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To: Members of the Planning Committee Date: 31 August 2023

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Dear

You are invited to attend a meeting of the **PLANNING COMMITTEE** to be held at **9.30 am** on **WEDNESDAY, 6 SEPTEMBER 2023** in **COUNCIL CHAMBER, COUNTY HALL, RUTHIN AND BY VIDEO CONFERENCE.**

LATE REPS

Yours sincerely

G. Williams
Monitoring Officer

AGENDA

APPLICATIONS FOR PERMISSION FOR DEVELOPMENT (ITEMS 5 - 9) -

MEMBERSHIP

Ellie Chard
Karen Edwards
Gwyneth Ellis
James Elson
Chris Evans
Jon Harland
Huw Hilditch-Roberts
Alan James
Delyth Jones
Julie Matthews
Terry Mendies

Raj Metri
Win Mullen-James
Merfyn Parry
Arwel Roberts
Gareth Sandilands
Peter Scott
Andrea Tomlin
Cheryl Williams
Elfed Williams
Mark Young

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PLANNING COMMITTEE

Date – 6th SEPTEMBER 2023

ADDENDUM REPORT BY HEAD OF PLANNING, PUBLIC PROTECTION AND COUNTRYSIDE SERVICES

AGENDA ORDER, LATE INFORMATION AND AMENDMENTS TO PLANNING COMMITTEE REPORTS

The following sheets are an addendum to the main agenda for the Committee. They set out the order in which items will be taken, subject to the discretion of the Chair. They provide a summary of information received since the completion of the reports, and matters of relevance to individual items which should be taken into account prior to their consideration.

Where requests for public speaking on individual planning applications have been made, those applications will normally be dealt with at the start of that part of the meeting.

AGENDA FOR THE MEETING

1. APOLOGIES
2. DECLARATIONS OF INTEREST
3. URGENT MATTERS AS AGREED BY THE CHAIR
4. MINUTES (Pages 9 - 14)
5. APPLICATIONS FOR PERMISSION FOR DEVELOPMENT (Items 5 - 9)
- 6.

ORDER OF APPLICATIONS

PART 1

	Application no.	Location	Page
Public Speaker items			
5	15/2022/0154	NORTH HILLS FARM, GRAIANRHYD, MOLD	15
6	21/2023/0391	THE Paddock, LLANFERRES, MOLD	55
7	43/2023/0071	MIDNANT FARM, GRONNAT ROAD, PRESTATYN	77
9	47/2023/0389	TYN Y FFYNNON, CWM, RHYL	155
Non Speaker items			

8	46/2023/0284	5 BRYN COED, ST. ASAPH	135
10		FORMER RHYL RUGBY CLUB, RHUDDLAN (INFO REPORT)	171

PUBLIC SPEAKER ITEMS

Item No.5 – Page 15

Code No: 15/2022/0154/ PF

Location: North Hills Farm, Graianrhyd, Mold

Proposal: Erection of a rural enterprise dwelling, installation of a package treatment plant and associated works

LOCAL MEMBER(S): Cllr Terry Mendies (c)

OFFICER RECOMMENDATION IS TO **REFUSE**

PUBLIC SPEAKER FOR – Simon Garret (applicant)

PUBLIC SPEAKER AGAINST- None.

Addendum Report

The application was subject to a Site Inspection Panel meeting at 10.00am on Friday 1/9/2023

In attendance were:

CHAIR – Councillor Mark Young

VICE CHAIR – Apologies sent.

LOCAL MEMBER – apologies sent.

GROUP MEMBERS –

Conservative Group – no representative, apologies sent.

Green Group – no representative, apologies sent.

Independent Group – Councillor Merfyn Parry

Labour group – Councillor Ellie Chard

Plaid Cymru Group – no representative, apologies sent.

COMMUNITY COUNCIL – None

The Officer present was Paul Griffin (Development Management).

The reason for calling the site panel was to allow opportunity to view the site and to appreciate material planning issues involved in the proposal.

At the Site Inspection panel meeting, Members considered the following matters:

1. The location of the site, and the proposed layout in relation to the existing uses on the site.
2. The basis of the application for the erection of a rural enterprise dwelling.

In relation to the matters outlined:

1. Members entered the site from the south. They walked through the part of the site containing existing tourist accommodation, the 'Christmas sales' cabin, refreshment area, office and livestock shelters and agricultural storage building. Officers outlined the application proposals which involved the siting of a single dwelling to the north of the existing enterprise buildings.
2. Members asked for clarity on the relevant tests of TAN 6 in relation to rural enterprise dwellings, and queried how the proposal related to the existing uses they had observed on entering the site. Officers advised on the factual basis for determining the application outlining the 'functional need test', the 'financial test' and the 'other dwelling test'.

Late representations - None

Additional Information –

The applicants has submitted two statements to help further explain their case.

The first statement related to an overview of the nature and structure of the rural enterprise:

"This is a non-conventional holding, which satisfies the requirements for rural enterprise perfectly. We've passes all the tests set out by RAC and have outlined our commitment to the business and have built successful and profitable business with a loyal customer base. The business is one of the few agricultural or rural enterprises that is not subsidised and stands on its own two feet. We have multiple revenue streams although the business is primarily seasonal. We grow, cultivate, and sell Christmas trees. However, reindeers are of equal importance and high priority.

We have described our holding as non-conventional, but it is based squarely on livestock. Even though the head count is small the value of the reindeers and the unique husbandry requirements cannot be compared to any other livestock. This makes the overall stock value equivalent to a much larger herd. It takes many years to learn the unique skills of a reindeer herdsman as these animals require specialist care and handling skills. These animals require long term commitment with continuous training and handling is essential. The key lies with building trust with the herd and each individual animal, this is time consuming yet deeply rewarding. Living close to these animals is essential as this is a fundamental bond building relationship establishing process as the native reindeer herders (Sami people) have done for thousands of years, you become as one with the herd. There is also kind of a spiritual connection.

Reindeers can also be unpredictable during the breeding and rutting seasons or any time for that matter, they can be potentially dangerous treating them with respect and utilizing the skills where required is vital. Having successful reindeer herd cannot be done remotely, assessing the herd and identifying any medical requirements and administering medication is essential. In our remote location where local veterinary knowledge and treatment are scarce our presence is crucial for the swift intervention especially during unsociable hours. Working with these animals is more than a job it's a personal commitment to these magnificent creatures.

It is also important to note the reindeers cannot be easily relocated, they can only graze safely on sterile ground, for example: pastures that haven't been grazed by sheep or heavily fertilized for over 10 years, in our area this is very uncommon.

Building our herd has taken over 11 years with many ups and downs along the way. We have raised the herd to over 20 animals and each animal is not just a number, they are a cherished individual. We have put great effort into selectively breeding and training these animals for our seasonal attraction, also for sale. The value of each animal would depend on their trained capability, the more time you can afford each animal the higher the price you can command.

Here at the farm, we also grow and cultivate Christmas trees. This is also a long-term commitment, a typical rotation of a Nordman fir would be between 10 & 12 years in our area.

Our family is hands on with every aspect of the farm, we are involved in farming activities daily, ensuring that our animals receive the best care and attention they deserve. We have also taken the initiative to grow and harvest specialist feeds for the reindeer to supplement their diet.

What sets our farm apart is that we have achieved this without any subsidies whatsoever. We have a profitable and promising enterprise which is only possible due to the investment and commitment we have applied.

We have thousands of visitors each season and are constantly engaging with them via our social media throughout the year. We provide social and educational visits and have received visitors from many schools across Denbighshire and beyond.

Our journey started over a decade ago with the farm, but this has been our home for over 18 years and it has been filled with challenges and triumphs through it all.

The decision over 6 years ago to sell the family home which we renovated from a ruin was one of the most difficult decisions in our life. At that time the business couldn't support our growing family and needed considerable investment. We explored many different avenues to raise the funds required via loans and possible re mortgage, all of which were unsuccessful. With a heavy heart, we reluctantly sold the family home and invested over £150K (which can all be accounted for) we have invested in new buildings, infrastructure, drainage, trackways, reindeers, equipment, tree planting, fencing, and hedging the list goes on.

The business has a solid and viable future tested in the last three years with surviving the pandemic and still turn a profit. Now the business has matured. It is only in the last 3 years that our stock of Christmas trees has reached maturity and saleable height. Our reindeer handlers and herd have never been better. Alongside the establishment of the business has allowed us to extract a profit with solid future viability.

We are looking forward to a strong and promising future, not only for our generation but for our children's too."

The second statement submitted relates to the Officers recommendation the permission should be refused, and examines the use of the word 'recently' (as included in TAN 6).

"In response of RAC summary to Tan 6

The porta cabins were placed on site for the purpose of construction of the holiday facility that we secured planning permission for in 2015. This facility was re-designed in 2019 to the latest permission which is live at present. As we have previously explained the family had no choice to sell the family home financial hardship and utilise the temporary accommodation that was previously placed for the sole purpose of construction amenities. The position of the temporary accommodation is quite important for this reason, if we had intended to manipulate the planning policy TAN 6 which (we were unaware of at the time) we would have used more of a central position on the farm and not within the site curtilage of the development and in probably a less conspicuous location.

There was a site visit by Paul Griffin & Adam Turner in 2018 to ascertain the purpose and use of the porta cabins, this was explained at the time that we had a live permission but were in the process of a redesign which Paul Griffin was directly involved, they were satisfied that the use of the portacabins was legal, we commenced paying Council Tax and receiving bin collections to the present day. Once securing permission for the redesign we encountered the onset of a pandemic that completely changed our plans and we had to re-adjust our future.

At this time, we were served with an Enforcement Notice which gave us an additional 2 years to complete the build during this period we were in communication with DCC and were encouraged to apply for a dwelling an agricultural enterprise dwelling was chosen, as by this point our farming enterprise had benefited from the investment, we diverted from the holiday accommodation. This was funds raised from the sale of the original property. After an arduous 18 month process this leads us to the present day.

Having spoken with the planning officer it is quite clear that his decision to not support our application is based on policy tan 6. This seems to be the main hurdle.

The sole point leads us to the definition of the word “recently” in law as this is a lawful document, in law defining the term gives that word or phrase a particular, special meaning within the context of the legal document, therefore, it is essential the definition and time period of the word ‘recently’ must be clarified.

Therefore, the word ‘recently’ cannot be used loosely in Law without a clear definition.

For example:

Oxford English Dictionary

Recently

To have happened or been done only a short time ago.

Oxford Languages

Recently

If you talk about something that happened in recent months or years, it means the last one to three months or years. Otherwise, recent means new or just happened. It’s particularly useful when you don’t know exactly when something happened, but you know it wasn’t long ago.

I would like to refer you to article 6 of DCC human rights policy, right to a fair trial.

Particular attention needs to be paid to this quote which gives you all the relevant information.

- You have the right to a fair and public hearing that:*
- Is held within a reasonable time.*
- Is heard by an independent and impartial decision – maker.*
- Gives you all the relevant information.*

Until Denbighshire County Council gives me definition of the word recently and a connected time period and the source, which is accountable in the court of law, I believe I am being denied the right to a fair and public trial or hearing as I have not received all the info I am entitled to.

Mr Paul Griffin is a highly regarded planning officer. However, his whole objection is based on the word ‘recently’ in the tan 6 policy. This could consequently influence the committee decision and may lead to a mis carriage of justice.

Once again, we requested the definition of the word ‘recently’ as previously explained our former dwelling was sold over 6 years ago.

This is a major grey area and needs to be urgently addressed.

Considering the fact one of the planning committee members has been excluded and banned from attending a site meeting due to his behaviour which you are fully aware of. These episodes and events could lead the planning process into disrepute. It may be in our interests to consider a Judicial Review of the entire process.”

Planning Compliance Background Information -

Alleged breach	Response	Next step(s)
Change of use through residential occupation.	Enforcement Notice issued to require cessation.	Await determination of planning application for rural enterprise dwelling before taking any further action. Case remains open.
Change of use through growth and sale of Christmas trees.	None – not development.	None.
Change of use through establishment of 'winter wonderland' attraction.	None – permitted development for 28 days per calendar year.	None.
Change of use through establishment of holiday lets (and associated erection of cabins).	Enforcement Warning Notice issued to require either cessation or submission of planning application in retrospect.	Planning application submitted; awaiting determination. Case remains open.
Erection of cabin in association with rural enterprise.	Not expedient – compliant with policy.	None.
The provision of a private way, the provision of a hard standing and the erection of shelters.	Enforcement Warning Notice issued to require either cessation or submission of planning application in retrospect.	Notice not complied with. Consideration being given to further action. Case remains open.

Officer Note –

Officers wish to highlight that, in both National and Local Planning Policy, the creation of any new residential accommodation in the open countryside is strictly controlled. It is only in exceptional circumstances that such new dwellings should be allowed.

Officers note the applicants contention that there needs to be definition of the time period to which 'recent' refers. However, in Officers opinion the word 'recent' is taken from TAN 6, and is an objective phrase, which must be interpreted on the specific facts of each case. It forms a small element of the TAN 6 requirements.

In this instance the applicants previous dwelling was sold in 2017, and the applicant moved into temporary accommodation on land at North Hills Farm. On investigation in 2018 the Planning Compliance section were told that the applicants were residing there whilst they constructed a holiday lodges for which they had planning consent. This was considered to be acceptable and in compliance with Caravan Act legislation dealing with temporary accommodation linked to a development which has planning permission.

However, by 2020 it was clear that insufficient progress had been made on implementing the holiday lodge permission and therefore the applicants should not be residing on the site. An Enforcement Notice was therefore served requiring the cessation of the residential use of the land. The period of compliance was 2 years.

The current application for a rural enterprise dwelling was submitted in February 2022. On receipt of the application the Planning Compliance section took the correct view that any action should be held in abeyance pending the outcome of the application.

The overview of the history of the site is therefore that the applicants resided on the site with the benefit of the Caravan Act, however, instead of continuing to build what they had permission for (holiday lodges), they chose (for reasons explained above) to build up a rural enterprise business.

On that basis Officers consider that the word 'recent' holds little significance to this assessment. The selling of a dwelling in the open countryside (which could have supported any rural enterprise) leading to the application for a new one in close proximity is, in Officer's opinion, a manipulation of process and goes against the strict controls on new dwellings in the open countryside.

In Officers opinion, the proposal for a new dwelling in the open countryside could only be allowed as an exception to rural restraint policies and must be complaint with TAN6 and its associated Practice Guidance Notes. Due to the timing and sequence of events at North Hills Farm, Officers consider that the proposal fails to comply with the tests of TAN 6.

Item No.6 – Page 55

Code No: 21/2023/0391/PS

Location: Variation of condition 4 of planning permission 21/2022/0980 to allow varied opening hours

Proposal: The Paddock, Llanferres, Mold

LOCAL MEMBER(S): Cllr Huw Williams

OFFICER RECOMMENDATION IS TO: **GRANT**

PUBLIC SPEAKER FOR – Matthew Davies (applicant)

PUBLIC SPEAKER AGAINST- none

Late representations – None.

Additional Information – None.

Officer Note – None.

Amended/ additional conditions – None.

Item No.7 – Page 13

Code No: 43/2023/0071/PF

Location: Land at Midnant Farm, Gronant Road, Prestatyn

Proposal: Erection of 45 dwellings, construction of a new vehicular access, landscaping and associated works

LOCAL MEMBER(S): Cllr Andrea Myatt-Tomlin (C)
Cllr Ellen Heaton

OFFICER RECOMMENDATION IS TO **GRANT**

PUBLIC SPEAKER FOR – Stuart Andrew (applicant)
PUBLIC SPEAKER AGAINST- None.

Late representations - None

Additional Officer response to Cllr Tomlin queries

Cllr Tomlin raised some late queries from her constituents about the impacts from the development on the capacity of local Health Care infrastructure.

Officers would highlight that the application site is an allocated housing site in the adopted Local Development Plan (LDP). The LDP adoption process involves close liaison with the NHS to examine whether growth in certain parts of the County can be accommodated by them.

The LDP focusses on affordable housing, school capacity and open space provision in terms of infrastructure contributions from housing developments in the County. Improvements to NHS facilities are not matters for Denbighshire County Council to resolve via the planning process unless we are provided with clear evidence of such a need. This evidence has not been provided in relation to our current LDP which includes the allocation of this site for housing.

Officer Note –

Public representations amended to clarify nature of the comments more accurately.

In objection

Representations received from:

Matthew Massey, 8 Morris Avenue, Prestatyn
Mark Hallam, 17 Rhodfa Derwen, Prestatyn
Alan Dawson, 14 Rhodfa Derwen, Prestatyn
Thomas Stephen, 19 Rhodfa Derwen, Prestatyn
Andrew Lord, 15 Ffordd Parc Onnen, Prestatyn
Dennis & Vicky Rooke, 13 Ffordd Onnen, Prestatyn
Jeremy Jones, 58 Gronant Road, Prestatyn
Carl Watts, 8 Rhodfa Celyn, Prestatyn

Comments (neither support or object)

Dewi Jones, 109 Gronant Road, Prestatyn
Vicky Evans, 86 Greenbank Avenue East, Bristol
Susan Christou, 2 Nant Drive, Prestatyn
Chris Carpenter, 87A Gronant Road, Prestatyn

Additional/amended condition – Amendments to Conditions 2 and 12

Condition 2:

2. The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition pursuant to this permission:

Plans

- (i) House Types Pack received 2 February 2023
- (ii) Location plan (Drawing No. GRPR-LP,01) received 2 February 2023
- (iii) Proposed site plan (Drawing No. GRON-PRS-SP01 Rev. E) received 6 June 2023
- (iv) Topographic and GPR Survey (Drawing No. B481-02) received 2 February 2023
- (v) Landscape Layout (Drawing No. 4169 101 Rev C) received 6 June 2023
- (vi) Planting Plan 1 of 3 (Drawing No. 4169 201 Rev B) received 6 June 2023
- (vii) Planting Plan 2 of 3 (Drawing No. 4169 202 Rev B) received 6 June 2023
- (viii) Planting Plan 3 of 3 (Drawing No. 4169 203 Rev B) received 6 June 2023
- (ix) Boundary Treatment Plan (Drawing No. GRON-PRS-BTP01 Rev. D) received 2 February 2023
- (x) Screen Fencing, 1.8m, Standard Effect (Drawing No. SD-700) received 2 February 2023
- (xi) Gate Within Screen Fence, 1.8m High (Drawing No. SD-701) received 2 February 2023
- (xii) Free Standing Brick Walls, 215mm Wide (Drawing No. SD-709) received 2 February 2023
- (xiii) Proposed Site Access Arrangement Plan (SCP/220361/D 01 Rev C) received 6 June 2023

Drainage

- (i) Flood Consequences Assessment and Drainage Strategy (Coopers ref: 8007_FCA dated 25 November 2022) received 2 February 2023
- (ii) Foul Calculations (8007 N1 FW01) received 2 February 2023
- (iii) Surface Water Calculations (8007 N1 SW01) received 2 February 2023
- (iv) Drainage Strategy (Drawing No. 8007-SK03) received 2 February 2023
- (v) Highway Longsections (Drawing No. 8007-SK04) received 2 February 2023

Documents

- (i) Planning, Design and Access Statement (Grimster Planning dated December 2022) received 2 February 2023
- (ii) Pre-Application Consultation Report (Grimster Planning dated January 2023) received 2 February 2023
- (iii) Arboricultural Impact Assessment (AIA) (Amenity Tree Version 3) received 2 February 2023
- (iv) Preliminary Ecological Appraisal and Daytime Building Inspection for Bats (Ascerta dated November 2022) received 2 February 2023
- (v) Transport Statement (SCP Ref: CT/220361/TS/02 dated November 2022) received 2 February 2023
- (vi) Desktop Study Report (Coopers Chartered Consulting Engineers dated 12 May 2023) received 15 May 2023
- (vii) Market Demand Report (Grimster Planning dated March 2023) received 6 June 2023
- (viii) Noise Impact Assessment (Hepworth Acoustics Report Ref P23-178/R02v1 dated May 2023) received 17 May 2023
- (ix) Arboricultural Method Statement (Ascerta Ref P. 1715.23.02) received 6 June 2023
- (x) Nocturnal Surveys for Bats (Ascerta Ref P.1715.22 dated July 2023) received 19 July 2023
- (xi) Nocturnal Surveys for Bats (Ascerta Ref P.1715.22 Revision A dated 23rd August 2023) received 24 August 2023**

Condition 12:

12. The development hereby approved shall be carried out in strict accordance with the biodiversity enhancement measures set out in the approved Nocturnal Surveys for Bats (Ascerta ref P.1715.22 dated July 2023 **and P.1715.22 Revision A dated 23rd August 2023**)

Item No.9 – Page 155

Code No: 47/2023/0389/PC

Location: Tyn Y Ffynnon Cwm Rhyl

Proposal: Retrospective application for the erection of double garage side extension to dwelling

LOCAL MEMBER(S): Councillor Chris Evans (c)

OFFICER RECOMMENDATION IS TO **GRANT**

PUBLIC SPEAKER FOR – Paul Mead reading out statement prepared by Applicant

PUBLIC SPEAKER AGAINST- None.

Late representations - None received.

Additional Information – None.

Officer Note – None.

Additional/amended condition -

NON-SPEAKER ITEMS

Item No.8 – Page 117

Code No: 46/2023/0284/ PF

Location: 5 Bryn Coed, St Asaph

Proposal: Alterations to external materials, installation of replacement windows and associated works

LOCAL MEMBER(S): Cllr Martyn Hogg

OFFICER RECOMMENDATION IS TO **GRANT**

Addendum report – None.

Late representation received – None.

Additional Information – None.

Officer Note – None

Additional/amended condition – None

OTHER ITEMS

Item No.10 – Page 117

Code No:47/2020/0593

Location: Former Rhyl Rugby Club, Waen Road, Rhuddlan.

Proposal: Information report on appeal decision for: “Development of land to form holiday park including the conversion of existing clubhouse to form reception building, erection of new clubhouse building, bunkhouse building, 7 holiday pod accommodation units, 23 two bedroom holiday lodges, 7 three bedroom lodges and 7 four bedroom lodges. Works to existing access, formation of internal pathways, 2 wildlife ponds, parking, landscaping and associated works.

LOCAL MEMBER(S): Cllr Chris Evans (c)

OFFICER RECOMMENDATION IS THAT MEMBERS NOTE THE CONTENTS OF THE WELSH GOVERNMENTS DECISION LETTER, AND ACCOMPANYING INSPECTORS REPORT

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