

**APPENDIX 1
OFFICER REPORT TO
JANUARY COMMITTEE**

Paul Griffin

WARD : Llandyrnog

WARD MEMBER(S): Cllr Mervyn Parry

APPLICATION NO: 24/2014/1246/PS

PROPOSAL: Variation of condition no. 3 of planning permission code no. 24/2007/0694 (granted under appeal) to allow other organisations as authorised by North Wales Police to be permitted to use the site

LOCATION: Firearms Training Complex Craig y Ddywart Quarry Rhewl Ruthin

APPLICANT: North Wales Police

CONSTRAINTS: Listed Building

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

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Recommendation to grant / approve – 4 or more objections received

CONSULTATION RESPONSES:

LLANYNYS COMMUNITY COUNCIL: awaiting response

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Pollution Control Officer (Noise):” We have received noise complaints about the site in the past but they were largely in relation to the explosive method of entry procedure practised on site at that time. After liaison with the site management efforts were made to improve the matter and as a result we have not received, to my knowledge, any further complaints since 2009.

The potential for the intensification of noise from the site is a concern but as they are not going to be altering their current planning permission in relation to this, it is unlikely that this will be a material concern and could be addressed at a later date through the nuisance legislation if a problem did actually materialise.

We do not therefore have any further comments to make at this time.”

RESPONSE TO PUBLICITY:

In objection

Representations received from:

S. Dolben, Y Garreg Wen, Rhewl O. L. Jones, Prysor, Rhewl

Delwyn G Jones, Pen Y Bryn, Rhewl

Mrs Olwen Edwards, Gwynlys, Rhewl Mrs Victoria Roberts, 1 Pen Y Graig, Rhewl I Edwards,

Pen Y Graig Farm, Rhewl D M Bryan & K Bryan, Fron Haul, Rhewl Rhian Wyn Jackson, Bryn

Coch, Rhewl R.E, H.N, I, K, S & E Owen - Bryn Caredig, Rhewl Mrs. K. Culhane, 22 Min yr

Afon, Ruthin

Summary of planning based representations in objection:

- Impact on residential amenity by way of increased noise and activity
- Increased risk of gun crime in the area

- Infringement of human rights as the proposal would interfere with the reasonable expectation of privacy (Article 8) and the it would result in the State interfering with the peaceful enjoyment of property (Article 1).

EXPIRY DATE OF APPLICATION: 4/1/15

REASONS FOR DELAY IN DECISION (where applicable):

- awaiting consideration by Committee

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 North Wales Police are seeking a variation of a condition governing the use of the North Wales Police Firearms complex at Rhewl quarry.
- 1.1.2 The firearms use has been established over many years and the condition in question is one granted on appeal in 2008, and which controls who uses the facility and when.
- 1.1.3 The planning condition in question, relating to the use of firearms at the site states:

- "3. The use of the firearms training centre during weekdays shall be subject to compliance with all the following restrictions:

a) the organisations permitted to use this site shall be limited to the North Wales Police Authority and such other emergency services as are authorised by the North Wales Police Authority;

b) the hours of use shall be restricted to between the hours of 0830 and 1730 during weekdays (Mondays to Fridays) with the provision of a maximum number of 12 days in any 12 month period where the hours of use shall be permitted between 0830 and 2000, within which shooting activity shall not be permitted to exceed a maximum of 5 hours;

c) a register identifying all users and hours of use of the training centre shall be kept and made available for inspection by officers of the Local Planning Authority on request."

- 1.1.4 The proposed variation seeks to vary parts a) and b) as follows::

*- "a) the organisations permitted to use this site shall be limited to the North Wales Police, such other emergency services as are authorised by North Wales Police, **and other organisations as are authorised by the North Wales Police.**"*

And criteria b), condition 3 reading:

*- "b) the hours of use shall be restricted to between the hours of 0830 and 1730 during weekdays (Mondays to Fridays) with the provision of a maximum number of 12 days in any 12 month period where the hours of use shall be permitted between 0830 and 2000, within which shooting activity shall not be permitted to exceed a maximum of 5 hours; **and the use by the other authorised organisations shall be limited to a maximum of four hours per day between the hours of 10:00 and 16:00 on Monday - Friday.**"*

- 1.1.5 No extension to the permitted hours or days of use is sought.

1.2 Description of site and surroundings

- 1.2.1 Rhewl Firing Range Complex is a long established police training facility within the former Craig y Ddwyart quarry off the A525, north-west of Ruthin, and south west of Rhewl.

- 1.2.2 The site is accessed via a track from the main A525.
- 1.2.3 The site contains a number of buildings and purpose built training areas set within the former quarry area.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located outside of defined development boundaries.

1.4 Relevant planning history

- 1.4.1 The site in question has been the subject of a number of permission's which allow its current use a firing range for North Wales Police (NWP) and other emergency services. The applications of relevance to the origins and use of the site are detailed in section 2 of this report.

- 1.4.2 Of relevance are planning permissions 24/0834/98/PF and 24/518/99/PS which imposed conditions restricting the hours and days on which the site may be used. The conditions in question were identical and stated that the use of the firearms training centre shall be subject to compliance with the following restrictions:

“a) the organisations permitted to use the site shall be limited to the North Wales Police and such other emergency services as are authorised by the North Wales Police;

b) the hours of use shall be restricted to between 0830 and 1730 with the provision for a maximum number of 12 days in any 12 month period where the hours of use shall be permitted between 0830 and 2000 within which shooting activity shall not be permitted to exceed a maximum of 5 hours;

c) a register identifying all users and hours of use of the training centre shall be kept and made available for inspection by officers of the Local Planning Authority on request;

d) there shall be no operation on Saturdays, Sundays or Public Holidays.”

- 1.4.3 In 2007, NWP applied to vary the above conditions under planning reference 24/2007/0694/PS.

The variation sought to replace the above criteria c) with:

c) the site and buildings shall not be used on Christmas, Boxing or New Years Day

and criteria d) with:

d) there shall be no firing of high or low velocity weapons or activities involving explosions within the site on Saturdays, Sundays or Public Holidays and no sound amplification equipment shall be used outside buildings within the site on these days.

- 1.4.4 In essence application 24/2007/0694/PS sought to increase the use of the site for passive activities only, and not any activity that would result in additional noise from gun fire.

- 1.4.5 The application was reported to planning committee in August 2007 and was refused against Officers recommendation. NWP subsequently appealed the decision, and the appeal was allowed in March 2008.

- 1.4.6 Full costs were awarded against the Council by the Planning Inspectorate as the Inspector considered refusal had been based on the 'unfounded fears of local residents that the full ranges of activities, including the firing of noisy weapons at the training centre at weekends and public holidays' and that such fears were 'clearly a misapprehension'. He concluded that the decision to refuse the proposal was 'largely driven by local concerns which were not soundly based, and was contrary to the advice of paragraph 15 of the Circular [23/93 on costs] indicating that local opposition to a proposal in itself is insufficient to justify withholding planning permission'.
- 1.4.7 In allowing the appeal, the Inspector imposed 3 planning conditions, two of which related to restrictions in the use of the site. These are the controls currently in place at the site. Condition 3 related to the use of fire arms, and is the one of most relevance to this application:

3. The use of the firearms training centre during weekdays shall be subject to compliance with all the following restrictions:

a) the organisations permitted to use this site shall be limited to the North Wales Police Authority and such other emergency services as are authorised by the North Wales Police Authority;

b) the hours of use shall be restricted to between the hours of 0830 and 1730 during weekdays (Mondays to Fridays) with the provision of a maximum number of 12 days in any 12 month period where the hours of use shall be permitted between 0830 and 2000, within which shooting activity shall not be permitted to exceed a maximum of 5 hours;

c) a register identifying all users and hours of use of the training centre shall be kept and made available for inspection by officers of the Local Planning Authority on request.

- 1.4.8 It is to be noted the use of firearms on weekends and public holidays is clearly prohibited through criteria c) of condition 2 of 24/2007/0694/PS, which is not under consideration as part of the current application.

1.5 Developments/changes since the original submission

- 1.5.1 Initially the application sought to vary the condition to simply allow other organisations to use the facility within the existing hours of operation, Monday to Friday.
- 1.5.2 Following receipt of comments from members of the public and discussions with Officers, the applicants agreed to limit the hours which those 'other organisations' can use the site to between 1000 and 1600 hrs Monday to Friday.
- 1.5.3 The applicant's agent is keen to stress the following:
"the proposal would not alter the character, nature, or intensity of the existing use of the site as it would involve only a minor change in the identity of the users on it, with the nature and level of activity not changing from the levels allowed by the current condition. As such there would be no harmful impact upon local amenities, or the operation and safety of the highway. However, without prejudice to our arguments in respect of the lack of material impact on noise from the site the Applicant is willing to accept a condition along the lines of what you proposed in order to address local residents concerns"

1.6 Other relevant background information

- 1.6.1 NWP have explained the rationale behind the application as being:
'to satisfy demand for use of the facility by accredited gun clubs and other government organisations, with expressions of interest forthcoming from such groups

to make use of the high standard of facilities available at the site. The applicants are keen to satisfy this demand as it would allow them to make best use of the resource that is provided by the site when it is not in use.'

1.6.2 In terms of site management, the application states that:

- any organisation using the facility would have to be a large scale body and have accredited standards (such as the British Association for Shooting and Conservation);
- would have to have licensed instructors in place;
- the organisation would have to have risk assessments in place for their activities and hold suitable public liability insurance;
- Chief Officers of NWP would need to sign off on authority for the organisations to use the range
- all activities would be monitored by the Range Warden, who would also be responsible for opening and closing the site and ensuring that shooting only took place within the permitted hours;
- register of those attending and hours of use would be kept; and
- in the event of any unsafe activities or breaches of rules occur then the Organisation would be de-authorised from using the range.

2. DETAILS OF PLANNING HISTORY:

2.1 24/549/97/LE - certificate of lawfulness for existing use of quarry as a firearm centre for North Wales Police - CERTIFICATE ISSUED 02/09/98

24/973/97/PF - erection of office block, training courses, tower, street scenes, provision of assault course, car parking, and other ancillary works - GRANTED 12/2/98

24/834/98/PF - erection of building for workshop, control room, and garage - GRANTED 27/11/98

24/518/99/PS - amendment to condition 3 of 24/973/97/PF to allow use of firearms training centre by other emergency services and to allow an extension in hours of operation from 08:30 until 20:00 for a maximum of 12 times per annum - GRANTED 03/11/99

24/2007/0694/PS – Variation of condition no.3 of planning permission code no. 24.518/99/PS and condition no.3 of planning permission code no. 24/0834/98/PF to allow use of the Firearms Training Centre site and buildings in compliance with the following restrictions:

a) the organisations permitted to use the site shall be limited to the North Wales Police and such other emergency services as are authorised by the North Wales Police;

b) the hours of use shall be restricted to between 0830 and 1730 with the provision for a maximum number of 12 days in any 12 month period where the hours of use shall be permitted between 0830 and 2000 within which shooting activity shall not be permitted to exceed a maximum of 5 hours;

c) the site and buildings shall not be used on Christmas, Boxing or New Years Day;

d) there shall be no firing of high or low velocity weapons or activities involving explosions within the site on Saturdays, Sundays or Public Holidays and no sound amplification equipment shall be used outside buildings within the site on these days.

REFUSED 01/08/07 at planning committee for the following reason:

“The proposed variations of condition to allow increased use of the site at weekends and certain Bank Holidays for additional organisations to North Wales Police and other Emergency Services would lead to an unacceptable intensification of use at the site beyond the original grant of permission, having a detrimental impact on the general amenity of the area contrary to criteria i) and v) of Policy GEN 6 of the Denbighshire Unitary Development Plan.”

The proposal was allowed at APPEAL with costs awarded against the LPA on 28/03/08. The conclusions of the Inspector were that the decision to refuse the proposal was 'largely driven by local concerns which were not soundly based, and was contrary to the advice of paragraph 15 of the Circular [23/93 on costs] indicating that local opposition to a proposal in itself is insufficient to justify withholding planning permission'.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

N/A

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 7, July 2014 (PPW) confirms the requirement that planning applications 'should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise' (Section 3.1.2). PPW advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned., and that these can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Sections 3.1.3 and 3.1.4).

The following paragraphs in Section 4 of the report therefore refer to the policies of the Denbighshire Local Development Plan, and to the material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

- 4.1.1 Principle
- 4.1.2 Residential amenity/Noise
- 4.1.3 Fear of Crime

4.2 In relation to the main planning considerations:

4.2.1 Principle

The application is made under section 73 of the Town and Country Planning Act 1990 which relates to the variation of conditions associated with a planning permission.

In terms of the requirements of the legislation, on such an application the local planning authority has to consider only the question of the conditions subject to which planning permission should be granted, and—

(a)if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b)if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

The use of the site as a Firing Range for training purposes is well established, as detailed in the preceding sections. It is therefore considered that the principle of a

proposal to vary a condition may be acceptable in principle, subject to assessment of the localised implications/impacts of allowing condition 3 to be varied to allow 'other organisations as authorised by North Wales Police' to use the site during the permitted hours of operational activities.

4.2.2 Residential amenity/Noise

Planning Policy Wales 3.1.4 refers to the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment as potentially material considerations. The impact of a development on residential amenity is therefore a relevant test on planning applications. This is emphasised in Paragraph 3.1.7, which states that proposals should be considered in terms of their effect on the amenity and existing use of land and buildings in the public interest. As the Courts have ruled that the individual interest is an aspect of the public interest, it is therefore valid to consider the effect of a proposal on the amenity of neighbouring properties.

Concern has been expressed by local residents that allowing other organisations (alongside the NWP and other emergency services) increases the potential for the site to be used for the firing of noisy weapons to its maximum allowance, i.e. between 0830 and 1730 during weekdays (Mondays to Fridays) and with the provision of a maximum number of 12 days in any 12 month period where the hours of use are permitted between 0830 and 2000, within which shooting activity is not permitted to exceed a maximum of 5 hours. The Public Protection Officer advises that there have been no complaints since 2009 over activity at the site and has raised no objections to the proposed variations.

The concern that the proposal would result in the site being used more intensively is appreciated. However, in allowing the 2007 appeal, the Inspector considered the amenity impacts of those hours of use and concluded that as a maximum that they were acceptable. In terms of hours of use and noise it is respectfully considered irrelevant who is creating the noise, the point being that there is no control over how much use is made of the facility. Regard has to be given to the fall back position that if this application were refused, North Wales Police could still operate the site to its maximum permitted hours and create the same impacts as could arise if the variation were granted. This, in Officers opinion, is the fundamental consideration in determining the application. Such consideration suggests that a refusal on the grounds of additional noise having a detrimental impact upon the residential amenity of occupiers of dwellings in the area would not be sustainable.

4.2.3 Fear of crime

There is general advice in Planning Policy Wales (Section 3.1), the Crime and Disorder Act 1998 and subsequent good practice guide that the effects of a development on crime is a potential material consideration a planning authority should consider when exercising its functions.

Concern has been raised by local residents that the use of the firing range by other organisations could result in a loss of public safety within the area and increased fear of crime.

Whilst respecting this perception, from a planning perspective it is clear that fear of crime in relation to a site run by North Wales Police, (with users being members of large scale organisations, licensed instructors being present, and a Range Warden supervising activities), is not a defensible reason to consider withholding permission. There is little or no evidence to support this stance, as the applicants are well placed to ensure the proper operation and monitoring of the site and its users. It is not considered that the proposed variation of the planning condition would result in a loss of public safety.

4.3 Other matters

In considering comments made relating to human rights, it is noted that Article 1 and Article 8

relate to impact upon the enjoyment of private property and residential amenity. It is considered that these issues are addressed above.

5. SUMMARY AND CONCLUSIONS:

5.1 Having regard to the considerations which appear relevant to the determination, it is considered that the variation of condition 3 to allow 'other organisations as authorised by North Wales Police' to use the site during the permitted hours of operational activities is acceptable, and it is recommended that the variation be granted.

5.2 For Members' reference, it should be noted that where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended. A decision notice describing the new permission would need to be issued, setting out all of the conditions related to it. To assist with clarity decision notices for the grant of planning permission under section 73 also have to repeat the relevant conditions from the original planning permission

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The passive training pursuits on weekends and public holidays (except Christmas Day, Boxing Day and New Years Day) shall be subject to compliance with all the following restrictions:
 - a) the organisations permitted to use this site shall be limited to the North Wales Police, other emergency services and other organisations as are authorised by the North Wales Police;
 - b) it should not operate except between the hours of 0830 and 1730 hours on Saturdays, Sundays or Public Holidays, with the proviso that no activities whatsoever shall take place on the site on Christmas Day, Boxing Day and New Years Day in any year;
 - c) no firing of high or low velocity weapons or activities involving explosions within the site (including buildings) and no sound amplification equipment shall be used outside the buildings within the site on Saturdays, Sundays or Public Holidays;
 - d) there shall be no more than 30 persons in attendance at training events at any one time;
 - e) a register identifying all users and hours of use of the training centre shall be kept and made available for inspection by officers of the Local Planning Authority on request.

2. The use of the firearms training centre during weekdays shall be subject to compliance with all the following restrictions:
 - a) the organisations permitted to use this site shall be limited to the North Wales Police, such other emergency services as are authorised by North Wales Police, and other organisations as are authorised by the North Wales Police.
 - b) the hours of use shall be restricted to between the hours of 0830 and 1730 during weekdays (Mondays to Fridays) with the provision of a maximum number of 12 days in any 12 month period where the hours of use shall be permitted between 0830 and 2000, within which shooting activity shall not be permitted to exceed a maximum of 5 hours; and the use by the other authorised organisations shall be limited to a maximum of four hours per day between the hours of 10:00 and 16:00 on Monday - Friday.
 - c) a register identifying all users and hours of use of the training centre shall be kept and made available for inspection by officers of the Local Planning Authority on request.

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

1. In the interest of residential amenity.
2. In the interest of residential amenity.

NOTES TO APPLICANT:

None