



**45/2021/0265**



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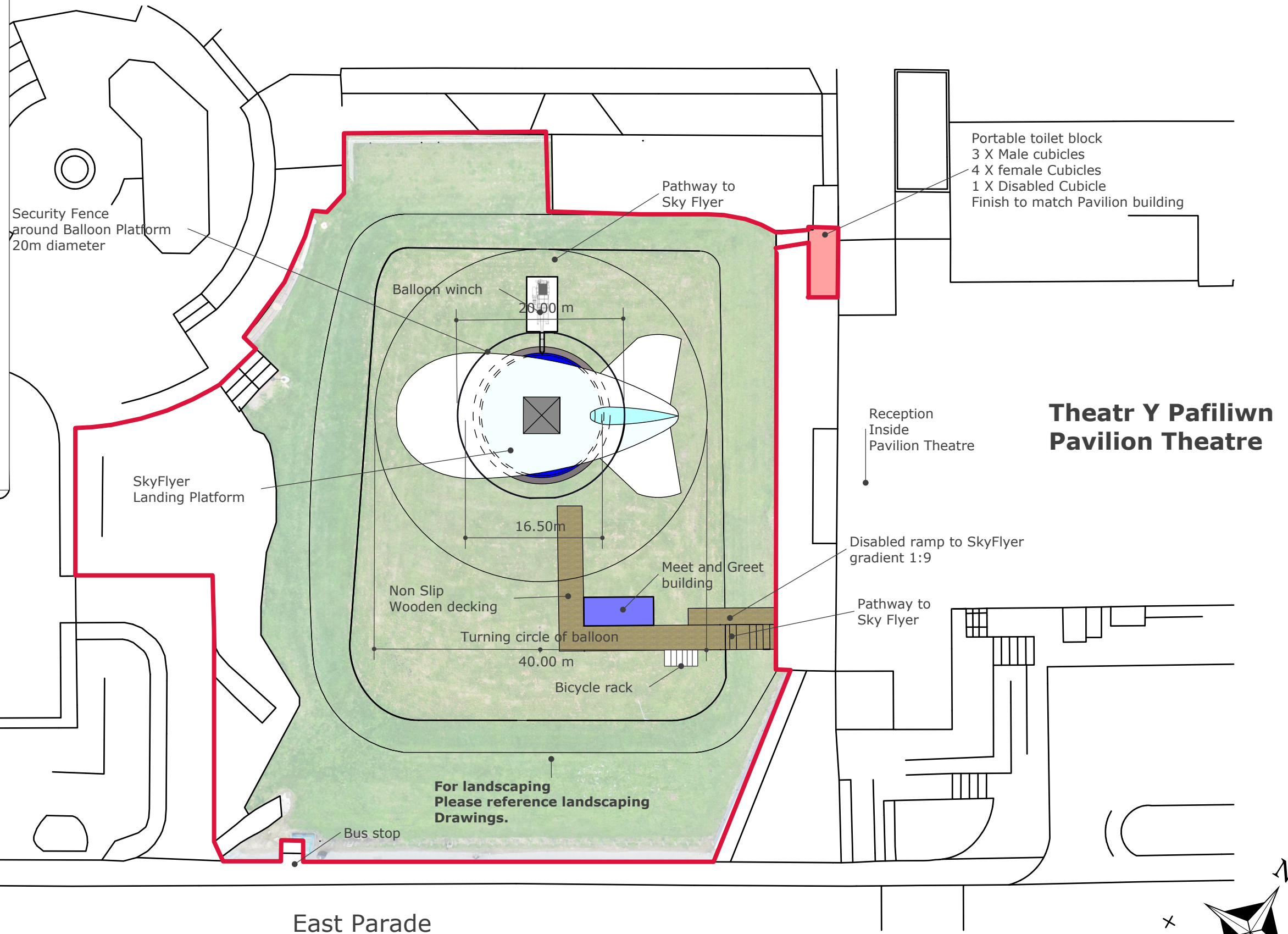
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# SkyFlyer Location Plan Proposed



Proposed  
The Duo8 SR1 rated fencing system.  
Secured By Design approved.  
Security Rating certification to LPS1175.  
Height 3m  
Colour Green



Site Area = 5,640 m2

East Parade

**Theatr Y Pafiliwn  
Pavilion Theatre**

Scale 1:500@A3

April 26, 2021

Former Sun centre site, East Parade, Rhyl, LL18 3AF

| SkyFlyer

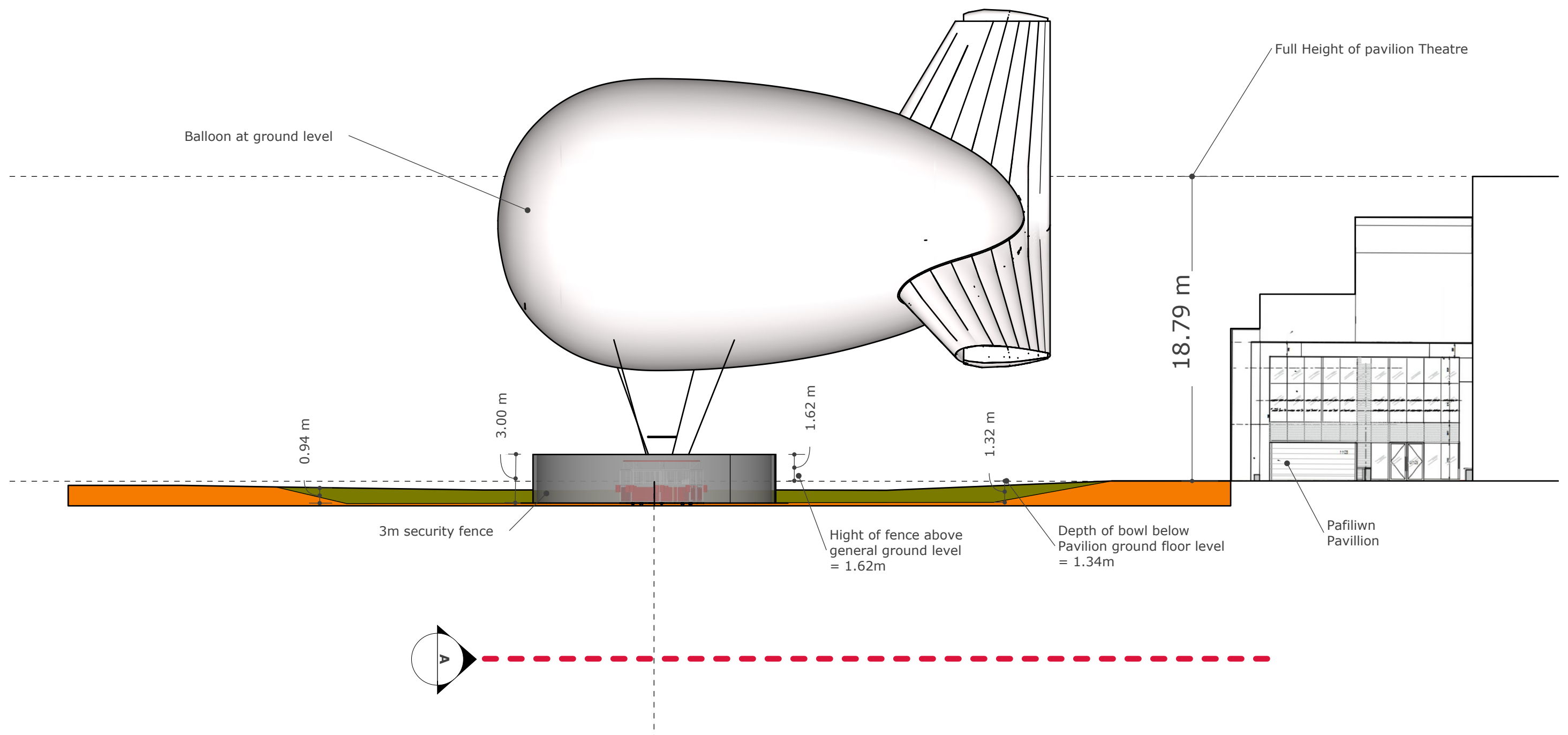
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SF 03



## SkyFlyer section reference

### Key Levels at the Skyflyer site



Scale 1:250@A3

April 26, 2021

Former Sun centre site, East Parade, Rhyl, LL18 3AF

| SkyFlyer

Rev: J

SF 05





## Eitem Agenda 10 / Agenda Item 10







## Eitem Agenda 10 / Agenda Item 10





**WARD :** Rhyl East

**WARD MEMBER(S):** Cllr Barry Mellor  
Cllr Tony Thomas (c)

**APPLICATION NO:** 45/2021/0265/ PF

**PROPOSAL:** Change of use of land to ""SkyFlyer Balloon"" tourist attraction including the installation of concrete platform, mounted winch and associated ""Skyflyer Balloon and basket, siting of toilet and reception buildings, landscaping and associated works.

**LOCATION:** Former Sun Centre Site East Parade Rhyl LL18 3AQ

**APPLICANT:** Sean TaylorSkyscraper World Ltd

**CONSTRAINTS:** Article 4 Direction

**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 (to original consultation):**

RHYL TOWN COUNCIL  
No objection

DWR CYMRU WELSH WATER  
No objection subject to condition as surface water connection is not specified.

NATURAL RESOURCES WALES  
Initial response raised significant concerns relating to the Liverpool Bay Special Protection Area, advised further information be submitted to carry out a Habitat Regulation Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations 2017 prior to the determination of the planning application.  
HRA carried out (by DCC Ecologist) Subsequent response (11/08/2021) raised **no objection** subject to the development being undertaken in accordance with mitigation measures specified.

NORTH WALES POLICE  
No objection in principle, suggested amendments to fencing for security purposes.

NORTH WALES FIRE AND RESCUE SERVICES  
No objection.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –  
- Highways Officer  
No objection

Public Protection Officer  
No objection

County Ecologist  
HRA Assessment carried out as per NRW's recommendation.

Strategic Housing & Policy Officer  
No objection.

## RESPONSE TO PUBLICITY:

### In objection

Representations received from:

Lynda Goodenough, 64 East Parade, Rhyl  
Susan Simkiss, Flat 3, 48, East Parade, Rhyl  
Tracy Evans, Alfra, Abergele Road, Rhuddlan  
Thomas Hayden, 55 East Parade, Rhyl  
Oliver Kenway, 54 Marsh Road, Rhyl  
Andrew Myers, 62 East Parade, Rhyl  
Mair Roberts, 2, Old Golf Road, Rhyl

Summary of planning based representations in objection:

Residential amenity impacts- Adverse impact on amenity enjoyed by neighbouring properties by virtue of increased activity in area and by overlooking from occupants of the Skyflyer.

Highways safety - Increase in traffic in the vicinity and pressure for parking.

Need – Is an attraction like this appropriate and required in the area.

**EXPIRY DATE OF APPLICATION: 23/05/2021**

**EXTENSION OF TIME AGREED? 08/09/2021**

## REASONS FOR DELAY IN DECISION (where applicable):

- additional information required from applicant

## PLANNING ASSESSMENT:

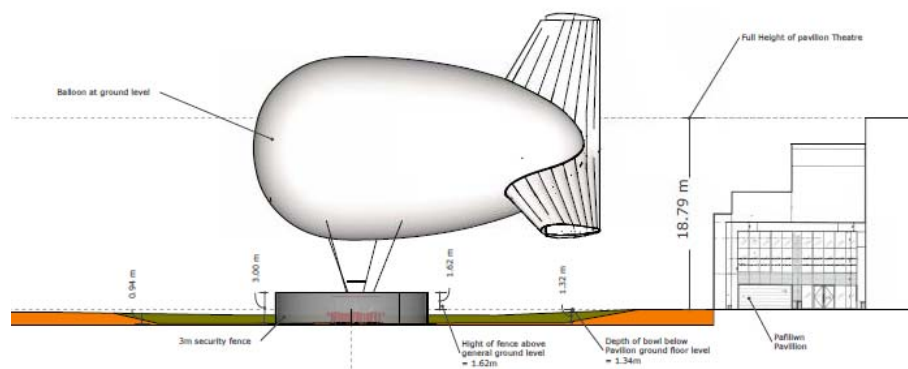
### 1. THE PROPOSAL:

#### 1.1 Summary of proposals

- 1.1.1 The application proposes the change of use of land for a SkyFlyer Balloon tourist attraction and associated works, at the Former Sun Centre Site, East Parade in Rhyl. See Agents "visualisation" drawing snip\*

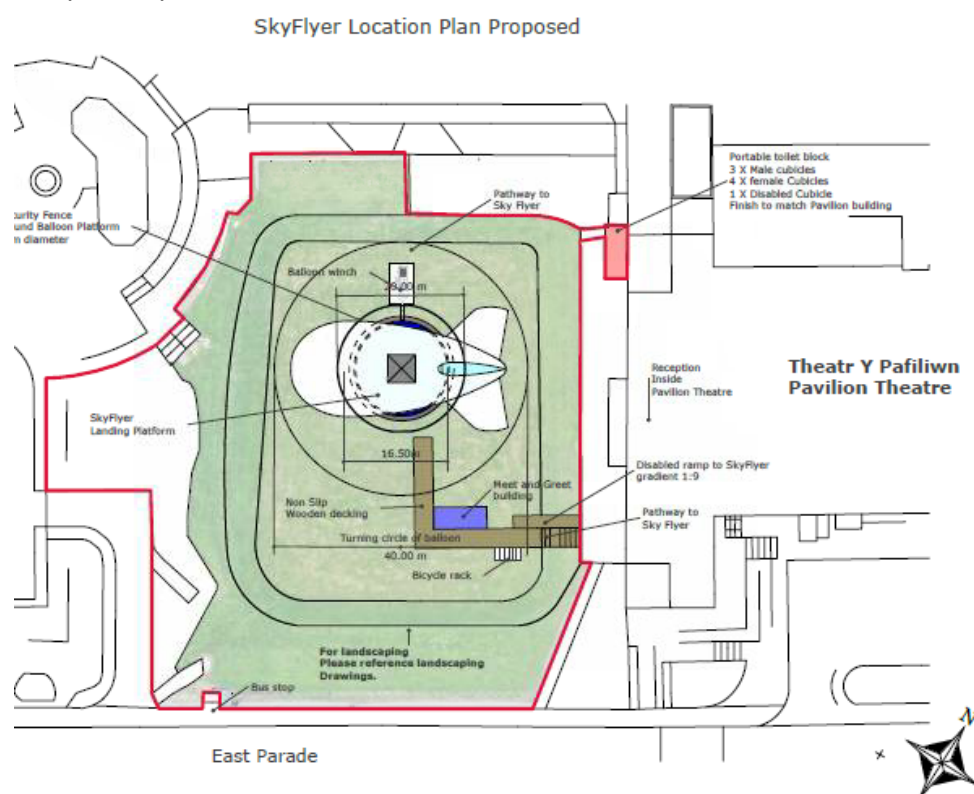


- 1.1.1 The development involves an inflated helium airship/blimp shaped balloon attached to a winch, which would carry up to 30 passengers in a gondola suspended beneath. It would be raised up to a maximum height of 120 metres on an 8 minute ride (4 minutes to rise and 4 minutes to descend) with the objective of viewing the surrounding area and Rhyl Coastline from a height. See plans snip below\*



1.1.2 When inflated, the plain white SkyFlyer balloon would measure 27 metres in length with a diameter of 18metres. Within the balloon, six 120W LED lamps would be installed, the navigation lights are industry standard as used for aeroplanes and tall buildings.

1.1.3 The SkyFlyer balloon would be sited centrally on the application site, attached to a structural concrete platform measuring a diameter of 13 metres. The balloon would require a 40 metre turning circle for re-orientation depending on wind direction. See Site plan snip below\*



1.1.4 Surrounding the concrete platform and Gondola there would be a 3 metre high security fence, as the balloon would remain inflated once installed unless weather conditions require deflation i.e. storms with winds above 70 knots. The rest of the site would remain open as existing with additional landscaping proposed including a fast growing feature hedge between the pathway and the security fence.

1.1.5 The development includes temporary buildings to house a 'meet and greet' facility for the SkyFlyer balloon, toilet facilities for visitors, as well as ramped access to the

balloon. The meet and greet building would be sited to the south of the balloon and the toilets to the north east along the Pavilion boundary. Both would be flat roof portable structures finished in grey rain screen cladding with accent colours, to match the Pavilion Theatre and 1891 Bar/Restaurant. See plans snip\*



- 1.1.6 Security lighting is also proposed on the southern boundary of the site, on two columns with motion sensor lights, measuring 3 metres in height. No other lighting has been shown on the plans.

## 1.2 Other relevant information/supporting documents in the application

### 1.2.1 The Planning Application form states:

- Drainage- would be connected to the existing mains/surface water system.
- Employment- that there would be 7 Full Time and 4 Part Time employees, or 5 Total Full Time Equivalent Staff
- Hours are stated to be 09.00 to 22.00 hours Monday to Sunday (\*contrary to DAS hours).

### 1.2.2 The application is accompanied by a Planning Statement which;

- Explains the background to the development, context and local planning policies.
- In relation to operation, it states that the SkyFlyer balloon is anticipated to carry up to 30 passengers and one operator. Contrary to the application form, it is anticipated it will be operational all year round, from 10:00 to 20:00 in summer and 10:00 to 15:00 in winter.
- Based on the applicant's experience of developing other similar outdoor tourist attractions, the number of visitors that could participate at any one time and the length of each ride, visitor number are expected to be around 67,175 during the first year, rising to 133,000 in the second year and 145,000 by the fourth year.
- It confirms that the Applicant is Skyscaper World Ltd, and states that the Company Director Sean Taylor is also the Founder and President of Zip World Ltd and has experience of delivering adventure tourism developments in North Wales. Denbighshire Leisure also have an interest in the site as the Landowner.

- 1.1.1 A Noise Report has also been submitted in support of the application which specifically looked at the winch operational noise. During operation the noise would be less than 70db inside the winch house (during raising and lowering). During inflation the loudest noise would be the engine of the crane which is required for 3 hours. However (as mentioned above) the balloon would remain inflated unless weather conditions required deflation.

## 1.2 Description of site and surroundings

- 1.2.1 The application site is on East Parade, along Rhyl Seafront. The area along the boundary of the site is set at a slightly higher level than the footway/road, with the site levels dropping within the application site.



- 1.2.2 The site comprises of the area of land formally occupied by the “Sun Centre” leisure facility on the western side of the Pavilion Theatre. Since demolition the area has simply been infilled and grassed over.
- 1.2.3 To the west of the application site there is a parking area, Kitesurf School and Kiosk, with the Premier Inn beyond. The north of the site is bounded by the Seafront/East Parade walkway at a lower level.
- 1.2.4 There are residential properties opposite the site on the south side of East Parade. The dwellings range from two storey semis to larger four storey terraces.
- 1.3 Relevant planning constraints/considerations
  - 1.3.1 The site is located within the development boundary of Rhyl as shown on the Local Development Plan proposals map.
  - 1.3.2 The site also within the larger area allocated under Policy PSE13 as a Tourism Coastal Protection Zone.
- 1.4 Relevant planning history
  - 1.4.1 The site was formally occupied by the Sun Centre which was demolished in 2015.
  - 1.4.2 The application site was included as part of a mixed use planning application in 2016, which proposed various developments across a 4.6 hectare Rhyl sea-front site. The application including the revamp of the Pavilion, new hotel, family restaurant, kiosk reuse and associated works.  
Part of that proposal included outline permission a 4,000sq.m Class D2 Exhibition/Events Centre as extension to Pavilion Theatre on this (the SkyFlyer) application site. However that element of the scheme has not been pursued.
- 1.5 Developments/changes since the original submission
  - 1.5.1 Additional Ecological information was requested by NRW to consider the impacts of the development on the Liverpool Bay Special Protection Area (SPA) as the application is located within 500 metres of the SPA.
  - 1.5.2 An Addendum Ecological Report was submitted by the Applicants to consider the impacts on the SPA.
  - 1.5.3 The Councils Ecologist was then required to carry out a Habitat Regulation Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations 2017 prior to the determination of the planning application. The HRA demonstrated that there will be no adverse effect on the SPA Site integrity.
  - 1.5.4 Additional information was also requested to address the concerns raised by the adjacent occupiers in particular the residents opposite the site who were concerned about overlooking. A Cross Section Drawing was submitted which showed the height of the properties along East Parade in relation to the SkyFlyer balloon. There would be 73m between the edge of the gondola and the properties along East Parade.
  - 1.5.5 The Agent also advised that the gondola would be level with the properties opposite the site for an overall time of 24 seconds or 6 seconds per floor on the way up and 24 seconds/ or 6 seconds per floor on the way down.
- 1.7 Other relevant background information
  - 1.7.1 None.

## **2. DETAILS OF PLANNING HISTORY:**

- 2.1 45/2016/0740 Proposal: Re-development of 4.25ha of land incorporating the following hybrid (Full/Outline) elements :

- Demolition of the former "Sun Centre" and the external refurbishment of the adjoining Pavilion
  - Theatre incorporating over-cladding. (Full)
  - Erection of 4,000sq.m Class D2 Exhibition/Events Centre as extension to Pavilion Theatre (Outline)
  - Erection of 2,825sq.m detached 73 bedroom Class C1 hotel. (Full)
  - Erection of 2 no. Class A3 Family Restaurants (Outline)
  - Retention and re-use of existing retail kiosk and land train shed building for retail/leisure/community use (Full)
  - New and reconfigured car/coach parking (Full)
  - Improvements and alterations to existing vehicular access and turning areas. (Full)
  - Hard and soft landscaping details (Full/Outline)
- Granted by Planning Committee 14/12/2016

### 3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

#### 3.1 Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4<sup>th</sup> June 2013)

**Policy RD1** – Sustainable development and good standard design

**Policy BSC1** – Growth Strategy for Denbighshire

**Policy PSE1** – North Wales Coast Strategic Regeneration Area

**Policy PSE13** – Coastal tourism protection zones

**Policy PSE14** – Outdoor activity tourism

**Policy VOE5** – Conservation of natural resources

**Policy VOE6** – Water management

**Policy ASA2** – Provision of sustainable transport facilities

**Policy ASA3** – Parking standards

#### **Supplementary Planning Guidance**

Supplementary Planning Guidance Note: Access For All

Supplementary Planning Guidance Note: Conservation and Enhancement of Biodiversity

#### 3.2 Government Policy / Guidance

Planning Policy Wales (Edition 11) February 2021

Development Control Manual November 2016

Future Wales – The National Plan 2040

Technical Advice Notes

TAN 5 Nature Conservation and Planning (2009)

TAN 11 Noise (1997)

TAN 12 Design (2016)

TAN 13 Tourism (1997)

#### 3.3 Other material considerations

### 4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It 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.

The DMM further states that material considerations 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 (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales, Edition 11 (February 2021) and other relevant legislation.

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 Visual amenity
- 4.1.3 Residential amenity
- 4.1.4 Ecology
- 4.1.5 Drainage (including flooding)
- 4.1.6 Highways (including access and parking)

4.2 In relation to the main planning considerations:

4.2.1 Principle

**Local Development Plan** The site is located within the development boundary of Rhyl, BSC1 allocation as identified within the LDP. Within the BSC 1 development boundary allocation, new development will, in principle be supported provided that it meets with the criteria of other policies in the Local plan and material planning considerations. This assists in working towards a sustainable pattern of development by directing most development to existing settlements thereby making the most effective use of existing infrastructure, facilities and services by reducing the need to travel.

The other relevant LDP policy is Policy PSE13 "Coastal tourism protection zones". This policy acknowledges the importance of the coastal areas of Rhyl and Prestatyn to the visitor economy of the area. An integral part of the regeneration of the coastal area is to reposition the resorts to attract new and higher spending visitors with quality attractions, activities, accommodation and environment. Restricting land uses in the coastal tourism protection areas to those relating to the visitor economy is complementary to the regeneration aims for the area.

**Planning Policy Wales** provides the overarching national framework and land use policies for development management in Wales. A number of chapters are of relevance to this application; however Chapter 5 acknowledges that "tourism involves a wide range of activities, facilities and types of development and is vital to economic prosperity and job creation in many parts of Wales. Tourism can be a catalyst for regeneration, improvement of the built environment and environmental protection".

Paragraph 5.5.2 notes that the planning system encourages tourism where it contributes to economic development, conservation, rural diversification, urban regeneration and social inclusion, while recognising the needs of visitors and those of local communities. The planning system can also assist in enhancing the sense of place of an area which has intrinsic value and interest for tourism. Appropriate tourism-related development in new destinations is encouraged.

Paragraph 5.5.4 acknowledges that there will be scope to develop well-designed tourist facilities in urban areas, particularly if they help bring about regeneration of former industrial areas.

**Future Wales the national plan 2040** forms part of the development plan for Denbighshire. Rhyl is identified as lying within a Regional Growth Area as part of the spatial strategy of FW Policy 1 – Where Wales will Grow. The Regional Growth Areas are identified as areas which will grow, develop and offer a variety of public and commercial services at regional scale.

Policy 21 – Regional Growth Area – North Wales Coastal Settlements supports the development of regeneration opportunities to support the role of the town in providing jobs; leisure; retail and cultural opportunities. It is considered that the proposal is in line with Future Wales.

In terms of principle, the Strategic Housing and Planning Policy Officer has advised that there is no objection to the proposal from the Strategic Planning and Housing perspective given the location of the development within the Tourism Protection allocation and the development boundary of Rhyl. They also state that the economic benefits of the proposal will complement and expand the existing tourism offer which has seen considerable investment over recent years.

There has been some limited local concerns over the principle of the development in terms of whether there is a need for such an attraction and whether this type of proposal is appropriate for the area.

The issue of whether there may be a need for the proposed tourist development is not one which needs to be taken into account within the planning process. There is not a planning policy requirement to “justify” the proposal in this location. As such, whilst acknowledging the local concerns on the “need” for the development this cannot be a determining factor in this planning assessment. The impacts of the development will be assessed in the paragraphs below.

In respect to the appropriateness of the proposed development, the site is within an area identified as a tourism protection zone in the LDP and the purpose of the allocation is to encourage tourism and leisure provision. It is considered that the proposal fits with what may be appropriate in this site designation by providing a tourist attraction in an accessible location, in close proximity to complimentary uses such as the Pavilion theatre and other A3 food and drink uses. Whilst respectfully acknowledging the localised concerns about the appropriateness of the development, given the land use planning policy designation, the proposed tourist attraction clearly meets the intentions of adopted LDP.

The area of land is currently vacant. Providing a unique and exciting tourist attraction in a coastal tourism zone, close to other linked amenities will provide economic and regeneration benefits. By its nature the proposal could easily be removed from the site and the land restored should there be any concerns over the longer term impacts on the area of a potentially redundant tourist attraction. Respecting the concerns of local residents that the use may cease and the site fall into disrepair, Officers consider it would not be unreasonable to condition a requirement to decommission the site should the use of the attraction cease for a specified period of time i.e. 6-9 months.

#### 4.2.2 Visual amenity

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use of land / buildings and spaces between buildings, which are matters relevant to the visual impact of development; test (vi) requires that development does not unacceptably affect prominent public views into, out of, or across any settlement or area of open countryside; test (vi) requires the incorporation of existing landscape or other features, takes account of site contours, and changes in levels and prominent skylines; and test (xiii) requires the incorporation of suitable landscaping measures to protect and enhance development in its local context.

The Development Management Manual advises at paragraph 9.4.3 as to what can be considered a material consideration, and states that the effects of a development on the neighbourhood and environment can be a material consideration. It is therefore considered that the impact of a proposal on the visual amenity of an area is a standard material consideration.

Individual objections have been received based on the visual amenity impacts of the proposed balloon. Limited comments have been received suggesting the development on the site to be inappropriate in terms of the character of the area.

Undoubtedly the proposed development would have visual impacts when viewed locally and from the surrounding Coastline. At ground level the balloon would have an overall height of over 27 metres, some 8 metres higher than the adjacent Pavilion Theatre. In flight it would rise to 120 metres in the sky. By comparison the Rhyl Sky Tower has an overall height of 80 metres, so the SkyFlyer balloon would be extending 40 metres higher. Clearly a development of this scale cannot be assimilated into the landscape or screened, its purpose is to provide a visitor experience with elevated unobstructed views.

The site lies in a seafront location within a tourism allocation. Along the seaward side of East/West Parade there is a range of development including the Pavilion, hotel and tourism facilities, Lifeboat building, Children's Village, the Cinema, Skytower and SC2. On the southern side of East Parade the character of development is clearly residential with more traditional sea-front terraces and semi-detached dwellings. The site is not located in the Conservation Area, the closest listed building is the Royal Alexandra Hospital some 200 metres to the east of the site on the opposite side of East Parade.

In respecting local concerns over the visual impact of such a large scale development Officers consider that these concerns have to be examined within the context of this rather unique proposal and the vibrant sea-front location within which it will sit. Coastal tourism locations, by their very nature, are designed to draw people to often large and visually interesting attractions. The fact that this attraction is a large balloon which rises up to 120m means that this proposal will have a prominent visual impact. In a non-coastal, non-tourist location this may be deemed unacceptable. However, given the location and the fact that the development could easily be removed should its use cease means the economic and tourism benefits must outweigh any visual impact.

In relation to specific detailing, the visual amenity aspects of the general layout of the site raises no significant issues. The ancillary buildings would be finished to match the existing Pavilion and the landscaping is welcomed. No details of lighting or signage other than two security lights have been submitted, so a condition will be attached to cover these elements of the scheme and ensure the end product is a cohesively designed scheme.

Overall whilst accepting there would be some visual impacts resulting from the proposed SkyFlyer balloon these impacts would not be unacceptably harmful. The proposal is therefore considered acceptable in relation to the policies and guidance listed above.

#### 4.2.3 Residential amenity

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use of land / buildings and spaces between buildings, which touch on the potential for impact on residential amenity; test (vi) sets the requirement to assess the impact of development on the amenities of local residents, other land and property users, or characteristics of the locality, in terms of increased activity, disturbance, noise, dust, fumes, litter, drainage, light pollution, etc.

Planning Policy Wales 3.1.4 confirms that factors to be taken into account in making planning decisions (material considerations) must be planning matters; that is, they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability. The residential amenity impacts of a development proposal are a material consideration.

The Development Management Manual advises at paragraph 9.4.3 as to what can be considered a material consideration, and states that the effects of a development on the neighbourhood and environment can be a material consideration. It is therefore

considered that the impact of a proposal on the amenity of an area is a standard material consideration.

Individual objections have been received to the application based on the residential amenity impacts of the proposed development, by virtue of a loss of privacy, overbearing impact and increased activity in the area.

Noise data has been provided which indicated that the winch required for raising and lowering the balloon would have no significant noise impact, this is accepted by the Public Protection Officer who raised no objection to the proposal.

The proposal would be sited to the north of the nearest dwellings on the opposite side of East Parade at a distance of some 70 metres. Historically there has been development on the site, i.e. the former Sun Centre and outline planning permission was granted for an Events Box on the site. The site is adjacent to the Pavilion Theatre which has historically hosted a range of entertainment events by day and by night.

The Agent has provided information in relation to the flight times and potential for occupiers of the dwellings to be 'over-looked' by the SkyFlyer users. They have stated; "The gondola would be level with the properties opposite the site for an overall time of 24 seconds or 6 seconds per floor on the way up and 24 seconds/ or 6 seconds per floor on the way down".

The hours of operation are anticipated to be 10:00 to 20:00 in summer and 10:00 to 15:00 in winter, therefore it would be a day time use.

Considering the figures put forward by the Agent in terms of annual visitor numbers to the SkyFlyer Balloon there may be an increase activity in the general area. However the site is located in a prime position and in Coastal town, and as mentioned above has a planning history of assembly/leisure related uses.

The dwellings opposite the site have primary elevations facing northwards towards the sea. The Agent accepts that there may be opportunities for visitors on the Gondola to overlook the dwellings directly on the course of the flight and on the 120 metre ascent and descent. However given the separation distance of over 70 metres, and the assumption that visitors would be viewing the coastline or longer range views across the town, the significance of this impact would be difficult to quantify and Officers do not feel there would be grounds to resist the application for this reason.

Whether the SkyFlyer balloon would have an overbearing impact on the adjacent occupiers is another difficult and perhaps the most subjective of the planning considerations to assess. As above, Officers consider that given the planning history, context and separation distances that historically a level of activity has always been present and potentially effected the outlook and living conditions of the neighbouring occupiers. However the question is whether the effects of the SkyFlyer balloon rising to 120 metres several times daily have more of an overbearing effect on the neighbours.

Whilst it is a substantial size, the SkyFlyer would operate quietly (as demonstrated by the noise report). The experience would not be an 'adventure/adrenaline' activity, but rather a pleasant sightseeing activity so unlikely to generate excessive noise by virtue of screaming/shouting visitors. Given the separation distances and openness in the wider area beyond the SkyFlyer Officers consider that the moving balloon would not dominate the adjacent dwellings to such an extent to warrant refusal of the scheme by virtue of overbearing impacts on adjacent occupiers.

Subject to controls over the hours of operation and noise, Officers the proposal acceptable in relation to the policies and guidance listed above.

#### 4.2.4 Ecology

Local Development Plan Policy RD 1 test (iii) requires development to protect and where possible to enhance the local natural and historic environment.



Policy VOE 5 requires due assessment of potential impacts on protected species or designated sites of nature conservation, including mitigation proposals, and suggests that permission should not be granted where proposals are likely to cause significant harm to such interests.

This reflects policy and guidance in Planning Policy Wales (PPW 11) Section 6.4 'Biodiversity and Ecological Networks', current legislation and the Conservation and Enhancement of Biodiversity SPG, which stress the importance of the planning system in meeting biodiversity objectives through promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable.

Planning Policy Wales (PPW 11) sets out that "*planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity*" (Section 6.4.5). PPW also draws attention to the contents of Section 6 of the Environment (Wales) Act 2016, which sets a duty on Local Planning Authorities to demonstrate they have taken all reasonable steps to maintain and enhance biodiversity in the exercise of their functions. It is important that biodiversity and resilience considerations are taken into account at an early stage when considering development proposals (Section 6.4.4).

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and 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; and the effects of a development on, for example, health, public safety and crime. The ecological impacts of development should therefore be regarded as a potential material consideration.

Following initial consultation with Natural Resources Wales (NRW) it was identified that the proposals required a Habitat Regulation Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations 2017, prior to the determination of the planning application owing to the location of the site within 500metres of the Liverpool Bay Special Protection Area (SPA).

As the Local Planning Authority (LPA), Denbighshire County Council's Ecologist was the Competent Authority to carry out the HRA, with support from NRW the Statutory Nature Conservation Organisation.

The application underwent screening (appendix 1), which was unable to demonstrate that the project would not result in significant adverse effects on the neighbouring Liverpool Bay Special Protection Areas (SPA). As a result, an Appropriate Assessment of the project must be undertaken.

The Appropriate Assessment concluded that following the assessment of the potential impact pathways, relevant survey data, and mitigation measures outlined above, the proposed development will not result in adverse effects on the Liverpool Bay SPA, and will not affect the integrity of the site or its' qualifying features.

The mitigation measures relating to the timing of construction, operating hours in winter, post development monitoring, and avian collision with the balloon and its' tether, should be conditioned as part of the planning permission should the application be accepted.

NRW have accepted this conclusion advising their initial concerns have been addressed subject to the development being carried out in accordance with the range of measures mitigation specified in the supporting documents, which should also be conditioned. A condition has also been suggested by the Councils Ecologist requiring

an improved landscaping scheme to ensure appropriate planting and wildlife friendly features are incorporated into the on-site landscaping, and no invasive non- natural species are used.

#### 4.2.5 Drainage (including flooding)

Local Development Plan Policy RD 1 test (xi) requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and 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; and the effects of a development on, for example, health, public safety and crime. Drainage and liability to flooding should therefore be regarded as potential material considerations.

Dwr Cymru Welsh Water have no objections to the proposal subject to the imposition of planning condition controlling drainage as details have not been provided of the specific surface water disposal. The site lies outside of any designated flood zone as defined by NRW.

Having regard to the advice of NRW and Dwr Cymru, who are the relevant experts in relation to floodrisk and development, it is considered that the proposal is acceptable in relation to flood risk and drainage and are therefore considered to be compliant with the policies and guidance.

#### 4.2.6 Highways (including access and parking)

Local Development Plan Policy RD 1 supports development proposals subject to meeting tests (vii) and (viii) which oblige provision of safe and convenient access for a range of users, together with adequate parking, services and manoeuvring space; and require consideration of the impact of development on the local highway network. Policy ASA 3 requires adequate parking spaces for cars and bicycles in connection with development proposals, and outlines considerations to be given to factors relevant to the application of standards.

These policies reflect general principles set out in Planning Policy Wales and TAN 18 – Transport, in support of sustainable development.

There are individual objections expressing concerns over the highways impacts of the proposal, in terms of the lack of parking and general activity around the site.

The Highways Officer has been consulted on the application and has raised no objection to the proposal.

The site is located on East Parade one of the main routes through Rhyl. The North Wales Path and Sustrans Cycle Route 5 abut the northern boundary of the site. East Parade is an accessible location close to the town centre, where there are alternative transport options (Bus and Train). There is limited on street parking but there are public car parks nearby, including the Pavilion car-park and the underground car-park at West Parade. On this basis Officers consider there are no strong highway grounds to resist the planning application.

#### Other matters

##### Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

## **5. SUMMARY AND CONCLUSIONS:**

5.1 With respect to the local concerns over the development, it is the opinion of Officers that the proposals are broadly compliant with Local Development Plan Policies and guidance in PPW. As such the application is recommended for approval subject to a range of planning conditions to control the impacts on visual amenity, residential amenity and ecology.

**RECOMMENDATION: GRANT-** subject to the following conditions:-

**RECOMMENDATION: GRANT-** for the following reasons:-

1. The development to which this permission relates shall be begun no later than 8th September 2026
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:
  - (i) SkyFlyer Location Plan (Drawing No. SF01 Rev J) - Received 26 April 2021
  - (ii) SkyFlyer Location Plan Existing (Drawing No. SF02 Rev J) - Received 26 April 2021
  - (iii) SkyFlyer Location Plan Proposed (Drawing No. SF03 Rev J) - Received 26 April 2021
  - (iv) SkyFlyer Section Reference (Drawing No. SF04 Rev J) - Received 26 April 2021
  - (v) Key Levels at the Skyflyer Site (Drawing No. SF05 Rev J) - Received 26 April 2021
  - (vi) Key Levels at the Skyflyer Site (Drawing No. SF06 Rev J) - Received 26 April 2021
  - (vii) Key Levels at the Skyflyer Site (Drawing No. SF07 Rev J) - Received 26 April 2021
  - (viii) Key Levels at the Skyflyer Site (Drawing No. SF08 Rev J) - Received 26 April 2021
  - (ix) SkyFlyer Drainage Plan (Drawing No. SF09 Rev J) - Received 26 April 2021
  - (x) SkyFlyer Security Lighting (Drawing No. SF10 Rev J) - Received 26 April 2021
  - (xi) Toilet Block for SkyFlyer Site (Drawing No. SF11 Rev J) - Received 26 April 2021
  - (xii) Meet and Greet Building at SkyFlyer (Drawing No. SF12 Rev J) - Received 26 April 2021
  - (xiii) SkyFlyer Platform Structural Concrete and Surface Mounted Winch Installation (Drawing No. WI-003-A-900) - Received 17 March 2021
  - (xiv) SkyFlyer Envelope General Assembly (Drawing No. EG-084-A-001) - Received 17 March 2021
  - (xv) Planning Statement (Dated March 2021) - Received 17 March 2021
  - (xvi) Noise Impact Assessment (Dated 4/3/21) - Received 17 March 2021
  - (xvi) Soft Landscape Design (Drawing No. 615-STO-00-00-DR-L-001 Rev P02) - Received 24 March 2021
  - (xvii) Soft Landscape Details (Drawing No. 615-STO-00-00-DR-L-002) - Received 24 March 2021
  - (xviii) Gondola Plan and Elevations - Received 26 March 2021
  - (xix) Disabled Access Ramp to Meet and Greet Building (Drawing No. SF13 Rev H) - Received 29 March 2021
3. No development shall take place until a fully detailed scheme of surface water drainage has been submitted to and approved by the Local Planning Authority and the approved scheme shall be completed before the commencement of the use of the site.
4. Notwithstanding the approved plans an updated landscaping scheme must be submitted to, and approved in writing by the Local Planning Authority. This should include a species list for the new planting, and only feature species of known benefit to wildlife. No species listed on

schedule 9 of the Wildlife and Countryside Act (1981), as amended, or species listed on the Invasive Alien Species of Union concern (EU Regulation 1143/2014 on invasive alien species) should be included in the planting list. All planting comprised in the approved plans shall be carried out no later than the first planting and seeding season following the commencement of development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing

5. Notwithstanding the approved plans full details of the wall and roof materials (including colours palette) of the ancillary buildings (Toilet Block and Meet and Greet Facility) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
6. Notwithstanding the approved plans, no external lighting shall be installed at the SkyFlyer site (including ancillary buildings, walkway and the SkyFlyer Gondola) without the formal written approval of the Local Planning Authority to the detailing of the proposed lighting, including emergency/security lighting. The details shall include the design of the lighting and associated columns / means of fixture, position, height, the means and intensity of illumination, hooding, the extent of lumination and the anticipated spread of light, the hours of operation of the lights. The approved scheme shall be implemented strictly in accordance with the approved details.
7. No signage (advertising or directional) shall be permitted to be displayed on the SkyFlyer site (including on ancillary buildings, Gondola or Skyflyer Balloon) until the written approval of the Local Planning Authority has been obtained to the detailing of the full signage scheme for the development. The detailing of the signage and any illumination shall be strictly in accordance with the details approved under this condition.
8. There shall be no external siting, storage or stationing of tools or gas canisters/containers) or any items relating to the maintenance of the SkyFlyer within the application site boundary at any time other than when required for maintenance or as otherwise agreed in writing by the LPA.
9. The development hereby approved shall be carried out in strict accordance with the mitigation and monitoring strategy set out in Section 4, 5 and 6 of the EcoScope Information Report to Inform the Habitat Risk Assessment (dated 14 June 2021 reference ECO\_645) and subsequently referred to in the Councils Habitat Risk Assessment Document. Mitigation measures relating to the timing of construction, operating hours in winter, post development monitoring, and avian collision with the balloon and its tether should be followed in accordance with the details hereby approved.
10. The SkyFlyer Balloon tourist attraction shall not be operational outside the hours of 10:00 to 20:00 in summer (defined in the application as April to August) and 10:00 to 15:00 in winter (September to March inclusive). Outside of the Summer season the frequency of operation will be reduced to two flights/operations per hour unless otherwise agreed in writing by the LPA.
11. Should the use of the site for the SkyFlyer balloon tourist attraction cease for a continuous period of 6 months, the SkyFlyer balloon and all ancillary structures shall be removed and the land restored in accordance with a scheme to be submitted to and approved in writing by the local planning authority.

The reasons for the conditions are:-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure a satisfactory standard of development.

3. In the interest of the management of drainage and surface water.
4. In the interests of visual amenity and biodiversity enhancement.
5. In the interest of visual amenity and to ensure the finish reflects that of the adjacent Pavilion building.
6. In the interest of residential amenity and biodiversity.
7. In the interests of visual amenity and highway safety.
8. In the interest of visual amenity.
9. In the interests of nature conservation.
10. In the interests of residential amenity and nature conservation.
11. In the interest of visual amenity.