

1.0 THE SITE

- 1.1 The appeal site is a hard surfaced area located immediately to the north-west of the former Dennis Ruabon tile works. The works lies approximately 380 due east of the village of Johnstown.

2.0 PROPOSAL

- 2.1 CHANGE OF USE FROM STOCKING AREA TO MORTAR AND CONCRETE BATCHING PLANT

3.0 PLANNING HISTORY

- 3.1 6/1843 Surfacing of land to be used as stocking ground for finished products from adjoining tile works. Granted 1.4.76
- 3.2 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
- 3.3 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.
- 3.4 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.

4.0 LOCAL PLANNING CONTEXT

- 4.1 The relevant development plan is the Wrexham Unitary Development Plan adopted 14 February 2005.
- 4.2 The site lies outside of a defined settlement/employment area and is adjacent to the Stryt Las a'r Hafod Site of Special Scientific Interests and the Johnstown Newt Site Special Area of Conservation.
- 4.3 UDP policies PS1, PS3, GDP1 and EC6 are applicable.

- 4.4 Policy PS1 is a strategic policy and directs new development for employment to defined settlement/employment areas.
- 4.5 Policy PS3 promotes the re-use of previously developed land in preference to greenfield land.
- 4.5 Policy GDP1 seeks to ensure that development is acceptable in terms of its location, size, design, means of access and impact upon the environment;
- 4.6 Policy EC6 states that development within or close to sites of biodiversity interest will only be permitted where it has been demonstrated that the need for the development clearly outweighs the need to safeguard the intrinsic nature value of the site. Where development is approved, the policy states that damage should be kept to a minimum and compensatory measures should be provided.

5.0 THE COUNCIL'S CASE

- 5.1 The Council's case is set out in the Report of the Chief Planning Officer dated 6 December 2010, which is appended to this statement. The decision of the previous Inspector is also appended.
- 5.2 The attention of the Inspector is drawn to the section of the report dealing with ecology. It was agreed during the last appeal that it had been sufficiently demonstrated that the development could take place without adverse impact upon the adjoining Special Area of Conservation and to local populations of Great Crested Newts. However the application subject to this appeal was not accompanied by supporting to adequately deal with this matter. Because of the previous Inspector's decision the Council accepts that this matter can be addressed and as such did not include a reason for refusal on the grounds of potential adverse impact on protected sites and species.

6.0 GROUNDS OF APPEAL

- 6.1 The Council's decision takes full account of the previous uses of the land, as did the Inspector when dismissing the previous appeal. The land subject to this appeal has only previously been used for storage in connection with the adjoining (now vacant) tile factory.
- 6.2 The appeal proposals create a new planning unit and therefore should be considered as being new employment development. Because the site lies outside of a defined settlement limit, new employment development at this site is contrary to adopted Unitary Development Plan policies – this view was supported by the Inspector when the previous appeal was dismissed.

- 6.3 The issue of re-use of Brownfield land was considered by the Inspector at the time of the previous appeal (Paragraph 14 of the previous appeal decision).
- 6.4 The proposals are not simply for a change of use of a parcel of land, but as discussed above, also result in the creation of a new planning unit. The lawful use of the site is for storage, but only in conjunction with the operation of adjoining industrial premises.
- 6.5 Despite assertions by the appellant that the 2006 planning permission was implemented, the Council has no evidence of this. Indeed the permission was subject to a condition that required submission and approval of matters relating to ecology prior to development commencing. Whilst some details were submitted, they were of poor quality and were not approved. As such the requirements of the condition were not met. If the permission was implemented then it was in breach of that condition.
- 6.6 Irrespective of the status of the 2006 permission, the permission only allowed storage uses on the land in conjunction with the operation of the adjoining tile factory. The items that can be stored on the land are specifically restricted by condition. The permitted storage uses would not have been granted permission had it not been for the fact that the land adjoins a tile factory and the use was integral to its operation.
- 6.7 The Council is well aware that the applicants business provides employment, however this does not mean that the business must remain on this site. It would require a workforce and therefore provide employment irrespective of where it was located.
- 6.8 The fact that the business supports the local building industry does not necessarily mean it must remain at this site. The employment areas/industrial estates of located elsewhere in the County Borough are generally well served by the local highway network and would allow the appellant to continue to distribute his products to businesses in the local area. Furthermore building activity is not concentrated in one part of the County Borough or surrounding areas. Demand for building materials will vary according to the state of the economy and the location of sites where development projects take place. It is far from clear that other sites in the area would be less well located to allow the appellant to serve the local building industry.
- 6.9 Details submitted by the appellant indicate that he has undertaken a search for alternative premises in the area. In letters to local estate agents he has suggested that his minimum requirements are a site of at least 1 hectare and is located close to public transport. The appeal site is just under 3000 square metres in area and is around 1.2km from the nearest public transport site. It is worth noting that Hafod Road does not have footways so the nearest public transport route is not easily or safely accessible from the site. It is unclear why the appellant

has only sought alternative sites that attributes the appeal site does not.

- 6.10 It is not for the Council to find or provide alternative sites for the appellant. The appellant has deliberately and wilfully breached planning control in setting up his business at this site, despite being advised informally as long ago as 2005 that it was unlikely employment development would be supported. To allow the business to remain on site when it has already been found to be contrary to adopted planning policies would undermine the objectives of the Unitary Development Plan. It would also set an undesirable precedent thus making it more difficult for the Council to resist further employment developments outside of settlement limits.
- 6.11 There remains a large supply of employment land elsewhere in the County Borough within settlement limits – including land specifically allocated for employment use in the Unitary Development Plan. The Council contends that there is sufficient alternative land available in the County Borough to accommodate the appellant's business.
- 6.12 No convincing evidence has been provided to demonstrate that this business has special/unique requirements that require it be located in this location only.

7.0 CONCLUSION

- 7.1 Being location outside of an existing settlement area, the development does not accord with adopted policy in respect of the location of new employment development.
- 7.2 The Council respectfully requests that the appeal be dismissed.

8.0 LIST OF APPENDICIES

- 8.1 Appendix 1: Report of the Chief Planning Officer dated 6 December 2010
- 8.2 Appendix 2: Previous appeal decision.
- 8.3 Appendix 3: 1976 planning permission.
- 8.4 Appendix 4: 2006 planning permission.
- 8.5 Appendix 5: Correspondence relating to condition attached to 2006 planning permission.
- 8.6 Appendix 6: Correspondence between appellant and local estate agents.
- 8.7 Appendix 7 Pre-application advice to appellant (2005).

8.8 Appendix 8 Employment Study 2010

Suggested Conditions

1. Within one month of the date of this permission a scheme for the management of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of;
 - i) how surface water is managed within the site;
 - ii) how surface water is treated to prevent contaminated water flowing from the site; and
 - iii) how surface water is disposed of.

The site shall thereafter only be managed in strict accordance with the approved surface water management scheme.

2. Within one month of the date of this permission a scheme of mitigation and habitat compensation and management for Great Crested Newts shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of:
 - i) The location of land to be retained for or provided for Great Crested Newt Habitat;
 - ii) Details of how that land will be managed in order to provide habitat for Great Crested Newts;
 - iii) A long term management and monitoring plan for the land;
 - iv) A timetable for the implementation of the mitigation, habitat compensation and management measures.

The approved scheme shall be implemented in accordance with the timetable referred to in iv).

3. The access shall have visibility splays of 2.4 x 90 metres in a southerly direction and 2.4 x 70 metres in a northerly direction as measured to the nearside edge of the adjoining highway. Within the splays there shall be no obstruction in excess of 1 metre in height. All existing operations associated with the use of the site as a concrete batching plant shall cease and no part of the site shall be used as a concrete batching plant until the splays shall be provided. The splays shall thereafter retained and maintained free of all such obstruction.

Reasons

1. To ensure the operation of the site takes place in a way that will not be prejudicial to the local environment, in particular the adjoining Site of Special Scientific Interests/Special Area of Conservation.
2. In the interests of providing and maintaining habitat for Great Crested Newts, a statutory protected species.
3. To ensure adequate visibility is provided at the point of access to the site in the interests of highway safety.