

PLANNING & DEVELOPMENT CONTROL COMMITTEE
21 JANUARY 2015

Minutes of the meeting of the Planning & Development Control Committee of Flintshire County Council held at Council Chamber, County Hall, Mold on Wednesday, 21st January, 2015

PRESENT: David Wisinger (Chairman)

Councillors: Marion Bateman, Chris Bithell, Derek Butler, Ian Dunbar, Carol Ellis, Alison Halford, Ray Hughes, Christine Jones, Richard Jones, Mike Peers, Neville Phillips, Mike Reece, Gareth Roberts, David Roney and Carolyn Thomas

SUBSTITUTIONS:

Councillors: Veronica Gay for Richard Lloyd, Mike Lowe for Billy Mullin and Jim Falshaw for Owen Thomas

ALSO PRESENT:

The following Councillor attended as local Members:-

Councillor Hilary McGuill - agenda item 6.5.

The following Councillors attended as observers:

Councillors: Haydn Bateman, Kevin Jones, Richard Lloyd and Aaron Shotton

APOLOGY:

Councillor David Cox

IN ATTENDANCE:

Chief Officer (Planning and Environment), Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Senior Planners, Planning Support Officer, Housing & Planning Solicitor and Committee Officer

120. **DECLARATIONS OF INTEREST**

Councillor Carolyn Thomas declared a personal interest in agenda item 6.2 because she was the Interim Chair of Clwydian Range & Dee Valley AONB Partnership. Councillor Derek Butler declared a personal interest in agenda item 6.2 because he was a Board Member of the Joint Committee AONB.

Agenda item 6.2 – Full application – Erection of a single wind turbine (45m hub height, 67m blade tip height) two metering units, access track, assembly and crane area at Ty Coch, Crossways Road, Pen y Cefn, Caerwys (051826)

Councillor Carolyn Thomas declared a personal interest in agenda item 6.3 because she was the Interim Chair of Clwydian Range & Dee Valley AONB Partnership. Councillor Derek Butler declared a personal interest in agenda item 6.2 because he was a Board Member of the Joint Committee AONB.

Agenda item 6.3 – Full application – Erection of wind turbine (26m high to blade tip) at Park View Garage, St. Asaph Road, Lloc (052396)

Councillor Neville Phillips declared a personal and prejudicial interest in agenda item 6.5 because a member of his family had objected to the proposal.

Agenda item 6.5 – General Matters – Outline application for the demolition of Sunnyside and 66A Mold Road and the erection of 58 houses including details of access, appearance, layout and scale at land rear of 66A Mold Road, Mynydd Isa (048042)

121. **LATE OBSERVATIONS**

The Chairman allowed Members an opportunity to read the late observations which had been circulated at the meeting.

122. **MINUTES**

The draft minutes of the meeting of the Committee held on 17 December 2014 had been circulated to Members with the agenda.

Accuracy

Councillor Mike Peers referred to the fourth line in the first paragraph on page 6 and suggested that the words 'lower than the 30 dwellings per hectare guidelines' be included after the words 'density of sites'.

Matters Arising

In referring to the first paragraph on page 8, Councillor Richard Jones asked for copies of the tests applied by Welsh Government (WG) on whether to call in an application and the Council's test for referring applications back to Committee as a significant departure from policy. The Chief Officer (Planning and Environment) advised that he could provide a copy of the Call-In criteria by WG and added that officers looked at each application on its merits to decide if it was a significant departure from policy.

RESOLVED:

That subject to the suggested amendment, the minutes be approved as a correct record and signed by the Chairman.

123. **ITEMS TO BE DEFERRED**

The Chief Officer (Planning and Environment) advised that none of the items on the agenda were recommended for deferral by officers.

124. **OUTLINE APPLICATION - DEMOLITION OF FORMER YOUTH CENTRE AND REDEVELOPMENT OF SITE FOR 5 NO. DETACHED DWELLINGS AT FORMER YOUTH CENTRE, GROOMSCROFT, HAWARDEN (052064)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 19 January 2015. The usual consultations had been undertaken and the

responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and explained that an indicative layout had been provided for the site. He also highlighted the late observations where additional information from the Council's Valuation and Estates office was reported.

Councillor Chris Bithell proposed the recommendation for approval which was duly seconded. He commented that the site would amount to 22 dwellings per hectare which was below the Council's guidelines of 30 but added that the indicative layout had been designed based on the locality. There had been some concern about the access to the site but Councillor Bithell felt that the previous uses would have resulted in higher vehicle movements than the proposed development. Councillor Christine Jones concurred and said that the details of the application could be considered at the reserved matters stage.

Councillor Derek Butler referred to the additional information provided in the late observations and raised concern that Housing colleagues had not been consulted on whether the site could be included in the SHARP programme.

One of the Local Members, Councillor Alison Halford, felt that Hawarden had lost an asset and raised concern about the narrowness of the entrance and that a requirement for affordable housing had not been sought as part of the application. She also felt that the Local Members should have been advised by officers that the property had been put up for sale.

Councillor Mike Peers referred to the growth rate of 9.9% for Hawarden which was a Category B settlement and said that it was reported that the site was located in the settlement boundary. He commented on Policy HSG8 on density and suggested that the policy had not been adhered to as the number of proposed dwellings on the site would be at a figure lower than the 30 dwellings per hectare reflected in the policy. He felt that the Council should be setting an example and including 30 dwellings per hectare as a minimum. Councillor Peers raised concern about the response from the Valuation and Estates office in the late observations and concurred that Housing colleagues should also have been consulted. He felt that including affordable housing on the site would have resulted in lower vehicle movements than the previous uses. He also highlighted paragraph 7.11 where the lower than guidelines density was reported.

In response, the officer said that the number of units fell below the threshold for requiring affordable housing on the site. He added that one issue considered by the Valuation and Estates office was the value of the site and as a result of land value, it had been determined that a development of affordable housing would result in an increase in the number of units on the site and therefore additional traffic movements. He felt that this would have an impact on the character of the area and therefore the recommendation had been a balance between applying maximum density and retaining the character of the location.

The Planning Strategy Manager commented on sites considered as part of the SHARP programme which included sites for 100% affordable housing and balancing viability with sites for market value. He added that it was possible that

the site could be considered as part of the programme in the future. He explained that the policy on affordable housing clearly specified that the number of proposed dwellings on this site fell below the threshold for triggering the requirement for affordable housing. He added that the density guidance did not indicate that 30% affordable housing on sites was the minimum requirement but that it must be appropriate and commensurate with the area. In response to a question from Councillor Peers, the Planning Strategy Manager indicated that paragraph 7.11 had incorrectly stated that 30 dwellings per hectare was specified as a minimum density in Policy HSG8.

In summing up, Councillor Bithell said that the density had to be based on what was appropriate for the location and that the threshold had not been reached to trigger a requirement for affordable housing. He added that the road was unadopted so this restricted the number of properties that could be developed on the site.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

125. **FULL APPLICATION - ERECTION OF A SINGLE WIND TURBINE (45 M HUB HEIGHT, 67 M BLADE TIP HEIGHT) TWO METERING UNITS, ACCESS TRACK, ASSEMBLY AND CRANE AREAS AT TY COCH, CROSSWAYS ROAD, PEN Y CEFN, CAERWYS (051826)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 19 January 2015. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and highlighted the late observations where a response from Natural Resources Wales was reported along with clarification on connection cables to the local grid. The main issues included the effects upon the landscape and character of the area and the impact on nearby listed buildings.

Mrs. C. Williams spoke against the application and of the concerns raised by local residents. She highlighted the poor access to the area and indicated that the lane was used by walkers, cyclists, horse riders and cars. She felt that it was not suitable for heavy goods vehicles and any construction traffic would create a significant hazard. She was not against renewable energy but felt that to allow a wind turbine in this location would have a detrimental impact on people and wildlife in the area. The proposed site was adjacent to the Area of Outstanding Natural Beauty (AONB) and the A55 and would therefore create a hazard for traffic passing the site. Mrs. Williams spoke of the Police and Rescue helicopters and migrating birds that regularly flew through the area of the proposed wind turbine and she raised concern at the precedent that would be set if the application was approved.

Councillor Chris Bithell proposed the recommendation for refusal which was duly seconded. He felt that the height of the proposed wind turbine would have a significant impact on the landscape and the view to the Clwydian Hills and the AONB. He highlighted the comments of Caerwys Town Council and Denbighshire County Council about the impact that the wind turbine would have on the area. Councillor Gareth Roberts concurred and commented that the recommendation for refusal was consistent with a recent nearby application for a similar structure that had also been refused.

The Local Member, Councillor Jim Falshaw, spoke of the significant impact on the AONB and the narrow road that led to the site. He commented on the removal of soil from the site by large vehicles which could result in damage to the hedgerows. He added that the proposal would create substantial harm and would have a significant impact on the visual amenity of the area.

In response to the comment by Councillor Roberts about a previous application on a nearby site, the Development Manager advised that this application had been for an anemometer mast which had been refused but allowed on appeal. He added that Members should not take account of that application in consideration of this application and pointed out that the Inspector on the anemometer mast appeal had not considered that it might be followed by a wind turbine.

RESOLVED:

That planning permission be refused for the reasons detailed in the report of the Chief Officer (Planning and Environment).

126. **FULL APPLICATION - ERECTION OF WIND TURBINE (26 M HIGH TO BLADE TIP) AT PARK VIEW GARAGE, ST. ASAPH ROAD, LLOC, HOLYWELL (052396)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 19 January 2015. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and explained that the main issue was the visual impact of the proposal on the landscape. In referring to the late observations, he said that a consultation response was awaited from the telecom operator of the adjacent mast. The recommendation had therefore been amended to reflect this and to seek delegated authority to be given to the Chief Officer (Planning and Environment) and to approve the application subject to conditions and no objections being received from the relevant bodies.

Councillor Derek Butler proposed the recommendation for approval which was duly seconded. He felt that the proposal was acceptable and blended into the landscape because of the sloping ground. However, he raised concern about whether approval of the application would result in a large number of applications for similar wind turbines being submitted. Councillor Gareth Roberts concurred

with the recommendation and referred to the height of the nearby mast which was similar in height to the proposed wind turbine.

The Local Member, Councillor Jim Falshaw, sought an additional condition for landscaping around the wind turbine to break up the character of the development; this was duly seconded. Councillor Carolyn Thomas felt that it was important that approval of the application did not set a precedent and added that the site was close to the Area of Outstanding Natural Beauty (AONB). Councillor Richard Jones referred to the comments from Campaign for the Protection of Rural Wales (CPRW) about the lack of a cumulative assessment with regard to similar developments. He felt that acceptable levels of background noise should be considered when determining such applications.

In response to the request from Councillor Falshaw, the officer felt that it was not appropriate to include the condition requested by Councillor Falshaw. The Planning Strategy Manager explained that the urban context of the proposal allowed it to fit in the area.

The Chief Officer (Planning and Environment) reminded the Committee that the recommendation had been amended to give him delegated powers to approve the application with conditions if there were no objections from the consultee.

In summing up, Councillor Butler felt that Councillor Jones' suggestion about acceptable levels of background noise should be considered by the Planning Strategy Group.

On being put to the vote, the amendment to the recommendation to include a condition about landscaping was LOST. The Committee then voted on the original recommendation in the report and to give delegated powers to the Chief Officer (Planning and Environment) to approve the application with conditions if there were no objections from the consultee which was CARRIED.

RESOLVED:

That delegated powers be given to the Chief Officer (Planning and Environment) to grant planning permission subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) and subject to no objections being received from the consultee.

127. **GENERAL MATTERS - ERECTION OF 3 NO. CLASS B1 INDUSTRIAL UNITS AND ASSOCIATED CAR PARKING AND AMENDED VEHICULAR ACCESS AT UNIT 2, THE HAVEN GARAGE, THE NANT, PENTRE HALKYN (051580)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application.

The officer detailed the background to the report and explained that the application had been considered at the 12th March 2014 meeting of the Committee. It had been resolved to approve the application subject to the applicant entering into a Section 106 Agreement. Despite repeated attempts by the Planning and Legal Departments, it has not been possible to secure the

required agreement and the application remained undetermined. As the Section 106 Agreement had not been signed, the recommendation was for refusal of the application.

Councillor Gareth Roberts proposed the recommendation for refusal which was duly seconded. He felt that the proposal of refusal was correct and in commenting on parking issues on the site, said that the road adjacent to the site was a feeder road for the A55 and was very busy.

RESOLVED:

That planning permission be refused for the reason detailed in the report of the Chief Officer (Planning and Environment).

128. **GENERAL MATTERS - OUTLINE APPLICATION - FOR THE DEMOLITION OF 'SUNNYSIDE' AND 66A MOLD ROAD AND THE ERECTION OF 58 HOUSES INCLUDING DETAILS OF ACCESS, APPEARANCE, LAYOUT AND SCALE AT LAND REAR OF 66A MOLD ROAD, MYNYDD ISA, MOLD (048042)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Councillor Neville Phillips, having earlier declared an interest in the application, left the meeting prior to its discussion.

The Development Manager detailed the background to the report and explained that the application had been refused by Members on 24 July 2013. A report had then been considered by the Committee in September 2013, which had resolved the four reasons for refusal which were: lack of affordable housing; increase in volume of traffic; not making adequate provision for public open space, and a shortfall in the maximum parking standards. The appeal had been submitted by the applicant but had been delayed to allow for an Environmental Impact Assessment to be undertaken. It had now been reactivated and the Statement of Case by the Council and the applicant had to be submitted by 28th January 2015. The Development Manager explained that where a decision contrary to officer recommendation and the resultant appeal was to be considered by way of an Inquiry, it was current practice to engage consultants to act for the Authority. Five consultancies with the relevant expertise to deal with such an appeal had been approached but none were either willing or able to take on the appeal, some did not feel that all four of the reasons for refusal were defensible. The purpose of the report was to ask Members not to defend the reasons for refusal based on increase in volume of traffic and a shortfall in the maximum parking standards, both of which referred to highway safety concerns, as evidence could not be provided to counter the appellant's case in relation to these matters. The Council should therefore proceed only with the remaining two reasons at the appeal. The Development Manager reminded the Committee that if the Council could not produce evidence to substantiate a reason for refusal, the Council will be at risk of an award for costs against the Authority.

A consultancy had been approached on the reasons of not providing 30% affordable housing and lack of adequate provision for public open space and they had agreed to act for the Council. If the Committee accepted that only two

reasons for refusal be put forward by the Council at the appeal, it did not prevent local residents attending the hearing to put their points across on the issue of road safety and highway issues. The Development Manager said that Officers were not stating that Members had been incorrect in their consideration of the four reasons for refusal but as the case had developed there was now a need for a pragmatic approach to maintain reasons one and three and remove reasons two and four.

Councillor Richard Jones proposed the recommendation for approval which was duly seconded. He agreed with the recommendation of the officer and felt that in his view if evidence could not be provided for reasons two and four, then they should not be pursued. Councillor Ian Dunbar concurred.

The Local Member, Councillor Hilary McGuill, felt that the principle involved here needed considering carefully, that if the Council could not provide evidence for the appeal reasons, then costs could be awarded against the Authority if they pursued those refusal reasons. She raised concern about the timing (during the Christmas holiday period) of the request to the five consultancies to act on the Council's behalf and the short amount of time that they had to determine whether evidence could be provided. She did not think that enough effort had been put into finding evidence which she felt was available. Councillor McGuill commented on the Sainsbury's development near this site which had added to the traffic in the area and increased traffic problems.

Councillor Chris Bithell highlighted paragraph 6.07 which reported that the developer had provided documentation to show that the raft of community benefits that had been requested was not viable and had instead made an offer of £212,000 to be disaggregated as the Council saw fit. Members had not been prepared to accept any reduction in provision and reasons for refusal no's 1 and 3 reflected this. He referred to the commuted sum figure of £674,526 which had been requested based on 30% on site affordable housing provision and sought clarification on what the £212,000 payment offered by the applicant was intended to cover.

Councillor Mike Peers referred to the report to the meeting in July 2013 where it was reported that the District Valuer had said that the scheme was not viable. He had obtained the comments from the District Valuer who had concluded that the amounts requested for the commuted sum were unreasonable. Councillor Peers also referred to a report by Mullers which had detailed the levels that could be afforded to still allow a profit to be made by the developer. He said that the report indicated that over £500,000 had been proposed for sales and marketing and concluded that this should be factored into the figures when the applicant was determining whether the site was viable or not. Councillor Peers felt that the site was viable.

Councillor Gareth Roberts felt that removing reasons two and four was the correct decision. He felt that there was no evidence for the second reason but he felt that there was merit in pursuing reason four as he disagreed with the use of maximum parking standards. However, he agreed that the inclusion of the fourth reason could weaken the case for reasons one and three.

In response to the comments made by Councillor McGuill about the timescale involved, the Chief Officer (Planning and Environment) reiterated the earlier comments of the Development Manager that the appeal had been delayed for an Environmental Impact Assessment to be undertaken. The appeal process had then recommenced on 17th December 2014 with the Statement of Case information needing to be submitted by 28th January 2015. These were dates beyond the control of the Council but immediately on the recommencement of the process, the officer had contacted the five consultancies about proceeding with the appeal. He reminded Members that officers were duty bound to report back to the Committee if they were unable to find a consultant to take the appeal forward which was why this report had been submitted to this meeting. A consultancy had agreed to proceed with the appeal for reasons one and three and he reminded the Committee that the Local Member could attend the hearing to put forward her concerns about highway safety.

The Development Manager added that if the Council proceeded with the two reasons for refusal, it would be up to the Inspector to consider the viability aspect. It had been reported in July 2013 that a commuted sum of £674,526 had been requested for 30% on site affordable housing provision but it had also been explained to Members that due to a combination of the depressed economic situation and land contamination and land drainage issues, the profits arising from the scheme would not reasonably allow for the full affordable housing provision to be met. The applicant had therefore offered £212,000 in total for all of the identified community benefits. However, there was sound policy basis for the Council requiring more than this.

Following the comments from Councillor McGuill that evidence could be found to pursue all of the reasons for refusal, the Planning Strategy Manager said that the evidence should already be in place, which in this case it was not. Highways officers had advised that there was no evidence available to put forward on highway grounds.

In summing up, Councillor Richard Jones said that the applicant should know whether the site was viable for the development proposed prior to submitting the application. It would be difficult for the Council to defend reasons two and four and their inclusion could result in costs being awarded against the Council. He added that the Local Member and other residents could attend the hearing to put forward their concerns.

RESOLVED:

That the Planning Inspectorate be advised that the Local Planning Authority does not intend to rely on reasons for refusal no. 2 and 4 and that a planning consultant be engaged in respect of reasons for refusal no. 1 and 3.

After the vote had been taken, Councillor Phillips returned to the meeting.

129. **APPEAL BY MR. M. PRICE AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR AN EXTENSION TO DWELLING AND ASSOCIATED WORKS AT DEER LODGE, CYMAU - ALLOWED - (051394)**

The Chief Officer (Planning and Environment) advised that a decision had been made to refuse the application but it had been allowed on appeal. He added that there had not been a submission by the applicant for costs. The main issues in the case had been identified by the Inspector as the effect of the proposal on the character and appearance of the existing dwelling. The Chief Officer (Planning and Environment) explained that the appeal decision would be submitted to a future meeting of the Planning Strategy Group for further consideration.

Councillor Alison Halford said that the applicant had complied with all that had been asked of him during the application process but the application had still been recommended for refusal. She raised significant concern about comments made about her by Councillor Chris Bithell at the meeting in July 2013. The Chairman advised Councillor Halford that such issues should be discussed following the meeting. Councillor Halford also questioned the officer's knowledge of HSG1 guidance and said that officers had made an incorrect recommendation. She added that the applicant had not sought costs as part of the appeal.

Councillor Derek Butler expressed significant concern at the serious allegations made by Councillor Halford and added that the Inspector had provided his opinion and interpretation of the policies to reach his decision of approval of the application. He concurred that Planning Strategy Group should consider the appeal decision in detail.

In response, Councillor Bithell stated that he had indicated at the July 2013 meeting that the applicant could appeal the decision to refuse the application, which he had since done and had won the appeal. He said that the Committee and Inspectors sometimes got decisions wrong.

Councillor Richard Jones felt that there should be an appeal process when an Inspector's decision was different to an officer recommendation and Committee determination. Councillor Carol Ellis spoke of the Inspector's decision and said that the Committee decision had been based on local knowledge, which she did not feel that the Inspector had applied. She also felt concerned by some of the earlier comments in the meeting during the discussion on this application which did not need to be discussed in the Committee.

The Chief Officer (Planning and Environment) reminded Members of the Planning training from the Planning Inspectorate which was due to take place the following week. In response to the comment from Councillor Halford about officers getting the decision wrong, he said that just because the appeal had been allowed it did not mean that the recommendation had been incorrect as it was based on an interpretation of policy. He reiterated that the appeal decision would be considered in detail at a future meeting of the Planning Strategy Group. It was significant that costs had not been sought as this indicated that the applicant and his agent did not feel that the Council had acted unreasonably.

RESOLVED:

That the decision of the Inspector to allow this appeal be noted.

130. **APPEAL BY MS A. WYNN AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE DEMOLITION OF AN EXISTING GARAGE AND ERECTION OF A TWO STOREY EXTENSION WITH GARAGE ON GROUND FLOOR AT 1 GORDON TERRACE, KING STREET, MOLD - DISMISSED (051885)**

The Chief Officer (Planning and Environment) said that the main issue included the effect of the proposed development on the character and appearance of the dwelling and the street scene.

RESOLVED:

That the decision of the Inspector to dismiss this appeal be noted.

131. **MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE**

There were 14 members of the public and 2 members of the press in attendance.

(The meeting started at 1.00 pm and ended at 2.35 pm)

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Chairman