
APPENDIX 2: OFFICER REPORT TO COMMITTEE (P/2016/0327)

REPORT OF THE HEAD OF ENVIRONMENT AND PLANNING
6th JUNE 2016

APPLICATION NO:
P/2016 /0327

COMMUNITY:
Isycoed

WARD:
Holt

LOCATION:
LAND SOUTH OF RIDLEYWOOD
LANE AND EAST OF BRYN LANE
WREXHAM INDUSTRIAL ESTATE
WREXHAM
LL13 9UT

DATE RECEIVED:
06/04/2016

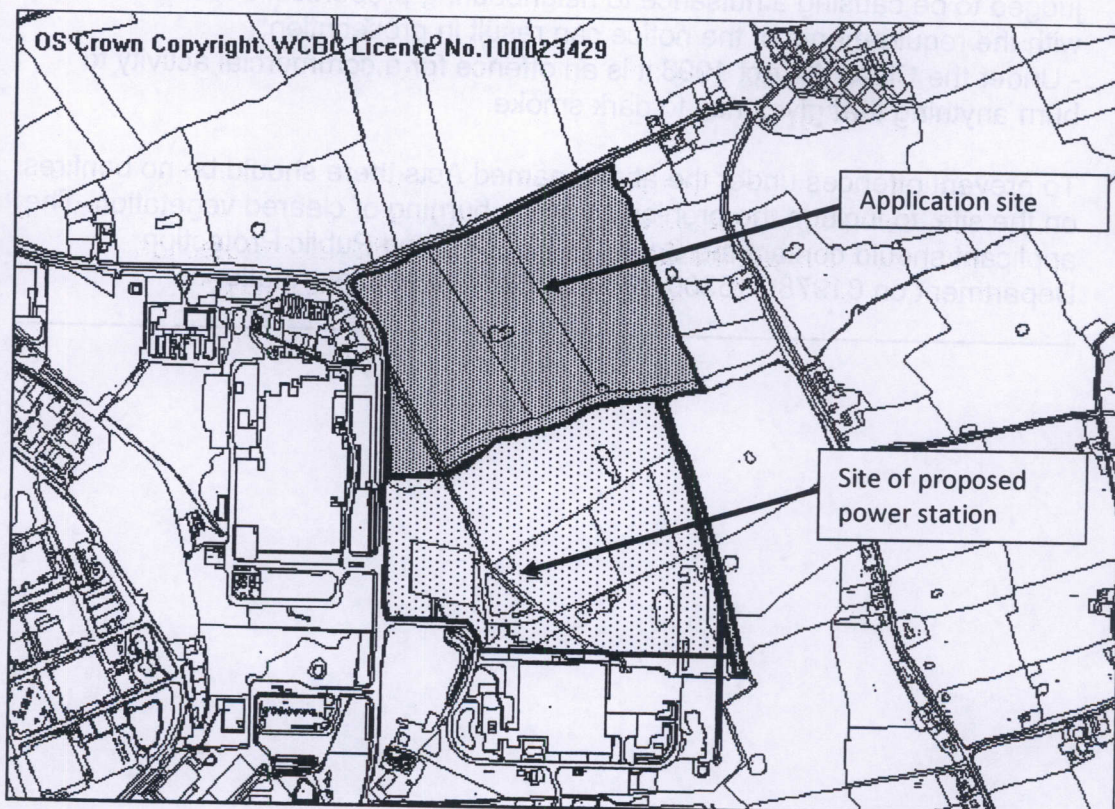
CASE OFFICER:
MP

DESCRIPTION:
VARIATION TO CONDITION NOS. 2
AND 3 OF PLANNING APPEAL REF
NO. APP/H6955/A/12/2188910 TO
EXTEND THE TIME LIMITS FOR
SUBMISSION OF RESERVED
MATTERS APPLICATION AND FOR
COMMENCEMENT OF
DEVELOPMENT BY A FURTHER 3
AND 5 YEARS RESPECTIVELY

AGENT NAME:
HOW PLANNING
MISS LOUISA FIELDEN

APPLICANT(S) NAME:
GARDENBREEZE LIMITED

THE SITE



REPORT OF THE HEAD OF ENVIRONMENT AND PLANNING
6th JUNE 2016

PROPOSAL

As above.

HISTORY

Application site only

P/2011/0891 Outline application for B8 storage and distribution warehouse development and associated ecological mitigation area including means of access off Bryn Lane and layout.
Refused 22.6.2012. Allowed on appeal 6.8.13

All of the land subject to UDP policy E3

P/2008/0993 Outline application for B2 / B8 development and associated ecological mitigation area including means of access and siting. Refused 6.7.2009. Split appeal decision – part allowed part dismissed 6.5.2010.

P/2013/0270 Outline application for B2 / B8 development and associated ecological mitigation area including means of access and siting – Section 73 Application to vary the time limit for submission of Reserved Matters and implementation of development (Conditions 2 and 3) of planning permission P/2008/0993 (Renewal). Pending - Committee resolution (1.7.2013) to grant subject to prior completion of planning obligation

DEVELOPMENT PLAN

Outside the settlement limit for Wrexham Industrial Estate. Policies E3, PS1, PS2, PS11, GDP1, EC2, EC6, T8 and CLF6 apply.

CONSULTATIONS

Isycoed Community Council: Consulted 12.4.16

Holt Community Council: Consulted 21.4.16

Local Member: Has made the following comments:

- I have some concerns over an extension of time on this application. The Inspector concluded that the application was contrary to E3 and PS1 but at paragraph 22, 23, 44 and 46 went to on refer to the special needs of a recognised end user and saw this as a mitigating factor to grant consent. Clearly, the needs of NDL were a strong

REPORT OF THE HEAD OF ENVIRONMENT AND PLANNING
6th JUNE 2016

	contributory factor in her granting consent;
	- Immediately following that appeal decision, a large for sale sign went up on the land and has remained there ever since; - It is clear that by advertising it for sale it is not required for NDL and therefore the policy objections must come back into play.
Public Protection:	Conditions requiring the submission of site investigations and remediation in respect of contamination.
Highways:	No recommendations on highways grounds.
Welsh Water:	Consulted 12.4.16
NRW:	No objection in principle to an extension of time. Re-iterate previous comments.
Parks, Countryside, RoW:	Consulted 12.4.16
Ramblers Association:	Consulted 12.4.16
National Grid:	Consulted 12.4.16
Wales and West Utilities:	Consulted 12.4.16
Site Notice:	Expired 11.5.16
Neighbours:	The owners/occupiers of 17 properties notified 22.4.16. 8 representations received objecting to the application for the following reasons: - No need for this to be sited in Wrexham; - No benefit to people in Wrexham; - The land is Green Belt and has never been developed as industrial land; - Impact/loss of mature oaks trees and wildlife; - The land was granted permission to allow a local business to expand. The land is now for sale; - It poses the question were the owners honest in their claims or was this a ploy to make financial gain at any cost; - Question if there was ever an intention to build on the land; - Impact upon property prices; - Future blight on the growth of the village of Isycoed and the surrounding area. Refusing the application will remove uncertainty for the village; - Please keep the countryside for the welfare of Wrexham, Wales and future generations; - We may be on the edge of the industrial estate but it is also a residential area.

REPORT OF THE HEAD OF ENVIRONMENT AND PLANNING

6th JUNE 2016

Development could affect our health and wellbeing and infringe upon our human rights;

- There are still areas of brown land available for development on the industrial estate. This site should be retained as green land;
- Additional noise, vibration and pollution;
- Loss of valuable agricultural land;
- Hardship to the livestock of whom ever farms the land;
- Is there a proven need for the development;
- Mass/volume of the building is overwhelming in its landscape;
- The area is habitat for great crested newts;
- The site is not part of the Wrexham Industrial Estate and is outside of the natural boundary that is obvious when in the locality;
- Proximity to a historical bridle path. The plans show a road connection through the bridle path;
- The local council did object to these plans with good and valid reasons;
- Pressure on the local drainage systems and risk of localised flooding;
- The owners have railroaded the Council and Welsh Government in the past on false representations to acquire planning approval;
- Contamination of the site due to manufacture of explosives. Potential risk to both the life and health and safety of the community;

SPECIAL CONSIDERATIONS

Background: The site benefits from outline planning permission for the erection of a 37,300 sq.m storage and distribution warehouse (Class B8 use) together with the construction of the vehicular access to the site and the provision of associated ecological mitigation. Scale and appearance as well as the landscaping of the site are reserved for subsequent approval.

The 3 year period for the submission of the reserved matters expires on 6 August 2016 and the 5 year period for commencement of development expires on 6 August 2018. The outline planning permission therefore remains

REPORT OF THE HEAD OF ENVIRONMENT AND PLANNING
6th JUNE 2016

extant and, subject to the submission and approval of the outstanding reserved matters, implementable.

Planning permission to extend the time limits for extant planning permissions should generally only be refused if there has been a material change in planning circumstances since the original permission was granted.

Planning Policy:

National Policy

The only relevant change to national policy/guidance since the appeal decision has been the adoption of Technical Advice Note 23: Economic Development. However TAN23 was in draft form when the appeal was being considered and was taken into account by the Inspector.

Wales Spatial Plan

The Wales Spatial Plan has not been updated since the Inspector allowed the appeal. Wrexham remains a Key Settlement of National Importance, a Key Regeneration Area and a Key Business Sector Area in the Wales Spatial Plan. The Wrexham Industrial Estate is the County Borough's key strategic employment area and is also an employment area of importance to the wider north east Wales sub-region. The ability to deliver high quality employment sites is key to maintaining the important role the Industrial Estate plays in the local and wider economy.

Local Policy

There have been no changes in local policy since the appeal decision. The site lies outside the settlement limit for Wrexham Industrial Estate, however it is to Policy E3. The policy allocates the application site as well as the land to the south of it for a major single user employment project that requires a site of over 30 hectares for an employment development that cannot be accommodated on allocated employment land or employment land with planning permission.

The land to the south of the application site has previously benefitted from outline planning permission for development (P/2008/0993) for the erection of a 22,153 sq.m warehouse building. An application (P/2013/0270) to extend the time limits for submission of reserved matters and commencement of development is currently subject to a committee resolution to grant subject to the prior completion of a planning obligation. That site is now subject to a Development Consent Order (DCO) application for the erection of a gas fired power station.

Granting planning permission to develop the application site conflicts with policy E3 given that it would potentially permit the land subject to the policy to be developed in two separate parts. However the principle of this has already been accepted. Planning permission P/2008/0993 was extant at the time of

REPORT OF THE HEAD OF ENVIRONMENT AND PLANNING
6th JUNE 2016

the appeal decision and the Inspector was aware of the Council's intention to grant planning application P/2013/0270. Furthermore she was also aware of the prospect of the land to the south of the application site being subject to proposals for a power station.

Despite the conflicts with policy E3, the Inspector allowed the appeal in respect of the application site primarily due to the economic benefits that would arise. The key economic issues that the Inspector took into account were:

- i) The lack of alternative land available for an existing business located close to the site, Norbert Dentressangle Limited (NDL), to expand;
- ii) The number of jobs that would be created as a result of the development;
- iii) The fact that Wrexham is a Key Settlement of National Importance, a Key Regeneration Area and a Key Business Sector Area in the Wales Spatial Plan; and
- iv) The fact that four neighbourhoods in to the east of Wrexham town are within the 10% most deprived in Wales, three of these being in the top 5%. The Inspector therefore concluded that there was a need for new employment opportunities that the development could help to address.

I will comment on the above matters in more detail below.

Need: I am aware that the site is currently being actively marketed for sale and that there is a degree of uncertainty over the prospective developer/occupier. The applicant's agent has informed me that the reason for this is that since planning permission was granted Norbert Dentressangle Limited (NDL) has been taken over by XPO Logistics. Due to this takeover a final decision regarding expansion onto this site has yet to be made.

Notwithstanding the need for a local business to expand being an important consideration when the appeal was allowed, the extant planning permission is **not** subject to any conditions that limit the use of the site to NDL. Indeed making the occupation of a site personal to a particular company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company. Were the extant permission implemented, the site could be developed and/or sold to any business that requires a storage/distribution premises.

Whilst the approved plans make provision for an access road to link the application site to the NDL site there is nothing in the extant planning permission to prevent the application site from operating entirely independently. Indeed other than the access road the site is otherwise physically separate from the NDL site and will appear as a stand-alone development even if it were used in conjunction with it.

REPORT OF THE HEAD OF ENVIRONMENT AND PLANNING
6th JUNE 2016

The current uncertainty over the likely developer/occupier of the site would not be a valid reason to refuse the current application, particularly in light of matters I will discuss below.

The Joint Wrexham and Flintshire Employment Land Review (ELR) was published in 2015. It was commissioned primarily to inform the Local Development Plan however it is the most up to date assessment of the existing supply of and projected need for employment land in Wrexham. Two recommendations in the ELR are particularly relevant to this application:

Firstly the ELR recommends that further land for employment development be identified on the Wrexham Industrial Estate. This recommendation informed proposals contained within the LDP Preferred Strategy to make provision for an extension to the Wrexham Industrial Estate of around 30 hectares (exclusive of ecological mitigation) to be delivered over the LDP plan period. In making the recommendation the Employment Land Review took account of extant but unimplemented planning permissions for employment development, including the application site.

The second recommendation (contained within Table 67 of the ELR) is that the land subject to UDP Policy E3 be included within the settlement limit for the Industrial Estate thus making the site generally available for development.

The LDP preferred strategy can be afforded little weight in the determination of applications and any recommendations in the ELR that require changes to current UDP policies and designations can only be delivered via the LDP. Nevertheless it is clear from the ELR that there is a requirement for the Wrexham Industrial Estate to provide a significant amount additional land for employment development. It is also clear from the ELR that this requirement cannot be delivered without allowing land that is not currently allocated for employment and/or within the settlement limit to be developed. In that regard I consider the ELR to be a material consideration in favour of allowing the extension to the extant outline planning permission.

Jobs to be created: The Inspector's decision notes that the development was expected to create between 80-100 additional jobs. Given the size of the development proposed I consider it likely that this figure is still be broadly accurate irrespective of whether the site provides land for a business already based on the Wrexham Industrial Estate to expand or for a new business establish a presence in the area. Furthermore a development of this size is also likely to benefit the wider economy, for example the construction sector.

In light of the above, the conclusions reached by the Inspector in respect of new employment opportunities remain valid in my opinion.

Neighbourhoods in the east of Wrexham: The applicant's agent has submitted information from the 2014 Wales Index of Multiple Deprivation which demonstrates that four neighbourhood in the east of Wrexham town are in the top 10% most deprived in Wales, with two being in the top 5% most

REPORT OF THE HEAD OF ENVIRONMENT AND PLANNING
6th JUNE 2016

deprived. This confirms that there remains a significant need for additional employment opportunities in Wrexham.

Proposed Power Station: The site to the south is subject to a Development Consent Order (DCO) application for a gas fired power station. The Inspector was aware of the prospect of that project being taken forward and referred to it in her decision. The impact of the development of the adjacent site will be considered via the DCO application.

Impact of the development: The impact of the development in terms of landscape impact, loss of agricultural land, noise, pollution, traffic, drainage and ecology were all taken into account when the appeal was allowed. Granting of permission for the proposed extensions of time will not result in the development having any different or greater impact to those already considered by the Inspector.

The appeal decision was subject to 24 planning conditions, including conditions dealing with the following:

- i) The implementation of an approved drainage scheme
- ii) The submission of and implementation of dust mitigation measures;
- iii) The submission and implementation of Noise and vibration mitigation measures;
- iv) Noise levels;
- v) The submission of a Travel Plan;
- vi) The submission of a site investigation and mitigation measures for contamination and the implementation of the latter;
- vii) Implementation of tree protection measures;
- viii) The submission and implementation of a landscaping scheme;
- ix) The submission and implementation of an ecological management plan and method statement;
- x) An updated bat and bird roost survey and details of mitigation measures;

With the exception of a condition requiring the development to be built to BREEAM 'Very Good Standards' no longer a national planning policy requirement, all of the conditions previously imposed remain necessary and will ensure that there are appropriate limits to/mitigation for the impacts arising from the development.

The extent permission is also subject to Unilateral Undertaking under section 106 of the Town and Country Planning Act setting out obligations in respect of mitigation, landscaping, the production of a travel plan and their subsequent management. These matters all remain relevant and necessary and therefore an updated Unilateral Undertaking relating specially to this application rather than the previous permission will be required. The applicant's agent has confirmed that a revised Unilateral Undertaking will be submitted.

REPORT OF THE HEAD OF ENVIRONMENT AND PLANNING
6th JUNE 2016

CONCLUSION

There have been no material changes in circumstances that would warrant refusal of the extension of time that the applicants have requested. Indeed there remains an on-going requirement to deliver additional land to support employment development.

RECOMMENDATION A

That an updated Unilateral Undertaking is submitted in respect of ecological mitigation, landscaping, the production of a travel plan and their subsequent management.

RECOMMENDATION B

Upon submission of the Unilateral Undertaking that permission be **Granted** subject to the following conditions:

CONDITION(S)

1. Details of the scale and appearance of the buildings and the landscaping of the site (hereinafter called ""the reserved matters"") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development shall only be carried out in strict conformity with such details as are approved.
3. The development hereby permitted shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall only be carried out in strict accordance with the details shown on the approved drawings numbered 500_C, 503, 560_A, 1250, 1251, 1252_C, 1253_C, 5000 and Figure 12 contained within the Transport Statement Addendum dated February 2012.
5. The occupation of the site shall be restricted to a single occupier and neither the plot nor any building on that plot shall be subdivided for use by any other occupier.
6. The development shall be carried out in accordance with the drainage scheme reference C602/SBS/JTJ/U0365 by Shepherd Gilmour Infrastructure Ltd dated 13 October 2011. The approved scheme shall be implemented in accordance with a timescale to be agreed in writing by the local planning authority and maintained thereafter.
7. No development shall be commenced until a scheme of dust mitigation measures has been submitted to and approved in writing by the local planning authority. Such a scheme shall be as recommended in Section 4.6 of the report by Royal Haskoning titled 'Bryn Lane Wrexham: Air Quality, Noise and

REPORT OF THE HEAD OF ENVIRONMENT AND PLANNING
6th JUNE 2016

Vibration Assessment reference 9X0457' and shall be implemented as approved during the construction phase of the development.

8. No development shall be commenced until a scheme of noise and vibration mitigation measures has been submitted to and approved in writing by the local planning authority. Such a scheme shall be as recommended in Section 3.5.2 of the report by Royal Haskoning titled 'Bryn Lane Wrexham: Air Quality, Noise and Vibration Assessment reference 9X0457' and shall be implemented as approved during the construction phase of the development.

9. No development shall be commenced until a scheme has been submitted to and approved in writing by the local planning authority to ensure that the rating level of any noise generated by reason of this development shall not exceed the permissible boundary noise levels specified in Table 3.8 of the report by Royal Haskoning titled 'Bryn Lane Wrexham: Air Quality, Noise and Vibration Assessment reference 9X0457' at any time.

Measurements and an assessment shall be made in accordance with BS 4142:1997 Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas. The development shall only be carried out in accordance with the approved scheme.

10. Prior to the first use of the development hereby approved the vehicular accesses serving both the proposed development site and the existing access (serving Norbert Dentressangle) to Bryn Lane shall provide visibility splays of 2.4 metres x 120 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the nearside edge of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

11. Prior to the first use of the development hereby approved the vehicular access serving the proposed development along Bryn Lane shall provide adequate forward visibility by providing a stopping sight distance of 120 metres for vehicles approaching the proposed access from the north.

12. No part of the development shall be commenced until a scheme detailing the construction of the following has been submitted to and approved in writing by the local planning authority:

(a) Detailed layout, design, drainage and construction of the proposed new footway/carriageway along Bryn Lane; and

(b) Detailed layout, design, drainage and construction of the proposed new right hand turning lane serving the proposed development

The scheme as approved shall be fully implemented prior to the first use of the development.

13. A Final Travel Plan shall be submitted to and approved in writing by the local planning authority following the first anniversary of the first use of the development, in accordance with a timetable to be agreed in writing with the local planning authority.

14. No part of the development shall be commenced until a scheme to deal with potential contamination at the site has been submitted to and approved in writing by the local planning authority. This scheme shall include a phased investigation approach to identify the extent of any contamination and any measures required to remediate the site, including post-development monitoring.

REPORT OF THE HEAD OF ENVIRONMENT AND PLANNING
6th JUNE 2016

15. No part of the development shall be occupied until a Verification Report which demonstrates that the remedial works approved as part of condition no. 14 have been satisfactorily carried out, has been submitted to and approved in writing by the local planning authority.
16. The development shall be carried out in strict accordance with the following arboricultural plans and reports submitted and approved as part of this application:
- (a) Arboricultural Implications Assessment Report Ref: TEP.3080.003 version 3 dated March 2012; and
 - (b) Tree Implications and Protection Plan Ref no. D3080.002 A
- No development or other operations shall take place except in strict accordance with the reports as approved.
17. The hard landscaping scheme approved as part of the reserved matters application shall be fully implemented in strict accordance with the approved drawings within three months of the first use of the development with the exception of soft landscaping which shall be carried out in the first available planting season (November to March) or seeding season (April to September) following the first use.
18. The landscaping scheme pursuant to condition 17 shall be permanently retained for the lifetime of the development. Any planting becoming severely damaged or seriously diseased, or which is in poor physiological condition and/or is removed without the written permission of the local planning authority shall be replaced within a timescale to be submitted to and approved in writing by the local planning authority.
19. No part of the development shall commence until a Landscape Management Plan, including long term design objectives, management responsibilities and maintenance schedules for all landscaped areas has been submitted to and approved in writing by the local planning authority. The landscaping shall be managed and maintained in strict accordance with the approved details.
20. As part of the reserved matters application a long term Ecological Management Plan and Ecological Method Statement shall be submitted to and approved in writing by the local planning authority. This information shall demonstrate how existing features of ecological/wildlife interest will be protected, identify any areas of compensation and demonstrate management in the long term. The recommendations as approved shall be fully implemented in accordance with timescales to be agreed in writing before any part of the development commences on site.
21. The access road and footways shall be progressively constructed to base coat standards from Bryn Lane. Details of wildlife friendly kerb stones and gully pots to safeguard amphibians from harm through incidental capture as part of these works shall be submitted to and approved in writing by the local planning authority prior to their installation. Such works shall be completed prior to the first occupation of the building hereby approved.
22. No part of the development shall commence until an updated Bat Roost and Bird Breeding Assessment, carried out by a qualified ecologist, has been submitted to and approved in writing by the local planning authority. The report shall include an Ecological Method Statement demonstrating/identifying any measures of protection/compensation/mitigation. The recommendations