



## Appeal Decision

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by Mr A Thickett BA (Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 13.06.2023

Appeal reference: CAS-02271-X6F9F4

Site address: Cae Celyn, Llanfair Road, Lampeter, Ceredigion, SA48 8JX

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- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Lampeter Tree Services Ltd against the decision of Ceredigion County Council.
  - The application Ref A201119, dated 5 February 2021, was refused by notice dated 11 August 2022.
  - The development proposed is the retention of biomass log dryer kiln, and two chimneys and continued use of boiler no.1 only (within centre of building) following trial run relating to temporary planning permission A190302.
  - A site visit was made on 11 May 2023.
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### Decision

1. The appeal is allowed and planning permission granted for the retention of biomass log dryer kiln, and two chimneys and continued use of boiler no.1 only (within centre of building) following trial run relating to temporary planning permission A190302 at Cae Celyn, Llanfair Road, Lampeter, Ceredigion, SA48 8JX subject to the terms of the application reference A201119, dated 5 February 2021 and subject to the following condition.
  1. Before boiler no.1 is brought back into use details of a mitigation strategy shall be submitted to and approved in writing by the local planning authority. The approved mitigation strategy must be adhered to every time and for as long as Boiler No. 1 is in use.

Reason: In order to safeguard the living conditions of nearby residents in accordance with LDP Policy DM22.

### Main Issue

2. The main issue is the impact of the continued use of Boiler No.1 on the living conditions of nearby residents with regard to smoke and odour.

### Reasons

3. Lampeter Tree Services operates from a site to the south east of the town. The premises comprises a large building and yards used for parking vehicles and storing timber.

Although close to Lampeter, it lies in the countryside, the nearest house is around 100m to the west of the building. Immediately adjoining on the eastern boundary is a static caravan.

4. A condition removing permitted development rights with regard to the installation of plant and machinery was imposed on the planning permission for the building. An application to retain a biomass log dryer kiln, two biomass boilers, and two chimneys was granted temporary planning permission from 17 November to 17 December 2020. Following the trial period the appellant submitted the application subject to this appeal to operate one of the boilers (no. 1).
5. During the trial run the Council visited the site 13 times, including 4 inspections by the Environmental Health Team. On 7 of those occasions boiler no. 1 was in operation. The Council's committee report records the following: *'On these days, emissions were generally clear or minimal, with the Officer noting only a slight smell of smoke at the site next to the building or down in the adjoining yard to the south. During these days, there was either no or little wind and the wind direction appeared to be northerly/north-easterly. The slight exception to this was on the 15th December, when wind direction appeared to be south-westerly (i.e. heading towards the caravan), albeit light. During this visit, the Officer did note a slight smell of smoke next to the caravan, however this was not overwhelming.'*
6. The Environmental Health Officer commented that the premises were visited on 9, 15, 16 and 17 December 2020. The boiler was not in use on the 15<sup>th</sup>. The kiln was only operational on the 16<sup>th</sup> but observed not to be causing noise above the prevailing background noise level on site. With regard to odour, the officers stated they detected an odorous substance beyond the site boundary on each visit apart from the 15<sup>th</sup>. The smell was described as *'woody, not particularly offensive or intense but clearly apparent.'*
7. In addition the Environmental Health Officer reported that the odour could only be detected 'now and again' and was not at a level that would constitute a statutory nuisance *'as it would not substantially interfere with the enjoyment or comfort of anyone in the vicinity.'* The Officer's did acknowledge that if the odour were perceptible for long periods on most days of the week it would have a detrimental impact. Finally the Environmental Health Officer recommended the roller shutter door on the eastern elevation be closed whenever the boilers were in use on the basis doing so would provide *'significant mitigation and a physical barrier to the dispersion of odour.'*
8. Members undertook a site visit before they made a decision on the appeal application. The Committee report notes that Members experienced the smell of smoke but did not consider odours were overwhelming or *'harmful to such an extent to justify the refusal of planning permission on amenity grounds.'*
9. I have no reason to doubt the reports of odour and smoke from local residents but it is not possible to determine which boiler the problems emanated from. The appellant acknowledges that boiler no. 2 caused nuisance, hence its continued use not being included in the appeal application.
10. The Council considers the scope for mitigation has been exhausted and are concerned that it may not be able to agree a mitigation strategy should one be required by condition. The evidence before me, derived from the Council's own observations during the trial period and at the Member's visit, is that boiler no. 1 operated with no unacceptable impact on nearby residents, including the occupiers of the caravan.
11. I assume the mitigation measures previously agreed were in operation when the Council's planning and environmental health officers visited and reported no unacceptable impacts. A mitigation strategy is necessary to safeguard the living

conditions of nearby residents and, in light of the above, I see no reason one could not be agreed. Planning permission should not be withheld just because monitoring a condition would be burdensome on the local planning authority.

### **Conclusion**

12. For the reasons given above and having regard to all matters raised, I find that the proposed development would not have an unacceptable impact on the living conditions of local residents. I conclude that the proposal complies with Policies DM22 and LU25 of the Ceredigion Local Development Plan (2007 – 2022), adopted 2013.
13. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives.

*A Thickett*

Inspector