

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to:	The Executive
Date:	28/09/2020
Subject:	Land at Mona Industrial Estate – Application by the Anglesey Agricultural Society to amend lease conditions
Portfolio Holder(s):	Cllr Bob Parry – Highways, Waste & Property
Head of Service / Director:	Huw Percy – Highways, Waste & Property
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Local Members:	Cllr Nicola Roberts, Cllr Dylan Rees and Cllr Bob Parry

A –Recommendation/s and reason/s
<p>That the Council reject the application to amend the existing lease agreement with The Anglesey Agricultural Society (The Society) for the reasons fully described in this report but which maybe summarised as follows:</p> <ul style="list-style-type: none"> • Restrictions on the freehold title effectively prevent the use proposed in the sublease; • Agreeing to a sublease risks loss of the park and ride facility provided for the Anglesey Show, thereby recreating potential parking problems when the Show is held. This would defeat the purpose for which the lease was granted in the first place; • The use proposed in the sublease will lead to large HGVs gaining access to the site through Gwalchmai, Rhostrehwfa and other villages (including at night) to the significant detriment of the residential amenities of local residents and the possible increased risks to the safety of other road users; • In its Options Appraisal the Council has identified a number of alternative sites which would be more suitable for the purpose proposed.

Background

Land at Mona

Approximately 38 hectares (94 acres) of land at Mona was purchased by Isle of Anglesey Borough Council from the Ministry of Defence (MOD) in 1994 as an industrial estate. The land has over a 100 year history of military/airforce use and has an abundance of disused concrete runways and hardstandings. By now, all the land that is suitable for development has either been developed or sold as industrial development plots. The exception being the large tract of land to the immediate south east of the existing runway which amounts to about 20 hectares (50 acres) utilised as a buffer zone between the operational runway and the developed industrial site. A plan of the relevant site is attached at Enclosure 1 and a copy of the relevant site in its wider context is attached at Enclosure 2. The land illustrated in Enclosure 1 is subject to certain legal restrictions imposed on the Council and its tenants by the MOD. These restrictions include:

- a. An obligation to maintain an emergency access to the operational runway;
- b. A restriction on any building on the buffer zone land;
- c. An overage provision to the benefit of the MOD against any change of use.

The Society

The Society has successfully used the Council's land at Mona Industrial Estate as a park and ride facility which has greatly improved the traffic management associated with the annual Anglesey County Show. The existing concrete runways provide useful hardstanding for vehicles. This provision has been enabled through various licence and short term lease agreements since 2012.

In the context of the preparation for a no-deal BREXIT the site had been identified by North and Mid Wales Trunk Road Agency (NMWTRA) and the Welsh Government as a suitable location for the short term emergency processing of HGVs for the checking/processing of import and export paperwork without causing disruption to the road network and port facilities in Holyhead. This provision was expected to be required for only a very short period (possibly only a matter of a few days) until a more permanent administrative process would be put in place. Some enabling works to improve the entrance and some clearing of debris from the old concrete runways was carried out under licence in October 2019 by NMWTRA. No further contact/discussion has since taken place until an email was received by the Council in early April 2020 indicating that Welsh Government wanted to resurrect the discussion.

In June 2020 separate correspondence was received by the Council from the Property Department of HMRC, expressing an interest in the land at Mona Industrial Estate for the provision of a facility for 100 HGVs plus some temporary ancillary buildings in readiness of final departure from the EU; specifically for customs use. In addition to a small facility in

Holyhead, HMRC indicated their requirement of the Mona site for a period of 5 years. A response was sent stating that the land in question was in the Council's freehold ownership, but not in the Council's possession and therefore the Council was not in a position to negotiate. HMRC was informed that the Council's title contained restrictions and covenants for the benefit of the MOD. It was mentioned that the Welsh Government retained interest in the land and suggested that HMRC consider alternative options.

It has since come to the attention of the Council that discussions have reached an advanced stage between HMRC, and The Society, for The Society to sub-let their interest in the Mona site to HMRC.

The Existing Agreement with The Society

The Council entered into the current leasehold agreement with The Society in March 2018 for approx. 17 hectares (41 acres) of the land within the buffer zone. The details of the relevant terms of the agreement are as follows:

Lease Date: 15th March 2018

Consideration: One peppercorn plus a free pitch at the Anglesey County Show [Clause 4]

Contractual Term: An initial 5 years commencing on 15th March 2018 and expiring on 14th March 2023 with an option to renew for a further 5 years until 14th March 2028 [Clause 3]

Permitted use: Use as a park & ride facility in conjunction with Anglesey County Show [Clause 21].

Assignment: With Landlord's consent not to be unreasonably withheld [Clause 14]

Other dealing: Absolute prohibition on subletting and sharing occupation [Clause 15]

Statutory Protection: Contracted out of s24 and s28 of the Landlord and Tenant Act 1954 (no statutory right of renewal at expiry) [Clause 32] and confirmed via Statutory Declaration.

Landlord's Break Option: On the provision of six months' notice part of the land (marked with a "C" on the lease plan) to be returned to the Landlord.

The Request

Correspondence was received by solicitors acting on behalf of The Society on 19th August 2020, requesting permission to vary the following elements of the lease:

1. Clause 15 of the Lease prevents sub-letting. An agreement to vary to allow sub-letting is sought. A licence to sub-let in favour of the Secretary of State will also be required in due course.
2. Clause 15 also prevents the sharing of occupation. The Secretary of State intends to share its occupation with another Government department – DEFRA.
3. The definition of the permitted use is too narrow for the intended use by the Secretary of State. The intended use will be for offices/light industrial and storage to include storage of vehicles. The premises to be used for the parking of cars,

motor cycles and light vans, large trucks and heavy goods vehicles including for the purpose of inspection, the unloading and loading of goods with ancillary office and welfare facilities falling within use Classes B1, B2 and B8. It is understood that the intention is to use the property as an inspection and testing facility for the inspection of goods, plant and animal matter and liaising with Border Control. There would be the need to locate and operate warehouses, fenced enclosures, portacabins and portable chiller units and ancillary offices together with staff welfare facilities.

4. The Secretary of State also requests that the option that the Council has to determine the Lease in relation to the area marked 'C' on the Lease plan be extinguished. The break clause giving the option to determine is at Clause 33 of the Lease.

The Council is not legally obliged to consent to any of the above requests under the existing lease.

It is not in the Council's power to allow HMRC's proposed development owing to the restrictions imposed by the MOD on the Council's freehold title.

Following a separate appraisal of alternative sites along the A55 corridor, more suitable locations than Mona have been identified.

The use of Mona for this purpose will have significant impact on the communities of Gwalchmai and Rhostrehwfa, and possibly other villages, if HGVs are minded/permitted to turn-off the A55 before Junction 5 to avoid inspection. Limiting HGV traffic to Junction 6 will avoid some traffic impacts, but there would be ongoing concerns about enforcement and the existing safe pedestrian routes to schools.

There is a distinct lack of community amenities, facilities and utility services serving Mona.

There is currently no designated safe walking route and street lighting approaching the industrial estate. Road safety is a major risk with a number of accidents having occurred on the B4422 and A5 and there is an enhanced risk created by increased volume of traffic.

B – What other options did you consider and why did you reject them and/or opt for this option?

Do nothing – Not an option.

Delay decision – There is particular urgency from the Secretary of State to have an operational site by 1st January 2021.

Consent to the request – This option would require significant mitigation measures, which

include, but may not be limited to:

- The provision of a new junction providing direct access from the A55 to the site along with improvements to the immediate road network between Junctions 5 and 6. Alternative parking facilities will be necessary for residents who require parking on the highway in Gwalchmai. The provision of parking restrictions, pedestrian crossings, additional traffic calming measures and speed limit reductions.
- A lifting of the existing legal restrictions, restrictive covenants and overage provision imposed by the MOD on the Council's title.
- Consenting would also create a commercial lease where a commercial lease does not exist at present. The lease to The Society is to a specific user for a specific, non-commercial purpose – i.e. parking for visitors to the Anglesey Show or other similar events. The loss of this site for parking risks creating problems for the parking arrangements at future Shows which is manifestly not in the Council's best interests as the local highway authority. It also defeats the purpose for which the lease was granted in the first place.

C – Why is this a decision for the Executive?

Under the terms of the Council's Asset Management Policy and Procedures the Head of Service for Highways, Waste & Property has the delegated power to issue consent in relation to the terms and conditions of leases under section 4. At the request of the Head of Service for Highways, Waste & Property this request has been referred to the Executive for consideration pursuant to paragraph 3.5.1.6.

CH – Is this decision consistent with policy approved by the full Council?

Yes

D – Is this decision within the budget approved by the Council?

N/A

E – Impact on our Future Generations(if relevant)

1	How does this decision impact on our long term needs as an Island	There is a risk should the land at Mona be developed as proposed; that this decision will negatively impact the specific local
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		communities of Gwalchmai and Rhostrehwfa due to a significant increase in heavy goods vehicle traffic.
2	Is this a decision which it is envisaged will prevent future costs / dependencies on the Authority. If so, how:-	No
3	Have we been working collaboratively with other organisations to come to this decision, if so, please advise whom:	No
4	Have Anglesey citizens played a part in drafting this way forward? Please explain how:-	No
5	Outline what impact does this decision have on the Equalities agenda and the Welsh language	No impact on the Welsh language

DD – Who did you consult?		What did they say?
1	Chief Executive / Senior Leadership Team (SLT) (mandatory)	No observations
2	Finance / Section 151 (mandatory)	No observations
3	Legal / Monitoring Officer (mandatory)	Observations incorporated within the report
4	Human Resources (HR)	
5	Property	Property Services has prepared this report.
6	Information Communication Technology (ICT)	
7	Procurement	
8	Scrutiny	
9	Local Members	

F - Appendices:

FF - Background papers (please contact the author of the Report for any further information):

Site Plan



Mona_5000.pdf

The Society's
Lease



Scanned Lease.pdf

Registered Title



589247 - Official
Copy (Register) - WA

Statutory
Declaration



Stat Dec re
Lease.pdf

Title Plan



589246 - Title Plan
WA714484.pdf

Landlord's
Option



Stat Dec re
Option.pdf

1994
Conveyance



589245 - Official
Copy (Conveyance)

Proposal Plan



418703-MMD-06-A
G-SK-C-0004.pdf