

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **24<sup>TH</sup> JULY 2019**

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

**SUBJECT:** **RETROSPECTIVE PLANNING APPLICATION FOR THE RETENTION OF 4 NO. LIGHTING COLUMNS AND ASSOCIATED LUMINAIRES AND 1 NO. LUMINAIRE ON VEHICLE HEIGHT BARRIER AT THOMAS PLANT HIRE DEPOT, LLWYBR HIR, CAERWYS.**

**APPLICATION NUMBER:** **058561**

**SITE:** **THOMAS PLANT HIRE DEPOT, LLWYBR HIR, CAERWYS.**

**APPLICATION VALID DATE:** **12<sup>TH</sup> JUNE 2018**

**LOCAL MEMBERS:** **COUNCILLOR T. JONES**

**TOWN/COMMUNITY COUNCIL:** **CAERWYS TOWN COUNCIL**

**REASON FOR COMMITTEE:** **LOCAL MEMBER CONCERNS REGARDING IMPACT TO AMENITY**

**SITE VISIT:** **NO**

**1.00 SUMMARY**

- 1.01 This is a full application for the retention of 4no. lighting columns and associated luminaires and 1 no. luminaire on vehicle height barrier at Thomas Plant Hire Depot, Llwybr Hir, Caerwys. The application was submitted following involvement by Planning Enforcement and advice was provided to the applicant to avoid detrimental harm upon neighbouring properties, the character and appearance of the rural area and nearby AONB.

1.02 The application is considered acceptable in policy terms and will not have a detrimental effect on the living conditions of neighbouring occupiers in the locality, the highway network, the character and appearance of the rural area and the AONB.

**2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-**

- 2.01
1. In accordance with approved details
  2. No illumination on site other than between the hours of 0545hrs and 1815hrs Monday to Saturday
  3. Luminaires must be LED and not exceed a maximum of 4000 Kelvins.

**3.00 CONSULTATIONS**

3.01 Local Member  
Councillor T. Jones

I request this application to be referred to Planning Committee due to resident concerns over impact to amenity.

Caerwys Town Council

1) The lighting hood units should be adjustable, so as not to shine into neighbouring properties 2) The strength of the lighting should not be more than is required by legislation for Health and Safety.

Community and Business Protection

I can confirm that I have no adverse comments to make regarding this proposal.

Highways Development Control

I can confirm I raise no objection to the proposal, in principle, and I do not intend to make a recommendation on highway grounds.

In addition, please ensure that the attached Supplementary Notes are issued to the applicant as part of any planning consent which may be granted with particular reference to Clause 9 and Public Footpath no19A that crosses the application site edged red.

Street Lighting

Following additional information from the applicant in the form of a detailed light specification, the Councils Street Lighting Manager has confirmed that the lighting is acceptable subject to conditions. Photographs of the current lights will be retained to ensure no alterations are made at a later date.

### Welsh Government

I refer to your consultation and advise that the Welsh Government as highway authority for the A55 trunk road does not issue a direction in respect of this application.

### Clwydian Range and Dee Valley AONB Joint Committee

The Joint Committee notes that the proposed lighting hoods have been removed from the application but no other substantive changes have been made to the scheme. In this context, the committee remains concerned about the development and would restate the comments made below from their response dated 12.07.18. (set out below)

The Joint Committee deplores the retrospective nature of this application and has serious concerns about the proposals. The AONB is working to secure formal dark sky status and although the site is outside the AONB, the scale and extent of external lighting at the depot does impact on the tranquil, dark character of the AONB, particularly when viewed from the higher ground of the protected landscape to the south and west. No details of light output or colour temperature are provided for the existing floodlight style luminaires, which are inappropriately aligned to allow light to spill upwards. The committee is also unconvinced that the proposed hoods will make a significant difference in this regard, and would recommend modern, fully shielded and dimmable LED luminaires with a lower output and maximum 3000 kelvin colour temperature. In addition, no details are provided for the three pre-existing lighting units along the eastern boundary, and the committee would recommend that these should also be included as part of an overall lighting plan for the site. No proposals for operational timing of the lights have been included with the application, but the committee would recommend that this should be kept to the minimum necessary and should be consistent with the permitted hours of operation for the site.

## **4.00 PUBLICITY**

### **4.01 Site Notice and Neighbour Notification**

4no. letters of objection received upon the following grounds:

- Impact upon residential amenity and lighting left on during unsociable hours.
- The effect upon highway safety
- Detrimental impact upon the rural character of the area and upon the AONB.

## **5.00 SITE HISTORY**

### **5.01 052645**

Change of use of the Sundawn Garden Centre to a plant hire depot, including the demolition of the existing garden centre buildings, the erection of a workshop building, and the conversion of the Teapot Cafe for use as ancillary office accommodation.

Refused 18.12.14. Allowed on appeal (APP/A6835/A/15/3005058) 29.01.16.

### **058770**

Live application for removal or variation of a condition following grant of planning permission (052645). Extension of operational hours from 0600 to 1800 Mondays – Saturdays to 0500 to 2300 7 days a week – Refused 17.07.19

## **6.00 PLANNING POLICIES**

### **6.01 Flintshire Unitary Development Plan**

STR1 - New Development

GEN1 - General Requirements for Development

GEN3 – Development in the Open Countryside

D4 – Outdoor Lighting

L1 – Landscape Character

L2 - Area of Outstanding Natural Beauty

EWP13 - Nuisance

Planning Policy Wales Edition 10 (December 2018)

## **7.00 PLANNING APPRAISAL**

### **7.01 Introduction**

This is a full application for the retention of 4no. lighting columns and associated luminaires and 1 no. luminaire on vehicle height barrier at Thomas Plant Hire Depot, Llwybr Hir, Caerwys.

7.02 This is a retrospective application submitted following investigation by the Councils Planning Enforcement Team which seeks to regularise the use. The application was initially submitted with details to include lighting hoods which have now been removed. Further consultation has taken place.

### **7.03 Site Description**

The application site is the former Teapot Café and Sundawn Garden Centre, which was allowed on appeal 29.01.16 for a change of use to a plant hire depot. The permission included the demolition of the garden centre buildings, the erection of a workshop building and the

conversion of the Teapot Café for use as ancillary office accommodation.

7.04 The site is situated in a rural location but with the A55 directly adjacent to the north. The land is fairly flat on a rectangular plot and is bound by mature hedgerows and agricultural land on 3 sides, which undulates gradually. There are several residential properties within close proximity to the site.

7.05 Proposed Development

The retrospective application seeks consent for the addition of 2no. lighting columns on the eastern side of the site and 2no. lighting columns on the west, along with a luminaire on the vehicle height barrier within the site, between the car park and the depot. The proposed lighting is in addition to the 3 pre-existing lights that were considered acceptable by the Planning Inspector during their determination of the appeal following the refusal of planning application 052645 by Planning Committee.

7.06 Background and Principle of Development

The application site has recent planning history, ref: 052645 Change of use of the site to a plant hire depot, erection of a workshop building, and the conversion of the Teapot Cafe for use as ancillary office accommodation. This was refused by Planning Committee 18.12.14 and thereafter allowed at appeal 29.01.16. The principle of the use has therefore been established.

7.07 The Inspector stated that the proposed use would be no less suitable than the former uses and would not look significantly out of place in the agricultural area. In coming to this conclusion the Inspector considered the retention of the lights from the former Teapot Café and Sundawn Garden Centre and made reference to the fact that at the time of the application there was no intention to provide additional lighting on the site. The existing outdoor lighting at the time of the application was therefore considered acceptable and conditions relating to the lighting were therefore not imposed.

7.08 Main Issues

The main issues are;

- Impact from light spillage adversely affecting the living conditions of neighbouring occupiers;
- Impact from light spillage onto the A55;
- Impact from light spillage close to the AONB and the open countryside location.

7.09 Impact on Residential Living Conditions

The representations received raise concerns in relation to the impact of the lighting on their residential living conditions. Members are reminded that the development site is close to the A55 and of the

context of lighting which exists in this location. The site also has a lawful consent to operate as a plant hire depot of which the Planning Inspector considered existing ancillary lighting to be acceptable in this location.

- 7.10 The applicant has provided evidence that the specification of the existing lights are LEDs at a maximum 4000k. These are consistent with the standard used by Flintshire County Council Street Lighting and do not present an unusual or unacceptable scale of illumination. As there is no requirement for the site to be illuminated outside the hours of business operation it is suggested to impose a condition to limit illumination to these times.
- 7.11 I draw members attention to the Community Council comments which refer to the installation of lighting hoods. The application before members is an amended scheme which confirms the removal of lighting hoods. This was subject to reconsultation, however the Community Council comments do not reflect this change. Whilst lighting hoods can be used to reduce light spillage, the impact of the lights without the hoods and the specification of the LEDs, which are at a maximum 4000k, consistent with the standard used by the County Council, it is considered that the amended scheme is acceptable.
- 7.12 The Local Authority has given due regard to Policy EWP13 in determining this application and having assessed the specification submitted, it is considered that light pollution will be kept to a minimum, avoiding any adverse effect on neighbouring residential amenity by implementing planning conditions as mentioned above.
- 7.13 Impact on the A55  
The lighting specification has been agreed by the Councils Street Lighting Team. Furthermore, the Councils Highways Team have confirmed that they raise no objection to the proposal and do not intend to make a recommendation on highway grounds. The Welsh Government have also confirmed that they do not issue a direction in respect of the application with regards to the A55 trunk road. It is therefore considered there is no adverse impact on highway safety for users of the A55.
- 7.14 Impact on the AONB and Open Countryside  
The site lies outside of the boundary but in close proximity to the Area of Outstanding Natural Beauty, however due to the nature of the application the Clwydian Range and Dee Valley AONB Joint Committee were invited to comment and due regard has been given to Policy L2.
- 7.15 The AONB Joint Committee have raised concerns in relation to the three pre-existing lighting units along the eastern boundary, which are

not included as part of this application and therefore cannot be considered.

- 7.16 The AONB Joint Committee also recommend that modern fully shielded dimmable LED luminaires with a lower output and maximum 3000k are provided. Whilst I have considered the recommendations made by the AONB Joint Committee, the site is outside of the designation, but is situated within the open countryside nonetheless, therefore regard has been given to the level of harm caused by the illumination upon the character and appearance of the landscape. It is considered that the increased illumination is offset by the sites close proximity to the A55 trunk road and Tremeirchion junction, which is well lit by artificial lights. As it currently stands there are also no restrictions on the type or usage of luminaires on site. Therefore a condition to restrict the type of light and operational hours of all illumination on site addresses some of the concerns raised by the AONB Joint Committee and by neighbouring occupiers.
- 7.17 The Kelvin Colour Temperature of the luminaires suggested by the AONB Joint Committee has been given due consideration, however given that the site is outside of the AONB and the specification used is in line with the standard specification used by the Council, the luminaires are considered acceptable and are consistent with other lighting schemes across the County.
- 7.18 Light spillage has been assessed and it is considered that there is minimal harm caused to the character and appearance of the landscape, the rural area and the AONB. The application meets the requirements of Policy L1 and Policy L2. Overall it is considered that this application will result in a betterment to the previous lighting scheme, which had no restrictions.

## **8.00 CONCLUSION**

- 8.01 On balance it is considered that the proposal will maintain the standards of natural tranquillity and darkness which was previously created by the garden centre use and which was established by the allowed appeal with external lighting included. The proposed luminaire levels and hours of operation assist in avoiding any further adverse impact on the AONB.
- 8.02 It is considered that the proposal is in accordance with the relevant development plan policies, and having considered the objections received and all other matters I recommend that the application is approved.
- 8.03 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.

- 8.04 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.
- 8.05 The Council has had due regard to its public sector equality duty under the Equality Act 2010.
- 8.06 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

**Contact Officer:** Alison Dean  
**Telephone:** (01352) 702012  
**Email:** Alison.dean@flintshire.gov.uk