

ITEM NO: 3

WARD NO: Llandyrnog

APPLICATION NO: 24/2012/0127/ PC

PROPOSAL: Construction of a circular slurry store - amended details (retrospective application)

LOCATION: Bod Ynys Rhewl Ruthin

APPLICANT: Mr D W Roberts

CONSTRAINTS: C2 Flood Zone

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

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

- Referral by Head of Planning / Development Control Manager

CONSULTATION RESPONSES:

LLANYNYS COMMUNITY COUNCIL

“1. Members support the local residents in objecting to the application due to the siting, colour and the increased size of the massive circular slurry store.

2. There is a more appropriate site for the Slurry Store which would be acceptable to local residents.

3. The site should be screened off.

4. The slurry store should be in a colour to blend in with the local environment.

5. Members are unhappy that the slurry store is bigger than the original plans thus the reason for the new retrospective planning application.

6. Members are happy for the Slurry Store to be relocated to a more appropriate site within the farm e.g. next to the Milking Parlour.

7. The location might have an affect on a public footpath right of way.

8. The Slurry Store in the present location is an eye sore.

9. There has been a lack of communication between Denbighshire County Council regarding this planning application.”

ENVIRONMENT AGENCY

No objection

RESPONSE TO PUBLICITY:

Letters of representation received from:

Chris Ruane MP (on behalf of Mrs. C. Williams, Bryn Hyfryd, Rhewl)

Ann Jones AM, Constituency Office, 25, Kinmel St., Rhyl

C.T. Willilams, Bryn Hyfryd, Rhewl, Ruthin

C.I. Williams, Bryn Hyfryd, Rhewl, Ruthin
E Jones, Erw Eithin Bach, Rhewl, Ruthin
J Jones, Erw Eithin Bach, Rhewl, Ruthin

Summary of planning based objections:

Need not established

Visual impact / appearance / design unacceptable in the local landscape and when viewed from nearby dwellings/Officers' inconsistent in their stance on visual impact by now encouraging screen planting

Siting not well related to existing complex

Scale - grossly oversized

Inadequate landscaping/bunding would not be sufficient

Residential amenity – odour not properly considered/DEFRA recommend 400m distance from dwellings

Proximity to public footpath/community safety

Access - increased traffic

Precedent

Conflict with planning policy and guidance (character and appearance of the countryside and siting)

Alternative siting not considered

Procedural inadequacies given history of applications and developments, new Committee and Members. Consideration should be deferred pending Ombudsman investigation

Amendments do not address issues raised by local residents and Community Council

EXPIRY DATE OF APPLICATION: 29/03/2012

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

1.1.1 The application involves the retention of an above ground circular slurry store on land to the north east of the main farm complex at Bod Ynys, Rhewl.

1.1.2 The store measures 26.75m in diameter and is 4.3m high (see plans at front of report).

1.1.3 The plans have been revised since the application was deferred at the March 2012 Planning Committee and now show detailed landscaping proposals, including a bund and mature planting on the south east side of the slurry store.

1.2 Description of site and surroundings

1.2.1 The site is on an existing farm complex to the north of the village of Rhewl, Ruthin. The closest residential property to the development is Bryn Hyfryd, which is approximately 130m from the slurry store.

1.3 Relevant planning constraints/considerations

1.3.1 The site is within the Vale of Clwyd Historic Landscape, a designated C2 flood zone and designated Nitrate Vulnerable Zone (NVZ). The site is outside of any development boundaries as defined in the Unitary Development Plan.

1.4 Relevant planning history

1.4.1 An application for an above ground circular slurry store with a 23 metre diameter, and a height of 4.27m was granted under delegated powers in December 2010. Following an enforcement investigation in relation to an alleged breach in planning control it has become apparent that the slurry store erected has not been completed in accordance with the approved details.

- 1.4.2 The slurry store as built is 26.75m in diameter and at this point has been constructed out of un-treated concrete panels. This represents an increase in diameter of 3.75m from the plans previously approved, which showed the use of dark green steel sheeting as the main 'wall' material.

1.5 Developments/changes since the original submission

- 1.5.1 Additional landscaping, including a bund and mature planting have been submitted to provide further mitigation for the slurry store. The Community Council and objectors have been notified and offered the opportunity for comment, and any additional representations, after the preparation of this report will be summarised on the late representations sheets.

1.6 Other relevant background information

- 1.6.1 The farm is under the ownership of Denbighshire County Council.
- 1.6.2 This application is presented to Planning Committee following deferral at the March 2012 Committee to allow investigation of the possibility of additional landscaping to mitigate visual and landscape impact.
- 1.6.3 The application was the subject of a Members Site Inspection Panel prior to the March meeting of the Committee. Officer notes of that meeting are below;

The Officers present were Paul Mead and David Mathews (Valuation and Estates Manager).

The reason for calling the site panel was to view the slurry store in the context of the surrounding landscape and its proximity to and impact on neighbouring properties.

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

1. The detailing of the development on site.
2. Impact on neighbouring dwellings.
3. Planning Conditions and future possible landscaping.
4. Other matters

In relation to the matters outlined:

1. Members noted the size, scale and concrete materials used on the larger slurry store on site. Members noted that the store on site is 3m wider than a previously permitted store in this location.
2. Members noted the proximity of Bryn Hyfryd and Erw Eithin Bach to the north-east. Field hedges were also noted along with their growing capacity.
3. Members noted the submitted proposed landscaping plan which showed new tree planting to the east of the slurry store and to the edge of the existing roadside hedge.
4. David Mathews, Valuation and Estates Manager, explained to the panel the background to the need for the slurry store as set out by the tenant farmer. He explained its size, capacity and why a different store to that previously granted had been erected on site. Whilst not material planning issues, Members noted this additional information.

2. DETAILS OF PLANNING HISTORY:

- 2.1 Erection of cattle shed and extensions to existing agricultural buildings GRANTED under delegated powers 17/08/2001
- 2.2 Erection of cubicle building extension for dairy cattle GRANTED under delegated powers 23/10/2008
- 2.3 Construction of a circular slurry store GRANTED under delegated powers 06/12/2010

2.4 Erection of agricultural shed extension GRANTED at Planning Committee 21/03/2012

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

- Policy GEN 3 - Development Outside Development Boundaries
- Policy GEN 6 - Development Control Requirements
- Policy EMP 13 - Agricultural Development
- Policy CON 12 - Historic Landscapes, parks and gardens
- Policy ENP 6 - Flooding

3.2 GOVERNMENT GUIDANCE

Planning Policy Wales (February 2011)

4. MAIN PLANNING CONSIDERATIONS:

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

- 4.1.1 Principle
- 4.1.2 Visual and landscape impact
- 4.1.3 Residential amenity
- 4.1.4 Flood risk

4.2 In relation to the main planning considerations:

4.2.1 Principle

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

Questions have been raised in relation to the need for a slurry tank of the size that has been constructed. Officers' understanding is that the site is within a designated Nitrate Vulnerable Zone (NVZ) and there is a requirement for the farm to have the capacity to store at least 5 months of slurry in order to comply with the relevant regulations; and that based on submitted calculations the previously approved scheme would have provided 5.6 months of storage capacity. The increased capacity of the store as constructed is stated as providing 6.07 months of storage capacity. This equates to a capacity of approximately 20% above the legislative minimum. As statutory consultees, the Environment Agency has not disputed these calculations.

It is noted that the slurry store as built exceeds the capacity deemed sufficient in the previous submission. However, officers consider that a level of capacity approximately 20% above the statutory minimum would not seem excessive. It is also respectfully suggested that the additional capacity provided by the store as built may provide a level of flexibility in relation to fluctuations/increases in stock numbers, that may avoid the need for additional installations to be provided, and less regular emptying. It is therefore considered that proposals are reasonably required to meet the needs of the farm enterprise and comply with the requirements of criteria i) of Policy EMP 13.

In relation to the availability of alternative redundant buildings, no other suitable buildings exist on the site that could meet the need for additional slurry storage. Therefore it is considered that the proposals comply with the requirement to preferentially re-use redundant buildings, and comply with the requirements of criteria ii) of Policy EMP 13.

4.2.2 Impact on visual amenity

The site lies within the Vale of Clwyd Historic Landscape. Policy CON 12 requires that development does not unacceptably harm the character of a historic landscape. The general requirement to assess landscape and visual impact of agricultural development are set out in criteria iii) and iv) of Policy EMP 13.

Local residents have expressed concerns over the landscape/visual impact of the proposed slurry store. The store is located on the northern edge of the existing complex, directly adjacent to existing open silage clamps and approximately 22m from the nearest existing agricultural building. Neighbours have suggested that alternative siting would reduce the impact of the slurry store. Submitted information states that the present siting has been chosen in response to topographical and operational constraints. Additional plans have been submitted showing proposals for a bund and landscaping to the north east of the slurry store.

Officers would agree that the current un-treated concrete finish on the slurry store is not in keeping with the existing farm complex, however it is considered that this issue can be addressed through an appropriately worded condition. The additional planting and mounding would assist in softening the impact of the development. Hence whilst acknowledging the concerns of the Community Council and local residents, it is respectfully suggested that the impact on the wider landscape would be limited due to the scale and siting of the development in relation to the existing farm complex, subject to an appropriate colour finish on the concrete panels and implementation of the proposed landscaping scheme. For these reasons the development is not considered to have an unacceptable impact in relation to landscape and visual amenity and complies with the requirements of Policy CON 12 and EMP 13.

4.2.3 Residential amenity

Policy GEN 6 v) sets a requirement to ensure new development does not unacceptably affect the amenities of local residents, by virtue of noise, activity, fumes, etc.

The occupier of an adjoining property has raised concerns on the potential impact of the proposed development in relation to odour, given the proximity of the development to residential properties, and has referred to DEFRA guidance on siting. The Environment Agency and the Public Protection Officers of Denbighshire County Council however, raise no concerns over health impacts of slurry storage. It is understood the proposed development is necessary to comply with NVZ regulations which require 5 months slurry storage for farms within NVZ's. Public Protection Officers have confirmed that the ability to store greater amounts of slurry would actually improve the situation in relation to smells, as issues of odour release from slurry are greatest when stored slurry is being distributed as fertiliser. Increased storage capacity would mean that distribution of the stored slurry would occur less often and therefore reduce exposure to the odour.

In acknowledging the concerns in relation to odour, Officers respectfully suggest due consideration has to be given to the fact that the proposal relates to development adjacent to a long established working farm. The

Public Protection Officers also consider the slurry store may actually bring about a reduction in the frequency of release of odour, since it would reduce the number of times necessary to move material. In Officers' view, the development would not seem likely to result in significant additional potential for smells, sufficient to merit refusal of permission.

4.2.4 Flood risk

Policy ENP 6 requires that development does not result in an unacceptable risk from flooding.

The Environment Agency has raised no objection subject to the applicant being advised to install flood proofing measures.

Provided that the applicant is advised to install flood proofing measures it is considered the proposals are acceptable in relation to flood risk.

4.3 Other matters raised

Neighbours have raised concerns that consultation on the previous planning application for a slurry store had not been undertaken correctly. Records show that letters were sent to Bryn Hyfryd, Crossing Cottage and Erw Eithin Bach, and that no objections were raised following this consultation. All these properties have been consulted on the current slurry store application and offered the opportunity to comment.

Concerns have been raised that the development may affect a public right of way. Officers can advise that following a review of the definitive Public Right of Way maps held by the authority that no rights of way are directly affected by the development.

Whilst respecting objectors' concerns over procedural issues, Officers believe it would not be appropriate to defer consideration of the application pending the outcome of an Ombudsman investigation.

5. SUMMARY AND CONCLUSIONS:

5.1 The development is considered to comply with the relevant policy tests and is therefore recommended for grant.

RECOMMENDATION: GRANT - subject to the following conditions:-

1. The external faces of the concrete panels of the store hereby approved shall be painted dark green in accordance with the approved plans within 2 months of the date of this permission.
2. All planting, seeding or turfing comprised in the approved landscaping scheme shall be carried out no later than the Autumn 2012 planting and seeding season. 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 the Local Planning Authority gives written approval to any variation.

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

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

NOTES TO APPLICANT:

None