

## Planning Committee

07 September 2010

**Reference:**  
**APP/10/00445**

**Area Team:**  
**South Team**

**Case Officer:**  
**Mrs S Day**

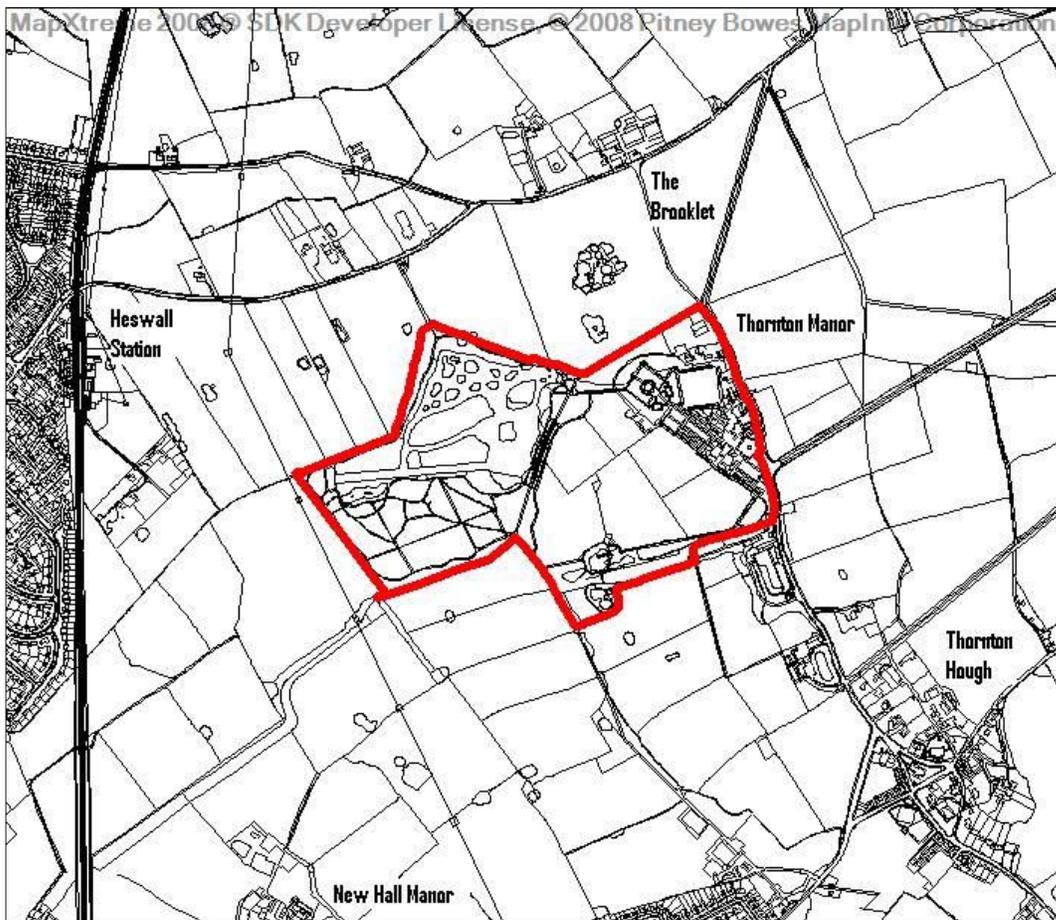
**Ward:**  
**Clatterbridge**

**Location:** Thornton Holdings Ltd, Thornton Manor, MANOR ROAD, THORNTON HOUGH, CH63 1JB

**Proposal:** Proposed erection of three marquees within the Thornton Manor Estate at The Dell, The Walled Garden and at the Lake to be used for private functions and conferences

**Applicant:** Thornton Manor Holdings  
**Agent :** Edmund Kirby

### Site Plan:



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### Development Plan allocation and policies:

Site of Biological Importance  
Green Belt  
Historic Park or Garden  
Area of Special Landscape Value

## **Planning History:**

LBC/2001/7262 - Change of Use to hotel and spa – Approved 05.04.2002

APP/2001/7257 - Change of use to hotel and spa – Approved 28.07.2003

LBC/2003/7381- Change of use to form self contained apartments – Refused 20.08.2004

APP/2003/ 7373 – Change of use to form self contained apartments – Refused 20.08.2004

APP/2005/7610 – Change of use of part of dwelling for wedding ceremonies – Approved 01.03.2006

APP/2006/6015 – Change of use of part of gardens to be used for wedding ceremonies - Approved 18.07.2006

APP/2006/6424 – Erection of a marquee - Withdrawn

APP/2007/6599 - Erection of a marquee - Refused 06.07.2009

APP/2007/6642 - Erection of a marquee - Refused 06.07.2009

APP/2007/6600 - Erection of a marquee - Refused 06.07.2009

## **Summary Of Representations and Consultations Received:**

### **CONSULTATIONS**

Director of Technical Services ( Traffic Management) - No objection subject to conditions

Director of Law, HR and Asset Management ( Environmental Protection) No objections subject to conditions relating to noise attenuation.

Wirral Green Belt Council - Object to the proposals which would result in a permanent intrusion in the green belt, creating noise and disturbance. Not justified by very special circumstances.

English Heritage - Do not accept the proposal as Enabling Development (as the whole estate is not taken into account) but support the erection of the marquees due to the exceptional set of circumstances relating to the generation of income to restore the historic park and gardens

Wirral Wildlife - Express concerns over the accuracy of the ecological survey but accept the proposal is an improvement on previous ones. Suggest the use of conditions to mitigate harm to wildlife from noise and lights from fireworks but express concern over their effectiveness given the sites history of unauthorised activity.

Cheshire Gardens Trust - support the restoration of the gardens.

### **REPRESENTATIONS**

The application has been publicised with Site Notices (displayed outside the site and adjacent to the public footpath) and in addition, individual letters have been sent to surrounding properties.

Objections have been received from 13 individuals including Cheshire and Wirral Ornithological Society and The Bromborough Society. Two qualifying petitions of objection have also been received.

Objections listed in these representations are on the grounds of:

1. Insufficient difference from previous proposals
2. Detrimental effect on the Green Belt
3. Unauthorised activity has already taken place for some time
4. Harm and disturbance to a site of biological importance
5. Visual intrusion from the Dell marquee
6. Proposal does not constitute very special circumstances
7. Proposal does not pass the test for enabling development

8. Additional traffic will result in noise and pollution particularly late at night
9. Harm to protected species
10. Increase in traffic on quiet country roads will be detrimental to highway safety
11. Financial case is selective and does not justify development
12. Fireworks have been let off outside permitted times.

In addition to the above objections 889 individual letters of support have been received. Whilst a number of these are from within the locality, the vast majority appear to be from further afield and from outside of the Borough, mainly from people who have attended functions in the marquees. Five qualifying petitions of support have also been submitted stating the following:

1. Proposals will attract tourism and income to the Wirral and will create jobs
2. Nice location
3. Generation of income to restore gardens is welcomed
4. Proposal supports conservation
5. Proposals are not noisy

**Director's Comments:**

This application was deferred from Planning Committee on 21 July, 2010 for a Committee Site Visit by Members and to consider further information relating to the financial case put forward for the application.

**REASON FOR REFERRAL TO PLANNING COMMITTEE**

The proposal constitutes inappropriate development within the Green Belt. It is a major application which has petitions of opposition and support.

**INTRODUCTION**

The current proposal is for the erection of three marquees to be located at three sites within the grounds of Thornton Manor. Similar proposals have previously been considered as three separate applications for individual marquees which were subsequently refused. The current proposal seeks consent for marquees in similar locations at the Dell, The Lakeside and within the walled Garden. The marquees are of differing sizes, with the smallest marquee of 360m<sup>2</sup> at the Dell and the largest at 1950m<sup>2</sup> in the walled garden. The marquee proposed at the Lakeside is 720m<sup>2</sup>. Permission for the marquees is being sought by the applicant for a period of up to 25 years. The applicant has set out why it is considered necessary to have the marquees in situ for so long, which is essentially to ensure sufficient funding for the restoration and maintenance of the lake, lakeside and woodland landscape which form part of the Grade II\* Registered Historic Park and Garden. The lakeside Marquee is currently erected without planning consent and is the subject of an enforcement notice. This notice has been appealed and a hearing is scheduled for October 19th.

**PRINCIPLE OF DEVELOPMENT**

The proposal constitutes inappropriate development, which is unacceptable in the Green Belt unless very special circumstances can be demonstrated that would outweigh any harm caused

**SITE AND SURROUNDINGS**

Thornton Manor is a grade II\* listed building set within a grade II\* registered historic park and garden. The grounds includes lakes, wooded areas and a site of biological importance. The entire site is located within the Green Belt and an Area of Special Landscape Value. A public footpath cuts across the north western part of the site adjacent to the Lake

**POLICY CONTEXT**

Any proposals within the grounds of Thornton Manor must be assessed against national and local green belt, landscape and conservation policies. However, the most significant weight must be given to the proposals relationship with green belt policies contained in PPG2 and the Councils own UDP Policy GB2. In addition, the recent appeal decision relating to the enforcement appeal for the lakeside marquee is material to the determination of this application. Within the green belt, commercial development, which does not preserve the openness of the green belt, is considered to be inappropriate development and is therefore, by definition, contrary to green belt policy. However, inappropriate development can in some circumstances be acceptable if it can be demonstrated that very special circumstances exist which would override the normal presumption against inappropriate

development. Even within the Green Belt, the planning system allows some flexibility to consider proposals which may safeguard the future of an important building or landscape. This assessment must also weigh the benefits in relation to harm caused to the green belt.

National and local conservation policies generally support proposals which promote the significance and enhancement of historic assets and are of a scale which is appropriate to retain their character. In considering the proposals for marquees, their impact on the setting of the listed buildings and registered gardens is important, as well as the impact from increased use and activity. In July 2010, the registered park and garden were recently put on English Heritage's Heritage At Risk register where they are described as being "generally unsatisfactory with major localised problems". Whilst it notes the gardens around the house are well maintained, it identifies the area around the pergola as being in an advanced state of decay and the lake and woodland being in poor condition. The trend has been identified as declining. The applicant therefore proposes to restore and maintain them over a 25 year period with income principally generated from the marquees.

The application has been submitted as an enabling development, which would generate an income stream for funding the restoration of the registered landscape. The supporting information includes a programme of landscape works and detailed cost estimates and income projections contained in a business plan. The information has been submitted to satisfy English Heritage's Enabling Development policy. However, English Heritage do not accept that the proposals constitute enabling development because the proposals relate only to the gardens and do not look at the estate as a whole. The applicant has submitted a further letter reiterating their case but this has not changed the view of English Heritage. It should be noted that a previous application for the marquees which was submitted as enabling development to provide funding for the upkeep of the Manor and that this was also rejected by English Heritage as the Manor itself was not deemed to be at risk.

The justification for the marquees has since become solely related to the restoration and upkeep of the registered historic park and gardens. Notwithstanding their view on the application not meeting the criteria for enabling development, English Heritage are generally supportive of the provision of marquees as a device for funding the restoration of the gardens. They no longer take the view that the structures will be obtrusive. This support was initially conditional to the revocation of the extant consent for a hotel and spa and a legal agreement to tie income to restoration. However, English Heritage have now revised this view as they do not believe that the hotel extensions would be built in the current economic climate and believe that the benefits from the repair and restoration of the historic landscape would flow from the approval of the planning application for the marquees are such that they would not wish the restoration of the gardens to fail as a result of the inability to rescind the consent for the extension to the Manor. In the absence of an enabling argument, the proposed planning gain to the improvement of the gardens could be considered as very special circumstances if a sufficiently robust financial case is put forward.

The business plan and financial evidence has been considered by The Director of Finance who has advised on its accuracy. Following on from this advice, the applicant has taken steps to clarify concerns relating to robustness of the business plan and the lack of additional information relating to existing and potential income streams.

The applicant has now submitted additional confidential information which indicates that the Manor is not operating at sufficient profit to support the restoration of the gardens together with the general maintenance requirements of the Manor itself. Whilst the applicant still declines to revoke the extant hotel and spa consent, it cannot be known if the works to the gardens could be achieved through use of a potential income stream that may come from the hotel and spa consent. Whilst it would be preferable to revoke this consent, the applicant has submitted evidence from his bank which confirms that the mortgage is tied to an extant consent for the hotel for valuation. In addition the application has stated that the cost of implementing this consent fully is financially prohibitive and therefore, the applicant has explained that he cannot complete this permission. It should be noted that the hotel consent gave permission for 35 rooms. 22 are currently available within the Manor. Therefore the major element which remains unimplemented is the spa and extensions.

The applicant has provided supporting information that indicates that there is no other income which is gained from the marquees other than the hire charges and that this is not affected by the numbers attending functions. The applicant estimates that by 2015 all three marquees will be operating with a

maximum of two functions per month (for each marquee). The previous business plan prepared in 2008 to support previous applications anticipated that by 2010, 45 functions a year could take place between the three marquees. The applicant has indicated that as many as 65 events per year could be held within the marquees by year 5 of any permission. As such, the local planning authority considers that there is still some concern over the accuracy of these predictions and the income which may be generated. This is due to the fact that permission is being sought for the marquees for a period of 25 years. If the applicant holds more functions than anticipated, which is not an inconceivable possibility, then a larger income would be generated above that predicted and as such, the local planning authority believes that it may be possible to raise the necessary income over a shorter time period.

The applicant has submitted a Restoration Cost Report for the landscape works which indicates that the cost of restoration works would be approximately £1.9 million. This is similar to the projected costs submitted with the recent application for a marquee at the Hillbark Hotel. In this instance, the income proposed to fund the restoration and repair works to the hotel would be generated from one marquee for a period of five years. Obviously there are differences between the two business plans but the local planning authority does not consider it an unreasonable approach to conclude that Thornton Manor may be able to fund the restoration works over a lesser time period than anticipated if income generated is more than that projected through more events being held than those set out in within the application. If consent were granted for a shorter time period, such as five years, this would allow for a period for careful monitoring of the financial situation and the income streams generated which could then be reviewed and the likelihood of the hotel consent being fully implemented could also be reassessed as the economic climate improves.

If Members were minded to approve the proposals, any such consent would need to be subject to a section 106 agreement that ties income from the marquees to a detailed programme of works.

The size of the largest marquee within the Walled Garden is greater than 1000m<sup>2</sup> and as such the proposals will also need to be referred to Government Office for consideration prior to a decision being issued.

#### **APPEARANCE AND AMENITY ISSUES**

The visual impact of the marquee on the openness of the green belt and the area of Landscape value must also be considered. All three marquees are located some distance from Thornton Manor and the formal registered gardens however, they are within the registered park and woodland and the marquee at the Dell it is partially visible from the public footpath. The materials proposed are particularly obtrusive and the design of the marquees are bland and utilitarian, however as they have limited visual impact from outside the site, the visual harm is limited.

The Inspector in her consideration of this issue at the lakeside enforcement appeal, did not consider the proposal sufficiently obtrusive to warrant a refusal on this basis. In addition English Heritage no longer object to any of the marquees on this basis. The applicant, as part of landscape proposals, has indicated that mature planting could take place at the site of the Dell marquee and its car parking area. This will increase the screening at this point. It is considered that the noise from use of the marquees could be adequately controlled through noise attenuation within the structures and limits on the frequency and hours of functions.

#### **SEPARATION DISTANCES**

Separation distances do not apply in this instance due to distance to nearest dwellings.

#### **HIGHWAY/TRAFFIC IMPLICATIONS**

The applicant has submitted an updated transport assessment. Whilst the figures attending functions seems a conservative estimate, this would not result in traffic management or highway safety concerns and the proposal could be acceptable with conditions to safeguard directional signage and internal road widening to allow coach access and turning.

#### **ENVIRONMENTAL/SUSTAINABILITY ISSUES**

The Marquee at the lakeside is adjacent to a site of Biological importance, which in particular refers to an established Heronry. Policy NC5 states that development, which affects such habitats will only be permitted where the LPA is satisfied that the continued ecological viability of the habitat can be safeguarded by means of appropriate conditions/legal agreement. The applicant submitted an

updated ecological report which addresses the issue of the Heronry and bats. It is considered that conditions could be imposed which would limit the use of fireworks and lighting to mitigate the impact of the development on wildlife. The proposed landscape works will on the one hand improve the landscape which has been neglected but may also make sensitive areas more accessible and could have a greater impact on wildlife than currently exists.

### **HEALTH ISSUES**

There are no health implications relating to this application.

### **CONCLUSION**

The proposed development constitutes inappropriate development which is by definition harmful to the openness of the green belt. The lack of visual impact from outside the site does not reduce the harm which occurs as a result of the proposed marquees and parking areas. However, the generation of an income stream would enable the restoration of the registered gardens which are currently at risk which would constitute the very special circumstances necessary to overcome the presumption against inappropriate development. The limiting of the consent to a period of five years would enable realistic monitoring and review of the financial situation and prevent the establishment of inappropriate structures in the green belt for longer than necessary. The recent inclusion of the historic park and gardens on the Heritage At Risk register is also a material consideration in determining this application. English Heritage are clear in their advice to the local planning authority that should consent for the marquees be granted, an appropriate mechanism is incorporated within a Section 106 Agreement whereby the entire profit from the marquees is used towards an identified and properly documented repair programme that would be closely monitored by the local planning authority. The grade II\* registered landscape is considered nationally significant and the original intentions of using the landscape to entertain and host events should not be overlooked. This is a view that is supported by English Heritage, who have considered the attributes of the heritage assets contained within the Thornton Manor Estate, in respect of both buildings and landscape, and have concluded that the proposed marquees would not be harmful to the national significance of the site. On balance, having regard to the potential to support the long term viability of the estate and particularly the registered historic park and gardens (now identified declining and as being at risk), the local planning authority considers that consent should be granted in line with the details set out above.

### **Summary of Decision:**

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national and regional policy advice. In reaching this decision the Local Planning Authority has considered the following:-

Having regard to the potential to support the long term viability of the estate and particularly the registered historic park and gardens (now identified declining and as being at risk), the generation of an income stream would enable the restoration of the registered gardens which the local planning authority considers constitutes the very special circumstances necessary to overcome the presumption against inappropriate development.

**Recommended Decision: Approve subject to a Section 106 Agreement and referral to Government Office for the North West.**

### **Recommended Conditions and Reasons:**

1. This permission shall be for a limited period of five years only expiring five years from the date of issue of the decision notice.

**Reason:** To enable the financial situation to be reviewed and minimise the impact on the green belt from the erection of the structures.

2. Prior to the marquee at the Dell being brought into use, details of a 3 metre high noise barrier to be erected within the perimeter of the marquee shall be submitted to and agreed in writing with the Local Planning Authority. The screen shall be erected in accordance with the approved details before the marquee is used and retained as such thereafter

**Reason:** In the interests of residential amenity

3. Within one month of the date of approval details of a 3 metre high noise barrier to be erected within the perimeter of the Lake marquee shall be submitted to and agreed in writing with the Local Planning Authority. The screen shall be erected in accordance with the approved details within one month of the approval of details by the Local Planning Authority and retained as such thereafter

**Reason:** In the interests of residential amenity

4. Prior to the marquee at the Dell being brought into use details of a noise limiter to be used within the marquee shall be submitted to and agreed in writing with the Local Planning Authority. The noise limiter shall be installed and always used whenever amplified voices or music are played at the marquee in accordance with the approved details.

**Reason:** In the interests of residential amenity

5. Within one month of the date of approval, details of a noise limiter to be used within the Lake marquee shall be submitted to and agreed in writing with the Local Planning Authority. The noise limiter shall be installed and always used whenever amplified voices or music are played at the marquee in accordance with the approved details.

**Reason:** In the interests of residential amenity

6. Prior to the commencement of development, details of event access and direction signing shall be submitted to and agreed in writing with the Local Planning Authority. The signage shall be erected in accordance with the approved details before the marquees are brought into use.

**Reason:** In the interests of highway safety

7. Details of internal road widening and parking areas for coaches shall be submitted to and agreed in writing with the Local Planning Authority before development commences. The development shall be carried out in accordance with the agreed details before the marquees are brought into use and retained as such.

**Reason:** In the interests of highway safety

8. The proposed car parking areas shall be laid out in accordance with the details of the application before the marquees are brought into use.

**Reason:** In the interests of highway safety

9. No external lighting to the marquees and car parking areas shall be erected until full details, including position and intensity of lighting has been submitted to and agreed in writing with the Local Planning Authority. The lighting shall be carried out in accordance with the approved details.

**Reason:** To protect wildlife in accordance with Policy NC5 of the Wirral Unitary Development Plan.

10. No fireworks shall be used between January and July, inclusive.

**Reason:** To protect wildlife in accordance with Policy NC5 of the Wirral Unitary Development Plan.

**Further Notes for Committee:**

**Last Comments By:** 04/06/2010 16:13:04

**Expiry Date:** 16/07/2010