

REPORT OF THE CHIEF PLANNING OFFICER – 6 December 2010

APPLICATION NO:
P/2010 /0902

LOCATION:
HAFOD TILERIES HAFOD ROAD
RUABON WREXHAM
LL14 6ET

DATE RECEIVED:
29/10/2010

COMMUNITY:
Esclusham

DESCRIPTION:
CHANGE OF USE FROM STOCKING
AREA TO MORTAR AND CONCRETE
BATCHING PLANT

CASE OFFICER:
MP

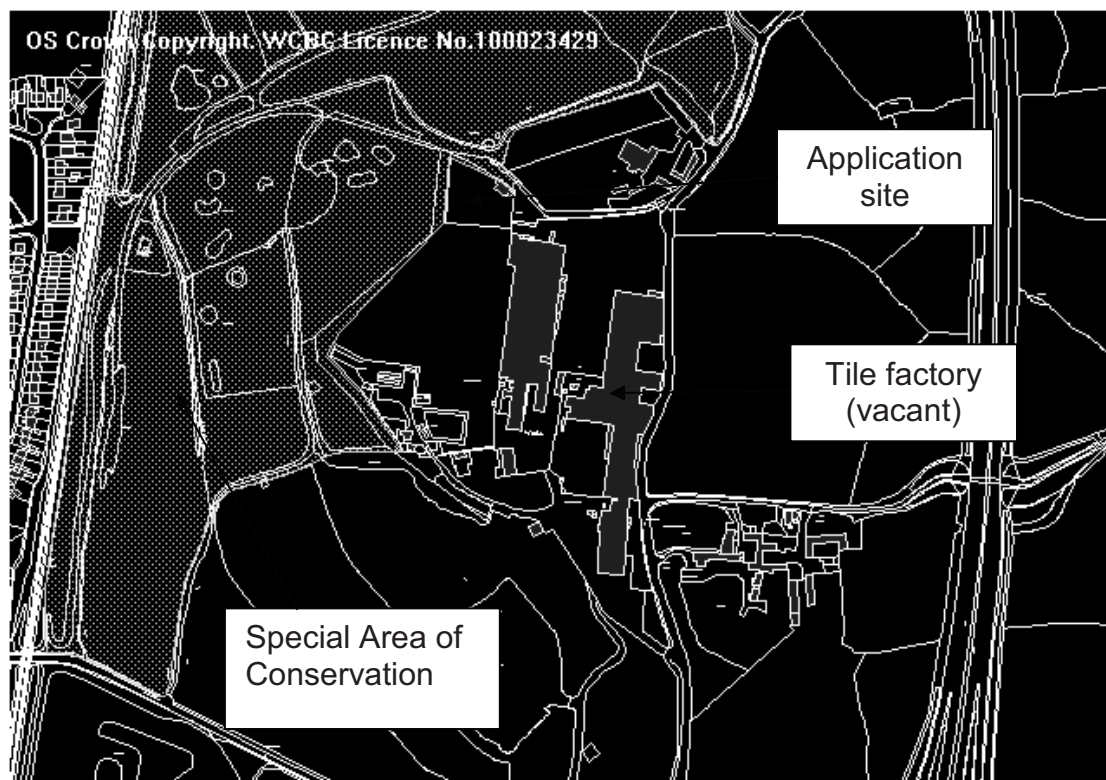
WARD:
Ponciau

APPLICANT(S) NAME:
ECO-READYMIX

AGENT NAME:
BLUE PRINT
MR S HATHERALL

SITING

A hard surfaced area immediately adjacent to the north-west of the Dennis Ruabon tile factory.



PROPOSAL

As above. The application seeks retrospective permission.

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HISTORY

6/1843	Surfacing of land to be used as stocking ground for finished products from adjoining tile works. Granted 1.4.76
P/2005/1219	Extension to range of use of current permitted storage areas to include the storage of imported tiles, plant and mobile offices. Granted 30.1.2006
P/2008/0896	Change of use from stocking area to use for concrete and mortar batching (in retrospect). Refused 3.11.08. Appeal Dismissed 1.4.2010.
PG/2007/0016	Enforcement Notice issued 2 April 2009. Notice requires; a) removal of concrete batching plant, associated offices and staff facilities; b) cessation of commercial vehicle parking and operations associated with concrete batching plant. Period of 6 months given to comply with notice. Appeal against notice dismissed 1.4.10 subject to minor change to allow 12 months (from 1.4.10) for compliance.
<i>Adjoining Land</i> P/2009/0047	ERECTION OF 20kw WIND TURBINE WITH TOWER HEIGHT OF 18 METRES. Granted 1.6.2009

DEVELOPMENT PLAN

Outside settlement. The site is also adjacent to the Johnstown Newt Site Special Area of Conservation. Policies PS1, GDP1 and EC6 are applicable.

CONSULTATIONS

Community Council:	Notified 1.11.10
Cllr Paul Pemberton:	Does not support refusal, request application be reported to committee.
Cllr Aled Roberts:	Notified 1.11.10.
Highways:	Notified 1.11.10
Public Protection:	Notified 1.11.10
Environment Agency:	Notified 1.11.10
Access Group:	Notified 1.11.10
Welsh Water:	Recommend drainage conditions.
CCW:	Makes the following comments: - Application site is adjacent to Stryt Las a'r Hafod SSSI and Johnstown Newt Sites Special Area of Conservation SAC; - Development constitutes a project likely to have a significant effect on SAC. Habitat

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Regulations Assessment required before approval;

- WCBC has already completed an assessment in respect of a Environmental Permit application;
- Applicant has previously commissioned ecological mitigation measures. The principles of scheme considered satisfactory. If approved, advise implementation of the scheme subject to condition and planning obligation;
- Only issue that is outstanding concerns the quality of surface water run-off that may be discharged into the SAC. Applicant should submit details to demonstrate that activities will not adversely affect the quality of surface water within the SAC. This information should be submitted by the applicant to inform the Habitat Regulations Assessment and conditions likely to be required to safeguard the quality of water within the SAC.
- Site likely to support Great Crested Newts, development may only proceed after a licence has been issued from WAG;
- If approved, advise condition required species conservation schemes and mitigation proposals to ensure the effective long term protection and management of mitigation/offsetting areas;

HSE: Does not advise against granting of planning permission.

Other representations: Nearby properties notified 4.11.10

Site notice: Expired 26.11.10

SPECIAL CONSIDERATIONS

Background: The land was previously used for storage in conjunction with the adjacent tile factory, permission for that use having been granted in for that use 1976. A condition attached to the 1976 permission restricts the use of the land to that purpose. A further permission in 2006 allowed additional items/products to be stored on site, although again in conjunction with the operation of the adjacent factory.

This is a re-submission of retrospective proposals to operate a concrete batching plant. The previous application was refused by Planning Committee for the reasons in November 2008:

1. *The site lies outside a settlement limit in the Wrexham UDP and as such is in an area where there is a general presumption against new*

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industrial development. The development is therefore considered to be contrary to policy PS1 of the Wrexham Unitary Development Plan.

- 2. Insufficient information has been submitted to demonstrate that the need for the development outweighs the need to safeguard the intrinsic nature conservation value of the adjoining Stryt Las a'r Hafod Site of Special Scientific Interest/Johnstown Newt Sites Special Area of Conservation. In the absence of this information, as well as information clearly demonstrating that the use of the site as a concrete batching plant will not have a significant or adverse impact upon SSSI/SAC the development conflicts with policy EC6 of the Wrexham Unitary Development Plan.*
- 3. The required visibility splays cross land outside of the applicant's control. In the absence of details demonstrating the applicant can secure the required splays, the proposals provide inadequate visibility at the point of access from the site onto Hafod Road. As such the development presents a risk to all highway users and consequently conflicts with policy GPD1(d) of the Wrexham Unitary Development Plan.*

A subsequent appeal against the Council's decision was dismissed. Following additional submissions made on the applicant's behalf during the appeal, the Planning Inspector concluded that there was sufficient evidence to demonstrate that the development is not likely to harm the nearby SSSI/SAC and as such there was no conflict with policy EC6.

During the appeal site visit it was also demonstrated by the appellant that adequate visibility could be achieved from the site access and as such there was no conflict with policy GDP1(d).

Whilst the Inspector did not uphold the second and third reasons for refusal he did find the proposals in conflict with policy PS1.

Applicant's case: The applicant has put forward the following points in support of the current application:

- i) Lack of suitable alternative sites in the south of the County Borough. The Council's Chief Economic Development Officer Local estate agents have been contacted.
- ii) There is no more sustainable location for this use within the authority's boundary;
- iii) Site has lawful employment use;
- iv) This is the only wet batch plant in the County Borough and consequently supports local building sites;
- v) Site has the ability to serve 92% of the County Borough;
- vi) Staff (8) live within 5 miles of site;
- vii) Site provides jobs for local people;
- viii) Business supported charitable ventures;

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- ix) Materials come from re-cycled sources;
- x) Investment in a wind turbine – the business is operating using renewable energy.
- xi) Sustainability benefit of bringing back into use unused employment land.

The applicant's supporting case concludes that there is no other suitable site for the business and should permission be refused he will have no option but to relocate his business outside of the County Borough.

Policy: There has been no change in policy since the Planning Committee refused previous application nor since the Inspector issued his decision. The applicant is seeking permission for employment development outside of a defined settlement and is therefore contrary to policy PS1. Many of the reasons put forward in support of the proposals by the applicant were taken into account by the Inspector and held to not warrant the granting of permission.

No substantive evidence has been submitted to demonstrate why the business must be based in the south of the County Borough or why sites elsewhere in the County Borough (such as Llay Industrial Estate or Wrexham Industrial Estate) would be not be viable alternative locations for the business. Indeed the applicant's case in this respect is undermined by his threat to relocate the business out of the County Borough if this application is refused.

Whilst the applicant has unsuccessfully sought to find other sites in the south of the County Borough, I do not find this sufficient reason to set aside local policies. To allow the development simply because the applicant cannot find a site elsewhere in the south of the County Borough would undermine the UDP strategy to direct new employment to settlement/employment areas. The development plan has made provision for sufficient land to provide anticipated employment needs across the County Borough for the foreseeable future, indeed it is generally acknowledged that there is an over-provision of employment land based on the rate of land take-up in recent years.

Ecology: The applicant has previously submitted mitigation/compensation measures in respect of Great Crested Newts and submitted drainage information to the at the time of the appeal thus demonstrating to the satisfaction of both CCW and the Planning Inspector that the development need to be harmful in respect of protected species (Great Crested Newts) nor the adjoining Special Area of Conservation. However the details previously submitted as part of the previous application have not been included in the current submission.

I am unaware of any changes in circumstance that would lead to the previous mitigation/compensation proposals and site drainage proposals no longer being appropriate/acceptable and therefore see no reason to doubt that sufficient information can be made available to allow a Habitat Regulations

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Assessment to be completed. However the applicant would need to re-submit this information before such as assessment could be completed.

Whilst I do not intend to recommend against the application on ecological grounds, Members are reminded that should they wish to grant permission, it would not be possible to issue a decision unless and until a Habitat Regulations Assessment has been completed.

Conclusion: The development conflicts with UDP policies concerning the location of new industrial development.

RECOMMENDATION: That permission be **REFUSED**

REASON(S)

1. The site lies outside a settlement limit in the Wrexham UDP and as such is in an area where there is a general presumption against new industrial development. The development is therefore considered to be contrary to policy PS1 of the Wrexham Unitary Development Plan.