

15-2023-0029



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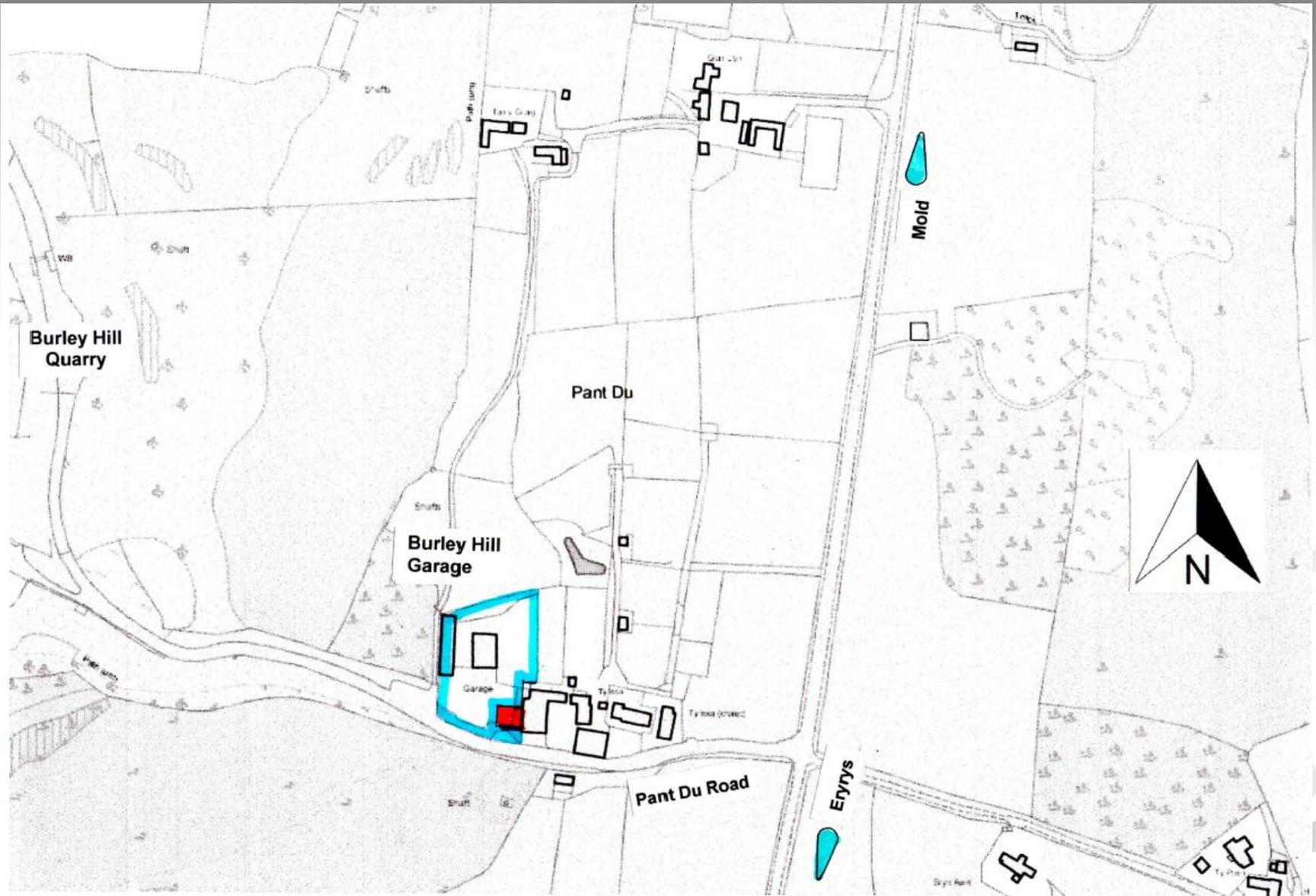
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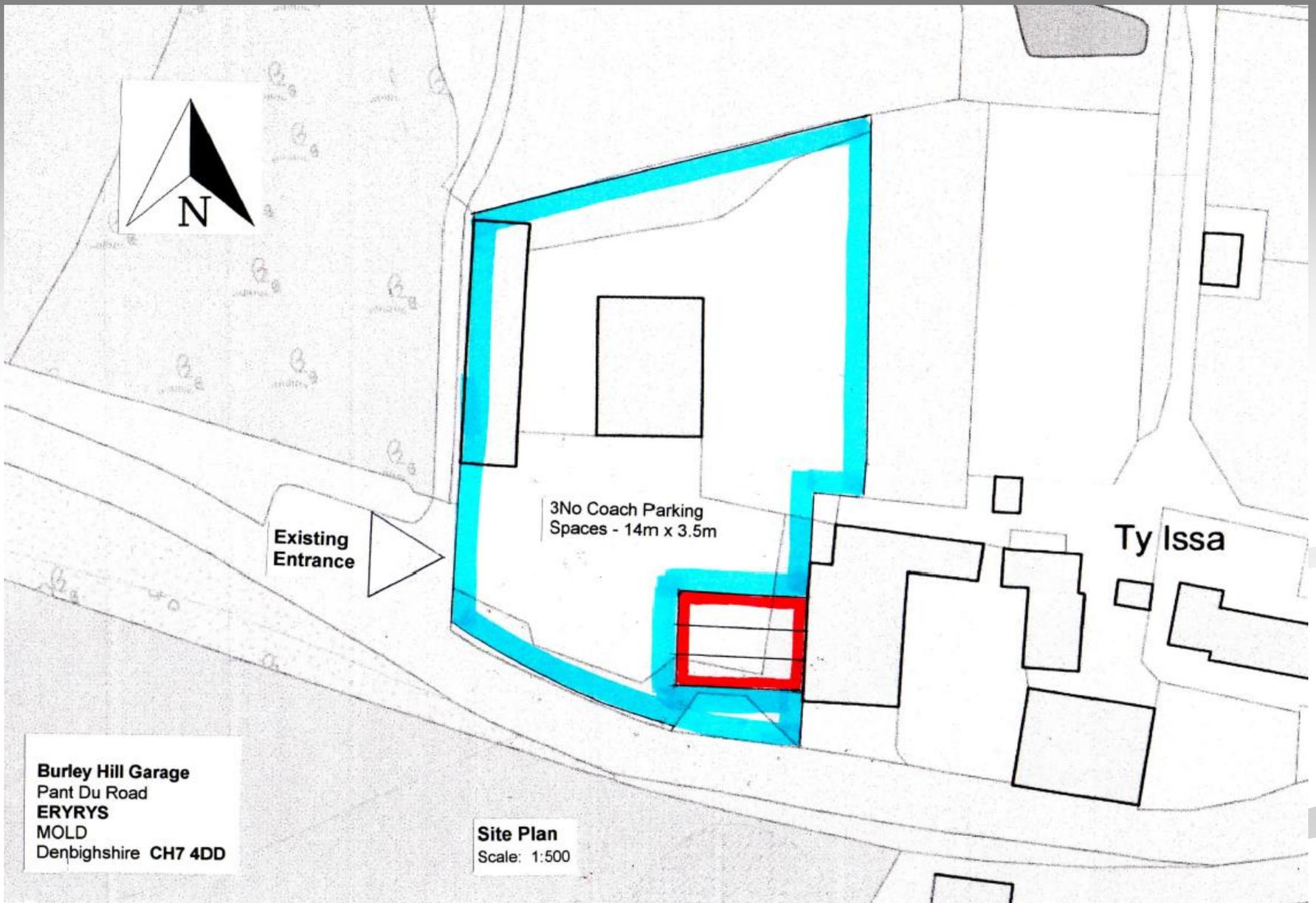
15/2023/0029/PC

Burley Hill Garage, Eryrys

**Change of use of land for the parking of 3
no. coaches on existing tarmacked area
(retrospective application)**



Location plan



Site plan



View of site



Access road (looking west)



Access road (looking east)



Adjacent storage buildings and cafe

WARD : Alyn Valley

WARD MEMBER(S): Councillor Terry Mendies (c)

APPLICATION NO: 15/2023/0029/PC

PROPOSAL: Change of use of land for the parking of 3 no. coaches on existing tarmacked area (retrospective application)

LOCATION: Burley Hill Garage, Eryrys, Mold, CH7 4DD

APPLICANT: Daniel Keane, Keane's Coaches

CONSTRAINTS: PROW / Phosphorus Sensitive - SACAONB

PUBLICITY UNDERTAKEN: Site Notice
Press Notice
Neighbour letters

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

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

CONSULTATION RESPONSES:

LLANARMON YN IAL COMMUNITY COUNCIL:

“Council thought the garage had always been used for vehicles and commercial vehicles use; didn't really feel it was a change of use. Although, we do not have details of the neighbour's current objections. No Objection.”

**CLWYDIAN RANGE AND DEE VALLEY AREA OF OUTSTANDING NATURAL BEAUTY
JOINT ADVISORY COMMITTEE:**

“The site appears to have an established use for the parking of HGV's and an existing visual presence within the AONB. The Joint Committee do not therefore object in principle to this application.

However, given its location some degree of control over the intensification of use would be beneficial, as a proliferation of parking across the whole site could prove detrimental to the character and appearance of the AONB.

You may therefore wish to consider a personal permission with a restriction on numbers to no more than 3 coaches to be parked specifically in the area shown on the submitted site plan. Whilst the site is relatively well screened there are gaps which again could be addressed via an appropriate planting condition.”

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Traffic, Parking and Road Safety:

- Highways Officer: No objection

Public Protection Officer:

Requests that a noise assessment is provided

RE-CONSULTATION RESPONSES (following submission of noise assessment)

Public Protection Officer:

“The noise impact assessment has been completed by a suitable qualified professional consultant in accordance with the most relevant current guidance and standards.

With the benefit of local knowledge, I would disagree with consultants’ assumption that the night time decibel (dB) level would be 25dB, I believe it is more likely to be around 20dB, however not withstanding this difference the overall conclusion would remain the same and the proposed coaches should not have a detrimental impact on the neighbouring property with the engines running within the application site as measured.”

RESPONSE TO PUBLICITY:

In objection

Representations received from:

Andrew Edwards, The Annese, Ty Isa, Pant Du Road, Eryrys Lesley Phillips, Ty Isa, Pant Du, Eryrys

Roy Kendrick, Ty Isa, Pant Du Road Julie Wynne, The White House, Pant Du Road, Eryrys

Richard Haggerty, Glan Llyn, Pant Du Road, Mold.

Summary of planning based representations in objection:

Impact on residential amenity – concerns raised by residents about the impact on their amenity by way of noise and disturbance from the bus engines.

Impact on highway safety – concerns raised regarding the suitability of the adjacent local highway for use by buses.

Impact on character of the AONB – concerns raised that the activities at the site harm the peaceful character of the AONB.

Impact on well-being of horses – concerns raised that the fumes from the vehicles will be harmful to the horses kept on the adjacent site.

In support

Representations received from:

Sarah Jones, 1 The Firs Mold

Ryan Williams, 59 Poppy Field Road, Northop Hall, Mold

James Masters-Read 16 Ffordd Powys Rhis Wrexham

Daniel Pitman, 3 Second Avenue, Llay, Wrexham

John Morris 1 Tulip Avenue, Birkenhead

Zoe Smith, The Online Marketing Co., Flint

Martin Dudley, 47 Brook Road, Shotton, Deeside

Eifion Williams, 18 Glaslyn Street, Porthmadog

Simon Wade, 8 Raleigh Road, Leasowe

EXPIRY DATE OF APPLICATION: 19/03/2023

EXTENSION OF TIME AGREED: 04/09/24

REASONS FOR DELAY IN DECISION (where applicable):

- additional information required from applicant
- re-consultations / further publicity necessary on amended plans and / or additional information
- awaiting consideration by Committee

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 Retrospective planning permission is sought for the continued use of an area of existing tarmac to be used to park 3 buses/coaches. The applicants have requested that they are able to enter and leave the site 24 hours a day as they often provide rail replacement services which can be needed at any time of day or night.

1.2 Other relevant information/supporting documents in the application

- 1.2.1 The application is accompanied by a Noise Assessment report which assesses the impact of noise levels of buses with engines running within the site on nearby residential properties.

1.3 Description of site and surroundings

- 1.3.1 The site is located in open countryside some 1.5km north of Eryrys. It is accessed via a metalled by-way (open to all traffic), which links to the C-class road some 160m to the east of the site, and serves Burley Hill Quarry to the north-west of the site.
- 1.3.2 Immediately to the east of the site is a stable/agricultural storage building. Beyond the stable is a large sheet steel shed which appears to be in use as a café.
- 1.3.3 The nearest dwelling to the site is Ty Isa, which is approximately 65 metres from the site and separated from the site by storage buildings and café building. It is understood a stable building is located to the rear of the storage buildings.
- 1.3.4 The site is located in the corner of a larger site which is used as parking and storage for the adjacent mechanics business.
- 1.3.5 The site is enclosed by wire fencing and sporadic planting/overgrown scrub.

1.4 Relevant planning constraints/considerations

- 1.4.1 The site is in the open countryside for planning purposes and is within the designated National Landscape/AONB.

1.5 Relevant planning history

- 1.5.1 The site (including the on-site building) benefits from planning permission to be used for agricultural and commercial vehicle repairs, servicing parking and storage.
- 1.5.2 The permission was granted in 1994, and the use was limited by planning condition to the operational hours of 0800 – 1800 (Monday to Friday) and 0800 – 1300 (Saturdays), with no operations on Sundays or on public holidays.
- 1.5.3 The operational hours were later varied through a variation of condition which allowed repair and maintenance activities within the existing building on site to be carried out 24 hours a day, but prevented the driving of vehicles in and out of the building outside of the hours 0800 – 1800 (Monday to Friday) and 0800 – 1300 (Saturdays), with no operations on Sundays or on public holidays. It does not prevent the manoeuvring

of vehicles within the parking areas outside as the condition is specifically worded as follows:

1 (b) No vehicles to be repaired or serviced shall be driven into or out of the garage building outside the existing permitted hours and days of operation

The variation of condition also imposed the following restriction:

1 (c) None of the activities carried out outside the existing permitted hours and days shall be permitted to generate noise levels which exceed the following criteria, when measured in accordance with the methodology contained in BS 4142 (1997) at any point on the boundary of the site:

- (i) 35 dB LAeq (5min) (freefield) for any period of 5 minutes;*
- (ii) A maximum noise level of 45 dB(A) (fast) (freefield)*

1.6 Developments/changes since the original submission

- 1.6.1 At the request of public protection officer's a noise assessment report has been submitted to support the application.

1.7 Other relevant background information

- 1.7.1 The application has been submitted as a result of investigations by Enforcement Officers.

- 1.7.2 It is noted that there are still potentially some breaches of planning control on the site which sit outside of the control of this planning application. However, members are advised that these are not a material consideration in determining this application and can be dealt with separately. Members are advised to consider this application solely on the basis of what is being asked for – the parking of 3 coaches/buses on the site.

2. DETAILS OF PLANNING HISTORY:

- 2.1 25/13934 – Use of existing buildings for agricultural and commercial vehicle repairs, servicing, parking and storage. GRANTED 30/3/94
- 2.2 15/2002/0615/PS – Variation of condition 2 on planning permission 25/13934 relating to hours of operation of agricultural and commercial vehicle garage to permit 24 hour operation within the building only, using specified plant and machinery (permitted hours of use 0800 – 1800 Monday to Friday, 0800 – 1300 Saturdays, no operations on Sundays or public holidays. GRANTED 6/9/2002

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy PSE5 – Rural economy

Policy VOE2 – Area of Outstanding Natural Beauty and Area of Outstanding Beauty

Policy ASA3 – Parking standards

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Clwydian Range and Dee Valley Area of Outstanding Natural Beauty

Supplementary Planning Guidance Note: Trees & Landscaping

Government Policy / Guidance

Planning Policy Wales (Edition 12, 2024)
Development Control Manual November 2016
Future Wales – The National Plan 2040

Technical Advice Notes

TAN 6 Planning for Sustainable Rural Communities (2010)
TAN 11 Noise (1997)

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 12, 2024) and other relevant legislation.

Denbighshire County Council declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.

The Council aims to become a Net Carbon Zero Council and an Ecologically Positive Council by 31 March 2030. Its goal and priorities are set out in its Climate and Ecological Change Strategy 2021/22 to 2029/30. The actions, projects and priorities in the Strategy directly relate to council owned and controlled assets and services. One priority of the Strategy is to promote the existing policies within the Local Development Plan (LDP) 2006 to 2021 and Supplementary Planning Guidance (SPG) which contribute to environmentally responsible development. In preparing these reports to determine planning applications we therefore highlight the LDP 2006 to 2021 and appropriate SPG. Applications that are determined in accordance with the LDP 2006 to 2021 are environmentally responsible developments.

Planning applications are assessed in accordance with statutory requirements including The Environment (Wales) Act 2016, national policy (Future Wales, PPW 12) and local policy (LDP 2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

The following paragraphs in Section 4 of the report therefore refer to all statutory requirements, policies and 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 Highways (including access and parking)

4.2 In relation to the main planning considerations:

4.2.1 Principle

In terms of the national planning policy context, Planning Policy Wales (PPW 12) Section 3.60 states that development in the countryside should be located within and adjoining those settlements where it can be best be accommodated in terms of infrastructure, access and habitat and landscape conservation. It also advises that new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should be of a scale and design that respects the character of the surrounding area.

Paragraph 3.38 of PPW 12 states that “*The countryside is a dynamic and multi-purpose resource. In line with sustainable development and the national planning principles and in contributing towards placemaking outcomes, it must be conserved and, where possible, enhanced for the sake for its ecological, geological, physiographic, historical, archaeological, cultural and agricultural value and for its landscape and natural resources*”.

National policy therefore restricts new building outside development boundaries unless it is justified as an exception to the policy of restraint.

Policy PSE 5 states that in order to help to sustain the rural economy, tourism and commercial development, including agricultural diversification, will be supported throughout the County subject to detailed criteria, which include making a significant contribution to sustainable development and recognising the special status of the Area of Outstanding Natural Beauty/Area of Outstanding Beauty.

The justification to Policy PSE 5 establishes the need to sustain rural employment throughout the County is recognised and relevant considerations relating to sustainability and minimising environmental concerns are identified. The benefits could include provision of local employment opportunities, use of locally sustainable sources for any raw materials, scope to sell local produce, and provision of services to local communities.

The proposal relates to the use of part of a site for the parking of three buses/coaches. The site benefits from extant planning permission to be used as parking in association with the adjacent mechanic’s garage and as such is classed as previously developed land/brownfield land.

The proposal would help support wider employment opportunities within the locality/region.

Given the broad support offered by Policy PSE 5 for economic/commercial development in rural areas, Officers can see little reason to object to the proposal on policy grounds. The existing use of the site also adds further support to the principle of development. Therefore, Officers consider that the proposal is acceptable in principle

4.2.2 Visual amenity and Impact on Area of Outstanding Natural Beauty

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 visual amenity and landscape impacts of development should therefore be regarded as a potential material consideration.

Planning Policy Wales (Edition 12, 2024) at para 6.3.3 states ‘All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due

regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places.'

Policy VOE 2 requires assessment of the impact of development within or affecting the AONB and AOB and indicates that this should be resisted where it would cause unacceptable harm to the character and appearance of the landscape and the reasons for designation.

This reflects guidance in Planning Policy Wales (Edition 12, 2024) which requires planning authorities to give great weight to conserving and enhancing the natural beauty of AONBs, and should have regard to the wildlife, cultural heritage and social and economic well-being of the areas. The special qualities of designated areas should be given weight in the development management process. Proposals in AONBs must be carefully assessed to ensure that their effects on those features which the designation is intended to protect are acceptable. The contribution that development makes to the sustainable management of the designated area must be considered.

Supplementary Planning Guidance (SPG) has been developed – 'The Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB)' along with a specific SPG for lighting in the AONB - 'Planning for Dark Skies'. The SPG's provide guidance and advice on design and lighting principles which should be followed to assist new development proposals in the area.

The site is currently used for the parking of vehicles waiting to be serviced in the garage. Its use for the parking of buses/coaches is not considered to raise any impacts on the visual amenity of the area or wider AONB than the existing situation. However, there is scope for the boundary of the site adjacent to the road to be improved by way of additional planting. This can be controlled by imposing a suitably worded planning condition.

In officer's opinion the proposal is considered acceptable in terms of its impact on the visual amenity of the area and the character of the AONB.

4.2.3 Residential amenity

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 residential amenity impacts of development should therefore be regarded as a potential material consideration. Planning Policy 12 stresses that the impact of noise on the amenity of an area and its residents is a material planning consideration.

A number of responses have been received from members of the public raising concern that the use of the site for buses is having a detrimental impact on their residential amenity.

The proposal is for the use of part of an existing parking area (serving a mechanics business) for the parking of 3 buses. The applicant has requested that the buses are allowed to enter and leave the site at any time of the day or night. Accordingly, Public Protection Officers requested that a noise assessment be provided to demonstrate what the noise levels of the buses (with engines running) within the site would be during the night-time, and what the level would be at the nearest residential property.

The submitted noise report assesses the background noise levels at the site, and the noise levels of a worst-case scenario of 4 buses starting at the same time, and stopping at the same time; with their engines approximately 72metres from the nearest dwelling. The night time impact on the nearest dwelling has been assessed

on the assumption of the occupants being inside their dwelling with a window open. The result is that the internal noise level at the nearest dwelling would be around 4db increase – which the relevant British Standard relating to noise classified as being a 'low' impact.

The Noise Assessment report has been reviewed by the Councils Public Protection Officer, who advises that it has been carried out by a suitably qualified person, and that it takes sufficient variables and scenarios so as to give a reasonably accurate conclusion.

Officers have also considered the extant planning permissions on the site. It is noted that the previous (and extant) permission does not specifically restrict the manoeuvring of vehicles within the site at any time of the day or night – it only prevents them from being driven into/out of the building. The proposal does not therefore differ significantly from what is already permitted on site.

In conclusion, having regard to the planning history of the site, the submitted Noise Assessment and the comments of the Councils Public Protection Officer, Officers consider that the proposal is not likely to have a detrimental effect on the amenity of nearby residents and a condition restricting the hours of operation (in relation to three buses) is not necessary. If a noise issue were to arise, then the Council would be able to take action under the Statutory Nuisance legislation. Therefore, Officers conclude that the proposal is not unacceptable in terms of its impact upon the amenity of residents.

4.2.4 Highways (including access and parking)

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 highway impacts of development should therefore be regarded as a potential material consideration.

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 (PPW 12) and TAN 18 – Transport, in support of sustainable development.

The proposal is for the use of part of the site for the parking of 3 buses/coaches. The site is already in use for the parking of vehicles for the adjacent mechanics business.

Concern has been raised locally regarding the suitability of the access roads for the proposed use. However, the Highway Officer does not raise an objection to the proposal.

In Officers opinion the proposed use would not result in a material increase in the number of vehicles entering or leaving the site. Given the 'no objections' response from the Highway Authority and the existing use of the site, it is not considered that the proposal would result in an unacceptable impact on the adjacent highway.

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.

Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. A public authority must, in the exercise of its functions, have due regard to advancing equality.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

5. SUMMARY AND CONCLUSIONS:

5.1 Officers consider that the key consideration in determining this application is the impact of the use on the amenity of the neighbouring dwellings. It is noted that the existing planning controls in place on the site do not specifically prevent vehicle movements into and out of the site at any time (only into and out of the building) and that this represents a fall-back position.

5.2 Alongside this, the results of the noise assessment which shows that vehicle noise would be unlikely to have an unacceptable impact upon the residential amenity of neighbouring properties indicates that a condition restricting the hours that vehicles can enter and leave the 'bus yard' is not necessary. It is noted that should a noise problem arise, then there is statutory noise legislation which can be used to address the matter.

5.3 Officers therefore consider that based on the existing use of the site, the planning history of the site, and the results of the noise assessment, the proposal is acceptable in principle and in its impacts upon the amenity of the area.

RECOMMENDATION: GRANT - subject to the following conditions:

1. 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) Site plan received 17 January 2023
 - (ii) Location plan received 17 January 2023
 - (iii) Design, Access and Viability Statement received 17 January 2023
 - (iv) Noise Assessment received 30 October 2023

2. All buses parked within the site shall be parked 'front on' to the eastern boundary.
3. Within one month of the date of the permission, a detailed scheme of soft landscaping for the southern and eastern boundary of the site. The scheme shall be designed to deliver a net benefit for biodiversity and to improve the appearance of the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of:
 - (a) all existing trees, hedgerows and other vegetation on the land, details of any to be retained, and measures for their protection in the course of development.
 - (b) proposed new trees, hedgerows, shrubs or vegetation, including confirmation of species, numbers, and location and the proposed timing of the planting and only feature species of known benefit to wildlife.
4. All planting comprised in the approved details of landscaping 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.

The reasons for the conditions are:

1. For the avoidance of doubt and to ensure a satisfactory standard of development.
2. In the interest of residential amenity.
3. In the interest of biodiversity and visual amenity.
4. In the interest of biodiversity and visual amenity