

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **14 DECEMBER 2022**

REPORT BY: **CHIEF OFFICER (PLANNING, ENVIRONMENT AND ECONOMY)**

SUBJECT: **FULL APPLICATION FOR THE CONTINUED SITING OF PORTABLE BUILDING FOR USE AS ANCILLARY CHANGING FACILITIES , BUCKLEY**

APPLICATION NUMBER: **FUL/000143/22**

APPLICANT: **BUCKLEY THEATRE CLUB**

SITE: **HAWKESBURY LITTLE THEATRE, MILL LANE, BUCKLEY**

APPLICATION VALID DATE: **16-AUG-2022**

LOCAL MEMBERS: **COUNCILLOR C ELLIS**

TOWN/COMMUNITY COUNCIL: **BUCKLEY TOWN COUNCIL**

REASON FOR COMMITTEE: **MEMBER REQUEST**

SITE VISIT: **YES, DEFERRED FROM PLANNING COMMITTEE IN OCTOBER FOR A MEMBERS SITE VISIT**

1.00 **SUMMARY**

1.01 The application seeks consent for the continued and permanent siting of a portacabin for use as changing room facilities in connection with the Hawkesbury Little Theatre.

1.02 The application was deferred from Planning Committee in October to allow Members to visit the site and a consultation to be sent to the Theatres Trust. The Theatres Trust have provided a response, a summary of which is provided below.

2.00 **RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS**

1. It is the opinion of the Local Planning Authority that the continued siting of the portacabin in its current position would

be harmful to the character and appearance of the site, contrary to Policies D1 and D2 of the Flintshire Unitary Development Plan.

2. Owing to the proximity of the portacabin to the adjacent dwelling, the impact upon living conditions is considered to be harmful and as such the proposal fails to satisfy criteria d) of Policy GEN 1 of the Flintshire Unitary Development Plan.
3. The Local Planning Authority considers that the continued siting of the portacabin would adversely affect the existing character and appearance of the Hawksbury Little Theatre, which is a curtilage listed building. It is also considered that it will adversely affect the architectural and historical setting of the grade II listed Hawkesbury Hall contrary to planning policy HE2 of the Flintshire Unitary Development Plan

3.00 CONSULTATIONS

3.01 **Local Member:** Councillor Ellis requests committee determination

3.02 **Buckley Town Council:** No observations

3.03 **Highways Development Control:** The Highway Authority confirm that they have no objection to the proposal and do not wish to make a recommendation on highway grounds. Attach Supplementary Notes.

3.04 **Community & Business Protection:** A detailed objection to this application on the grounds of light and noise impact as summarised below:

- The separating distance across the track between the portable building and the nearest residential premises is really quite small. The potential impact and thus harm is potentially detrimental to the private amenity and the use and enjoyment of the residential premises immediately adjacent.
- Artificial light nuisance/pollution is of concern. There is a door, window and lights installed on the exterior of the buildings which are all potential sources of light nuisance. Artificial light from within the building could also be obtrusive and shine out through an open door, window etc and over the short separating gap into the neighbouring residential property. Habitable rooms have been identified facing the portable building in the residential premises adjacent.

- People noise is a further consideration. Noise and activity associated with performers and from actors accessing the changing facilities, would be potentially disruptive and loud for residents living in the property opposite. The duration and timings of the use hours of the changing facilities is likely to vary but could extend quite late into the evenings and even into nighttime hours (classed as after 11pm). Weekend use would not be immune either. Sources of noise could expand to include loud door shutting/door slamming, people talking and loudly on mobile phones, smokers' talking etc. There would also be potentially noise breakout from within the building if it were not adequately sound insulated. Given the adjacency there are further matters around privacy for both the residents and for those using the changing facilities. It is not considered that conditions could overcome these challenges.

3.05 **Conservation Officer:** The Conservation Officer has submitted a detailed objection to the application. The objection is summarised below:-

- The proposed extension differs to the previous traditional built extension in-so-much that it is essentially a portable cabin sited along the building with a new infill structure to connect the two parts.
- The current proposal differs in design and form to the listed and curtilage listed building particularly in terms of materials and the unorthodox flat roof;
- It is considered that the proposed rectangular box extension does not fit comfortably onto the existing gable elevation of the theatre. It appears to be too wide and out of scale for the existing elevation which it virtually conceals.
- The proposal will essentially extend the footprint of the building further back on the site which would have an adverse impact upon the adjacent Hawkesbury Hall, as the new extension would be sited directly in front of part of the hall's rear elevation.
- It is considered that the proposal would adversely affect the existing character and appearance of the Hawksbury Little Theatre, which is a curtilage listed building. It is also considered that it will adversely affect the architectural and historical setting of the grade II listed Hawkesbury Hall, thereby failing to preserve and enhance the historic environment and specifically safeguarding the character of the historic buildings.

3.06 **Theatres Trust:** Summary of points raised follows:

- The structure provides dressing rooms for the theatre and is therefore vital for the theatre to be able to effectively function.
- Whilst accepting that the structure causes some harm to the setting of the neighbouring Grade II listed Hawkesbury Hall, this must be balanced against the wider public benefits for the town of maintaining the theatre and supporting the wellbeing of those associated with it. On that basis in heritage terms they consider there is sufficient mitigation, particularly given that the portable nature of the structure makes harm reversible. Furthermore there has been no alteration to the appearance, scale or function of the structure and the Council through consecutive previous planning decisions has found this acceptable.
- Residential use was not permitted at the Hall until 2012, and it was not occupied until 2015 at the earliest. This was a number of years after the dressing room block became operational, and the theatre itself was already long-established before that. As such the theatre and this block in particular was an existing use and potential source of noise and light, equally impact on visual amenity was already known.
- Impact on living conditions should be disregarded as a reason to potentially refuse permission for this application, and if mitigations are required any burden should not fall with the theatre.
- Should permission for this application be refused, Theatres Trust consider such a decision would conflict with the Well-being of Future Generations (Wales) Act 2015 because harm to the theatre's ongoing operation would be detrimental to social and cultural well-being.

4.00 PUBLICITY

4.01 41 Neighbour Notifications were sent to adjoining or nearby properties. A Site Notice was also displayed at the site and a Press Notice was published in a local newspaper. One objection was received which is summarised as follows:

1. overlooking and loss of privacy
2. loss of light and overshadowing
3. impact on visual amenity
4. poor design and location
5. risk of creating a precedent

6. impact on the setting of a listed building
7. contravention of national and local planning policies
8. over development of the site

41 Representations of support have been received and they are summarised as follows:

1. The Theatre is a much valued and much needed by the community and further afield
2. The Theatre is a community asset
3. Removal of the changing facilities would contravene Well-Being Objectives for Flintshire County Council
4. The changing block has been in-situ for almost 20 years – nothing has changed, increased or deteriorated in its use
5. Previous permissions have established the use of this block
6. Young people involved in the Theatre have a great advantage and learning facility which they may not otherwise have if it were not present (in their hometown)
7. Loss of this facility would have a huge negative impact on the well-being of the community
8. Loss of the changing room block would lead to the loss of the theatre
9. People come from distances to support the theatre
10. Theatre supports the mental health and well-being of its members, patrons, and residents
11. Important facility for children's education

5.00 SITE HISTORY

5.01 **032658** – Partial demolition and extension to form toilets and kitchen - Approved 30/7/01

036374 – Extension to theatre – Approved – 22.10.03

38122 – Siting of portacabin approved 14.9.04

40052 – Variation of condition No.1 attached to planning permission ref: 038122 (Renewal to allow siting of portacabin) - Approved 8.9.05

41899 - Renewal of planning permission ref. 040052 for the siting of a Portacabin - Approved 5.9.06

43779 - Renewal of planning permissions refs. 040052 and 041899 to allow the siting of a portacabin – Approved 24.9.07

45247 - Renewal of planning permission ref. 040052 to allow the siting of a portacabin - Approved 28.8.08

46614 - Renewal of planning permission ref: 040052 to allow siting of portacabin - Approved 28.10.09

47930 - Renewal of planning permission ref: 046614 to retain portacabin to rear of building for a further 12-month period – Approved 8.11.10

049157 - Renewal of planning permission ref: 047930 to retain portacabin to rear of building for a further 12-month period - Approved – 14.12.11

050330 - Renewal of planning permission ref: 049157 for the retention of a Portacabin- Approved 6.2.13

051680 - Renewal of planning permission ref: 050330 for the retention of a portacabin approved – 3.3.14

053243 - Renewal of planning permission ref: 051680 for the retention of a Portacabin – Approved 16.4.15

055164 - Renewal of planning permission ref: 053243 for siting of portacabin- approved 6.2.13

051680 - Renewal of planning permission ref: 050330 for the retention of a portacabin Approved – 3.3.14

6.00 **PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan
Policy GEN 1 – General Requirements for Development
Policy GEN 2 – Development inside settlement boundaries
Policy D1 - Design Quality, Location and Layout
Policy D2 – Design
Policy HE2 - Development affecting Listed Buildings and their Settings

6.02 Supplementary Planning Guidance (SPGN)
LPG Note 6 – Listed Buildings

6.03 National Planning Policies
Planning Policy Wales – Edition 11 (Feb.2021)
Technical Advice Note 12 – Design
Technical Advice Note 24 – The Historic Environment

Future Wales: The National Plan 2040 (FWP 2040)
It is noted and acknowledged that the national planning framework as set out within Planning Policy Wales Edition 11 and Future Wales: The National Plan 2040 sets out the most up to date planning principles against which to consider development proposals. The Development Plan and associated supplementary

planning guidance remain broadly consistent with these changes to legislation

7.00 PLANNING APPRAISAL

7.01 Site Description

Hawkesbury Little Theatre is located off Mill Lane Buckley and is a long-standing community facility, previously used as a community centre. The building itself is Curtilage Listed within the confines of the Grade II Listed Hawkesbury Hall, although the two premises are in different ownership. Hawkesbury Hall, after a period of restoration is now occupied as a single dwelling house. The theatre building is 'hut' like in appearance, having a brown brick wall which is clad in vertical metal sheeting. Comprising a pitched roof of concrete tile finish, the buildings' curtilage listed association is thought to have originated from its connection to Hawkesbury Hall which was listed for its early C19 origins and important historic associations with Jonathan Catherall.

7.02 Proposal

The application seeks permission for the continued and permanent siting of a flat roof portacabin which is used as changing rooms, ancillary to the theatre use. The portable building is located at the northwest side of the Theatre. It is separated from the listed Hawkesbury Hall, but less than a 4 metre distance. The portacabin extends the full width of the existing theatre, and contains a window and door at either end, together with two high level windows to the side elevation. It is painted cream in colour and provides 4 additional security lights.

7.03 Considerations

The main issues in considering the application are:

- Character and Appearance
- Impact on living conditions
- Impact upon adjacent Listed Building
- Comments of the Theatres Trust

7.04 Character and Appearance

Policy D1 Design Quality, Location and Layout states that all development must incorporate good standards of design. When the proposed development is considered against the criteria in policy D1, it is difficult to identify where it would comply with any of those criteria, given its temporary and utilitarian design, and also set in context of its surroundings and relationship to the listed and curtilage buildings

- 7.05 The portacabin which has been sited on the west side of the existing curtilage listed theatre is of a flat-roof design which is not reflective of the existing pitched roof shape of either the curtilage theatre building, or the adjacent Hall. It contains low quality fenestration, which is not reflective of, nor in keeping with the character of the existing curtilage listed premises or adjacent listed dwelling. The window style is significantly different from those located at the adjacent Hawkesbury Hall.
- 7.06 It is not considered that the location of the proposed structure makes best use of the site or represents positive place making, in that there are potentially preferential locations for its siting elsewhere, for example to the roadside elevation, that would lessen the impact upon the character and appearance of the site and historic assets, but these have not been considered as part of the proposal.
- 7.07 The siting of the structure does not create a positive and attractive building alignment or frontage, creating a conflict with the respective form of the existing theatre building and adjacent listed dwelling. It is noted that a link has been formed between the existing theatre and the changing room facilities which has a breeze block and corrugated metal finish with a sloped roof where it faces Hawkesbury Hall. There is no paint or facing brickwork applied at the plinth of this section which contributes to the poor and disjointed external appearance. The painted exterior of the portacabin is beginning to show signs of a peeling and it is noted that the storage of non-theatre related material takes place underneath the portacabin.
- 7.08 A series of temporary consents have been granted for the siting of the portacabin for use as changing rooms for almost 20 years, and its current positioning is to allow direct access from the dressing room to the rear of the stage. This being said, it is considered that continually renewing temporary permissions for a building which is not acceptable as a permanent addition in this location is not appropriate particularly given the number of times that this has been done. Whilst recognising the use of the main building as a theatre and the community benefits that are associated with this use, the flexibility applied in the planning balance by the LPA in renewing the temporary consent over such a period of time has now been exhausted. The significant change in circumstances is the restoration of the listed Hall and its residential use.
- 7.09 Where temporary consents are issued, the Local Planning Authority can retain a degree of control over the appearance of the building and monitor the situation in terms of visual impact, however if consent is given for the permanent retention of the changing rooms as now applied for, the portacabin will continue to deteriorate in condition and whilst the temporary consents given have enabled the

theatre company to have the changing facility they required until now, ample time has also passed for the Buckley Theatre company to consider and explore the erection of a permanent, well designed and suitably located structure which would have a less harmful visual impact. Paragraph 2.6 of TAN 12 states that design which is inappropriate in its context, as this is, or which fails to grasp opportunities to enhance the character, quality, and function of an area, should not be accepted, as these have detrimental effects on existing communities.

7.10 Impacts upon Living Conditions

The Little Theatre is located within 4m of the adjacent dwelling Hawkesbury Hall. The planning history of the Hall illustrates that it obtained a change of use to residential with the building now used as a theatre being in situ.

7.11 It is noted that as approved, the elevation of the theatre facing Hawkesbury Hall did not contain any windows which offered a degree of protection against overlooking. The siting of the portacabin introduces both a window and door which is located directly outside a window of Hawkesbury Hall. Traditionally, the room which this window serves would have been an entrance hall. However, it is now being used as a living room, which is categorised as a habitable room. The loss of privacy occurring is harmful to the living conditions afforded to the adjacent dwelling and therefore the proposal fails to satisfy the aims of Policy GEN 1 of the Unitary Development Plan.

7.12 Comments from the third-party objector have made reference to the advice contained in Supplementary Planning Guidance note 2 – Space around Dwellings. Fundamentally, this guidance is aimed at establishing separation distances between habitable rooms in dwellings, and as a commercial property does not contain habitable rooms the principles of the SPG cannot therefore be applied. That said, the windows contained within a commercial premises can impact upon the living conditions afforded to adjacent dwellings and the effect is still assessed against the relevant planning policies listed above. Owing to the short distance between the end elevation of the portacabin (4 metres) and the opposing habitable room of Hawkesbury Hall, there is an obvious overbearing impact and detrimental loss of privacy occurring. Having a higher floor level, users of the changing rooms are able to view directly down and into the adjacent window at Hawkesbury Hall, via the glazed window and door of the changing room. The occupiers of the adjacent dwelling have provided photographs of multiple persons congregated outside of the changing room door which can only be viewed as intrusive and harmful to living conditions at the Hall.

7.13 Additionally, a security light has been placed over the door which emits light into Hawkesbury Hall at night-time. This light pollution is

further exacerbated by the addition of three more security lights on the portacabin, having a cumulative and unacceptable effect on the living conditions afforded to the adjacent dwelling. Criteria d) of Policy GEN 1 states that the development should not have a significant adverse impact on the safety and amenity of nearby residents, other users of nearby land/property, or the community in general, through increased activity, disturbance, noise, dust, vibration, hazard, or the adverse effects of pollution. In conjunction with my assessment above, and the detailed objection received from the Community and Business Protection colleagues, it is concluded that the impact of the continued siting of the portacabin in its current position would be detrimental to the living conditions afforded to the occupiers of the adjacent Hawkesbury Hall, contrary to Policy GEN 1

7.14 Impact upon Listed Building

Policy HE2 Development Affecting Listed Buildings and their Settings states that any development affecting listed buildings or their settings, including internal or external alterations or change of use will be permitted only where:

- there is no adverse effect on the building's special architectural or historic character and appearance and the setting of a listed building;
- it can be demonstrated that the loss of, or damage to its historic fabric is unavoidable, has been minimised and that works which would result in the loss of, or which would conceal parts of a listed building, and which contribute to its interest, will be recorded by a photographic or drawn survey; and
- a change of use of a listed building or structure would increase the likelihood of the survival of the building and where alterations do not harm its character or special interest.

7.15 Having regard to the detailed objection received from the Conservation Officer, it can only be concluded that the continued and permanent siting of the portacabin would adversely impact upon the special and historic character of the both the Grade II listed dwelling and curtilage listed theatre. The application does not adequately demonstrate how the development minimises damage to the fabric of the theatre building nor is there adequate justification for the concealing of part of the curtilage listed building with such a poorly designed and temporary structure. The proposal would have an unacceptable and harmful impact upon the curtilage listed theatre and adjacent listed building, failing to satisfy the requirements of policy HE 2 of the Unitary Development Plan.

7.16 Comments of the Theatre Trust

In response to consultation, the Theatres Trust have provided a detailed response with the main points being summarised in para 2.6. It should be noted that the response refers to the 'renewal' of planning permission whereas the proposal seeks permanent retention of the changing room facility. The letter indicates that Planning Policy Wales Edition 11 (2021) states the 'agent of change principle' will be a guiding principle for supporting the evening economy. Therefore impact on living conditions should be disregarded as a reason to potentially refuse permission for this application, and if mitigations are required any burden should not fall with the theatre. In response to this, it is worth noting that PPW11 sets out from 4.3.43 onwards a section on 'The importance of Evening and Nighttime Economy'. Whilst there is support for facilitating such development including bars, restaurants, pubs, theatres, music and arts venues, there is also recognition such activities can be characterised by increased levels of noise, large gatherings of people, later operating hours, and greater traffic movements. It also talks about the compatibility of such uses close to residential accommodation and the possible need for mitigation measures. Therefore, as with many forms of development it is necessary to read the guidance as a whole whereby positives are balanced against negatives.

In conclusion, whilst the social benefits associated with the use are acknowledged, it is not considered that these outweigh the harmful impacts upon the Listed Assets and adjacent living conditions for the reasons given within the appraisal.

8.00 **CONCLUSION**

In conclusion, it is recognised that the siting of the portacabin has been deemed acceptable for a number of years by a flexible application of the planning balance. It is considered that ample time has passed to allow the Buckley Theatre Company to consider the erection of a permanent and appropriately designed extension to the existing building to cater for their requirements and this advice has been provided to the Theatre on a number of occasions. The development as proposed is detrimental to the character and appearance of the area, harmful to the living conditions of adjacent occupiers and impacts unacceptably upon the historic and architectural merit afforded to the curtilage listed building and adjacent grade II listed dwelling.

The proposal fails to satisfy the requirements of Policies D1, D2, GEN 1 and HE 2 of the Flintshire Unitary Development Plan and accordingly I recommend that the application is REFUSED and the portacabin be removed.

8.01 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

The Council has had due regard to its public sector equality duty under the Equality Act 2010.

The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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