

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: APP/H6955/A/21/3277038 - Central Buildings and Adjoining Land, Brook Street, Wrexham, LL13 7LH
Date: 16 July 2021 10:59:25
Attachments: [Appeal Rebuttal .pdf](#)
[Appendix A - NRW comments.pdf](#)
[Appendix B - Noise Tech Note.pdf](#)
[LPA letter 24 June.pdf](#)

Dear Sir

On behalf of REKOM (the owners of the ATIK Nightclub, 33 Brook Street, Wrexham) please find a copy of our representations, and associated appendices, in relation to the above appeal attached.

We have also cc'd in the LPA for information.

Please could we also be provided with a copy of the appeal decision in due course.

Kind Regards

Jon

Jon Hurley - Director

Asbri Planning Ltd [REDACTED] **W:** <http://www.asbriplanning.co.uk>

Cardiff | Swansea

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THE OWNER/OCCUPIER
ATIK NIGHTCLUB
33 BROOK STREET
WREXHAM
LL13 7LH

Your Ref/Eich Cyf
Our Ref/Ein Cyf
Date/Dyddiad
Ask for/Gofynner am
Direct Dial/Rhif Union
E-mail/E-bost

P/2018/0915
24/06/2020
Sharon Williams
[REDACTED]

Town and Country Planning Act 1990
Appeal at: CENTRAL BUILDINGS AND ADJOINING LAND, BROOK STREET,
WREXHAM, LL13 7LH

Dear Sir/Madam

I am writing to inform you that an appeal has been made to the Welsh Ministers in respect of the above-mentioned site and will be determined by an Inspector appointed by the Welsh Ministers.

The appeal follows this Council's determination of the application. The appeal is to be decided on the basis of Written Representations.

As an interested party/neighbouring occupier, you may wish to make representations in connection with this appeal to The Planning Inspectorate.

Any comments from consultees made at application stage will be forwarded to the Planning Inspectorate and copied to the appellant and will be taken into account by the Inspector in deciding the appeal.

If you wish to make any additional comments you should do so **within four weeks** of the start date. If any representations are submitted after the deadline, they will not be seen by the Inspector and they will be returned. Please note any comments you make must not exceed 3000 words.

The address for The Planning Inspectorate is:-

The Planning Inspectorate
Crown Buildings
Cathays Park
Cardiff CF10 3NQ

Alternatively you may make your comments by e-mail to: **wales@planninginspectorate.gov.uk**

The documents relevant to this appeal can be viewed on the Appeals Casework Portal website <https://acp.planninginspectorate.gov.uk> and entering the last seven digits of the planning inspectorate reference number in the "Search for a Case" box.

Alternatively you can view the Appeal form and accompanying documents on our website www.wrexham.gov.uk/plans quoting the planning reference number.

A copy of the leaflet "A Guide to Engaging with The Planning Inspectorate Wales on the Welsh Government Website <http://gov.wales/topics/planning/appeals/appeals-guidance-and-information/?lang=en>

Please note that if you wish to receive a copy of the appeal decision letter, please inform the Planning Inspectorate of this when you write to them.

Planning Reference:

P 2018 0915

Site Address:

CENTRAL BUILDINGS AND ADJOINING LAND
BROOK STREET
WREXHAM
LL13 7LH

Site Description:

RESIDENTIAL DEVELOPMENT COMPRISING CONVERSION OF FIRST AND SECOND FLOORS OF CENTRAL BUILDINGS TO PROVIDE 10 NO. APARTMENTS WITH RELATED ALTERATIONS AT GROUND FLOOR LEVEL AND ERECTION OF 28 NO. APARTMENTS ON ADJACENT LAND WITH ASSOCIATED PARKING

Welsh

Government Ref/Planning Inspectorate ref:

H6955/A/21/3277038

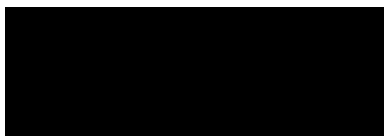
Start Date:

18/06/2021

Appellant's Name: Lingar Holdings (Chester) Ltd

If you have any further queries regarding the above please do not hesitate to contact the above named officer on the details shown above.

Yours sincerely



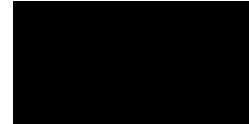
Lawrence Isted

Prif Swyddog Cynllunio a Rheoleiddio
Chief Officer Planning & Regulatory

Date: 16th July 2021
Our Ref: LH/ 21.226

Unit 9 Oak Tree Court
Mulberry Drive
Cardiff Gate Business Park
Cardiff
CF23 8RS

Planning Inspectorate
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN
United Kingdom



Dear Inspector,

Town and County Planning Act 1990

Residential development comprising the conversion of the first and second floors of Central buildings to provide 10 no. apartments with related alterations at ground floor level, and the erection of 28 no. apartments and associated parking (LPA ref: P/2018/0915)

Central Buildings and Adjoining Land, Brook Street, Wrexham, LL13 7LH

Planning Inspectorate reference: APP/H6955/A/21/3277038

Asbri Planning is appointed as planning agent to Rekom UK to complete a rebuttal statement in respect of the above planning appeal against Wrexham Local Planning Authority following refusal of an application for the delivery of residential development comprising the conversion of the first and second floors of Central buildings to provide 10 no. apartments with related alterations at ground floor level, and the erection of 28 no. apartments (LPA ref: P/2018/0915) at Central Buildings and Adjoining Land, Brook Street, Wrexham, LL13 7LH.

The application was first reported to the Planning Committee on 27th July 2020 with an officer's recommendation for refusal. It is understood that the application was deferred to allow further consideration of the application by NRW. The application was presented to Planning Committee on the 4th January 2021, and was refused, in line with the Chief Planning Officer's recommendation, which is extracted below;

1. The site lies partially in zone C2 and as a result the development is at unacceptable risk of flooding, thus being in conflict with advice in TAN15: Development and Flood Risk and policy EC12 of the Wrexham Unitary Development Plan.

In respect of flooding matters, the Inspector is directed to NRW representations which are attached to this letter as Appendix A.

Other considerations

Notwithstanding the councils' reasons for refusal, the appeal process encourages the Planning Inspector to consider the full case on its merit and not only the reasons set for refusal in the Councils decision notice. Procedural Guide – Wales confirms that *"The Inspector has to make the decision (or the report and recommendation to the Welsh Ministers for a called-in application or recovered appeal) under the circumstances existing at the time he or she makes it. The Inspector will therefore take account of:*

- *the material submitted to the local planning authority;*

- all the appeal documents;
- any relevant legislation and policies, **including changes to legislation**, any new Government policy and any new or emerging development plan policies since the local planning authority's decision was issued;
- **any other matters that are material to the appeal**".

Planning Policy

The planning policy framework for the determination of this application is provided by the content and scope of national planning guidance, together with the adopted Wrexham Unitary Development Plan.

National Planning Policy is contained within Future Wales, together with Planning Policy Wales (PPW 11th Edition), published by the Welsh Assembly Government in February 2021. PPW is supplemented by 19 Technical Advice Notes (TANs) which further details the specific aims and objectives outlined within PPW; the most pertinent Technical Advice Notes include;

- TAN 4 – Retail and Commercial Development
- TAN 11 – Noise
- TAN 23 – Economic Development

The Development Plan for the purpose of Section 38 (6) of Planning and Compulsory Purchase act 2004 is the adopted Wrexham Unitary Development Plan which was adopted in February 2005. The adopted LDP provides the statutory framework for the development and use of land within the plan area up to 2011. A publication made by the Minister for Housing and Local Government on the 24 September 2020 confirms that

"Plans adopted prior to 4 January 2016 will remain the LDP for determining planning applications until replaced by a further LDP. For those LDPs adopted after 4 January 2016, the plan will cease to be the LDP on expiry of the period specified in the plan...."

*For the two remaining LPAs which do not yet benefit from an adopted LDP, but have an adopted Unitary Development Plan (UDP), the period to which a plan has effect provisions do not apply. **The two UDPs remain extant until replaced by their respective LDP**".*

Future Wales

Published on the 28th February 2021, Future Wales comprises the first development plan of its kind within Wales. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.

Policy 1 – where will Wales grow, is the overarching framework for where development and growth will be focused in each region. In accordance with Future Wales' spatial strategy, growth in the North region should be focused on the main existing built-up areas of Wrexham and Deeside.

Future Wales divides Wales into four regions, North, Mid Wales, The South West and The South East. Future Wales requires Strategic Development Plans to be developed for all four regions, and provides a clear context for each region and policies to support regional planning. Whilst there are currently no Strategic Development Plans in Wales. The Welsh Government strongly supports their preparation and will work with Local Planning Authorities and Corporate Joint Committees to deliver them. Once Strategic Development Plan are adopted in a region, there will be three different development plans in place – Future Wales (a national development plan), a Strategic Development Plan (a regional development plan) and a Local Development Plan.

Future Wales' focus is on national and regional spatial issues. The vast majority of planning applications are determined by Local Planning Authorities and are small scale developments of local rather than regional or national significance. Local Development Plan policies will therefore continue to provide the detailed development management framework in the vast majority of cases.

Policy 21 Regional Growth Area – North Wales Coastal Settlements confirms that *“The Welsh Government supports sustainable growth and regeneration in regionally important towns along the northern Coast. Holyhead, Caernarfon, Bangor, Llandudno, Colwyn Bay, Rhyl and Prestatyn will be a focus for managed growth and they have an important sub-regional role complementing the National Growth Area of Wrexham and Deeside. Strategic and Local Development Plans should recognise the roles of these places as a focus for housing, employment, tourism, public transport and key services within their wider areas and support their continued function as focal points for sub-regional growth”*.

The supporting text of Policy 21 confirms that *“The Strategic Development Plan should be informed by and facilitate the delivery of the North Wales Growth Deal and ensure support for a smart, resilient and connected region. It will provide a framework to take the strategic locational decisions that will support the long-term ambitions of the Growth Deal in relation to housing, economic growth, key services and essential infrastructure. **The Strategic Development Plan should also consider the importance of key economic sectors across the region. It should also recognise opportunities for the development of economic clusters, where businesses choose to locate in close proximity for mutual benefit, and whether there is a need for further infrastructure investment to support this.**”*

Planning Policy Wales

Planning Policy Wales (PPW) – Edition 11 (February 2021) is the principal document which sets out the land use policy context of the Welsh Government. Its primary objective is to ensure that the planning system itself contributes towards the delivery of sustainable development whilst improving the social, economic, environmental and cultural well-being of Wales, as required by the Well-being of Future Generations Act 2015 and other pertinent legislation.

PPW encourages a planning system, with a *“wider, sustainable and problem solving outlook which focuses on integrating and addressing multiple issues rather than on an approach which is fragmented, un-coordinated and deals with issues in isolation.”*

Section 4 of PPW 11 seeks to secure Active and Social placemaking and well-being. The Active and Social theme of planning policy topics covers transport, housing, retail and commercial development, community facilities and recreational spaces.

“4.3.43 Retail and commercial centres often include activities which contribute to a vibrant and viable evening and night time economy. Such uses may include, for example, bars, restaurants, pubs, theatres, music, arts and other entertainment venues which provide for social and cultural experience and spaces in which creativity can be fostered. Such activities are likely to be characterised by increased levels of noise, large gatherings of people, later operating hours and greater movements in traffic”.

*4.3.44 Where new uses incorporating evening and night time activities are established in retail and commercial centres, and are located near to existing residential accommodation, planning applicants should include appropriate mitigation measures to counter potential impacts to amenity. **Similarly where residential development is proposed next to or near existing evening and night time uses, such as those described, it will be necessary to consider the compatibility of uses and to incorporate mitigation measures to minimise any impact on the amenity of any future residents.** The agent of change principle (see Chapter 6 for more detail) will be a guiding principle for supporting the evening economy and the development of uses sensitive to the soundscapes experienced in busy commercial centres.*

4.3.45 The important role that retail and commercial centres have in creating diverse and vibrant cultural and creative places and the wider benefits these bring in stimulating wider regeneration should be recognised by planning authorities.

4.3.46 New or refurbished music or arts venues, galleries and museums can be the catalyst for stimulating regeneration and lead to the establishment of cultural and creative quarters in our centres. These 'quarters' help create further vibrancy and diversity that stimulates wider growth and regeneration.

4.3.47 Creative and cultural businesses (such as theatres, music venues and arts centres) can thrive in shared space environments and hubs and help create diverse, vibrant, and viable places that are attractive to related and unrelated businesses. Traditionally, such hubs grow from the ground up with local and national government playing an enabling role. There is evidence that these quarters often evolve from quite humble origins utilising cheap, often disused, building spaces. Active & Social Places Planning Policy Wales | Edition 10 70

4.3.48 In formulating development plans, planning authorities should be mindful of these creative and cultural clusters in their retail and commercial centres and, if appropriate, seek to identify these areas with associated policies, to ensure that their contribution is recognised and valued.

Para 6.75 of PPW 11 notes that;

"The agent of change principle says that a business or person responsible for introducing a change is responsible for managing that change. In practice, for example, this means a developer would have to ensure that solutions to address air quality or noise from nearby pre-existing infrastructure, businesses or venues can be found and implemented as part of ensuring development is acceptable"

Section 6 of PPW 11 discusses Soundscapes and Compatibility of Uses; the relevant section is pasted below;

6.7.22 Certain qualities of sound can be associated with particular places and the activities within them. Taking steps to foster the continued longevity of uses and activities which provide wider cultural benefit and experience for people and contribute towards the local economy, both in terms of a vibrancy of place and in creating a space for creativity to flourish, is an important role for the planning system.

6.7.23 When considering the formulation of strategies or individual proposals, bearing in mind the agent of change principle, it will be necessary to identify the nature of the soundscape which exists in an area and the characteristics of the place, or specific activities, which have shaped it.

6.7.24 The potential impacts of noise pollution arising from existing development, be this commercial, industrial, transportrelated or cultural venues (such as music venues, theatres or arts centres), must be fully considered to ensure the effects on new development can be adequately controlled to safeguard amenity and any necessary measures and controls should be incorporated as part of the proposed new development. **This will help to prevent the risk of restrictions or possible closure of existing premises** or adverse impacts on transport infrastructure due to noise and other complaints from occupiers of new developments. It will be important that the most appropriate level of information is provided and assessment undertaken.

6.7.25 Planning authorities should identify areas of cultural or historic importance to be given special consideration in terms of soundscape where this may be necessary to safeguard the vibrancy of places or provide tranquil, restorative environments within busy built-up areas. As well as this, it will be invaluable to identify synergies between the mapping of green infrastructure and the moderating effect the protection of, or provision of, green infrastructure may have in

terms of maintaining good air quality and appropriate soundscapes. This will include, but is not limited to, protecting tranquillity, the role of tranquil green spaces such as the 'quiet areas' designated in noise action plans and the benefits of green infrastructure as part of good design.

TAN 4 – Retail and Commercial Development

TAN 4 seeks provide advice in respect of achieving the Welsh Government's objectives for retail and commercial centres which are to;

- Promote viable urban and rural retail and commercial centres, as the most sustainable locations to live, work, shop, socialise and conduct business.
- Sustain and enhance retail and commercial centres vibrancy, viability and attractiveness.
- Improving access to, and within, retail and commercial centres by all modes of transport, especially walking, cycling and public transport.

In respect of the night time economy, TAN 4 confirms at para 5.7 that ***"The night time economy is important for many retail and commercial centres. The benefits of developing this activity are that these centres are economically buoyant at various times of the day, adding their vibrancy and attractiveness. Issues surrounding public safety and amenity should be carefully considered. Retail and commercial centre strategies can help identify these aspects and how they relate to specific centres with land use planning policies and other initiatives identified in order to balance and address them"***.

TAN 11 – Noise

TAN 11 provides advice on how the planning system can be used to minimise the adverse impact of noise without unreasonable restrictions on development or adding unduly to the costs and administrative burdens of business.

The Technical advice Note confirms that *"Commercial developments such as fast food restaurants, discos, night clubs and public houses pose particular difficulties, not least because associated activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the attendant problems of noise that may be made by customers in the vicinity. Disturbance that can be caused by traffic and associated car parking should not be underestimated"*.

TAN 23 – Economic Development

TAN 23 identifies that Planning Policy Wales (PPW) defines *"economic development broadly so that it can include any form of development that generates wealth, jobs and income. In producing development plans or determining planning applications local planning authorities need to bear in mind that traditional business use, classes B1-B8, only account for part of the activity in the economy. **It is important that the planning system recognises the economic aspects of all development and that planning decisions are made in a sustainable way which balance social, environmental and economic considerations"***.

Section 4.6 of TAN 23 discusses **Existing employment sites and advises that *"Certain industrial and related uses may conflict with other uses, especially housing. To operate effectively, these activities usually need dedicated industrial areas, where they can be confident that they will not be a bad neighbour to anyone. In managing the retention and release of existing employment sites authorities should aim to ensure that the integrity of remaining employment sites is not compromised"***.

Wrexham Unitary development Plan

The following policies, contained within the adopted LDP are considered to be of relevance to this appeal;

Policy GDP1 All new development should:-

- a) Ensure that built development in its scale, design and layout, and in its use of materials and landscaping, accords with the character of the site and makes a positive contribution to the appearance of the nearby locality.*
- b) Take account of personal and community safety and security in the design and layout of development and public / private spaces.*
- c) Make the best use of design techniques, siting and orientation in order to conserve energy and water resources.*
- d) Ensure safe and convenient pedestrian and vehicular access to and from development sites, both on site and in the nearby locality.*
- e) Ensure that built development is located where it has convenient access to public transport facilities, and is well related to pedestrian and cycle routes wherever possible.*
- f) Ensure the safety and amenity of the public and safeguard the environment from the adverse effects of pollution of water, land or air, hazards from industry and quarrying, and associated noise, odour or vibration arising from development.***
- g) Secure public services (e.g. gas, water, electricity) to development at minimum public cost.*
- h) Safeguard sites and areas of nature conservation and wildlife interest, and to provide new habitats where there is an unavoidable loss of existing habitats and areas of wildlife interest.*
- i) Ensure that development does not result in, or is subject to, flooding, soil erosion, landslides or contamination, either on or off the site.*
- j) Have regard to the need to safeguard those areas that possess a strong Welsh cultural and/or linguistic identity from development that could harm this identity.*
- k) Secure the development of sustainable communities, through the promotion of the economic, social and environmental well-being of the area.*

Planning Appraisal

The key issues in the determination of the appeal, in addition to the flooding matters identified by NRW, are considered to be the principle of development and its impact on the night time economy in respect of noise nuisance.

It is acknowledged that the site lies within the Bridge Street/Cambrian Yard Regeneration area in the UDP. Policy H13 states that the main use of the land within the regeneration area will be residential development, business and shopping for local needs. The site also falls within the Town Centre Masterplan area (the Masterplan) where it is identified as Key Site 2. The Masterplan identifies the site as being suitable for a mixed-use development including any combination of residential, small scale local need retail, office and leisure uses. Notwithstanding its status in the UDP, planning applications are required to conform with relevant National and Local Planning Policies.

It is considered that the LPA in this instance has failed to give appropriate weight to the 'agent of change' principle clearly set out within PPW11 and the important role that the night time economy has in creating diverse and vibrant cultural and creative places. Indeed, the Council's original planning committee report (27th July 2020) and the subsequent report resented to committee on the 4th January 2021 both fail to consider the 'agent of change' principle and fails to mention the potential negative impact of the development on the immediate economy. It is noted that these considerations are not discussed in the Appellant's Statement of Case.

The accompanying technical note (Appendix B) confirms that inadequate mitigation has been provided to safeguard the future of Rekom UK Nightclub and the surrounding night time economy. The importance of the Evening and Night Time Economies are recognised by paras 4.3.42 – 4.3.48 of PPW 11, and para 5.7 of TAN 4.

The committee report confirms that "Public Protection initially expressed concerns over a lack of detail in respect of noise mitigation. Following the submission of additional information they have now confirmed that it would

appear the mitigation measures proposed will adequately mitigate noise. The implementation of a scheme of noise mitigation could be secured by condition.

The report concludes that *"The proposals offer considerable benefits in respect of bring an under used building and vacant land back into use and contributing to the housing supply. **The proposals are also acceptable in respect of design amenity**, access, parking and ecology and a condition and an obligation can be imposed to secure drainage and off-site contributions towards open space provision respectively. However the benefits are outweighed by the risk to the development from flooding, which brings the proposals into conflict with policy EC12 and TAN15".*

The supporting Technical Note confirms the E2 report is of poor technical quality with a high number of incorrect elements, these include:

- Assessment criteria. The relevant criteria is typically at least 10dB more onerous than used by E2.
- Limited noise survey data. It is not possible to accurately review E2s predicted performance.
- Recommendations are lower than required. The criteria used is incorrect, therefore the mitigation is significantly under specified
- Claims which cannot be checked or verified. The report provides no evidence of the predicted performance of any mitigation measures. All noise impact assessments, to be open to review by others, should include sample calculations and sufficient evidence.
- The Local Authority Response to the E2 report agree that lack of evidence was provided of the mitigation measures. The Local Authority have also not fully or accurately considered the mitigation measures proposed.

The resulting closure of any night time economy business will have a negative impact on the local economy. TAN 23 acknowledges that economic development can include any form of development that generates wealth, jobs and income and that economic development isn't captured by traditional B1-B8 uses only. The TAN confirms that the planning system had a duty to recognise the economic aspects of all development and that planning decisions should be made in a sustainable way which balance social, environmental and economic considerations. TAN 23 acknowledged that certain industrial and related uses may conflict with other uses, especially housing.

Approving the development of residential accommodation with insufficient mitigation could result in the closure of an existing and thriving business. It is without question that the Covid-19 health crisis has negatively impacted upon the night time economy; indeed, the full impact upon the wider economy is yet to unfold. The Night Time Industries Association (NTIA) is a Trade Association and Membership Organisation that promotes the unique contribution of The Night Time Industry in the UK and internationally. The NTIA issued a report (ref: <https://www.ntia.co.uk/appg/>) which looked at the impact of the pandemic and Government support for businesses in the night time economy, including night clubs, bars, pubs, live music venues, festivals, and supply chain businesses. It involved a survey which received over 20,000 responses from consumers, employers, employees, and freelancers in the sector. Key findings of the survey included:

1. *85 per cent of people working in the night time economy are considering leaving the industry*
2. *78 per cent of all employees in the sector had at some point been on furlough*
3. *Businesses in the night time economy had on average made 37 per cent of their total workforce redundant*
4. *In the second half of 2020, businesses in the night time economy traded at an average of 28 per cent of their annualised pre-Covid turnover*
5. *Only 36% self-employed nightlife workers have been able to claim the Self Employment Income Support Scheme (SEISS). In addition, the report includes numerous detailed personal testimonies of those in the sector describing how the pandemic has affected them*

Night time economy business have faced significant costs and investments in adapting to new conditions, and many, including a majority of nightclubs, have been unable to trade at all. It is considered that significant weight should be afforded to the important role that the night time economy has in creating diverse and vibrant cultural and creative places, especially in a post Covid-19 pandemic economy.

In addition to the reasons cited in the decision notice, for the reasons enlisted in the letter, it is considered that the proposed development is contrary to Paras 4.3.44, 4.3.45, 6.75, 6.7.24 of PPW11, TAN 4, TAN 11 and TAN 23 and Policy GDP1 of Wrexham Unitary Development Plan.

I trust that the submitted documents will be given proportionate weight in the determination of this appeal.

Yours sincerely,



Llinos Hallett
Principal Planner



CC Matt Brindley, Property Director, REKOM

Enc As above



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref: CAS-99194-Q8M5
Eich cyf/Your ref: P/2018/0915

Maes y Ffynnon,
Penrhosgarnedd,
Bangor,
Gwynedd,
LL57 2DW

Wrexham County Borough Council,
The Guildhall,
Wrexham,
LL11 1AY

17/10/2019

For the attention of Matthew Phillips

Dear Matthew,

**PROPOSAL: RESIDENTIAL DEVELOPMENT COMPRISING CONVERSION OF
FIRST AND SECOND FLOORS OF CENTRAL BUILDINGS TO
PROVIDE 10 NO. APARTMENTS WITH RELATED ALTERATIONS
AT GROUND FLOOR LEVEL AND ERECTION OF 28 NO.
APARTMENTS ON ADJACENT LAND WITH ASSOCIATED
PARKING**

LOCATION: Central Building and Adjoining Brook Street, Wrexham

Thank you for re-consulting Natural Resources Wales (NRW) about the above,
which was received on 28/08/2019.

In accordance with TAN15 A3.10, we object to the proposed development as
submitted as it has failed to demonstrate that the consequences of flooding can be
acceptably managed over the development lifetime. We therefore recommend that the
application be refused.

Flood Risk

Our response dated 15th July 2019 set out a detailed set of requirements for an
amended Flood consequence assessment (FCA) with regards to A1.14, A1.15 and
A1.2 of TAN 15, to demonstrate flood risk can be acceptably managed over the lifetime
of the development.

The comments below are provided in response to the submission of a FCA addendum Bridge Street, Wrexham, Weetwood, dated 19th August, Final V1.0, and revised Appendix F (of FCA, Bridge Street, Wrexham, dated 22nd August 2018, Final Report v1.2, and should be read in conjunction with our previous response (15th July 2019).

Matters Relating to Table A1.14

In terms of A1.14 the development is required to demonstrate that it would remain flood free during the 1% culvert blockage with climate change. We note two blockage locations are detailed and the FCA provides the estimate flood level for the 0.1% annual event probability (AEP) for all three locations in the addendum but not the flood levels for the 1% plus climate change at all three locations. The addendum and revised Appendix F (of FCA, Bridge Street, Wrexham, dated 22nd August 2018, Final Report v1.2) show the flood depths in the car park are around 100-200mm and so whilst hazard is low, there is flooding within the red line of the application site. The car parking is associated with the new build development and conversion and would form new highly vulnerable development. The site would not remain entirely dry during the 1% AEP event with an allowance for climate change and therefore fails to satisfy the requirements of A1.14.

In relation to the conversion element of the proposal we note the applicants email confirmation (dated 4th September to the Local Planning Authority) referring to the application form description for conversion of first and second floors only, and confirmation that the only ground floor works would involve a bin store and new entrance with no works proposed at basement level.

Matters Relating to A1.2 – Flood Risk Elsewhere

In terms of A1.2 flood risk elsewhere and changes to profiles of the site, there is a lowering of the site and an increase in flood risk off site in excess of 6mm near the Post Office, Town Hill. We have previously requested clarification on the cause of this and whether this can be attributed to any modelling anomalies. Demonstrating if there were potential offsite impacts of increased flood risk elsewhere.

The addendum however, does not detail what modelling anomalies have been identified (paragraph 20) or why it is not appropriate to raise site levels, what levels of flood risk are expected to occur in the car park in terms of depths and hazards and why this would be considered acceptable. The revised Appendix F of the FCA provides clearer outputs and shows a greater detriment than the earlier version of the FCA, including the following:

- A 5-30mm of detriment to the land immediately North West of the site boundary during the 1% AEP event and a greater extent of flooding detriment for the 1 in 1000 year AEP event for similar depths to a large part of Brook Street, and;
- Flood depths of 150-300mm within the site.

This increase in flood risk elsewhere is clearly contradictory to the requirements of TAN 15.

We draw your attention to the outstanding matters in relation to A1.15 Emergency access and egress. In our letter dated 15th July we specified that it failed the four tests and there was little information about flood hazards. Emergency access from the conversion is likely to be particularly challenging. Hazard details are provided in the addendum FCA and it is suggested the new build development would benefit from a safe access and egress from the south and the existing building's access and egress arrangements would remain the same, but not in terms of context of new conversion scheme of residential development. It is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we recommend you consider consulting other professional advisors on matters such as emergency plans, procedures and measures to address structural damage that may result from flooding. Please note, we do not normally comment on the adequacy of flood emergency response plans and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users. In conclusion the addendum FCA and revised appendix F of the FCA dated 22nd August 2018 v1.2 confirms the site would not remain dry during the key 1% AEP design event with an allowance for climate change and would result in significant increased flood risk elsewhere up to the 0.1% AEP event. We therefore object to the development as it fails to meet the A1.2 and A1.14 requirements of TAN 15.

Please inform us, in accordance with paragraph 11.7 of TAN15, if you are minded to grant permission for the application contrary to our advice.

Protected Species

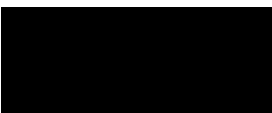
Notwithstanding the above, we note that the bat reports submitted in support of the above application (Bat Survey – Preliminary Bat Roost – 4 Brook Street, Wrexham 02 July 2018 and Bat Activity Report – 4 Brook Street, Wrexham 02 October 2018) have identified that bats were not using the application site. We note the precautionary reasonable avoidance measures identified in the Bat Activity Report. The report must be included in the 'approved list of plans / documents' condition within the decision notice should consent for the project be granted.

Please do not hesitate to contact us if you require further information or clarification of any of the above.

Our comments above only relate specifically to matters included on our consultation topic list, *Development Planning Advisory Service: Consultation Topics* (September 2018), which is published on our [website](#). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other environmental interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our [website](#) for further details.

Yn gywir / Yours faithfully,



Daniel Davies

Cynghorydd, Cynllunio Datblygu / Advisor, Development Planning

Cyfoeth Naturiol Cymru / Natural Resources Wales



Planning Application Reference: P/2018/0915
Appeal Reference: H6955/A/21/3277038
ACL Reference: 9146/BL
Date: 15th July 2021

Central Buildings & Adjoining Land, Brook Street, Wrexham

Dear Matt,

We respond as follows with respect to the appeal on the development adjacent to the ATIK nightclub in Wrexham. The comments below reviews the noise report submitted with the planning application, and also the Local Authority comments.

This review has been completed by Blake Lucas BEng (Hons) MIOA who is a Director of Acoustic Consultants Limited with over 14 years experience in noise control including residential uses adjacent and adjoining night-clubs and bars.

1. Development Proposals

The development proposals include Residential development comprising conversion of first and second floors of central buildings to provide 10 no. Apartments with related alterations at ground floor level and erection of 28 no. Apartments on adjacent land.

The development is in a city centre location directly adjacent and sharing a separating floor/wall with ATIK night-club.

Two noise and acoustic reports have been submitted, the first in November 2018 and the second in February 2020. We understand the second report was considered as part of the final planning application decision.

2. Application Decision

The planning application was refused on the 4th January 2021, the reason for refusal is:

1. The site lies partially in zone C2 and as a result the development is at unacceptable risk of flooding, thus being in conflict with advice in TAN15: Development and Flood Risk and policy EC12 of the Wrexham Unitary Development Plan

The reason for refusal did not consider noise. However we and our client have concerns regarding the noise report submitted with the application, and the local authority comments on this report.

3. Planning Policy Wales

Planning Policy Wales (PPW) Edition 11 dated February 2021 sets out the land use planning policies of the Welsh Government. The most relevant paragraphs of Planning Policy Wales are provided below, and we have emphasised in Bold the relevant points.



6.7.4 The planning system should maximise its contribution to achieving the well-being goals, and in particular a healthier Wales, by aiming to reduce average population exposure to air and noise pollution alongside action to tackle high pollution hotspots. In doing so, it should consider the long-term effects of current and predicted levels of air and noise pollution on individuals, society and the environment and identify and pursue any opportunities to reduce, or at least, minimise population exposure to air and noise pollution, and improve soundscapes, where it is practical and feasible to do so.

6.7.5 In taking forward these broad objectives the key planning policy principle is to consider the effects which proposed developments may have on air or soundscape quality and the effects which existing air or soundscape quality may have on proposed developments. Air Quality and soundscape influence choice of location and distribution of development and it will be important to consider the relationship of proposed development to existing development and its surrounding area and its potential to exacerbate or create poor air quality or inappropriate soundscapes. The agent of change principle says that a business or person responsible for introducing a change is responsible for managing that change.

In practice, for example, this means a developer would have to ensure that solutions to address air quality or noise from nearby pre-existing infrastructure, businesses or venues can be found and implemented as part of ensuring development is acceptable.

6.7.6 In proposing new development, planning authorities and developers must, therefore:

- address any implication arising as a result of its association with, or location within, air quality management areas, noise action planning priority areas or areas where there are sensitive receptors;
- not create areas of poor air quality or inappropriate soundscape; and
- seek to incorporate measures which reduce overall exposure to air and noise pollution and create appropriate soundscapes.

6.7.14 Proposed development should be designed wherever possible to prevent adverse effects to amenity, health and the environment but as a minimum to limit or constrain any effects that do occur. In circumstances where impacts are unacceptable, for example where adequate mitigation is unlikely to be sufficient to safeguard local amenity in terms of air quality and the acoustic environment it will be appropriate to refuse permission. Location of Commercial, Industrial and other Potentially Polluting Development.

6.7.24 The potential impacts of noise pollution arising from existing development, be this commercial, industrial, transport related or cultural venues (such as music venues, theatres or arts centres), must be fully considered to ensure the effects on new development can be adequately controlled to safeguard amenity and any necessary measures and controls should be incorporated as part of the proposed new development. This will help to prevent the risk of restrictions or possible closure of existing premises or adverse impacts on transport infrastructure due to noise and other complaints from occupiers of new developments. It will be important that the most appropriate level of information is provided and assessment undertaken."

TTW does not provide any quantifiable criteria and directs you to the Technical Advice Notes (TAN 11).



4. Technical Advice Note 11 (TAN 11)

Planning Policy Wales (PPW) Edition 11 dated February 2021 sets out the land use planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes. The relevant planning criteria for proposed residential development is in Technical Advice Note (Wales) 11 entitled "Noise" which was published in October 1997. The introduction states:

"This note provides advice on how the planning system can be used to minimise the adverse impact of noise without placing unreasonable restrictions on development or adding unduly to the costs and administrative burdens of business.

It outlines some of the main considerations which local planning authorities should take into account in drawing-up development plan policies and when determining planning applications for development which will either generate noise or be exposed to existing noise sources".

For noise from industrial and commercial developments, TAN 11 states:

B18. Commercial developments such as fast food restaurants, discos, night clubs and public houses pose particular difficulties, not least because associated activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the attendant problems of noise that may be made by customers in the vicinity. Disturbance that can be caused by traffic and associated car parking should not be underestimated.

5. IOA Good Practice Guide on the Control of Noise from Pubs and Clubs

Planning Policy Wales and TAN 11 provide no definitive criteria for noise from Pubs and Clubs. The most relevant guidance is the Institute of Acoustics document "Good Practice Guide on the Control of Noise from Pubs and Clubs" was published in March 2003. This IOA guidelines addresses amplified music and the more relevant extracts are as follows:

"2. SCOPE

This document provides guidance for the assessment and control of noise affecting noise-sensitive properties, from the public and private use of public houses, clubs, hotels, discotheques, restaurants, cafes, community or village halls and other similar premises. The main noise sources considered are music; singing; public address (PA) systems; children's play areas; beer gardens; people in general; car parks and access roads; deliveries; collections; materials handling; plant and machinery; and skittle alleys. Noise arising from live sporting events held at such premises is not covered by this document.

The purpose of this Guide is to assist local authority officers and venue management and their staff in the prevention of noise disturbance and in the investigation and resolution of noise complaints. It is also intended to assist with the planning and licensing of proposed or existing premises.

The original intention was to include objective noise criteria in this document, or in a separate but related document, that could have been used to assess and control noise from all the noise that can be present at pubs, clubs and similar premises. However, it has not been possible to subject the new criteria that have been developed and proposed by the working party to a satisfactory validation process.



It is hoped that future research will lead to the publication of criteria that have been fully validated in terms of human response and have been subject to trials which confirm their practicability in terms of measurement, enforcement and use within the planning process. Until such criteria are developed, it is recommended that local authorities and others should devise and apply policies having regard to this guide and taking into account local circumstances and existing licensing and planning policies.

Music, singing and speech, both amplified and non-amplified, are common sources of noise disturbance arising from the premises listed in 2.1 above. As far as these sources are concerned, the purpose of developing the objective noise criteria mentioned in 2.3, should be to attempt to ensure that:

For premises where entertainment takes place on a regular basis, music and associated sources should not be audible inside noise-sensitive property at any time.

In the absence of the objective criteria mentioned in 2.3, what is "regular" should be determined on a local basis to reflect local expectations and should be incorporated by local authorities in the planning and enforcement policies (see Section 4); and

For premises where entertainment takes place less frequently, music and associated sources should not be audible inside noise-sensitive property between 23.00 and 07.00 hours. For other times, appropriate criteria need to be developed which balance the rights of those seeking and providing entertainment with those who may be disturbed by the noise.

For the purposes of this document, noise may be considered not audible or inaudible when it is at a low enough level such that it is not recognisable as emanating from the source in question and it does not alter the perception of the ambient noise environment that would prevail in the absence of the source in question. A more simplistic explanation of the term "inaudible" is given in Appendix "B".

The determination of "nuisance" is not within the scope of this Guide, however, the Guide may be useful in forming a view on the likelihood that a "nuisance" has occurred, is occurring or could occur.

The Guide should not be used to determine or enforce noise standards for occasional music events of the type covered by the Code of Practice on Environmental Noise control at Concerts [1]."

It is the bass element (low frequencies 250 Hertz and below) from amplified music since that can often be of concern. This element is difficult to objectively quantify, but the subjective effect is expected to be negligible if the equivalent noise level from the music is ten decibels lower than the background sound level (without music), at the low frequency mid-octave bands.

If the music equivalent noise level is between 5 and 10 decibels lower than baseline noise levels, then the music may be audible ($L_{Aeq(T)}$ depending on the baseline noise source). If the music equivalent noise level is equal to the baseline noise level, then the sounds are expected to be clearly audible.



6. E2 Consultants Noise Report

The E2 report (Report Reference Number: 8084-1) provides noise assessment of local noise sources affecting the development under appeal. We have a number of concerns regarding the report. These are summarised here:

Section 2.0

Section 2.0 states *"The assessment has been done to BS8233 as no industrial noise i.e. noise from commercial ventilation, heat pumps and general work noise was not present."*

BS8233 is intended for the assessment of anonymous noise, i.e. road traffic, only. Music Noise from pubs and clubs is not anonymous in nature. This is clearly stated in Section 7.7.1 of the standard which states *This subclause applies to external noise as it affects the internal acoustic environment from sources without a specific character, previously termed "anonymous noise". Occupants are usually more tolerant of noise without a specific character than, for example, that from neighbours which can trigger complex emotional reactions. For simplicity, only noise without character is considered in Table 4.*

A more reasonable criteria would be the IOA Good Practice Guide on the Control of Noise from Pubs and Clubs noted above which is typically 10-15dB more onerous.

Section 4.0-5.0 Noise Survey

The quality of the noise survey is considerably lacking for a professional noise impact assessment. The survey has limited details of the noise climate at each location, limited detail on internal sound transmission paths along with no details on spectral content of the measured sound.

The spectral content is important when undertaking a noise impact assessment, especially where amplified music is being considered. In addition, mitigation cannot be accurately considered without analysing the spectral content of sound.

As there is no measured spectral content it is unclear how the development could be deemed acceptable by the Local authority from a noise perspective.

Section 6.0 Recommendations

- **Criteria** - This section provides recommendations to meet the requirements of BS8233. As noted above this standard should not be used, and a more appropriate guidance would be the IOA Good Practice Guide on the Control of Noise from Pubs and Clubs. The IOA criteria is considerably lower than that of BS8233, to avoid the likelihood of complaints. The IOA criteria is in the region of 10-15dB more onerous.
- **Window upgrades** – the window upgrades are noted to achieve 35 dB R_w . We cannot comment on the effect of these measures as no spectral content is provided. But as a night-club has low frequency components, this is likely to fall considerably short of meeting both the E2 criteria of BS8233 and that of IOA Good Practice Guide on the Control of Noise from Pubs and Clubs noted above. We would advise that E2 provide full spectral calculations as per BS EN 12354 to demonstrate the effect of the mitigation measures provided.
- **Noise Transfer From Basement and Party Wall** – E2 state "The separating walls and floors in the existing building would also need to be upgraded to achieve a



minimum of 60dB to ensure that noise levels from the bar in the basement and the club to the side are reduced as much as possible."

To *achieve a minimum of 60dB* is technically wrong. Sound insulation performance should be defined as a D_{nTw} , D_w , R_w , R'_w etc. Stating "60dB" only does not provide any indication of what the final performance will be and is misleading.

The suggested floor upgrade also does not address sound transfer in detail. Calculations should be provided which demonstrate the music noise is acceptable when compared to appropriate guidance, i.e IOA not BS8233.

The E2 report also states *"The JWC cradle system will reduce low frequency sound by 40dB. With the remaining upgrade it would be estimated that the low frequency transfer would be minimum 50-60dB reduction."*

We dispute this bold claim. No calculations have been provided. Cradle systems of this nature have a poor low frequency sound reduction, and sprung floor would be more appropriate.

Finally no consideration of structure borne noise has been provided. Where a music venue is structurally tied to a building, the sound transfer through the structure should be considered as this is typically a dominant sound transmission path.

- E2 summary – the summary section states: A series of relatively standard insulation measures, as detailed in this report, incorporated into the conversion will readily achieve the required noise levels for residential accommodation set out in BS8233. Consequently, subject to a condition requiring the specified works to be incorporated into the development, there is no noise related reason why this development should not proceed.

We dispute this bold claim. No calculations have been provided. The criteria used is incorrect. We would consider the aims of Planning Policy Wales are not met, namely,

"The agent of change principle says that a business or person responsible for introducing a change is responsible for managing that change."

"prevent adverse effects to amenity, health and the environment".

"prevent the risk of restrictions or possible closure of existing premises... It will be important that the most appropriate level of information is provided and assessment undertaken."

7. Local Authority Response

The Local Authority Environmental Health Officer stated in their response to the E2 report the following in Italics with our comments below:

I could not find a reference to the cradle system reducing low frequency sound by 40 (highlighted above) or what frequency range this sound reduction applies too.

We agree with this comment and we do not believe the E2 assumptions are correct. Evidence should be provided.



The specified acoustic glass should also be effective in attenuating environmental noise but I would recommend that acoustic trickle or through wall ventilation systems be installed for habitable rooms on the Brook Street and Bridge Street elevations.

We disagree with this comment, we do not consider that E2 have provided sufficient mitigation for external noise. We also have seen no evidence that their proposals would be acceptable.

The Local authority have also disregarded the requirement for mechanical ventilation. This was clearly noted in the E2 report and trickle vents will not be acceptable.

8. Summary of Review

In summary of our review above:

- The development should be designed to meet the requirements of Planning Policy Wales which are but not limited to *prevent adverse effects to amenity, health and the environment*". This has not been demonstrated.
- The E2 report is of poor technical quality with a high number of incorrect elements, these include:
 - o Assessment criteria. The relevant criteria is typically at least 10dB more onerous than used by E2.
 - o Limited noise survey data. It is not possible to accurately review E2s predicted performance.
 - o Recommendations are lower than required. The criteria used is incorrect, therefore the mitigation is significantly under specified.
 - o Claims which cannot be checked or verified. The report provides no evidence of the predicted performance of any mitigation measures. All noise impact assessments, to be open to review by others, should include sample calculations and sufficient evidence.
- The Local Authority Response to the E2 report agree that lack of evidence was provided of the mitigation measures. The Local Authority have also not fully or accurately considered the mitigation measures proposed.

Taking into account the above, we would advise the development is refused at appeal on noise grounds.

I trust this is of assistance.

Best Regards

Blake Lucas BEng(Hons) MIOA
Director
Acoustic Consultants Ltd



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