect is now dangerous. Extensive dry rot has jeopardised the structural integrity of the floors and roof. Should these elements of the building collapse it could cause consequential collapse of the external walls.

- 1.3 The Prince's Regeneration Trust has previously been commissioned to produce a Route Map on a way forward, to guide the Council in terms of options available to address the neglect and structural decline of this important listed building.
- 1.4 One option is to serve a Listed Building Urgent Works Notice to carry out urgent works sufficient to secure the future of the building.
- 1.5 Architects have been commissioned to assist in the assessment of what urgent works are needed to stabilise the building and to prevent further structural deterioration. The Architects, along with a structural engineer, a quantity surveyor and the Council's Conservation Architect have recently inspected the building as best they could to assess its condition. It was not possible to carry out a full condition survey due to access difficulties but it was sufficient to assess the general condition of the building. We now have a clear idea of what urgent works are needed.
- 1.6 The urgent works are extensive and involve removing all the timber and installing a temporary weatherproof roof in relation to the important listed buildings on site that are to be retained.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 enables the Local Planning Authority to issue a Listed Building Urgent Works Notice when it is considered that urgent works are necessary to ensure the preservation of the Listed Building. Officers of the Council and the Princes Regeneration Trust are clear that this position has now been reached as there is no evidence that the owners are prepared/willing to voluntarily carry out the necessary works.
- 2.2 The exposed condition of the Listed Building presents such risk that urgent action must be taken to prevent irreparable damage to the building. It is therefore considered that the service of a Listed Building Urgent Works Notice is the most appropriate enforcement mechanism to ensure that the building is made weather tight and secure.
- 2.3 The 1990 Act also enables the Local Planning Authority to carry out the works "in default" should the owner not comply with the requirements of the Notice and to recover from the owner all costs incurred.
- 2.4. A separate Part 2 report contained elsewhere on the Agenda explains the above works in a default position in more detail.

3. RECOMMENDATION

- 3.1 With the aim of securing the building from further immediate deterioration, that the Planning Committee authorise the service of a Listed Building Urgent Works Notice, to ensure it is safe and made weather-tight from the elements.
- 3.2 Should the owner fail to carry out the requisite urgent works, to carry out works in default and subsequently seek to recover from the owner all reasonable costs incurred in carrying out the works in default.